This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF COMMERCE
Office of the Secretary
15 CFR Part 6
[Docket No. 191216–0114]
RIN 0605–AA54

Civil Monetary Penalty Adjustments for Inflation

AGENCY: Office of the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule is being issued to adjust for inflation each civil monetary penalty (CMP) provided by law within the jurisdiction of the United States Department of Commerce (Department of Commerce). The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, required the head of each agency to adjust for inflation its CMP levels in effect as of November 2, 2015, under a revised methodology that was effective for 2016 and requires adjustments for inflation to CMPs under a revised methodology for each year thereafter. The 2019 adjustments for inflation to CMPs to the Department of Commerce’s CMPs were published in the Federal Register on February 7, 2019, and became effective March 1, 2019. The annual methodology provides for the improvement of the effectiveness of CMPs and to maintain their deterrent effect. Agencies’ annual adjustments for inflation to CMPs shall take effect not later than January 15. The Department of Commerce’s 2020 adjustments for inflation to CMPs apply only to those CMPs that are assessed by the Department of Commerce after the effective date of the new CMP level.

DATES: This rule is effective January 15, 2020.


SUPPLEMENTARY INFORMATION: Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–101–410; 28 U.S.C. 2461), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), provided for agencies’ adjustments for inflation to CMPs to ensure that CMPs continue to maintain their deterrent value and that CMPs due to the Federal Government were properly accounted for and collected.

A CMP is defined as any penalty, fine, or other sanction that:
1. Is for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; and,
2. Is assessed or enforced by an agency pursuant to Federal law; and,
3. Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74) further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 to improve the effectiveness of CMPs and to maintain their deterrent effect. This amendment (1) required agencies to adjust the CMP levels in effect as of November 2, 2015, with initial catch up adjustments for inflation through a final rulemaking to take effect no later than August 1, 2016; and (2) requires agencies to make subsequent annual adjustments for inflation to CMPs that shall take effect not later than January 15. The Department of Commerce’s 2019 adjustments for inflation to CMPs were published in the Federal Register on February 7, 2019, and the new CMP levels became effective March 1, 2019.

The Department of Commerce’s 2020 adjustments for inflation to CMPs apply only to CMPs with a dollar amount, and will not apply to CMPs written as functions of violations. The Department of Commerce’s 2020 adjustments for inflation to CMPs apply only to those CMPs, including those whose associated violation predated such adjustment, which are assessed by the Department of Commerce after the effective date of the new CMP level.

The Department of Commerce’s 2020 adjustments for inflation to CMPs apply only to those CMPs, including those whose associated violation predated such adjustment, which are assessed by the Department of Commerce after the effective date of the new CMP level.

This regulation adjests for inflation CMPs that are provided by law within the jurisdiction of the Department of Commerce. The actual CMP assessed for a particular violation is dependent upon a variety of factors. For example, the National Oceanic and Atmospheric Administration’s (NOAA) Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions (Penalty Policy), a compilation of NOAA internal guidelines that are used when assessing CMPs for violations for most of the statutes NOAA enforces, will be interpreted in a manner consistent with this regulation to maintain the deterrent effect of the CMPs. The CMP ranges in the Penalty Policy are intended to aid enforcement attorneys in determining the appropriate CMP to assess for a particular violation. The Penalty Policy is maintained and made available to the public on NOAA’s Office of the General Counsel, Enforcement Section website at: http://www.gc.noaa.gov/enforcement-office.html.

The Department of Commerce’s 2020 adjustments for inflation to CMPs set forth in this regulation were determined pursuant to the methodology prescribed by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires the maximum CMP, or the minimum and maximum CMP, as applicable, to be increased by the cost-of-living adjustment. The term “cost-of-living adjustment” is defined by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. For the 2020 adjustments for inflation to CMPs, the cost-of-living...
adjustment is the percentage for each
CMP by which the Consumer Price
Index for the month of October 2019
exceeds the Consumer Price Index for
the month of October 2018.

Classification
Pursuant to 5 U.S.C. 553(b)(B), there is
good cause to issue this rule without
prior public notice or opportunity for
public comment because it would be
impracticable and unnecessary. The
Federal Civil Penalties Inflation
Adjustment Act Improvements Act of
2015 (Section 701(b)) requires agencies
to make annual adjustments for inflation
to CMPs notwithstanding section 553 of
title 5, United States Code.

Additionally, the methodology used for
adjusting CMPs for inflation is given by
statute, with no discretion provided to
departments regarding the substance of
the adjustments for inflation to CMPs. The
Department of Commerce is charged
only with performing ministerial
calculations to determine the dollar
amounts of adjustments for inflation to
CMPs. Accordingly, prior public notice
and an opportunity for public comment
are not required for this rule.

Paperwork Reduction Act
The provisions of the Paperwork
Reduction Act of 1995, Public Law 104–
13, 44 U.S.C. Chapter 35, and its
implementing regulations, 5 CFR part
1320, do not apply to this rule because
there are no new or revised
recordkeeping or reporting
requirements.

Regulatory Analysis
E.O. 12866, Regulatory Review
This rule is not a significant
regulatory action as that term is defined
in Executive Order 12866.

Regulatory Flexibility Act
Because notice of proposed
rulemaking and opportunity for
comment are not required pursuant to 5
U.S.C. 553, or any other law, the
analytical requirements of the
Regulatory Flexibility Act (5 U.S.C. 601,
et seq.) are inapplicable. Therefore, a
regulatory flexibility analysis is not
required and has not been prepared.

List of Subjects in 15 CFR Part 6
Civil monetary penalties, Law
enforcement.

Stephen M. Kunze,
Deputy Chief Financial Officer and Director
for Financial Management, Department of
Commerce.

Authority and Issuance
For the reasons stated in the
preamble, the Department of Commerce
revises 15 CFR part 6 to read as follows:

PART 6—CIVIL MONETARY PENALTY
ADJUSTMENTS FOR INFLATION

Sec.
6.1 Definitions.
6.2 Purpose and scope.
6.3 Adjustments for inflation to civil
monetary penalties.
6.4 Effective date of adjustments for
inflation to civil monetary penalties.
6.5 Subsequent annual adjustments for
inflation to civil monetary penalties.

(28 U.S.C. 2461 note); Pub. L. 104–134, 110
Stat. 1321 (31 U.S.C. 3701 note); Sec. 701 of

§6.1 Definitions.
(a) The Department of Commerce
means the United States Department of
Commerce.

(b) Civil Monetary Penalty means any
penalty, fine, or other sanction that:
(1) Is for a specific monetary amount
as provided by Federal law, or has a
maximum amount provided for by
Federal law; and
(2) Is assessed or enforced by an
agency pursuant to Federal law; and
(3) Is assessed or enforced pursuant to
an administrative proceeding or a civil
action in the Federal courts.

§6.2 Purpose and scope.
The purpose of this part is to make
adjustments for inflation to civil
monetary penalties, as required by the
Federal Civil Penalties Inflation
Adjustment Act of 1990 (Pub. L. 101–
410; 28 U.S.C. 2461), as amended by the
Debt Collection Improvement Act of
1996 (Pub. L. 104–134) and the Federal
Civil Penalties Inflation Adjustment Act
Improvements Act of 2015 (Section 701
of Pub. L. 114–74), of each civil
monetary penalty provided by
law within the jurisdiction of the United
States Department of Commerce
(Department of Commerce).

§6.3 Adjustments for inflation to civil
monetary penalties.
The civil monetary penalties provided
by law within the jurisdiction of the
Department of Commerce, as set forth in
paragraphs (a) through (f) of this section,
are hereby adjusted for inflation in 2019
in accordance with the Federal
Civil Penalties Inflation Adjustment Act of
1990, as amended, from the amounts of
such civil monetary penalties that were
in effect as of March 1, 2019, to the
amounts of such civil monetary
penalties, as thus adjusted. The year
stated in parenthesis represents the year
that the civil monetary penalty was last
set by law or adjusted by law (excluding
adjustments for inflation).

(a) United States Department of
Commerce. (1) 31 U.S.C. 3802(a)(1),
Program Fraud Civil Remedies Act of
1986 (1986), violation, maximum from
$11,463 to $11,665.

(2) 31 U.S.C. 3802(a)(2), Program
Fraud Civil Remedies Act of 1986
(1986), violation, maximum from
$11,463 to $11,665.

(3) 31 U.S.C. 3729(a)(1)(G), False
Claims Act (1986); violation, minimum
from $11,463 to $11,665; maximum
from $22,927 to $23,331.

(b) Bureau of Economic Analysis. (1)
22 U.S.C. 3105(a), International
Investment and Trade in Services Act
(1990); failure to furnish information,
minimum from $4,735 to $4,819;
maximum from $47,357 to $48,192.

(c) Bureau of Industry and Security.
(1) 15 U.S.C. 5408(b)(1), Fastener
Quality Act (1990), violation, maximum
from $47,357 to $48,192.

(2) 22 U.S.C. 6761(a)(1)(A), Chemical
Weapons Convention Implementation
Act (1998), violation, maximum from
$38,549 to $39,229.

(3) 22 U.S.C. 6761(a)(1)(B), Chemical
Weapons Convention Implementation
Act (1998), violation, maximum from
$7,710 to $7,846.

(4) 50 U.S.C. 1705(b), International
Emergency Economic Powers Act
(2007), violation, maximum from
$302,584 to $307,922.

(5) 22 U.S.C. 8142(a), United States
Additional Protocol Implementation Act
(2006), violation, maximum from
$31,328 to $31,881.

(6) 50 U.S.C. 4819, Export Control
Reform Act of 2018 (2018); violation,
maximum from $300,000 to $305,292.

(d) Census Bureau. (1) 13 U.S.C. 304,
Collection of Foreign Trade Statistics
(2002), each day’s delinquency of a
violation; total of not to exceed
maximum per violation, from $1,394 to
$1,419; maximum per violation, from
$13,948 to $14,194.

(2) 13 U.S.C. 305(b), Collection of
Foreign Trade Statistics (2002),
violation, maximum from $13,948 to
$14,194.

(e) International Trade
Administration. (1) 19 U.S.C. 81s,
Foreign Trade Zone (1994), violation,
maximum from $2,924 to $2,976.

(2) 19 U.S.C. 1677ff(b)(4), U.S.-Canada
Free Trade Agreement Protective Order
(1988), violation, maximum from $210,386 to $214,097.


(4) 16 U.S.C. 783, Sponge Act (1914), violation, maximum from $1,729 to $1,759.

(5) 16 U.S.C. 957(d), (e), and (f), Tuna Conventions Act of 1950 (1962):

(i) Violation of 16 U.S.C. 957(a), maximum from $86,389 to $87,913.

(ii) Subsequent violation of 16 U.S.C. 957(a), maximum from $186,070 to $189,352.

(iii) Violation of 16 U.S.C. 957(b), maximum from $2,924 to $2,976.

(iv) Subsequent violation of 16 U.S.C. 957(b), maximum from $17,278 to $17,583.

(v) Violation of 16 U.S.C. 957(c), maximum from $372,141 to $378,706.

(6) 16 U.S.C. 957(i), Tuna Conventions Act of 1950, violation, maximum from $189,427 to $192,768.

(7) 16 U.S.C. 957(i)(i), Tuna Conventions Act of 1950, violation, maximum from $189,427 to $192,768.

(8) 16 U.S.C. 971(i), Atlantic Tuna Convention Act of 1975, violation, maximum from $189,427 to $192,768.


(12) 16 U.S.C. 1385(e), Dolphin Protection Consumer Information Act, violation, maximum from $189,427 to $192,768.


(14) 16 U.S.C. 1540(a)(1), Endangered Species Act of 1973:

(i) Violation as specified (1988), maximum from $52,596 to $53,524.

(ii) Violation as specified (1988), maximum from $25,246 to $25,691.

(iii) Otherwise violation (1978), maximum from $1,729 to $1,759.

(15) 16 U.S.C. 1858(a), Magnuson-Stevens Fishery Conservation and Management Act (1990), violation, maximum from $189,427 to $192,768.


(17) 16 U.S.C. 2465(a), Antarctic Protection Act of 1990, violation, maximum from $189,427 to $192,768.


(i) 16 U.S.C. 3373(a)(1), violation, maximum from $27,075 to $27,553.

(ii) 16 U.S.C. 3373(a)(2), violation, maximum from $677 to $689.


(20) 16 U.S.C. 3637(b), Pacific Salmon Treaty Act of 1985, violation, maximum from $189,427 to $192,768.

(21) 16 U.S.C. 4016(b)(1)(B), Fish and Wildlife Promotion Act of 1986 (1986), violation, minimum from $1,146 to $1,166; maximum from $11,463 to $11,665.


(23) 16 U.S.C. 5103(b)(2), Atlantic Coastal Fisheries Cooperative Management Act, violation, maximum from $189,427 to $192,768.

(24) 16 U.S.C. 5154(c)(1), Atlantic Striped Bass Conservation Act, violation, maximum from $189,427 to $192,768.


(27) 16 U.S.C. 6905(c), Western and Central Pacific Fisheries Convention Implementation Act, violation, maximum from $189,427 to $192,768.

(28) 16 U.S.C. 7009(c) and (d), Pacific Whiting Act of 2006, violation, maximum from $189,427 to $192,768.


(i) Violation, maximum from $29,239 to $29,755.

(ii) Subsequent violation, maximum from $86,389 to $87,913.


(33) 16 U.S.C. 7407(b), Port State Measures Agreement Act of 2015, violation, maximum from $189,427 to $192,768.

(34) 16 U.S.C. 1826e(f), High Seas Driftnet Fishing Moratorium Protection Act, violation, maximum from $189,427 to $192,768.

(35) 16 U.S.C. 7705, Ensuring Access to Pacific Fisheries Act, violation, maximum from $189,427 to $192,768.

(36) 16 U.S.C. 7805, Ensuring Access to Pacific Fisheries Act, violation, maximum from $189,427 to $192,768.

(g) National Technical Information Service. (1) 42 U.S.C. 1306(c), Bipartisan Budget Act of 2013 (2013), (newly reported penalty), violation $1,000; (newly reported penalty), maximum total penalty on any person for any calendar year, excluding willful or intentional violations $250,000.

1This National Oceanic and Atmospheric Administration maximum civil monetary penalty, as prescribed by law, is the maximum civil penalty per 16 U.S.C. 1858(a). Magnuson-Stevens Fishery Conservation and Management Act civil monetary penalty (item (15)).

2 See footnote 1.

3 See footnote 1.

4 See footnote 1.

5 See footnote 1.

6 See footnote 1.

7 See footnote 1.

8 See footnote 1.

9 See footnote 1.

10 See footnote 1.

11 See footnote 1.

12 See footnote 1.

13 See footnote 1.

14 See footnote 1.

15 See footnote 1.

16 See footnote 1.

17 See footnote 1.

18 See footnote 1.

19 See footnote 1.

20 See footnote 1.

§ 6.4 Effective date of adjustments for inflation to civil monetary penalties.

The Department of Commerce’s 2020 adjustments for inflation made by § 6.3, of the civil monetary penalties there specified, are effective on January 15, 2020, and said civil monetary penalties, as thus adjusted by the adjustments for inflation made by § 6.3, apply only to those civil monetary penalties, including those whose associated violation predated such adjustment, which are assessed by the Department of Commerce after the effective date of the new civil monetary penalty level, and before the effective date of any future adjustments for inflation to civil monetary penalties thereto made subsequent to January 15, 2020, as provided in § 6.5.
§ 6.5 Subsequent annual adjustments for inflation to civil monetary penalties.

The Secretary of Commerce or his or her designee by regulation shall make subsequent adjustments for inflation to the Department of Commerce’s civil monetary penalties annually, which shall take effect not later than January 15, notwithstanding section 553 of title 5, United States Code.

[FR Doc. 2019–27864 Filed 1–2–20; 8:45 am]
BILLING CODE 3510–DP–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

RIN 1625–AA00

Safety Zones; Sacramento New Years Eve Fireworks Display, Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones in the navigable waters of the Sacramento River near River Walk Park and the Tower Bridge in Sacramento, CA in support of the Sacramento New Years Eve Fireworks Display on December 31, 2019. These safety zones are necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or a designated representative.

DATES: This rule is effective from 8:30 p.m. to 10 p.m. on December 31, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, type USCG–2019–0967 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Emily Rowan, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443, email SPWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

<table>
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<th>CFR</th>
<th>Code of Federal Regulations</th>
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COTP Captain of the Port San Francisco
DHS Department of Homeland Security
§ Section

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final 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 with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until November 5, 2019. There was insufficient time to undergo the full rulemaking process, including providing a reasonable comment period and considering those comments, because the Coast Guard must establish this temporary safety zone by December 31, 2019.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be contrary to public interest because immediate action is necessary to respond to the potential safety hazards associated with the firework display near Sacramento, CA.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the Sacramento New Year’s Eve fireworks display on December 31, 2019, will be a safety concern for anyone within a 175-foot radius of the fireworks firing sites. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks firing site during the fireworks display.

IV. Discussion of the Rule

This rule establishes three temporary safety zones from 8:30 p.m. to 10 p.m. on December 31, 2019. At 8:30 p.m., 30 minutes prior to the commencement of the 20-minute fireworks display, they will be scheduled to being at 9:00 p.m. on December 31, 2019, the three safety zones for the Sacramento New Years Eve Fireworks Display will encompass the navigable waters, from surface to bottom, around the fireworks firing sites within three respective circles each with a radius of 175 feet with the respective circle centers in approximate positions: Southern Firing Site at 38°34′50″ N, 121°30′30″ W, Northern Firing Site at 38°35′02″ N, 121°30′40″ W, and Near the Tower Bridge at 38°34′50″ N, 121°30′30″ W (NAD83).

The safety zones shall terminate at 10 p.m. on December 31, 2019.

This regulation is needed to keep persons and vessels away from the immediate vicinity of the fireworks display locations to ensure the safety of participants, spectators, and transiting vessels. Except for persons or vessels authorized by the COTP or the COTP’s designated representative, no person or vessel may enter or remain in the restricted areas. A “designated representative” means a Coast Guard Patrol Commander, including a Coast Guard Coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zones. The COTP or the COTP’s designated representative will notify the maritime community of periods during which these zones will be enforced using information broadcasts.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.