

§ 530.301

§ 530.301 General.

A system of civil money penalties is established to provide a remedy for any violation of the FLSA related to homework (except child labor violations, which are subject to civil money penalties pursuant to part 579 of this chapter), or for any violation of the homeworker regulations or employers' assurances pursuant to this part, which are not so serious as to warrant denial or revocation of a certificate. Accordingly, no civil money penalty will be assessed for conduct which serves as the basis of proposed denial or revocation of a certificate. (See subpart C of this part.) Civil money penalties will be assessed only against employers who are operating under a certificate or who are seeking certification.

§ 530.302 Amounts of civil money penalties.

(a) A civil money penalty, not to exceed \$500 per affected homeworker for any one violation, may be assessed for any violation of the Act or of this part or of the assurances given in connection with the issuance of a certificate.

(b) The amount of civil money penalties shall be determined per affected homeworker within the limits set forth in the following schedule, except that no penalty shall be assessed in the case of violations which are deemed to be *de minimis* in nature:

Nature of violation	Penalty per affected homeworker		
	Minor	Substantial	Repeated, intentional or knowing
Recordkeeping	\$10-100	\$100-200	\$200-500
Monetary violations	10-100	100-200
Employment of homeworkers without a certificate	100-200	200-500
Other violations of statutes, regulations or employer assurances	10-100	100-200	200-500

§ 530.303 Considerations in determining amounts.

(a) In determining the amount of a penalty within any range, the Administrator shall take into account the presence or absence of circumstances such as the following:

- (1) Good faith attempts to comply with the Act or regulations;
 - (2) Extent to which the violation is under the employer's control;
 - (3) Non-culpable ignorance of the requirements of the Act or regulations;
 - (4) False documents or representations; and
 - (5) Exercise of due care.
- (b) An employer's financial inability to meet obligations under the Act shall not constitute a mitigating or extenuating circumstance.
- (c) No civil money penalty shall be assessed against an employer, who applies for a certificate, solely for employing homeworkers, provided the employer is not currently under investigation by the Wage and Hour Division.

§ 530.304 Procedures for assessment.

Assessment of penalties pursuant to this section, including administrative proceedings, shall be in accordance with the procedures set out in subpart E of this part.

Subpart E—Administrative Procedures

SOURCE: 53 FR 45725, Nov. 10, 1988, unless otherwise noted.

§ 530.401 Applicability of procedures and rules.

The procedures and rules contained herein prescribe the administrative process which will be applied with respect to a determination to deny (including refusal to renew) or revoke a certificate and to a determination to assess civil money penalties. Special rules and procedures for the emergency revocation of certificates are prescribed in § 530.412 of this subpart.

§ 530.402 Notice of determination.

Whenever the Administrator determines to deny or revoke a certificate or determines to assess a civil money penalty, the person affected by such determination shall be notified of the determination in writing, by certified mail to the last known address. The notice required shall:

- (a) Set forth the determination of the Administrator, including the specific statutory or regulatory provision or