

EPA-APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP—Continued

State citation	Title/subject	State approval date	EPA approval date	Comments
Section 2202 .....	Contingency Plan .....	1/20/2010 .....	11/30/11, 76 FR 74000 .....	Section 2202 approved in the Louisiana Register January 20, 2010 (LR 36:63).
*	*	*	*	*
<b>Chapter 25—Miscellaneous Incinerator Rules</b>				
Section 2511 .....	Standards of Performance for Biomedical Waste Incinerators.	1/20/2008 .....	8/29/2017, [Insert Register citation].	<b>Federal</b>
Section 2521 .....	Refuse Incinerators .....	1/20/2008 .....	8/29/2017, [Insert Register citation].	<b>Federal</b>
Section 2531 .....	Standards of Performance for Crematories.	1/20/2008 .....	8/29/2017, [Insert Register citation].	<b>Federal</b>
*	*	*	*	*

\* \* \* \* \*  
 [FR Doc. 2017-17844 Filed 8-28-17; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R04-OAR-2017-0085; FRL-9966-92-Region 4]

**Air Plan Approval and Air Quality Designation; TN; Redesignation of the Knoxville 1997 Annual PM<sub>2.5</sub> Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On December 20, 2016, Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Knoxville, Tennessee fine particulate matter (PM<sub>2.5</sub>) nonattainment area (hereinafter referred to as the “Knoxville Area” or “Area”) to attainment for the 1997 Annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan, a reasonably available control measures (RACM) determination, and source-specific requirements for the Area. EPA is approving Tennessee’s RACM determination for the Knoxville Area and incorporating it into the SIP; incorporating source-specific requirements for two sources in the Area into the SIP; determining that the Knoxville Area is attaining the 1997

Annual PM<sub>2.5</sub> NAAQS based on 2013–2015 data; approving Tennessee’s plan for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS for the Knoxville Area (maintenance plan), including the associated motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and direct PM<sub>2.5</sub> for the years 2014 and 2028, and incorporating it into the SIP; and redesignating the Knoxville Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS.

**DATES:** This rule will be effective August 29, 2017.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0085. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Sean Lakeman may be reached by phone at (404) 562–9043, or via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 18, 1997, EPA promulgated the first air quality standards for PM<sub>2.5</sub>. EPA promulgated an annual standard at a level of 15.0 micrograms per cubic meter (µg/m<sup>3</sup>), based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 µg/m<sup>3</sup>, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA retained the annual average NAAQS at 15.0 µg/m<sup>3</sup> but revised the 24-hour NAAQS to 35 µg/m<sup>3</sup>, based again on the 3-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005, at 70 FR 944, and supplemented on April 14, 2005, at 70 FR 19844, EPA designated the Knoxville Area as nonattainment for the 1997 Annual PM<sub>2.5</sub> NAAQS. All 1997 PM<sub>2.5</sub> NAAQS areas were designated under title I, part D, subpart 1 (hereinafter “Subpart 1”). Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. On April 25, 2007 (72 FR 20586), EPA promulgated its Clean Air Fine Particle Implementation Rule, codified at 40

CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 PM<sub>2.5</sub> NAAQS. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the Clean Air Fine Particle Implementation Rule and the final rule entitled “Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>)” (73 FR 28321, May 16, 2008) (collectively, “1997 PM<sub>2.5</sub> Implementation Rules”) to EPA on January 4, 2013, in *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 PM<sub>2.5</sub> NAAQS pursuant to the general implementation provisions of Subpart 1, rather than the particulate matter-specific provisions of title I, part D, subpart 4 (hereinafter “Subpart 4”).

On June 2, 2014, EPA published a rule entitled “Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) and 2006 PM<sub>2.5</sub> NAAQS”. See 79 FR 31566. In that rule, the Agency responded to the D.C. Circuit’s January 2013 decision by identifying all PM<sub>2.5</sub> nonattainment areas for the 1997 and 2006 PM<sub>2.5</sub> NAAQS as “moderate” nonattainment areas under Subpart 4, and by establishing a new SIP submission date of December 31, 2014, for moderate area attainment plans and for any additional attainment-related or nonattainment new source review plans necessary for areas to comply with the requirements applicable under Subpart 4. *Id.* at 31567–70.

Based on its moderate nonattainment area classification, Tennessee was required to submit a SIP revision addressing RACM pursuant to CAA section 172(c)(1) and section 189(a)(1)(C) for the Area. Although EPA does not believe that section 172(c)(1) and section 189(a)(1)(C) RACM must be approved into a SIP prior to redesignation of an area to attainment once that area is attaining the NAAQS, EPA is approving Tennessee’s RACM determination and incorporating it into its SIP pursuant to a recent decision by the United States Court of Appeals for the Sixth Circuit in *Sierra Club v. EPA*, 793 F.3d 656 (6th Cir. 2015).

In a notice of proposed rulemaking (NPRM) published on May 30, 2017 (82 FR 24636), EPA proposed to: (1) approve Tennessee’s RACM determination for the Knoxville Area pursuant to CAA sections 172(c)(1) and 189(a)(1)(C) and incorporate it into the

SIP; (2) determine that the Knoxville Area is attaining the 1997 Annual PM<sub>2.5</sub> NAAQS based on 2013–2015 air quality data; (3) approve Tennessee’s maintenance plan for the Knoxville Area, including the 2014 and 2028 MVEBs for PM<sub>2.5</sub> and NO<sub>x</sub>, and incorporate it into the SIP; (4) incorporate source-specific requirements for two sources located in the Area—the Tennessee Valley Authority (TVA) Bull Run Fossil Plant and TVA Kingston Fossil Plant—into the SIP; and (5) redesignate the Knoxville Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS.<sup>1</sup> The details of Tennessee’s submittal and the rationale for EPA’s actions are further explained in the NPRM. EPA did not receive any adverse comments on the proposed action.

## II. What are the effects of these actions?

EPA’s approval changes the legal designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 1997 Annual PM<sub>2.5</sub> NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of Tennessee’s associated SIP revision also incorporates a plan for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS in the Area through 2028, Tennessee’s RACM determination, and source-specific requirements for two sources in the Area into the Tennessee SIP. The maintenance plan includes contingency measures to remedy any future violations of the 1997 Annual PM<sub>2.5</sub> NAAQS and procedures for evaluation of potential violations. The maintenance plan also includes NO<sub>x</sub> and PM<sub>2.5</sub> MVEBs for 2014 and 2028 for the Knoxville Area. The 2014 and 2028 PM<sub>2.5</sub> MVEBs are 444.78 tons per year (tpy) and 245.00 tpy, respectively. The 2014 and 2028 NO<sub>x</sub> MVEBs are 15,597.73 tpy and 7,171.14 tpy, respectively.

In the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements final rule (PM<sub>2.5</sub> SIP Requirements Rule), EPA revoked the 1997 primary Annual PM<sub>2.5</sub> NAAQS in areas that had always been attainment for that NAAQS, and in areas that had been designated as nonattainment but that were redesignated to attainment before October 24, 2016, the rule’s effective date. See 81 FR 58010 (August 24, 2016). EPA also finalized a provision that revokes the 1997 primary Annual PM<sub>2.5</sub> NAAQS in areas that are

<sup>1</sup> In a notice published in the *Federal Register* on March 10, 2017, EPA announced that it had found the MVEBs for the Knoxville Area for the 1997 Annual PM<sub>2.5</sub> NAAQS adequate for transportation conformity purposes. See 82 FR 13337.

redesignated to attainment for that NAAQS after October 24, 2016, effective on the effective date of the redesignation of the area to attainment for that NAAQS. See 40 CFR 50.13(d).

EPA is finalizing the redesignation of the Knoxville Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS and finalizing the approval of the CAA section 175A maintenance plan for the 1997 primary Annual PM<sub>2.5</sub> NAAQS.<sup>2</sup> Therefore, the 1997 primary Annual PM<sub>2.5</sub> NAAQS will be revoked in the Knoxville Area on the effective date of this redesignation, August 29, 2017. Beginning on that date, the Area will no longer be subject to transportation or general conformity requirements for the 1997 Annual PM<sub>2.5</sub> NAAQS due to the revocation of the primary NAAQS. See 81 FR 58125 (August 24, 2016). The Area is required to implement the CAA section 175A maintenance plan for the 1997 primary Annual PM<sub>2.5</sub> NAAQS that is being approved in this action and the prevention of significant deterioration program for the 1997 Annual PM<sub>2.5</sub> NAAQS. The approved maintenance plan can only be revised if the revision meets the requirements of CAA section 110(l) and, if applicable, CAA section 193. The Area is not required to submit a second 10-year maintenance plan for the 1997 primary Annual PM<sub>2.5</sub> NAAQS. See 81 FR 58144 (August 24, 2016).

## III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following Title V permit limits and conditions in Appendix L of Tennessee’s December 20, 2016 SIP revision, state effective on December 20, 2016: Permit conditions E3–4(a), (d), and (e), E3–15, and E3–16 for the TVA Kingston Fossil Plant, and permit conditions E3–4(a), (d), and (e), E3–15, and E3–16 for the TVA Bull Run Fossil Plant. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of

<sup>2</sup> CAA section 175A(a) establishes the maintenance plan requirements that must be fulfilled by nonattainment areas in order to be redesignated to attainment. That section only requires that nonattainment areas for the *primary* standard submit a plan addressing maintenance of the *primary* NAAQS in order to be redesignated to attainment; it does not require nonattainment areas for secondary NAAQS to submit maintenance plans in order to be redesignated to attainment. See 42 U.S.C. 7505a(a).

the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>3</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT SECTION** of this preamble for more information).

#### IV. Final Actions

EPA is taking the following final actions: (1) Approving Tennessee's RACM determination for the Knoxville Area pursuant to CAA sections 172(c)(1) and 189(a)(1)(C) and incorporating it into the SIP; (2) determining that the Area is attaining the 1997 Annual PM<sub>2.5</sub> NAAQS based on 2013–2015 data; (3) approving Tennessee's plan for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS (maintenance plan), including the associated 2014 and 2028 MVEBs for the Knoxville Area, and incorporating it into the Tennessee SIP; (4) incorporating source-specific requirements for two sources in the Area into the SIP; and (5) redesignating the Knoxville Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS.

Approval of the redesignation request changes the official designation of Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County for the 1997 Annual PM<sub>2.5</sub> NAAQS, found at 40 CFR part 81 from nonattainment to attainment.

As mentioned above, the PM<sub>2.5</sub> SIP Requirements Rule provides that the 1997 PM<sub>2.5</sub> NAAQS will be revoked for any area that is redesignated for the NAAQS upon the effective date of the redesignation. Therefore, the 1997 primary Annual PM<sub>2.5</sub> NAAQS is revoked for the Knoxville Area on the effective date of this redesignation.

EPA has determined that these actions are effective immediately upon publication under the authority of 5 U.S.C. 553(d). The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Section 553(d)(3) allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." EPA finds good cause to make these actions effective immediately pursuant to section 553(d)(3) because they do not create any new regulatory requirements

such that affected parties would need time to prepare before the actions take effect. The RACM determination does not create any new regulatory requirements because it concludes that no additional measures are necessary to meet the State's obligations to have fully adopted RACM; incorporating the aforementioned Title V permit terms and conditions for the TVA Bull Run Fossil Plant and the TVA Kingston Fossil Plant into the SIP does not create any new regulatory requirements because these sources were subject, and remain subject, to these terms and conditions through their Title V permits; and redesignating the Area to attainment, including the associated determination of attainment and maintenance plan approval, relieves the Area from certain CAA requirements that would otherwise apply to it. Because the redesignation relieves the Area from requirements, its immediate effective date is also authorized under section 553(d)(1) which allows an effective date less than 30 days after publication if a substantive rule "relieves a restriction."

#### V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January, 21, 2011);
- Do not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs of tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2017. Filing a

<sup>3</sup> 62 FR 27968 (May 22, 1997).

petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

*40 CFR Part 81*

Environmental protection, Air pollution control.

Dated: August 16, 2017.

**V. Anne Heard,**

*Acting Regional Administrator, Region 4.*

40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart RR—Tennessee**

■ 2. In § 52.2220:

■ a. The table in paragraph (d) is amended by adding the entries “TVA Bull Run Fossil Plant” and “TVA Kingston Fossil Plant” at the end of the table.

■ b. The table in paragraph (e) is amended by adding the entries “1997 Annual PM<sub>2.5</sub> Maintenance Plan for the Knoxville Area” and “RACM determination for the Knoxville Area for the 1997 Annual PM<sub>2.5</sub> NAAQS” at the end of the table.

The additions read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA-APPROVED TENNESSEE SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit No.	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
TVA Bull Run Fossil Plant .....	n/a .....	12/20/2016	8/29/2017, [insert <b>Federal Register</b> citation].	Title V permit limits and conditions E3–4(a), (d), and (e), E3–15, and E3–16 in Appendix L of Tennessee’s December 20, 2016 SIP revision.
TVA Kingston Fossil Plant .....	n/a .....	12/20/2016	8/29/2017, [insert <b>Federal Register</b> citation].	Title V permit limits and conditions E3–4(a), (d), and (e), E3–15, and E3–16 in Appendix L of Tennessee’s December 20, 2016 SIP revision.

(e) \* \* \*

**EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS**

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
1997 Annual PM <sub>2.5</sub> Maintenance Plan for the Knoxville Area.	Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County (the area described by U.S. Census 2000 block group identifier 47–145–0307–2.).	12/20/2016	8/29/2017, [insert <b>Federal Register</b> citation].	
RACM determination for the Knoxville Area for the 1997 Annual PM <sub>2.5</sub> NAAQS.	Anderson, Blount, Knox, and Loudon Counties and a portion of Roane County (the area described by U.S. Census 2000 block group identifier 47–145–0307–2.).	12/20/2016	8/29/2017, [insert <b>Federal Register</b> citation].	

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*  
 ■ 4. In § 81.343, the table entitled “Tennessee—1997 Annual PM<sub>2.5</sub> NAAQS [Primary and secondary]” is

amended by revising the entry “Knoxville, TN:” to read as follows:  
**§ 81.343 Tennessee.**  
 \* \* \* \* \*

**TENNESSEE—1997 ANNUAL PM<sub>2.5</sub> NAAQS**  
 [Primary and secondary]

Designated area	Designation <sup>a</sup>		Classification	
	Date <sup>1</sup>	Type	Date <sup>2</sup>	Type
* * * * *				
Knoxville, TN .....	8/29/2017	Attainment.	*	*
Anderson County .....		Attainment.		
Blount County .....		Attainment.		
Knox County .....		Attainment.		
Loudon County .....		Attainment.		
Roane County (part) .....		Attainment.		
The area described by U.S. Census 2000 block group identifier 47-145-0307-2.				
* * * * *				

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.  
<sup>1</sup> This date is 90 days after January 5, 2005, unless otherwise noted.  
<sup>2</sup> This date is July 2, 2014, unless otherwise noted.

\* \* \* \* \*  
 [FR Doc. 2017-18213 Filed 8-28-17; 8:45 am]  
 BILLING CODE 6560-50-P

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 105-70**

[FPMR Case 2016-101-1; Docket No. 2016-0009; Sequence No. 1]

RIN 3090-AJ70

**Program Fraud Civil Remedies Act of 1986, Civil Monetary Penalties Inflation Adjustment**

**AGENCY:** Office of General Counsel, General Services Administration.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015, this final rule incorporates the penalty inflation adjustments for the civil monetary penalties set forth in the United States Code, as codified in our regulations.

**DATES:** *Effective:* September 28, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mr. Aaron Pound, Assistant General Counsel, General Law Division (LG), General Services Administration, 1800 F

Street NW., Washington, DC 20405.  
 Telephone Number 202-501-1460.

**SUPPLEMENTARY INFORMATION:**

**I. The Debt Collection Improvement Act of 1996**

To maintain the remedial impact of civil monetary penalties (CMPs) and to promote compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410) was amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) to require Federal agencies to regularly adjust certain CMPs for inflation and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015 (Sec. 701 of Pub. L. 114-74). As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, and to make further adjustments at least once every year thereafter for these penalty amounts. The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in a CMP due to the calculated inflation adjustments shall apply only to violations which occur after the date the increase takes effect, *i.e.*, thirty (30) days after date of publication in the **Federal Register**. Pursuant to the 2015 Act, agencies are required to adjust the level of the CMP with an initial “catch up”, and make subsequent annual adjustments for inflation. Catch up adjustments are based on the percent change between the Consumer Price

Index for Urban Consumers (CPI-U) for the month of October for the year of the previous adjustment, and the October 2015 CPI-U. Annual inflation adjustments will be based on the percent change between the October CPI-U preceding the date of adjustment and the prior year’s October CPI-U.

**II. The Program Fraud Civil Remedies Act of 1986**

In 1986, sections 6103 and 6104 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-501) set forth the Program Fraud Civil Remedies Act of 1986 (PFCRA). Specifically, this statute imposes a CMP and an assessment against any person who, with knowledge or reason to know, makes, submits, or presents a false, fictitious, or fraudulent claim or statement to the Government. The General Services Administration’s regulations, published in the **Federal Register** (61 FR 246, December 20, 1996) and codified at 41 CFR part 105-70, set forth a CMP of up to \$5,500 for each false claim or statement made to the agency. Based on the penalty amount inflation factor calculation, derived from dividing the June 2015 CPI by the June 1996 CPI, after rounding we are adjusting the maximum penalty amount for this CMP to \$10,781 per violation.

**III. Waiver of Proposed Rulemaking**

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the