

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR part 944 is proposed to be amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§ 944.503 [Amended]

2. In § 944.503, paragraph (a)(1) introductory text, the words “, except Emperor, Calmeria, Almeria, and Ribier,” are replaced with the words “except Emperor, Calmeria, Almeria, Ribier, Italia Pirovano (a.k.a. Blanca Italia), Christmas Rose, Muscatel, Barlinka, Dauphine, Kyojo, Waltham Cross, Alphonse Lavallee, Bien Donne, Bonnoir, (a.k.a. Bonheur), and Sonita,”.

Dated: December 21, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-34208 Filed 12-24-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 91 and 570**

[Docket No. FR-4133-P-02]

RIN No. 2529-AA81

Fair Housing Performance Standards for Acceptance of Consolidated Plan Certifications and Compliance with Community Development Block Grant Performance Review Criteria; Extension of Public Comment Period

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On October 28, 1998, HUD published a proposed rule that would amend the regulations on Consolidated Submissions for Community Planning and Development Programs to establish a standard for determining if the jurisdiction's certification regarding affirmatively furthering fair housing is inaccurate. The October 28, 1998 proposed rule also would amend the regulations on Community Development Block Grants to provide performance review standards for affirmatively

furthering fair housing requirements. The public comment period on this rule was scheduled to close on December 28, 1998. This document extends the public comment period on this proposed rule to February 26, 1999.

DATES: *Comment Due Date:* February 26, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For questions on part 570, Deirdre Maguire-Zinni, Director, Entitlement Communities Division, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7282, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708-1577, ext. 4529. For questions on part 91, Sal Scalfani, Acting Director, Policy Coordination Division, Office of Executive Services, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708-1283, ext. 4364. For questions on affirmatively furthering fair housing or the analysis of impediments to fair housing choice, William Dudley Gregorie, Deputy Director, Office of Programs, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 452 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708-2288, ext. 266. (These telephone numbers are not toll-free.) Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the Federal information relay service during working hours at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On October 28, 1998, HUD published a proposed rule that would amend part 91—Consolidated Submissions for Community Planning and Development Programs—to establish a standard for determining if the jurisdiction's certification regarding affirmatively furthering fair housing is inaccurate (see 63 FR 57882). The October 28, 1998 rule also proposed to amend part 570—Community Development Block Grants—to provide performance review

standards for affirmatively furthering fair housing requirements.

Both revisions would make clear that compliance with the requirement to affirmatively further fair housing would require grantees to have a complete and accurate analysis of impediments to fair housing choice and to not violate the Fair Housing Act or civil rights laws prohibiting discrimination in housing programs receiving Federal financial assistance. These revisions would serve to provide communities with a clear idea of the standards that HUD would use in both reviewing certifications included as part of a grantee's Consolidated Plan submission, as well as determining CDBG grantees' compliance with the statutory requirements of the CDBG program to affirmatively further fair housing.

The public comment period on this proposed rule was scheduled to end December 28, 1998. A number of commenters have requested additional time to submit their comments. Accordingly, the Department has decided to extend the public comment period on this proposed rule for an additional 60 days. The new public comment period deadline is February 26, 1999.

Dated: December 21, 1998.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 98-34313 Filed 12-24-98; 8:45 am]

BILLING CODE 4210-32-P

DEPARTMENT OF LABOR**Wage and Hour Division****29 CFR Parts 578 and 579**

RIN 1215-AB20

Adjustment of Civil Money Penalties for Inflation

AGENCY: Wage and Hour Division, Employment Standards Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes adjustments in the civil money penalties that may be assessed under the Fair Labor Standards Act (FLSA) for repeated or willful violations of the minimum wage or overtime provisions of the FLSA, and for violations of the child labor provisions of the FLSA. These adjustments are being made to meet requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996,

which requires that Federal agencies issue regulations that make inflationary adjustments in their civil money penalties pursuant to a specified formula and make periodic adjustments after the initial increase at least every four years thereafter, in accordance with the guidelines set forth in the amended Federal Civil Penalties Inflation Adjustment Act.

DATES: Written comments must be submitted on or before January 27, 1999.

ADDRESSES: Submit written comments on this proposed rule to Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3510, 200 Constitution Avenue, N.W., Washington, DC 20210. If you want to be notified that we have received your comments, please include with your comments a self-addressed, stamped postcard or submit your comments by certified mail, return receipt requested. As a convenience, you may transmit your comments by facsimile ("FAX") machine to (202) 219-5122, which is not a toll-free number. If you transmit your comments by FAX and also submit them by mail, please indicate on the mailed copy that it is a duplicate copy of your FAX transmission.

FOR FURTHER INFORMATION CONTACT:

Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3510, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone (202) 693-0745 (this is not a toll-free number). You may obtain a copy of this proposed rule in alternative formats by telephoning (202) 693-0745, (202) 219-4634 (TDD); the alternative formats available are large print, electronic file on computer disk, and audio tape.

Questions of interpretation and/or enforcement of final regulations issued by this agency or referenced in this proposed rule may be directed to the nearest Wage and Hour Division District Office listed in most telephone directories under United States Government, Labor Department.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This proposed rule contains no new information collection requirements which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

II. Background

The Debt Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, 104 Stat. 890) to require Federal agencies to regularly adjust certain civil money penalties (CMPs) for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all covered civil money penalties, and to make further inflationary adjustments at least once every four years thereafter. The adjustment prescribed in the amended Act is determined by a cost-of-living formula equal to the amount by which the Department of Labor's Consumer Price Index (CPI) for all urban consumers for June of the calendar year preceding the adjustment exceeds the June CPI for the calendar year in which the CMP amount was last set or adjusted. The statute provides for rounding the penalty increases. Once the percentage change in the CPI is calculated, the amount of the adjustment is rounded according to a table provided in the Federal Civil Penalties Inflation Adjustment Act, which is scaled based on the dollar amount of the current penalty. A cap is then applied which limits the amount of any increase in penalty to 10 percent of the current penalty amount (for the *initial* adjustment only). Any increase under the Act will apply only to violations that occur after the date the increase takes effect. The Act provided that the first such increase should have been made no later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, or by October 23, 1996.

Section 16(e) of the FLSA authorizes CMP assessments for the following violations: (1) any person who violates the child labor provisions (section 12 or section 13(c)(5)) of the FLSA or any regulation thereunder may be subject to a CMP of not to exceed \$10,000 for each employee who was the subject of such a violation; and (2) any person who repeatedly or willfully violates the minimum wage (section 6) or overtime provisions (section 7) of the FLSA may be subject to a CMP of not to exceed \$1,000 for each such violation. In determining the amount of any such penalty in a particular case for either type of violation, the size of the business of the person charged and the gravity of the violation must be taken into consideration, among other appropriate factors.

The child labor CMP amount was last adjusted by the Congress in 1990 pursuant to the Omnibus Budget

Reconciliation Act of 1990, Public Law 101-508 (November 5, 1990), which raised the former \$1,000 maximum child labor CMP amount to \$10,000 and directed that the amounts be deposited into the general fund of the U.S. Treasury. The \$1,000 CMP amount for repeated and willful violations of the minimum wage and overtime provisions was established by the Congress under the 1989 FLSA Amendments, Public Law 101-157 (November 17, 1989). Due to inflation since these CMP amounts were last set in law or adjusted by the Congress, the first increase will be the maximum 10 percent initially permitted under the Debt Collection Improvement Act amendments to the Federal Civil Penalties Inflation Adjustment Act. The adjusted CMP amounts will apply only to violations occurring after the proposed regulations become effective.

III. Summary of Rule

The \$1,000 maximum penalty amount in Section 578.3 for repeated or willful violations of the minimum wage or overtime requirements of the FLSA is increased to \$1,100. The \$10,000 maximum penalty amount in Section 579.5 for violations of the child labor provisions of the FLSA is increased to \$11,000. Conforming changes are also made in other affected sections of the regulations to discuss the inflationary adjustment provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

Executive Order 12866 and Significant Regulatory Actions

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866. The rule proposes to adjust for inflation the maximum civil money penalties under Section 16(e) of the Fair Labor Standards Act. The adjustments and the formula for determining the amount of the adjustment are mandated by the Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. Congress has required that the Department promulgate the amendments proposed in this rule, and provided no discretion to the Department regarding the substance of the amendments. Moreover, for the three Fiscal Years 1995 through 1997, the Department collected a total of \$6,169,771 in CMPs for repeated or willful minimum wage or overtime violations that were assessed in 1,157 cases, for an average of \$2,056,590 collected per year (less than \$5,333 per case, on average). Over the same three-year period, the

Department collected a total of \$12,496,180 in CMPs for child labor violations that were assessed in 3,772 cases, for an average of \$4,165,393 collected per year (approximately \$3,314 per case, on average). With the initial increase in the maximum CMP limited to the statutory 10 percent cap, the total economic impact of the rule is estimated at less than \$623,000 per year. Thus, this action will not: (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Executive Order 12875 and Section 202 of the Unfunded Mandates Reform Act of 1995

For purposes of the Unfunded Mandates Reform Act of 1995, as well as Executive Order 12875, this rule does not include any federal mandate that may result in increased expenditures by either state, local and tribal governments in the aggregate, or by the private sector, of more than \$100 million.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small entities. The proposed rule does no more than ministerially increase certain statutory CMPs to account for inflation, pursuant to specific directions of the Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which specify the procedures for calculating the inflation adjustments and do not allow variations in the calculations to minimize the effects on small entities. Nevertheless, in each case the amount of the penalty assessed under Section 16(e) of the FLSA must take into consideration the size of the business of the person charged with the violations, which will further mitigate the ultimate effects of the rule on small businesses. Moreover, only persons who have willfully or repeatedly violated the minimum wage or overtime provision of

the FLSA, or violated the child labor requirements of the FLSA, will be affected by this rule. Based on the average CMP amounts that the Department has collected for these types of violations over the three fiscal years 1995 through 1997, we estimate that the effect of the rule will be to increase the average CMP collected for repeated or willful minimum wage or overtime violations by \$533 per case, and increase the average CMP collected for child labor violations by \$331 per case. Accordingly, the Department has determined that this proposed change in the rules will not have a significant economic impact on a substantial number of small entities. The Department has certified to this effect to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Therefore, no Regulatory Flexibility Analysis is required.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a "major rule" under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. § 801 *et seq.*) because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Document Preparation: This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standard Administration, U.S. Department of Labor.

List of Subjects

29 CFR Part 578

Employment, Labor, Law enforcement, Penalties.

29 CFR Part 579

Child labor, Law enforcement, Penalties.

For the reasons set forth above, 29 CFR parts 578 and 579 are proposed to be amended as set forth below.

Signed at Washington, D.C. on this 21st day of December, 1998.

John R. Fraser,

Deputy Administrator, Wage and Hour Division.

PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

1. The authority citation for part 578 is proposed to be revised to read as follows:

Authority: Sec. 9, Pub. L. 101-157, 103 Stat. 938; sec. 3103, Pub. L. 102-508, 104 Stat. 1388-29 (29 U.S.C. 216(e)); Pub. L. 101-410, 104 Stat. 890 (29 U.S.C. 2461 note), as amended by Pub. L. 104-134, section 31001(s) 110 Stat. 1321-358, 1321-373.

2. Section 578.1 is proposed to be revised to read as follows:

§ 578.1 What does this regulation cover?

Section 9 of the Fair Labor Standards Amendments of 1989 amended section 16(e) of the Act to provide that any person who repeatedly or willfully violates the minimum wage (section 6) or overtime provisions (section 7) of the Act shall be subject to a civil money penalty not to exceed \$1,000 for each such violation. The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, section 31001(s)), requires that inflationary adjustments be periodically made in these civil money penalties according to a specified cost-of-living formula. This part defines terms necessary for administration of the civil money penalty provisions, describes the violations for which a penalty may be imposed, and describes criteria for determining the amount of penalty to be assessed. The procedural requirements for assessing and contesting such penalties are contained in 29 CFR part 580.

3. The section heading and paragraph (a) of § 578.3 are proposed to be revised to read as follows:

§ 578.3 What types of violations may result in a penalty being assessed?

(a) A penalty of up to \$1,000 per violation may be assessed against any person who repeatedly or willfully violates section 6 (minimum wage) or section 7 (overtime) of the Act; *Provided*, however, that for any violation occurring on or after the effective date of the final rule the civil money penalty amount will increase to up to \$1,100. The amount of the penalty will be determined by applying the criteria in § 578.4.

* * * * *

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

4. The authority citation for part 579 is proposed to be revised to read as follows:

Authority: 29 U.S.C. 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 1371, 36 FR 8755; Sec. 3103, Pub. L. 101-508; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by Pub. L. 104-134, section 31001(s), 110 Stat. 1321-358, 1321-373.

5. The section heading of § 579.1 is proposed to be revised, paragraph (b) of § 579.1 is proposed to redesignated as paragraph (c) of that section, and a new paragraph (b) is proposed to be added, to read as follows:

§ 579.1 What does this regulation cover?

(a) * * *

(b) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, section 31001(s)), requires that Federal agencies periodically adjust their civil money penalties for inflation according to a specified cost-of-living formula. This law requires each agency to make an initial inflationary adjustment for all covered civil money penalties, and to make further inflationary adjustments at least once every four years thereafter. Any increase in the civil money penalty amount will apply only to violations that occur after the date the increase takes effect.

* * * * *

6. The section heading and paragraph (a) of § 579.5 are proposed to be revised to read as follows:

§ 579.5 How is the amount of the penalty determined?

(a) The administrative determination of the amount of the civil penalty, of not to exceed \$10,000 for each employee who was the subject of a violation of section 12 or section 13(c)(5) of the Act relating to child labor or of any regulation issued under that section, will be based on the available evidence of the violation or violations and will take into consideration the size of the business of the person charged and the gravity of the violation as provided in paragraphs (b) through (d) of this

section; *Provided*, however, that for any violation occurring on or after the effective date of the final rule the civil money penalty amount will increase to not to exceed \$11,000 for each employee who was the subject of a violation.

* * * * *

§ 579.9 [Removed]

7. Section 579.9 is proposed to be removed.

[FR Doc. 98-34243 Filed 12-24-98; 8:45 am]
BILLING CODE 4510-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6210-4]

RIN 2060-AH74

National Emission Standards for Hazardous Air Pollutants for Source Categories: Pulp and Paper Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: Under the authority of the Clean Air Act, as amended, the EPA has promulgated standards (63 FR 18504, April 15, 1998) to reduce hazardous air pollutant (HAP) emissions from the pulp and paper production source category. This rule is known as the Pulp and Paper national emission standards for hazardous air pollutants (NESHAP) and is the air component of the integrated air and water rules for the pulp and paper industry, commonly known as the Pulp and Paper Cluster Rules. The rule applies to pulp and paper production processes included under the Standard Industrial Classification (SIC) code 26.

In this action, the EPA is proposing to amend certain regulatory text in the NESHAP regarding the Voluntary Advanced Technology Incentives Program. The EPA views the amendments to be noncontroversial and anticipates no adverse comments. Consequently, the EPA also is publishing these amendments to the NESHAP as a direct final rule in the RULES AND REGULATIONS section of today's **Federal Register** publication. If

no significant, adverse comments regarding the proposed amendments are received by the date specified in this document, then the EPA will take no further action with respect to this proposal and the amendments to the NESHAP will become effective on the date provided in the direct final rule.

DATES: Comments. The EPA will accept comments regarding these proposed amendments on or before January 27, 1999. Additionally, a public hearing regarding the proposed amendments will be held if anyone requesting to speak contacts the EPA by January 19, 1999. If a hearing is requested, the hearing will be held on January 27, 1999 beginning at 10:00 a.m., and the record on the hearing will remain open for 30 days after the hearing date to provide an opportunity for submittal of rebuttal and additional information. For more information about submittal of comments and the public hearing, see the **SUPPLEMENTARY INFORMATION** section in the notice.

ADDRESSES: Comments. Written comments (in duplicate, if possible) should be submitted to Docket No. A-92-40 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC-6102), 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below.

Today's document and other materials related to these proposed amendments are available for review in the docket. Copies of this information may be obtained by request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Silverman, Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone number (202) 260-7716. For technical information regarding the NESHAP, contact Mr. Stephen Shedd, Emissions Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5397 or e-mail at shedd.steve@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities potentially regulated by this action include:

Category	SIC code	Examples of regulated entities
Industry	26	Pulp mills and integrated mills (mills that manufacture pulp and paper/paperboard) that chemically pulp wood fiber.