

Federal Trade Commission

§ 1.98

Act, 42 U.S.C. 6303(d)(2)(A). If the Commission votes to issue a complaint, the proceeding shall be conducted in accordance with subparts B, C, D, E and F of part 3 of this chapter, unless otherwise ordered in the notice of proposed penalty. In assessing a penalty, the Commission shall take into account the factors listed in §1.97.

§ 1.95 Procedures upon election.

(a) After receipt of the notification of election to apply the procedures of this section pursuant to §1.93, the Commission shall promptly assess such penalty as it deems appropriate, in accordance with §1.97.

(b) If the civil penalty has not been paid within 60 calendar days after the assessment order has been issued under paragraph (a) of this section, the General Counsel, unless otherwise directed, shall institute an action in the appropriate district court of the United States for an order enforcing the assessment of the civil penalty.

(c) Any election to have this section apply may not be revoked except with the consent of the Commission.

§ 1.96 Compromise of penalty.

The Commission may compromise any penalty or proposed penalty at any time, with leave of court when necessary, taking into account the nature and degree of violation and the impact of a penalty upon a particular respondent.

§ 1.97 Amount of penalty.

All penalties assessed under this subchapter shall be in the amount per violation as described in section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a), adjusted for inflation pursuant to §1.98, unless the Commission otherwise directs. In considering the amount of penalty, the Commission shall take into account:

- (a) Respondent's size and ability to pay;
- (b) Respondent's good faith;
- (c) Any history of previous violations;
- (d) The deterrent effect of the penalty action;
- (e) The length of time involved before the Commission was made aware of the violation;

(f) The gravity of the violation, including the amount of harm to consumers and the public caused by the violation; and

(g) Such other matters as justice may require.

[32 FR 8444, June 13, 1967, as amended at 61 FR 54548, Oct. 21, 1996]

Subpart L—Civil Penalty Adjustments Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended by the Debt Collection Improvement Act of 1996

AUTHORITY: 28 U.S.C. 2461 note.

SOURCE: 61 FR 54549, Oct. 21, 1996, unless otherwise noted.

§ 1.98 Adjustment of civil monetary penalty amounts.

This section makes inflation adjustments in the dollar amounts of civil monetary penalties provided by law within the Commission's jurisdiction. The following civil penalty amounts apply to violations occurring after February 9, 2009.

- (a) Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1)—\$16,000;
- (b) Section 11(1) of the Clayton Act, 15 U.S.C. 21(1)—\$7,500;
- (c) Section 5(1) of the FTC Act, 15 U.S.C. 45(1)—\$16,000;
- (d) Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A)—\$16,000;
- (e) Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. 45(m)(1)(B)—\$16,000;
- (f) Section 10 of the FTC Act, 15 U.S.C. 50—\$110;
- (g) Section 5 of the Webb-Pomerene (Export Trade) Act, 15 U.S.C. 65—\$110;
- (h) Section 6(b) of the Wool Products Labeling Act, 15 U.S.C. 68d(b)—\$110;
- (i) Section 3(e) of the Fur Products Labeling Act, 15 U.S.C. 69a(e)—\$110;
- (j) Section 8(d)(2) of the Fur Products Labeling Act, 15 U.S.C. 69f(d)(2)—\$110;
- (k) Section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a)—\$110;
- (l) Sections 525(a) and (b) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(a) and (b), respectively—\$7,500 and \$16,000, respectively;

§ 1.99

(m) Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2)—\$3,500; and

(n) Civil monetary penalties authorized by reference to the Federal Trade Commission Act under any other provision of law within the jurisdiction of the Commission—refer to the amounts set forth in paragraphs (c), (d), (e) and (f) of this section, as applicable.

[65 FR 69666, Nov. 20, 2000, as amended at 69 FR 76612, Dec. 22, 2004; 74 FR 858, Jan. 9, 2009]

Subpart M—Submissions Under the Small Business Regulatory Enforcement Fairness Act

AUTHORITY: 5 U.S.C. 801-804.

§ 1.99 Submission of rules, guides, interpretations, and policy statements to Congress and the Comptroller General.

Whenever the Commission issues or substantively amends a rule or industry guide or formally adopts an interpretation or policy statement that constitutes a “rule” within the meaning of 5 U.S.C. 804(3), a copy of the final rule, guide, interpretation or statement, together with a concise description, the proposed effective date, and a statement of whether the rule, guide, interpretation or statement is a “major rule” within the meaning of 5 U.S.C. 804(2), will be transmitted to each House of Congress and to the Comptroller General. The material transmitted to the Comptroller General will also include any additional relevant information required by 5 U.S.C. 801(a)(1)(B). This provision generally applies to rules issued or substantively amended pursuant to § 1.14(c), § 1.15(a), § 1.19, or § 1.26(d); industry guides issued pursuant to § 1.6; interpretations and policy statements formally adopted by the Commission; and any rule of agency organization, practice or procedure that substantially affects the rights or obligations of non-agency parties.

[63 FR 36340, July 8, 1998]

16 CFR Ch. I (1–1–10 Edition)

PART 2—NONADJUDICATIVE PROCEDURES

Subpart A—Inquiries; Investigations; Compulsory Processes

Sec.

- 2.1 How initiated.
- 2.2 Request for Commission action.
- 2.3 Policy as to private controversies.
- 2.4 Investigational policy.
- 2.5 By whom conducted.
- 2.6 Notification of purpose.
- 2.7 Compulsory process in investigations.
- 2.8 Investigational hearings.
- 2.8A Withholding requested material.
- 2.9 Rights of witnesses in investigations.
- 2.10 Depositions.
- 2.11 Orders requiring access.
- 2.12 Reports.
- 2.13 Noncompliance with compulsory processes.
- 2.14 Disposition.
- 2.15 Orders requiring witnesses to testify or provide other information and granting immunity.
- 2.16 Custodians.

Subpart B—Petitions Filed Under Section 7A of the Clayton Act, as Amended, for Review of Requests for Additional Information or Documentary Material

- 2.20 Petitions for review of requests for additional information or documentary material.

Subpart C—Consent Order Procedure

- 2.31 Opportunity to submit a proposed consent order.
- 2.32 Agreement.
- 2.33 Compliance procedure.
- 2.34 Disposition.

Subpart D—Reports of Compliance

- 2.41 Reports of compliance.

Subpart E—Requests To Reopen

- 2.51 Requests to reopen.

AUTHORITY: 15 U.S.C. 46, unless otherwise noted.

Subpart A—Inquiries; Investigations; Compulsory Processes

§ 2.1 How initiated.

Commission investigations and inquiries may be originated upon the request of the President, Congress, governmental agencies, or the Attorney General; upon referrals by the courts;