

(k) Section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a)—\$503;

(l) Sections 525(a) and (b) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(a) and (b), respectively—\$24,714 and \$46,517, respectively;

(m) Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2)—\$4,367;

(n) Section 1115(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003, Public Law 108–173, as amended by Public Law 115–263, 21 U.S.C. 355 note—\$16,445;

(o) Section 814(a) of the Energy Independence and Security Act of 2007, 42 U.S.C. 17304—\$1,323,791; and

(p) Civil monetary penalties authorized by reference to the Federal Trade Commission Act under any other provision of law within the jurisdiction of the Commission—refer to the amounts set forth in paragraphs (c), (d), (e) and (f) of this section, as applicable.

By direction of the Commission.

**April Tabor,**  
Secretary.

[FR Doc. 2022–00213 Filed 1–7–22; 8:45 am]

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## DEPARTMENT OF STATE

### 22 CFR Parts 35, 103, 127, and 138

[Public Notice: 11617]

RIN 1400–AF43

#### Department of State 2022 Civil Monetary Penalties Inflationary Adjustment

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This final rule is issued to adjust the civil monetary penalties (CMP) for regulatory provisions maintained and enforced by the Department of State. The revised CMP adjusts the amount of civil monetary penalties assessed by the Department of State based on the December 2021 guidance from the Office of Management and Budget. The new amounts will apply only to those penalties assessed on or after the effective date of this rule, regardless of the date on which the underlying facts or violations occurred.

**DATES:** This final rule is effective on January 10, 2022.

**FOR FURTHER INFORMATION CONTACT:** Alice Kottmyer, Attorney-Adviser, Office of Management, [kottmyeram@state.gov](mailto:kottmyeram@state.gov). ATTN: Regulatory Change, CMP Adjustments, (202) 647–2318.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, required the head of each agency to adjust its CMPs for inflation no later than October 23, 1996 and required agencies to make adjustments at least once every four years thereafter. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Section 701 of Public Law 114–74 (the 2015 Act) further amended the 1990 Act by requiring agencies to adjust CMPs, if necessary, pursuant to a “catch-up” adjustment methodology prescribed by the 2015 Act, which mandated that the catch-up adjustment take effect no later than August 1, 2016. Additionally, the 2015 Act required agencies to make annual adjustments to their respective CMPs in accordance with guidance issued by the Office of Management and Budget (OMB).

Based on these statutes, the Department of State (the Department) published a final rule in June 2016<sup>1</sup> to implement the “catch-up” provisions; and annual updates to its CMPs in January 2017,<sup>2</sup> January 2018,<sup>3</sup> March 2019 (delayed due to the Government shutdown),<sup>4</sup> January 2020,<sup>5</sup> and February 2021 (delayed due to transition issues).<sup>6</sup>

On December 15, 2021, OMB notified agencies that the annual cost-of-living adjustment multiplier for 2021, based on the Consumer Price Index, is 1.06222. Additional information may be found in OMB Memorandum M–22–07 at: <https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf>. This final rule amends Department CMPs for fiscal year 2022.

#### Overview of the Areas Affected by This Rule

Within the Department of State (title 22, Code of Federal Regulations), this rule affects four areas:

(1) Part 35, which implements the Program Fraud Civil Remedies Act of 1986 (PFCRA), codified at 31 U.S.C. 3801–3812;

(2) Part 103, which implements the Chemical Weapons Convention Implementation Act of 1998 (CWC Act);

(3) Part 127, which implements the penalty provisions of sections 38(e), 39A(c), and 40(k) of the Arms Export

Control Act (AECA) (22 U.S.C. 2778(e), 2779a(c), and 2780(k)); and

(4) Part 138, which implements Section 319 of Public Law 101–121, codified at 31 U.S.C. 1352, prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract.

#### Specific Changes to 22 CFR Made by This Rule

##### I. Part 35

The PFCRA, enacted in 1986, authorizes agencies, with approval from the Department of Justice, to pursue individuals or firms for false claims. In addition to applying the annual adjustment, this rule also corrects a typographical error made in the Code of Federal Regulations (CFR). On January 14, 2020, a rule (85 FR 2020) was published in the **Federal Register** noting the inflationary adjustment in § 35.3 for 2020. Although the rule correctly listed the maximum amount at \$349,969, an error was made in amending the CFR itself, with the amount entered as \$343,969. The inflationary adjustment for 2021 (86 FR 7804 (February 2, 2020)) then applied the correct multiplier (1.01182), but to the erroneously entered number. The maximum amount was listed for 2021 as \$348,035 but should have been \$354,106.

This rule corrects those errors, and for the 2022 inflationary adjustment uses the proper \$354,106 multiplied by the inflationary adjustment for 2022 (1.06222), resulting in a maximum liability of \$376,138. The amounts for the maximum penalty for each false claim or statement were correctly entered in both 2020 and 2021. Consequently, applying the 2022 multiplier, the new maximum penalty is \$12,537 for each false claim or statement, up to a maximum of \$376,138.

##### II. Part 103

The CWC Act provided domestic implementation of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction. The penalty provisions of the CWC Act are codified at 22 U.S.C. 6761. Applying the 2021 multiplier, the new maximum amounts are as follows: Prohibited acts related to inspections, \$42,163; for recordkeeping violations, \$8,433.

##### III. Part 127

The Assistant Secretary of State for Political-Military Affairs is responsible

<sup>1</sup> 81 FR 36771 (Jun. 8, 2016).

<sup>2</sup> 82 FR 3168 (Jan. 11, 2017).

<sup>3</sup> 83 FR 234 (Jan. 3, 2018).

<sup>4</sup> 84 FR 9957 (Mar. 19, 2019).

<sup>5</sup> 85 FR 2020 (Jan. 14, 2020).

<sup>6</sup> 86 FR 7804 (Feb. 2, 2021).

for the imposition of CMPs under the International Traffic in Arms Regulations (ITAR), which is administered by the Directorate of Defense Trade Controls (DDTC).

(1) AECA Section 38(e)

Applying the 2021 multiplier, the new maximum penalty under 22 U.S.C. 2778 (22 CFR 127.10(a)(1)(i)) is \$1,272,251.

(2) AECA Section 39A(c)

Applying the multiplier, the new maximum penalty under 22 U.S.C. 2779a (22 CFR 127.10(a)(1)(ii)) is \$925,041, or five times the amount of

the prohibited payment, whichever is greater.

(3) AECA Section 40(k)

Applying the multiplier, the new maximum penalty under 22 U.S.C. 2780 (22 CFR 127.10(a)(1)(iii)) is \$1,101,061.

IV. Part 138

Section 319 of Public Law 101–121, codified at 31 U.S.C. 1352, provides penalties for recipients of Federal contracts, grants, and loans who use appropriated funds to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Any

person who violates that prohibition is subject to a civil penalty. The statute also requires each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, to disclose any lobbying; there is a penalty for failure to disclose.

Applying the 2021 multiplier, the maximum penalties for both improper expenditures and failure to disclose, is: For first offenders, \$21,665; for others, not less than \$22,021, and not more than \$220,213.

Summary

2022 MULTIPLIER: 1.06222

Citation in 22 CFR	Corrected FY21 max penalties <sup>7</sup>	New (FY 22) max penalties
§ 35.3 .....	\$11,803 up to \$354,106 .....	\$12,537 up to \$376,138.
§ 103.6(a)(1) <i>Prohibited Acts</i> .....	\$39,693 .....	\$42,163.
§ 103.6(a)(2) <i>Recordkeeping Violations</i> .....	\$7,939 .....	\$8,433.
§ 127.10(a)(1)(i) .....	\$1,197,728 .....	\$1,272,251.
§ 127.10(a)(1)(ii) .....	\$870,856 or 5 times the amount of the prohibited payment, whichever is greater.	\$925,041 or 5 times the amount of the prohibited payment, whichever is greater.
§ 127.10(a)(1)(iii) .....	\$1,036,566 .....	\$1,101,061.
§ 138.400 <i>First Offenders</i> .....	\$20,396 .....	\$21,665.
§ 138.400 .....	\$20,731 up to \$207,314 .....	\$22,021 up to \$220,213.

**Effective Date of Penalties**

The revised CMP amounts will go into effect on the date this rule is published. All violations for which CMPs are assessed on or after the effective date of this rule, regardless of whether the violation occurred before the effective date, will be assessed at the adjusted penalty level.

**Future Adjustments and Reporting**

The 2015 Act directed agencies to undertake an annual review of CMPs using a formula prescribed by the statute. Annual adjustments to CMPs are made in accordance with the guidance issued by OMB. As in this rulemaking, the Department of State will publish notification of annual inflation adjustments to CMPs in the **Federal Register** no later than January 15 of each year, with the adjusted amount taking effect immediately upon publication.

**Regulatory Analysis and Notices**

*Administrative Procedure Act*

The Department of State is publishing this rule using the “good cause” exception to the Administrative Procedure Act (5 U.S.C. 553(b)), as the Department has determined that public comment on this rulemaking would be impractical, unnecessary, or contrary to the public interest. This rulemaking is

mandatory and entirely without agency discretion; it implements Public Law 114–74. *See* 5 U.S.C. 553(d)(3).

*Regulatory Flexibility Act*

Because this rulemaking is exempt from 5 U.S.C. 553, a regulatory flexibility analysis is not required.

*Unfunded Mandates Reform Act of 1995*

This rule does not involve a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

This rule is not a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

*Executive Orders 12372 and 13132*

This amendment will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment

does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

*Executive Orders 12866 and 13563*

The Department believes that benefits of the rulemaking outweigh any costs, and there are no feasible alternatives to this rulemaking. Pursuant to M–22–07, OIRA has determined that agency regulations that (1) exclusively implement the annual adjustment, (2) are consistent with this guidance, and (3) have an annual impact of less than \$100 million, are generally not significant regulatory actions under E.O. 12866. Therefore, agencies are generally not required to submit regulations satisfying those criteria to OIRA for review. This regulation satisfies all of those criteria.

*Executive Order 12988*

The Department of State has reviewed the proposed amendment in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Executive Order 13175*

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and

<sup>7</sup> See discussion relating to 22 CFR 35.3.

will not preempt Tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

#### *Paperwork Reduction Act*

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

#### List of Subjects

##### 22 CFR Part 35

Administrative practice and procedure, Claims, Fraud, Penalties.

##### 22 CFR Part 103

Administrative practice and procedure, Chemicals, Classified information, Foreign relations, Freedom of information, International organization, Investigations, Penalties, Reporting and recordkeeping requirements.

##### 22 CFR Part 127

Arms and munitions, Crime, Exports, Penalties, Seizures and forfeitures.

##### 22 CFR Part 138

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth above, 22 CFR parts 35, 103, 127, and 138 are amended as follows:

#### **PART 35—PROGRAM FRAUD CIVIL REMEDIES**

- 1. The authority citation for part 35 continues to read as follows:

**Authority:** 22 U.S.C. 2651a; 31 U.S.C. 3801 *et seq.*; Pub. L. 114–74, 129 Stat. 584.

##### **§ 35.3 [Amended]**

- 2. In § 35.3:
  - a. Remove “\$11,803” and add in its place “\$12,537”, wherever it occurs.
  - b. In paragraph (f), remove “\$348,035” and add in its place “\$376,138”.

#### **PART 103—REGULATIONS FOR IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION AND THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1998 ON THE TAKING OF SAMPLES AND ON ENFORCEMENT OF REQUIREMENTS CONCERNING RECORDKEEPING AND INSPECTIONS**

- 3. The authority citation for part 103 continues to read as follows:

**Authority:** 22 U.S.C. 2651a; 22 U.S.C. 6701 *et seq.*; Pub. L. 114–74, 129 Stat. 584.

##### **§ 103.6 [Amended]**

- 4. In § 103.6:

- a. In paragraph (a)(1), remove “\$39,693” and add in its place “\$42,163”; and
- b. In paragraph (a)(2), remove “\$7,939” and add in its place “\$8,433”.

#### **PART 127—VIOLATIONS AND PENALTIES**

- 5. The authority citation for part 127 continues to read as follows:

**Authority:** Sections 2, 38, and 42, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); 22 U.S.C. 401; 22 U.S.C. 2651a; 22 U.S.C. 2779a; 22 U.S.C. 2780; E.O. 13637, 78 FR 16129; Pub. L. 114–74, 129 Stat. 584.

##### **§ 127.10 [Amended]**

- 6. In § 127.10:
  - a. In paragraph (a)(1)(i), remove “\$1,197,728” and add in its place “\$1,272,251”;
  - b. In paragraph (a)(1)(ii), remove “\$870,856” and add in its place “\$925,041”; and
  - c. In paragraph (a)(1)(iii), remove “\$1,036,566” and add in its place “\$1,101,061”.

#### **PART 138—RESTRICTIONS ON LOBBYING**

- 7. The authority citation for part 138 continues to read as follows:

**Authority:** 22 U.S.C. 2651a; 31 U.S.C. 1352; Pub. L. 114–74, 129 Stat. 584.

##### **§ 138.400 [Amended]**

- 8. In § 138.400:
  - a. Remove “\$20,731” and “\$207,314” and add in their place “\$22,021” and “\$220,213”, respectively, wherever they occur.
  - b. In paragraph (e), remove “\$20,396” and add in its place “\$21,665”.

**Kevin E. Bryant,**

*Deputy Director, Office of Directives Management.*

[FR Doc. 2022–00235 Filed 1–7–22; 8:45 am]

**BILLING CODE 4710–10–P**

#### **DEPARTMENT OF HOMELAND SECURITY**

##### **Coast Guard**

##### **33 CFR Part 165**

[Docket Number USCG–2021–0931]

**RIN 1625–AA00**

#### **Safety Zone; San Diego Bay, San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for

the navigable waters in the vicinity of the Coronado Bridge in San Diego Bay, San Diego, CA, in support of a U.S. Navy exercise. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the exercise. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port San Diego.

**DATES:** This rule is effective from 5 p.m. on January 10, 2022 through 3 p.m. on January 11, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0931 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Commander John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email [MarineEventsSD@uscg.mil](mailto:MarineEventsSD@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this safety zone by January 10, 2022. This urgent safety zone is required to protect the maritime public and the surrounding waterways from hazards associated with a U.S. Navy exercise. The Coast Guard lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for