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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4071 and 4302

RIN 1212–AB45

#### Adjustment of Civil Penalties for Inflation

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust for inflation the maximum civil penalty for failure to provide certain notices or other material information and for failure to provide certain multiemployer plan notices.

**DATES:**

*Effective date:* This rule is effective January 8, 2025.

*Applicability date:* The increases in the civil monetary penalties under sections 4071 and 4302 of the Employee Retirement Income Security Act provided for in this rule apply to such penalties assessed after January 8, 2025.

**FOR FURTHER INFORMATION CONTACT:**

Karen Levin ([levin.karen@pbgc.gov](mailto:levin.karen@pbgc.gov)), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101; 202–229–3559. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

**SUPPLEMENTARY INFORMATION:**

#### Executive Summary

##### *Purpose of the Regulatory Action*

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance M–25–02. The rule adjusts, as required for 2025, the maximum civil penalties under 29 CFR 4071 and 29 CFR 4302 that the Pension Benefit Guaranty Corporation (PBGC) may assess for failure to provide certain notices or other material information and certain multiemployer plan notices. PBGC’s legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the

Employee Retirement Income Security Act of 1974 (ERISA).

#### *Major Provisions of the Regulatory Action*

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are \$2,739 for section 4071 penalties and \$365 for section 4302 penalties.

#### Background

PBGC administers title IV of ERISA. Title IV has two provisions that authorize PBGC to assess civil monetary penalties.<sup>1</sup> Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to \$100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to \$1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

#### Adjustment of Civil Penalties

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,<sup>2</sup> requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 17, 2024, the Office of Management and Budget issued memorandum M–25–02 on implementation of the 2025 annual inflation adjustment.<sup>3</sup> The memorandum provides agencies with the cost-of-living adjustment multiplier for 2025, which is based on the

<sup>1</sup> Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.

<sup>2</sup> Sec. 701, Public Law 114–74, 129 Stat. 599–601 (Bipartisan Budget Act of 2015).

<sup>3</sup> See M–25–02, Implementation of Penalty Inflation Adjustments for 2025, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, <https://www.whitehouse.gov/wp-content/uploads/2024/12/M-25-02.pdf>.

Consumer Price Index (CPI–U) for the month of October 2024, not seasonally adjusted. The multiplier for 2025 is 1.02598. The adjusted maximum amounts are \$2,739 for section 4071 penalties and \$365 for section 4302 penalties.

#### Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a “significant regulatory action” under Executive Order 12866 and therefore not subject to its review.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

Because no general notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

#### List of Subjects

29 CFR Part 4071

Penalties.

29 CFR Part 4302

Penalties.

In consideration of the foregoing, PBGC amends 29 CFR parts 4071 and 4302 as follows:

#### PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

- 1. The authority citation for part 4071 continues to read as follows:

**Authority:** 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1371.

##### § 4071.34071.3 [Amended]

- 2. In § 4071.3, remove the number “\$2,670” and add in its place the number “\$2,739”.

#### PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

- 3. The authority citation for part 4302 continues to read as follows:

**Authority:** 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

##### § 4302.34302.3 [Amended]

- 4. In § 4302.3, remove the number “\$356” and add in its place the number “\$365”.

Issued in Washington, DC, by

**Ann Y. Orr,**

*Acting Director, Pension Benefit Guaranty Corporation.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 19

[FRL-5906.9-01-OECA]

#### Civil Monetary Penalty Inflation Adjustment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of the maximum and minimum statutory civil monetary penalty amounts under the statutes the EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (“the 2015 Act”). The 2015 Act prescribes a formula for annually adjusting the statutory maximum and minimum amount of civil monetary penalties to reflect inflation, maintain the deterrent effect of statutory civil monetary penalties, and promote compliance with the law. The rule does not establish specific civil monetary penalty amounts the EPA may seek in particular cases. The EPA calculates those amounts, as appropriate, based on the facts of particular cases and applicable agency penalty policies. The EPA’s civil penalty policies, which guide enforcement personnel on how to exercise the EPA’s discretion within statutory penalty authorities, take into account a number of fact-specific considerations, *e.g.*, the seriousness of the violation, the violator’s good faith efforts to comply, any economic benefit gained by the violator as a result of its noncompliance, and the violator’s ability to pay.

**DATES:** This final rule is effective January 8, 2025.

**FOR FURTHER INFORMATION CONTACT:** David Smith-Watts, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564-4083; *smith-watts.david@epa.gov*.

## SUPPLEMENTARY INFORMATION:

### I. Background

The 2015 Act<sup>1</sup> requires each Federal agency to adjust the statutory civil monetary penalties under the laws implemented by that agency annually, to account for inflation. Section 4 of the 2015 Act requires each Federal agency to publish these adjustments by January 15 of each year. The purpose of the 2015 Act is to maintain the deterrent effect of civil monetary penalties by translating originally enacted statutory civil penalty amounts to today’s dollars and rounding statutory civil penalties to the nearest dollar.

Since January 15, 2017, the EPA has made eight annual adjustments: (1) on January 12, 2017, effective on January 15, 2017 (82 FR 3633); (2) on January 10, 2018, effective on January 15, 2018 (83 FR 1190); (3) on February 6, 2019, effective the same day (84 FR 2056), with a subsequent correction on February 25, 2019 (84 FR 5955); (4) on January 13, 2020, effective the same day (85 FR 1751); (5) on December 23, 2020, effective the same day (85 FR 83818); (6) on January 12, 2022, effective the same day (87 FR 1676); (7) on January 6, 2023, effective the same day (88 FR 986); and (8) on December 27, 2023, effective the same day (88 FR 89309). This rule implements the ninth annual adjustment mandated by the 2015 Act.

The 2015 Act provides a formula for calculating the adjustments. Each statutory maximum and minimum<sup>2</sup> civil monetary penalty, as currently adjusted, is multiplied by the cost-of-living adjustment multiplier, which is the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2024

<sup>1</sup> The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114-74) was signed into law on November 2, 2015, and amended the Federal Civil Penalties Inflation Adjustment Act of 1990.

<sup>2</sup> Under Section 3(2)(A) of the 2015 Act, a “civil monetary penalty” [is] any penalty, fine or other sanction that— is for a specific monetary amount as provided by Federal law; or has a maximum amount provided for by Federal law.” EPA-administered statutes generally refer to statutory maximum penalties, with the following exceptions: Section 311(b)(7)(D) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(D), refers to a minimum penalty of “not less than \$100,000 . . .”; Section 104b(d)(1)(A) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1414b(d)(1)(A), refers to an exact penalty of \$600 “[f]or each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992 . . .”; and Section 325(d)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(d)(1), refers to an exact civil penalty of \$25,000 for each frivolous trade secret claim.

exceeds the CPI-U for the month of October 2023.<sup>3</sup>

With this rule, the new statutory maximum and minimum penalty levels listed in the third column of Table 1 of 40 CFR 19.4 will apply to all civil monetary penalties assessed on or after January 8, 2025, for violations that occurred after November 2, 2015, the date the 2015 Act was enacted. The former maximum and minimum statutory civil monetary penalty levels, which are in the fourth column of Table 1 to 40 CFR 19.4, will now apply only to violations that occurred after November 2, 2015, where the penalties were assessed on or after December 27, 2023, but before January 8, 2025. The statutory civil monetary penalty levels that apply to violations that occurred on or before November 2, 2015, are codified at Table 2 to 40 CFR 19.4. The fifth column of Table 1 and the seventh column of Table 2 display the statutory civil monetary penalty levels as originally enacted.

The formula for determining the cost-of-living or inflation adjustment to statutory civil monetary penalties consists of the following steps:

*Step 1:* The cost-of-living adjustment multiplier for 2025 is the percentage by which the CPI-U of October 2024 (315.664) exceeds the CPI-U for the month of October 2023 (307.671), which is 1.02598.<sup>4</sup> Multiply 1.02598 by the current penalty amount. This is the raw adjusted penalty value.

*Step 2:* Round the raw adjusted penalty value. Section 5 of the 2015 Act states that any adjustment shall be rounded to the nearest multiple of \$1. The result is the final penalty value for the year.

### II. The 2015 Act Requires Federal Agencies To Publish Annual Penalty Inflation Adjustments Notwithstanding Section 553 of the Administrative Procedure Act

Pursuant to section 4 of the 2015 Act, each Federal agency is required to

<sup>3</sup> Current and historical CPI-U’s can be found on the Bureau of Labor Statistics’ websites here: <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202410.pdf> and <https://www.bls.gov/news.release/cpi.nr0.htm>.

<sup>4</sup> Section 5(b) of the 2015 Act provides that the term “cost-of-living adjustment” means the percentage (if any) for each civil monetary penalty by which—

(A) the Consumer Price Index for the month of October preceding the date of the adjustment, exceeds

(B) the Consumer Price Index for the month of October 1 year before the month of October referred to in subparagraph (A).

Because the CPI-U for October 2024 is 315.664 and the CPI-U for October 2023 is 307.671, the cost-of-living multiplier is 1.02598 (315.664 divided by 307.671).