of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy ("DOE") hereby temporarily postpones the effective date of its final rule amending the test procedures for compressors published in the **Federal Register** on January 4, 2017. See 82 FR 1052. The January 4 rule establishes a new test procedure for certain varieties of compressors. Consistent with the memorandum, DOE is temporarily postponing the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff's memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing for 60 days the effective date of this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. It is also impracticable given that the memorandum was issued on January 20, 2017, and the previous effective date of the rule at issue was February 3, 2017. For these same reasons DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 26, 2017.

John T. Lucas,

Acting General Counsel.

[FR Doc. 2017–02134 Filed 2–1–17; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2017–01]

Civil Monetary Penalties Annual Inflation Adjustments

AGENCY: Federal Election Commission.

ACTION: Final rules.

SUMMARY: As required by the Federal Civil Penalties Inflation Adjustment Act of 1990, the Federal Election Commission is adjusting for inflation the civil monetary penalties established under the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil monetary penalties being adjusted are those negotiated by the Commission or imposed by a court for certain statutory violations, and those imposed by the Commission for late filing of or failure to file certain reports required by the Federal Election Campaign Act. The adjusted civil monetary penalties are calculated according to a statutory formula and the adjusted amounts will apply to penalties assessed after the effective date of these rules.

DATES: The final rules are effective on February 2, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Neven F. Stipanovic, Acting Assistant General Counsel, or Mr. Eugene J. Lynch, Paralegal, Office of General Counsel, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (the "Inflation Adjustment Act"),[1] as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the "2015 Act"),[2] requires federal agencies, including the Commission, to adjust for inflation the civil monetary penalties within their jurisdiction according to prescribed formulas. A civil monetary penalty is "any penalty, fine, or other sanction" that (1) "is for a specific amount" or "has a maximum amount" under federal law; and (2) that a federal agency assesses or enforces "pursuant to an administrative proceeding or a civil action" in federal court.[3] Under the Federal Election

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[1] Public Law 101–410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), *amended by* Debt Collection Improvement Act of 1996, Public Law 104–134, sec. 31001(s)(1), 110 Stat. 1321, 1373; Federal Reports Elimination Act of 1998, Public Law 105–362, sec. 1301, 112 Stat. 3280.

[2] Public Law 114–74, section 701, 129 Stat. 584, 599.

[3] Inflation Adjustment Act, section 3(2).

Campaign Act, 52 U.S.C. 30101–46 ("FECA"), the Commission may seek and assess civil monetary penalties for violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001–13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031–42.

As required by the 2015 Act,[4] the Commission recently instituted a one-time "catch-up" inflation adjustment to its civil monetary penalties. Civil Monetary Penalties Inflation Adjustments, 81 FR 41196 (June 24, 2016). Starting in 2017, the Inflation Adjustment Act requires federal agencies to adjust their civil penalties annually, and the adjustments must take effect no later than January 15 of every year.[5] Pursuant to guidance issued by the Office of Management and Budget,[6] the Commission is now adjusting its civil monetary penalties for 2017.[7]

The Commission must adjust for inflation its civil monetary penalties "notwithstanding Section 553" of the Administrative Procedures Act ("APA").[8] Thus, the APA's notice-and-comment and delayed effective date requirements in 5 U.S.C. 553(b)–(d) do not apply because Congress has specifically exempted agencies from these requirements.[9]

Furthermore, because the inflation adjustments made through these final rules are required by Congress and involve no Commission discretion or policy judgments, these rules do not need to be submitted to the Speaker of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.* Moreover, because the APA's notice-and-comment procedures do not apply to these final rules, the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA. *See* 5 U.S.C. 30111(d)(1), (4) (providing for

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[4] Inflation Adjustment Act, section 4(b)(1).

[5] Inflation Adjustment Act, section 4(a).

[6] *See* Inflation Adjustment Act section 7(a) (requiring OMB to "issue guidance to agencies on implementing the inflation adjustments required under this Act"); *see also* Memorandum from Shaun Donovan, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, M–17–11 (Dec. 16, 2016), *https:// www.whitehouse.gov/sites/default/files/omb/ memoranda/2016/m-16-06.pdf* ("OMB Memorandum").

[7] Inflation Adjustment Act, section 5.

[8] Inflation Adjustment Act, section 4(b)(2).

[9] *See, e.g., Asiana Airlines* v. *FAA,* 134 F.3d 393, 396–99 (D.C. Cir. 1998) (finding APA "notice and comment" requirement not applicable where Congress clearly expressed intent to depart from normal APA procedures).

congressional review when Commission "prescribe[s]" a "rule of law").

The new penalty amounts will apply to civil monetary penalties that are assessed after the date the increase takes effect, even if the associated violation predated the increase.[10]

Explanation and Justification

As amended by the 2015 Act, the Inflation Adjustment Act requires the Commission to annually adjust its civil monetary penalties for inflation by applying a cost-of-living-adjustment ("COLA") ratio.[11] The COLA ratio is the percentage that the Consumer Price Index ("CPI")[12] "for the month of October preceding the date of the adjustment" exceeds the CPI for October of the previous year.[13] To calculate the adjusted penalty, the Commission must increase the most recent civil monetary penalty amount by the COLA ratio.[14]

According to the Office of Management and Budget, the COLA ratio for 2017 is 0.01636, or 1.636%; thus, to calculate the new penalties, the Commission must multiply the most recent civil monetary penalties in force by 1.01636.[15]

The Commission assesses two types of civil monetary penalties that must be adjusted for inflation. First are penalties that are either negotiated by the Commission or imposed by a court for violations of FECA, the Presidential Election Campaign Fund Act, or the Presidential Primary Matching Payment Account Act. These civil monetary penalties are set forth at 11 CFR 111.24. Second are the civil monetary penalties assessed through the Commission's Administrative Fines Program for late filing or non-filing of certain reports required by FECA. See 52 U.S.C. 30109(a)(4)(C) (authorizing Administrative Fines Program), 30104(a)

(requiring political committee treasurers to report receipts and disbursements within certain time periods). The penalty schedules for these civil monetary penalties are set out at 11 CFR 111.43 and 111.44.

1. 11 CFR 111.24—Civil Penalties

FECA establishes the civil monetary penalties for violations of FECA and the other statutes within the Commission's jurisdiction. See 52 U.S.C. 30109(a)(5), (6), (12). Commission regulations in 11 CFR 111.24 provide the current inflation-adjusted amount for each such civil monetary penalty. To calculate the adjusted civil monetary penalty, the Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure to the nearest dollar.

The actual adjustment to each civil monetary penalty is shown in the chart below.

Section	Most recent civil penalty	COLA	New civil penalty
11 CFR 111.24(a)(1)	$18,750	1.01636	$19,057
11 CFR 111.24(a)(2)(i)	40,000	1.01636	40,654
11 CFR 111.24(a)(2)(ii)	65,593	1.01636	66,666
11 CFR 111.24(b)	5,609	1.01636	5,701
11 CFR 111.24(b)	14,023	1.01636	14,252

2. 11 CFR 111.43, 111.44—Administrative Fines

FECA authorizes the Commission to assess civil monetary penalties for violations of the reporting requirements of 52 U.S.C. 30104(a) according to the penalty schedules "established and published by the Commission." 52 U.S.C. 30109(a)(4)(C)(i). The Commission has established two such schedules: The schedule in 11 CFR 111.43(a) applies to reports that are not election sensitive, and the schedule in 11 CFR 111.43(b) applies to reports that are election sensitive.[16] Each schedule contains two columns of penalties, one for late-filed reports and one for non-filed reports, with penalties based on the level of financial activity in the report and, if late-filed, its lateness.[17] In addition, 11 CFR 111.43(c) establishes a civil monetary penalty for situations in which a committee fails to file a report and the Commission cannot calculate the relevant level of activity. Finally, 11 CFR 111.44 establishes a civil monetary penalty for failure to file timely reports of contributions received less than 20

days, but more than 48 hours, before an election. See 52 U.S.C. 30104(a)(6).

To determine the adjusted civil monetary penalty amount for each level of activity, the Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure to the nearest dollar. The new civil monetary penalties are shown in the schedules in the rule text, below.

List of Subjects in 11 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election Commission amends subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

PART 111—COMPLIANCE PROCEDURE (52 U.S.C. 30109, 30107(a))

■ 1. The authority citation for part 111 continues to read as follows:

Authority: 52 U.S.C. 30102(i), 30109, 30107(a), 30111(a)(8); 28 U.S.C. 2461 note; 31

U.S.C. 3701, 3711, 3716–3719, and 3720A, as amended; 31 CFR parts 285 and 900–904.

§ 111.24 [Amended]

■ 2. In the table below for § 111.24, for each paragraph indicated in the left column, remove the number indicated in the middle column, and add in its place the number indicated in the right column.

Paragraph	Remove	Add
(a)(1)	$18,750	$19,057
(a)(2)(i)	40,000	40,654
(a)(2)(ii)	65,593	66,666
(b)	5,609	5,701
(b)	14,023	14,252

■ 3. Section 111.43 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5,

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[10] Inflation Adjustment Act, section 6.

[11] The COLA ratio must be applied to the most recent civil monetary penalties, which include the recent catch-up adjustments. Inflation Adjustment Act, section 4(a); *see also* OMB Memorandum at 2.

[12] The Inflation Adjustment Act, sec. 3, uses the CPI "for all-urban consumers published by the Department of Labor."

[13] Inflation Adjustment Act, section 5(b)(1).

[14] Inflation Adjustment Act, section 5(a), (b)(1).

[15] OMB Memorandum at 1.

[16] Election sensitive reports are certain reports due shortly before an election. *See* 11 CFR 111.43(d)(1).

[17] A report is considered to be "not filed" if it is never filed or is filed more than a certain number of days after its due date. *See* 11 CFR 111.43(e).

shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–4,999.99 [1]	[$33 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$326 × [1 + (.25 × Number of previous violations)].
$5,000–9,999.99	[$65 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$392 × [1 + (.25 × Number of previous violations)].
$10,000–24,999.99	[$139 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$654 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$277 + ($26 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1176 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$417 + ($105 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$3751 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$556 + ($139 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4862 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$833 + ($174 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$6252 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$1112 + ($208 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$7641 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$1389 + ($243 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$9030 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$2084 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$11,114 × [1 + (.25 × Number of previous violations)].
$350,000–449,999.99	[$2779 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$12,503 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$3473 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,197 × [1 + (.25 × Number of previous violations)].
$550,000–649,999.99	[$4168 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,893 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$4862 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$14,587 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$5557 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,282 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$6252 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,976 × [1 + (.25 × Number of previous violations)].
$950,000 or over	[$6946 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$16,671 × [1 + (.25 × Number of previous violations)].

[1] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–$4,999.99 [1]	[$65 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$654 × [1 + (.25 × Number of previous violations)].
$5,000–$9,999.99	[$131 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$784 × [1 + (.25 × Number of previous violations)].
$10,000–24,999.99	[$196 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1176 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$417 + ($33 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1829 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$625 + ($105 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4168 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$833 + ($139 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$5557 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$1250 + ($174 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$6946 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$1667 + ($208 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$8335 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$2084 + ($243 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$10,420 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$3126 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$12,503 × [1 + (.25 × Number of previous violations)].
$350,000–449,999.99	[$4168 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,893 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$5210 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,282 × [1 + (.25 × Number of previous violations)].

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$550,000–649,999.99	[$6252 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$16,671 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$7293 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$18,061 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$8335 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$19,449 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$9378 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$20,838 × [1 + (.25 × Number of previous violations)].
$950,000 or over	[$10,420 + ($277 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$22,228 × [1 + (.25 × Number of previous violations)].

[1] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be $7,641.

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§ 111.44   [Amended]

■ 4. Amend paragraph (a)(1) of § 111.44 by removing ''$137'' and adding, in its place, ''$139''.

On behalf of the Commission.

Dated: January 5, 2017.

Matthew S. Petersen,

Commissioner, Federal Election Commission.

[FR Doc. 2017–01431 Filed 2–1–17; 8:45 am]

BILLING CODE 6715–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2017–0010]

16 CFR Parts 1112 and 1250

Safety Standard Mandating ASTM F963 for Toys

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: Section 106 of the Consumer Product Safety Improvement Act (CPSIA) made ASTM F963–07ε1, *Standard Consumer Safety Specification for Toy Safety,* a mandatory consumer product safety standard. That section also provides procedures for revisions to the standard. In accordance with these procedures, the Commission (CPSC or Commission) recently allowed the update to ASTM F963, ASTM F963–16, *Standard Consumer Safety Specification for Toy Safety* (ASTM F963–16), to become the mandatory toy standard. This direct final rule incorporates by reference ASTM F963–16 and updates the existing notice of requirements (NOR) that provide the criteria and process for Commission acceptance of accreditation of third party conformity assessment

bodies for testing for ASTM F963 pursuant to section 14(a)(3)(B)(vi) of the Consumer Product Safety Act (CPSA).

DATES: The rule is effective on April 30, 2017, unless we receive significant adverse comment by March 6, 2017. If we receive timely significant adverse comments, we will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of April 30, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2017–0010, by any of the following methods:

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov.*

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: For information related to the toy standard, contact: Carolyn T. Manley, Lead Compliance Officer, Office of

Compliance and Field Operations, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814–4408; telephone: 301–504–7607; email: *cmanley@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Section 106 of the Consumer Product Safety Improvement Act of 2008. Section 106(a) of CPSIA mandated that beginning on February 10, 2009, ASTM F963–07ε1, *Standard Consumer Safety Specifications for Toy Safety,*[1] shall be considered a mandatory consumer product safety standard issued by the CPSC. Public Law 110–314. Since ASTM F963 was first mandated in 2009, there have been two revisions, ASTM F963–08 and ASTM F963–11. Currently, the provisions of ASTM F963–11 and section 4.27 of ASTM F963–07ε1 (toy chests) are considered consumer product safety standards issued by the Commission under section 9 of the CPSA. Under section 106(g) of the CPSIA, if ASTM proposes revisions to ASTM F963, ASTM must notify the Commission. The revised standard shall be considered to be a consumer product safety standard issued by the CPSC under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which ASTM notifies the Commission of the revision, unless, within 90 days after receiving that notice, the Commission notifies ASTM that it has determined that the proposed revision does not improve the safety of toys.

Notification of Revisions. On November 1, 2016, ASTM notified the CPSC of ASTM's approval and publication of revisions to ASTM F963–16 in a revised standard approved on August 1, 2016, ASTM F963–16, *Standard Consumer Safety Specification for Toy Safety.* On January 25, 2017, the Commission voted to

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[1] Except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute.