



[Billing Code6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

Civil Penalties; Notice of Adjusted Maximum Amounts

AGENCY: Consumer Product Safety Commission

ACTION: Notice of Adjusted Maximum Civil Penalty Amounts.

SUMMARY: In 1990, Congress enacted statutory amendments that provided for periodic adjustments to the maximum civil penalty amounts authorized under the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act. On August 14, 2009, the Consumer Product Safety Improvement Act of 2008 (CPSIA) increased the maximum civil penalty amounts to \$100,000 for each violation and \$15,000,000 for any related series of violations. The CPSIA also revised the starting date, from December 1, 1994 to December 1, 2011, and December 1 of each fifth calendar year thereafter, on which the Commission must prescribe and publish in the Federal Register, the schedule of maximum authorized penalties. As calculated in accordance with the amendments, the new amounts are \$110,000 for each violation, and \$16,025,000 for any related series of violations.

DATES: The new amounts will become effective on January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Attorney, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7587; email dkacoyanis@cpsc.gov.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Improvement Act of 1990 (Improvement Act), Public Law 101-608, 104 Stat. 3110 (November 16, 1990), and the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314, 122 Stat. 3016 (August 14, 2008), amended the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), and the Flammable Fabrics Act (FFA). The Improvement Act added civil penalty authority to the FHSA and FFA, which previously contained only criminal penalties. 15 U.S.C. 1264(c) and 1194(e). The Improvement Act also increased the maximum civil penalty amounts applicable to civil penalties under the CPSA and set the same maximum amounts for the newly created FHSA and FFA civil penalties. 15 U.S.C. 2069(a)(1), 1264(c)(1) and 1194(e)(1).

The Improvement Act directed the Commission to adjust the maximum civil penalty amounts periodically for inflation:

- (A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.
- (B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.
- (C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding 5 years. Any increase determined under the preceding sentence shall be rounded to—

- (i) in the case of penalties greater than \$1,000 but less than or equal to \$10,000, the nearest multiple of \$1,000;
- (ii) in the case of penalties greater than \$10,000 but less than or equal to \$100,000, the nearest multiple of \$5,000;
- (iii) in the case of penalties greater than \$100,000 but less than or equal to \$200,000, the nearest multiple of \$10,000; and
- (iv) in the case of penalties greater than \$200,000, the nearest multiple of \$25,000.

(D) For purposes of this subsection:

- (i) The term “Consumer Price Index” means the Consumer Price Index for all-urban consumers published by the Department of Labor.
- (ii) The term “cost-of-living adjustment for the preceding five years” means the percentage by which—
 - (I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds
 - (II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted. 15 U.S.C. 2069(a)(3), 1264(c)(6), and 1194(e)(5).

The CPSIA amended the CPSA, FHSA, and FFA to increase the maximum civil penalty amounts to \$100,000 for each violation, and \$15,000,000 for any related series of violations. 15 U.S.C. 2069(a)(1), 1264(c)(1), and 1194(e)(1). The CPSIA also revised the starting date from December 1, 1994, and every fifth year thereafter, to no later than December 1, 2011, and every fifth year thereafter, as the date on which “the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.”

The Commission’s Directorate for Economics has calculated that the cost-of-living adjustment increases the maximum civil penalty amounts to \$105,722 for each violation, and to \$16,016,580 for any related series of violations. Rounding off these numbers in accordance with the statutory directions, the adjusted maximum amounts are \$110,000 for each violation, and \$16,025,000 for any related series of violations. These new amounts will apply to violations that occur after January 1, 2017.

Dated: November 18, 2016

Todd A. Stevenson

Secretary, Consumer Product Safety Commission

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