

**Department of Labor – Inflation Adjustment Act IFR**  
**Frequently Asked Questions**

1. What is the Inflation Adjustment Act and why is DOL publishing this rule?

In 2015, Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Inflation Adjustment Act) as part of the Bipartisan Budget Act of 2015. The new law directs agencies to adjust their civil monetary penalties for inflation every year, limited to any penalty for a specific amount or maximum amount set by Federal law that is assessed or enforced by a Federal agency. Congress directed each agency to determine the last time their penalties were increased (other than under a prior version of the same law) and to release an interim final rule to adjust their penalties for inflation since then. Agencies are required to publish these new penalties no later than July 1, 2016, to take effect on August 1.

2. Why did Congress pass the 2015 Inflation Adjustment Act?

Congress often adds civil monetary penalties to laws to create incentives for compliance. Penalties are less effective, however, when they have not been raised for decades to keep up with inflation. Recognizing this, Congress passed a law in 1990 directing agencies to adjust their civil monetary penalties to keep up with inflation, but a low cap on these increases together with complicated rounding rules kept many penalties from accomplishing Congress's stated goal of keeping up with inflation over time. By passing the Inflation Adjustment Act, Congress is providing federal agencies with the tools they need to better ensure compliance with the laws Congress passed.

3. Why is DOL publishing this rule as an Interim Final Rule?

The 2015 Inflation Adjustment Act directed agencies to release their rules as interim final rules. The Department will nonetheless accept comments from the public for 45 days to inform the publication of any final rule.

4. Why did DOL publish two IFRs?

The U.S. Department of Labor's (DOL's) longer Interim Final Rule covers the vast majority of the penalties it assesses. But there have been conflicting legal decisions about DOL's authority to independently issue legislative rules involving the H-2B temporary guestworker program. DOL and the Department of Homeland Security continue to maintain that DOL has independent authority to issue H-2B rules; but to ensure that there is no question about the authority for and validity of the regulations to implement the 2015 Inflation Adjustment Act with regard to H-2B penalties, the Departments are jointly issuing another Interim Final Rule to adjust the H-2B penalties enforced by DOL's Wage and Hour Division.

5. How did DOL decide how much to adjust the penalties?

The 2015 Inflation Adjustment Act provides a clear formula on how to determine the proper adjustment for each penalty, starting from a baseline of each penalty's last increase other than under a prior version of the Inflation Adjustment Act. The law requires federal agencies to adjust their civil monetary penalties for inflation by July 1, 2016. After this initial "catch-up" adjustment, the agencies must adjust their civil monetary penalties annually for inflation.

The Office of Management and Budget released [further guidance](#) to ensure uniform implementation of these penalties across agencies.

6. What's the monetary impact of the IFRs on the regulated community?

These rules have no impact upon regulated entities that operate in compliance with the laws that the Department enforces. For those entities that are not in compliance with the law, the Department projects the rules could result in up to \$140 million in additional transfers from the regulated community to the federal government each year. This projection is based upon prior penalty collections and does not account for the deterrent effect of increasing penalties, which may increase compliance and thereby lower penalty assessments and collections. This deterrent effect is not only a significant benefit for workers, but also for responsible employers who will have a more level playing field when competing with employers who do not follow the law.

7. Which of DOL's agencies are involved?

Five of the Department's agencies have penalties that are impacted: the Employee Benefits Security Administration, the Mine Safety and Health Administration, the Occupational Safety and Health Administration, the Office of Workers' Compensation Programs, and the Wage and Hour Division.

8. When will DOL agencies begin to assess the new penalties?

The new civil penalty amounts are applicable only to civil penalties assessed after August 1, 2016, whose associated violations occurred after November 2, 2015, the date of enactment of the 2015 Inflation Adjustment Act.

9. How will DOL adjust its penalties in the future?

Under the 2015 Inflation Adjustment Act, OMB will issue guidance on or before December 15 of each year directing agencies to adjust their penalties for inflation before January 15 of the subsequent year, in line with the statutory formula.

10. Where can employers go to seek technical assistance to ensure they are in compliance with current laws?

Each agency at the Department of Labor is prepared to provide compliance assistance to any employer seeking to ensure they are in compliance with current law.

For the Employee Benefits Security Administration see:  
<https://www.dol.gov/general/topic/retirement/complianceassist>

For the Mine Safety and Health Administration see:  
<http://www.msha.gov/regulations/rulemaking>

For the Occupational Safety and Health Administration see:  
<https://www.osha.gov/employers/>

For the Office of Workers' Compensation Programs see:  
[https://www.dol.gov/owcp/regs/compliance/ca\\_main.htm](https://www.dol.gov/owcp/regs/compliance/ca_main.htm)

For the Wage and Hour Division see:  
[https://www.dol.gov/whd/regs/compliance/ca\\_main.htm](https://www.dol.gov/whd/regs/compliance/ca_main.htm)

#### 11. How can I submit comments on the IFR?

Comments on the DOL-only rule may be sent via <http://www.regulations.gov>, by typing in "Department of Labor Federal Civil Penalties Inflation Adjustment Act Catch-Up Adjustments" (in quotes) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments. For the Joint DHS-DOL rule, search instead for "Department of Homeland Security and Department of Labor Federal Civil Penalties Inflation Adjustment Act Catch-Up Adjustments." Comments must be submitted by August 15, 2016.