

Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 5.

#### **PART 5—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

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

**Authority:** 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

2. Appendix A is added to part 5 to read as follows:

#### **Appendix A to Part 5—List of Federal Financial Assistance Administered by the Nuclear Regulatory Commission to Which Title IX Applies**

**Note:** All recipients of Federal financial assistance from NRC are subject to Title IX, but Title IX's anti-discrimination prohibitions are limited to the educational components of the recipient's program or activity, if any. Failure to list a type of Federal assistance below shall not mean, if Title IX is otherwise applicable, that a program or activity is not covered by Title IX.

(a) *Conferences on regulatory programs and related matters.* Agreements for financial assistance to State and local officials, without full-cost recovery, to confer on regulatory programs and related matters at NRC facilities and offices, or other locations.

(b) *Orientations and instruction.* Agreements for financial assistance to State and local officials, without full-cost recovery, to receive orientation and on-the-job instruction at NRC facilities and offices, or other locations.

(c) *Technical training courses.* Agreements for financial assistance to State and local officials, without full-cost recovery to attend training on nuclear material licensing, inspection and emergency response regulatory responsibilities to ensure compatibility between NRC and Agreement State regulation.

(d) *Participation in meetings and conferences.* Agreements for participation, without full-cost recovery, in meetings, conferences, workshops, and symposia to assist scientific, professional or educational institutions or groups.

(e) *Research support.* Agreements for the financial support of basic and applied scientific research and for the exchanges of scientific information.

Dated at Rockville, Maryland, this 19th day of December 2000.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

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#### **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

#### **Office of Federal Housing Enterprise Oversight**

#### **12 CFR Part 1780**

**RIN 2550-AA17**

#### **Rules of Practice and Procedure**

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Final rule.

**SUMMARY:** The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing this final rule amending its rules of practice and procedure to adjust each civil money penalty within its jurisdiction to account for inflation. OFHEO is taking this action pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

**DATES:** This rule is effective January 4, 2001.

#### **FOR FURTHER INFORMATION CONTACT:**

David W. Roderer, Deputy General Counsel, (202) 414-6924, Jamey Basham, Counsel (202) 414-8906 (not toll-free numbers), 1700 G Street NW., Fourth Floor, Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is: (800) 877-8339 (TDD only).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

Title XIII of the Housing and Community Development Act of 1992, Public Law No. 102-550, entitled the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, established OFHEO. OFHEO is an independent office within the Department of Housing and Urban Development (HUD) with responsibility for ensuring that Fannie Mae and Freddie Mac (collectively, the Enterprises) are adequately capitalized and operate safely and in conformity to the requirements of applicable laws, rules and regulations, including their respective charter acts. The Enterprises are government-sponsored corporations established under Federal law to effect specific public purposes.<sup>1</sup> These include providing liquidity to the residential mortgage market and promoting the availability of mortgage credit benefiting low- and moderate-

income families and areas that are underserved by lending institutions.

#### **The Inflation Adjustment Act**

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (the Inflation Adjustment Act)<sup>2</sup> requires OFHEO, as well as other Federal agencies with the authority to issue civil money penalties (CMPs), to publish regulations to adjust each CMP authorized by law that the agency has jurisdiction to administer. The purpose of these adjustments is to maintain the deterrent effect of CMPs and promote compliance with the law. The Inflation Adjustment Act required agencies to make an initial adjustment of their CMPs upon the statute's enactment, and further requires agencies to make additional adjustments on an ongoing basis, at least once every four years following the initial adjustment. In 1997, OFHEO made the initial adjustment of its CMPs,<sup>3</sup> with such adjustments being applicable to any violation occurring after October 23, 1996 (the effective date of the Inflation Adjustment Act).

Under the Inflation Adjustment Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by a cost-of-living adjustment. As is described in detail below, the Inflation Adjustment Act provides that this cost-of-living adjustment is to reflect the percentage increase in the Consumer Price Index<sup>4</sup> since the CMPs were last adjusted or established, and rounded in accordance with rules provided in the statute.

#### **Description of the Rule**

This final rule adjusts the amount for each type of CMP that OFHEO has jurisdiction to impose, in accordance with the requirements of the Inflation Adjustment Act. Part 1780 of OFHEO's rules and regulations currently sets out the procedural rules under which OFHEO conducts proceedings to impose

<sup>2</sup> 28 U.S.C. 2461 note.

<sup>3</sup> Section 1780.71 of OFHEO's rules and regulations, 12 CFR § 1780.71.

<sup>4</sup> The Inflation Adjustment Act specifically identifies the Consumer Price Index for All Urban Consumers published by the United States Department of Labor (CPI-U). The Department of Labor (DOL) computes the CPI-U using two different base time periods, 1967 and 1982-1984. The Inflation Adjustment Act does not specify which of these base periods should be used to calculate the inflation adjustment. OFHEO calculated the initial adjustment of its CMPs using CPI-U data with the 1967 base period. OFHEO is using CPI-U data with the 1982-1984 base period for the adjustments adopted in this final rule, because such data now reflect the most current method of computing the CPI-U.

<sup>1</sup> See Federal Home Loan Mortgage Corporation Act, 12 U.S.C. 1451 *et seq.*; Federal National Mortgage Association Charter Act, 12 U.S.C. 1716 *et seq.*; Act at 12 U.S.C. 4561-67, 4562 note.

a civil money penalty. This final rule amends the table contained in § 1780.80, which identifies the different tiers of penalties provided in 12 U.S.C. 4636—the statute that provides OFHEO with CMP authority—and sets out the new adjusted maximum penalty amount that OFHEO may impose for that tier. The increases in maximum penalty amounts contained in this final rule may not necessarily affect the amount of any CMP that OFHEO may seek for a particular violation; OFHEO would

calculate each CMP on a case-by-case basis in light of a variety of factors.

The Inflation Adjustment Act directs federal agencies to calculate each CMP adjustment as the percentage by which the CPI-U for June of the calendar year preceding the adjustment exceeds the CPI-U for June of the calendar year in which the amount of such CMP was last adjusted. Since OFHEO is making this round of adjustments in calendar year 2000,<sup>5</sup> and OFHEO made the last round of adjustments in calendar year 1997, the inflation adjustment amount for

each CMP was calculated by comparing the CPI-U for June 1997 (160.3) with the CPI-U for June 1999 (166.2), resulting in an inflation adjustment of 3.7 percent.<sup>6</sup> For each CMP, the product of this inflation adjustment and the previous maximum penalty amount was then rounded in accordance with the specific requirements of the Inflation Adjustment Act,<sup>7</sup> then summed with the previous maximum penalty amount to determine the new adjusted maximum penalty amount. The table below sets out these items accordingly.

| U.S. Code citation         | Description                                       | Previous maximum penalty amount | Inflation increase (3.7 percent) | Rounded inflation increase | New adjusted maximum penalty amount |
|----------------------------|---------------------------------------------------|---------------------------------|----------------------------------|----------------------------|-------------------------------------|
| 12 U.S.C. 4636(b)(1) ..... | First Tier .....                                  | 5,500                           | 203.50                           | 0                          | 5,500                               |
| 12 U.S.C. 4636(b)(2) ..... | Second Tier (Executive Officer or Director) ..... | 11,000                          | 407                              | 0                          | 11,000                              |
| 12 U.S.C. 4636(b)(2) ..... | Second Tier (Enterprise) .....                    | 27,500                          | 1,017.50                         | 0                          | 27,500                              |
| 12 U.S.C. 4636(b)(3) ..... | Third Tier (Executive Officer or Director) .....  | 110,000                         | 4,070                            | 0                          | 110,000                             |
| 12 U.S.C. 4636(b)(3) ..... | Third Tier (Enterprise) .....                     | 1,100,000                       | 40,700                           | 50,000                     | 1,150,000                           |

Section 1780.81 states that the adjustments made in § 1780.80 apply only to violations that occur after January 4, 2001.

#### Public Notice and Comment and Delayed Effective Date Not Required

OFHEO finds good cause that notice and an opportunity to comment on this document are unnecessary under the Administrative Procedure Act (APA), and OFHEO is issuing these requirements as a final rule. 5 U.S.C. 553. This rulemaking conforms with and is consistent with the statutory directive set forth in the Inflation Adjustment Act, with no issues of policy discretion, and public comment is impracticable and unnecessary.

In addition, OFHEO finds good cause to make this rule effective upon publication of this document in the **Federal Register** under the Administrative Procedure Act (APA). 5 U.S.C. 553(d). This final rule does not impose any additional responsibilities on any entity. Instead, it simply adjusts CMPs as dictated by the Inflation Adjustment Act.

#### Regulatory Impact

##### *Executive Order 12866, Regulatory Planning and Review*

This final rule is not classified as a significant rule under Executive Order 12866 because it will not result in an annual effect on the economy of \$100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have 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 foreign markets. Accordingly, no regulatory impact assessment is required and this final rule has not been submitted to the Office of Management and Budget for review.

##### *Unfunded Mandates Reform Act of 1995*

This final rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any

one year. As a result, the final rule does not warrant the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) only applies to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b) (see 5 U.S.C. 601(2)). OFHEO has determined for good cause that the APA does not require a general notice of proposed rulemaking for this regulatory action. The Regulatory Flexibility Act does not apply to this final rule.

##### *Paperwork Reduction Act of 1995*

These proposed rules contain no information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

#### List of Subjects in 12 CFR Part 1780

Administrative practice and procedure, Penalties.

Accordingly, for the reasons set out in the preamble, the Office of Federal

<sup>5</sup> Although the adjustment is being made in calendar year 2000, the resulting CMP increases do not take effect until publication of the rule, and will only apply to conduct occurring after such date.

<sup>6</sup> OFHEO's last round of adjustments in 1997 applied an inflation factor of 11.8 percent, calculated by comparing June 1992 CPI-U data to June 1996 CPI-U data. The 1992 data were used as the base period in accordance with the Inflation Adjustment Act's directive to use CPI-U data from

the year of a CMP's enactment if the CMP had not been previously adjusted pursuant to law. The resulting penalty increase was then rounded in accordance with the statutory rules described below and in some cases reduced by the statute's ten percent cap on initial CMP adjustments. 62 FR 68152 (December 31, 1997).

<sup>7</sup> The statute's rounding rules require that each increase be rounded to the nearest multiple as follows: \$10 in the case of penalties less than or

equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000.

Housing Enterprise Oversight proposes to amend 12 CFR part 1780 as follows:

# **PART 1780—RULES OF PRACTICE AND PROCEDURE**

1. The authority citation for part 1780 is revised to read as follows:

**Authority:** 12 U.S.C. 4501, 4513, 4517, 4521, 4631–4641.

2. Revise subpart E of part 1780 to read as follows:

## **Subpart E—Civil Money Penalty Inflation Adjustments**

### **§ 1780.80 Inflation adjustments.**

The maximum amount of each civil money penalty within OFHEO's

jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (28 U.S.C. 2461 *note*) as follows:

| U.S. Code citation         | Description                                       | New adjusted maximum penalty amount |
|----------------------------|---------------------------------------------------|-------------------------------------|
| 12 U.S.C. 4636(b)(1) ..... | First tier .....                                  | 5,500                               |
| 12 U.S.C. 4636(b)(2) ..... | Second tier (Executive Officer or Director) ..... | 11,000                              |
| 12 U.S.C. 4636(b)(2) ..... | Second Tier (Enterprise) .....                    | 27,500                              |
| 12 U.S.C. 4636(b)(3) ..... | Second Tier (Executive Officer or Director) ..... | 110,000                             |
| 12 U.S.C. 4636(b)(3) ..... | Second Tier (Enterprise) .....                    | 1,150,000                           |

### **§ 1780.81 Applicability.**

The inflation adjustments in § 1780.80 apply to civil money penalties assessed in accordance with the provisions of 12 U.S.C. 4636 for violations occurring after January 4, 2001.

Dated: December 28, 2000.

**Armando Falcon, Jr.,**

*Director, Office of Federal Housing Enterprise Oversight.*

[FR Doc. 01–177 Filed 1–3–01; 8:45 am]

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Part 522**

#### **Implantation or Injectable Dosage Form New Animal Drugs; Change of Sponsor**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for two approved new animal drug applications (NADA's) from Pfizer, Inc., to Phoenix Scientific, Inc. **DATES:** This rule is effective January 4, 2001.

**FOR FURTHER INFORMATION CONTACT:** Norman J. Turner, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0214.

**SUPPLEMENTARY INFORMATION:** Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, has informed FDA that it has transferred to Phoenix Scientific,

Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, ownership of, and all rights and interests in NADA 065–110 for Pro-Pen G (penicillin G procaine) in Aqueous Suspension and NADA 065–498 for Pen BP–48 (penicillin G benzathine/procaine). Accordingly, the agency is amending the regulations in 21 CFR 522.1696a and 522.1696b to reflect the transfer of ownership. The agency is also taking the opportunity to restructure the regulation to reflect current format.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

#### **List of Subjects in 21 CFR Part 522**

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

#### **PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR part 522 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

2. Section 522.1696a is revised to read as follows:

#### **§ 522.1696a Penicillin G benzathine and penicillin G procaine sterile suspension.**

(a) *Specifications.* Each milliliter of aqueous suspension contains penicillin G benzathine and penicillin G procaine, each equivalent to 150,000 units of penicillin G.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for the conditions of use in paragraph (d) of this section as follows:

(1) Nos. 000008, 000856, 000864, 010515, and 049185 for use as in paragraph (d)(1) of this section.

(2) Nos. 000856 and 049185 for use as in paragraphs (d)(2)(i), (d)(2)(ii)(A), and (d)(2)(iii) of this section.

(3) Nos. 000864, 010515, and 059130 for use as in paragraphs (d)(2)(i), (d)(2)(ii)(B), and (d)(2)(iii) of this section.

(c) *Related tolerances.* See § 556.510 of this chapter.

(d) *Conditions of use—(1) Horses, dogs, and beef cattle—(i) Amount—(A) Beef cattle.* 2 milliliters per 150 pounds of body weight intramuscularly or subcutaneously. Repeat dosage in 48 hours.

(B) *Horses.* 2 milliliters per 150 pounds of body weight intramuscularly. Repeat dosage in 48 hours.

(C) *Dogs.* 1 milliliter per 10 to 25 pounds of body weight intramuscularly or subcutaneously. Repeat dosage in 48 hours.

(ii) *Conditions of use.* Treatment of bacterial infections susceptible to penicillin G.

(iii) *Limitations.* In beef cattle, treatment should be limited to two doses. Not for use in beef cattle within 30 days of slaughter. Do not use in horses intended for food purposes. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Beef cattle—(i) Amount.* 2 milliliters per 150 pounds of body weight subcutaneously. Repeat dosage in 48 hours.

(ii) *Conditions of use.* (A) Treatment of bacterial pneumonia (*Streptococcus* spp., *Corynebacterium pyogenes*,