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United States General Accounting Office
Washington, DC 20548

November 1, 2002

The Honorable Norman Y. Mineta
The Secretary of Transportation

Subject: *United States Coast Guard: Implementation of the
Inflation Adjustment Act*

Dear Mr. Secretary:

Earlier this year, we initiated a governmentwide review of the implementation of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (Inflation Adjustment Act).¹ The Inflation Adjustment Act required each federal agency to issue a regulation adjusting its covered maximum and minimum civil monetary penalties for inflation by October 23, 1996, and requires them to make necessary adjustments at least once every 4 years thereafter. During our review, we determined that the United States Coast Guard published its first round of penalty adjustments in 1997, but has not published a second round of adjustments for 56 eligible penalties. This report is intended to bring this matter to your attention and to recommend corrective action.

The Coast Guard Has Not Published a Second Round of Adjustments for Eligible Penalties

Under the Inflation Adjustment Act, the Coast Guard (like other covered federal agencies) was required to publish a regulation by October 23, 1996, adjusting its maximum civil penalties for inflation. The act requires those inflation adjustments to be based on changes in the Consumer Price Index (CPI) from June of the calendar year in which the penalties were last set or adjusted through June of the year prior to the adjustment. The statute also includes precise rules for rounding penalty increases. For example, the statute provides that penalty increases must be rounded to the nearest "multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000." The statute limited the first adjustments of an agency's penalties to 10 percent of the penalty amounts. It also requires agencies to examine their penalties at least once every 4 years and, if necessary, make additional inflation adjustments.

¹The Inflation Adjustment Act is codified at 28 U.S.C. 2461 note. The 1990 act was amended in 1996 by the Debt Collection Improvement Act, which added the requirement for agencies to adjust their civil penalties by regulation (Pub. L. 104-134, Sec. 31001, 110 Stat. 1321-373).

On April 8, 1997, the Coast Guard published a final rule making its first penalty adjustments under the Inflation Adjustment Act.² The agency subsequently published two rule corrections to address “errors which may prove to be misleading and are in need of correction or clarification,” with the final publication taking effect on July 1, 1997.³ In the last rule, the agency identified 127 covered civil penalties and adjusted 122 of them for inflation.⁴ As table 1 shows, the 122 penalties after the 1997 adjustments were at 16 different penalty amounts ranging from \$22 to \$137,500. The table also shows that the amount of inflation needed to trigger another penalty increase ranges from 3.6 percent to 45.5 percent, depending on the size of the penalty and the applicable rule for rounding penalty increases.

Table 1: The Coast Guard Can Readjust Nearly Half of the Civil Penalties That Were Initially Adjusted in 1997

Penalty amount (in dollars) after 1997 adjustments	Number of penalties at this penalty amount that were adjusted in 1997	Percentage increase in inflation needed to trigger another adjustment	Were penalties at this amount eligible for adjustment in 2001?	Are penalties at this amount eligible for adjustment in 2002?
\$ 22	1	22.8	No	No
55	2	9.1	No	Yes
110	9	45.5	No	No
185	1	27.1	No	No
220	7	22.8	No	No
550	15	9.1	No	Yes
1,100	18	45.5	No	No
2,200	2	22.8	No	No
3,300	1	15.2	No	No
5,500	22	9.1	No	Yes
11,000	23	22.8	No	No
22,000	4	11.4	No	No
27,500	13	9.1	No	Yes
55,000	1	4.6	Yes	Yes
110,000	1	4.6	Yes	Yes
137,500	2	3.7	Yes	Yes
Total	122		4 eligible	56 eligible

Note: The penalty that the Coast Guard adjusted to \$185 in 1997 was increased more than the 10 percent permitted by the Inflation Adjustment Act for first-round adjustments (from \$150), and therefore should have only increased to \$165.

Source: GAO analysis of Coast Guard data.

²See 62 Fed. Reg. 16695.

³See 62 Fed. Reg. 31339 (June 9, 1997) and 62 Fed. Reg. 35385 (July 1, 1997).

⁴The Coast Guard did not adjust four penalties because, under the rounding rules, they did not qualify for adjustment: (1) a \$2,000 penalty (codified at 46 U.S.C. 3318(j)(1)) that was last set in 1990, (2) a \$3,000 penalty (codified at 14 U.S.C. 645(i)) that was last set in 1992, (3) a \$25,000 penalty (codified at 46 U.S.C. 8906) that was last set in 1996, and (4) a \$1,000 penalty that was set in 1996 (codified at 46 U.S.C. 2115) and that was adjusted in 1998 to \$5,000 by Public Law 105-383. The Coast Guard also did not adjust a \$2,500 penalty (codified at 33 U.S.C. 1236(d)) that should have been adjusted to \$2,750. Therefore, it is currently eligible for a 10-percent increase.

By July 2001 (4 years after the first round of adjustments took effect), the Coast Guard should have examined its civil penalties and adjusted those eligible under the statute. For those penalties initially adjusted in 1997, the Coast Guard should have used the percentage change in the CPI that occurred from June 1997 through June 2000 (about 7.5 percent) to calculate the size of the unrounded increase. As table 1 shows, 4 of the 122 Coast Guard penalties that were adjusted in 1997 were eligible for a second adjustment by July 2001. However, as of the date of this letter, the Coast Guard has not readjusted these penalties.

By January 2002, the Coast Guard could have used the amount of inflation that occurred from June 1997 through June 2001 (about 11 percent) to determine which of its penalties adjusted in 1997 were eligible for adjustment under the Inflation Adjustment Act. As table 1 shows, 56 of the 122 penalties adjusted in 1997 were eligible (and are currently eligible) for a second adjustment. Coast Guard officials told us during our review that the agency had not yet made a second round of penalty adjustments because of personnel turnover, staffing reductions, and reorganizations.

Recommendation for Executive Action

We recommend that the Secretary of Transportation direct the Commandant of the Coast Guard to initiate a regulatory action as soon as possible to adjust eligible civil penalties in a manner consistent with the requirements of the Inflation Adjustment Act.

Agency Comments and Our Evaluation

On October 22, 2002, we provided a draft of this report to the Secretary of Transportation for his review and comment. We did not receive any formal comments on the draft report from either the Department of Transportation or the Coast Guard. However, Coast Guard officials told us that the agency would begin developing new civil penalty regulations in January 2003.

We are sending copies of this report to the Commandant of the Coast Guard and to appropriate congressional committees. It will also be available at no charge on GAO's Web site at <http://www.gao.gov>. If you or your staff have any questions on the matters discussed in this letter, you may contact Curtis Copeland or me at (202) 512-6806. John Tavares was a major contributor to this report.

Sincerely,



Victor S. Rezendes
Managing Director
Strategic Issues

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