

date of publication of the notice. After consideration of any comments or objections, or after a hearing if one is ordered by the Administrator, the Administrator shall issue and publish in the **Federal Register** his final order determining the aggregate production quota for the basic class of controlled substances. The order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. A copy of said order shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class and transmitted to each state attorney general.

■ 3. In § 1303.12, paragraph (b), add after the fifth sentence a new sentence to read as follows:

**§ 1303.12 Procurement quotas.**

\* \* \* \* \*

(b) \* \* \* The Administrator may require additional information from an applicant which, in the Administrator's judgment, may be helpful in detecting or preventing diversion, including customer identities and amounts of the controlled substance sold to each customer. \* \* \*

\* \* \* \* \*

■ 4. In § 1303.13, revise paragraphs (b)(1) and (c) to read as follows:

**§ 1303.13 Adjustments of aggregate production quotas.**

\* \* \* \* \*

(b) \* \* \*

(1) Changes in the demand for that class, changes in the national rate of net disposal of the class, changes in the rate of net disposal of the class by registrants holding individual manufacturing quotas for that class, and changes in the extent of any diversion in the class;

\* \* \* \* \*

(c) The Administrator in the event he determines to increase or reduce the aggregate production quota for a basic class of controlled substance, shall publish in the **Federal Register** general notice of an adjustment in the aggregate production quota for that class determined by him under this section. A copy of said notice shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class and transmitted to each state attorney general. The Administrator shall permit any interested person to file written comments on or objections to the proposal and shall designate in the notice the time during which such filings may be made. The Administrator may, but shall not be required to, hold a public hearing on one or more issues raised by the comments and objections

filed with him, except that the Administrator shall hold a hearing if he determines it is necessary to resolve an issue of material fact raised by a state objecting to the proposed adjusted quota as excessive for legitimate United States' needs. In the event the Administrator decides to hold a hearing, he shall publish notice of the hearing in the **Federal Register**, which notice shall summarize the issues to be heard and shall set the time for the hearing, which shall not be less than 10 days after the date of publication of the notice. After consideration of any comments or objections, or after a hearing if one is ordered by the Administrator, the Administrator shall issue and publish in the **Federal Register** his final order determining the aggregate production for the basic class of controlled substance. The order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. A copy of said order shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class and transmitted to each state attorney general.

**§ 1303.21 [Amended]**

■ 5. In § 1303.21, in paragraph (a), remove “§§” in the second sentence and add in its place “§”.

■ 6. In § 1303.22:

■ a. In paragraph (c)(2), remove the word “econolic” and add in its place the word “economic”.

■ b. Add paragraph (d).

The addition reads as follows:

**§ 1303.22 Procedure for applying for individual manufacturing quotas.**

\* \* \* \* \*

(d) The Administrator may require additional information from an applicant which, in the Administrator's judgment, may be helpful in detecting or preventing diversion, including customer identities and amounts of the controlled substance sold to each customer.

**§ 1303.23 [Amended]**

■ 7. In § 1303.23, add the phrase “the extent of any diversion of the controlled substance,” after “strikes,” in paragraph (a)(2), and add the phrase “any risk of diversion of the controlled substance,” after “strikes,” in paragraph (b)(2).

**§ 1303.32 [Amended]**

■ 8. In § 1303.32, in paragraph (a), add the phrase “and shall, if determined by the Administrator to be necessary under § 1303.11(c) or 1303.13(c) based on

objection by a state,” before “hold a hearing”.

Dated: July 11, 2018.

**Uttam Dhillon,**

*Acting Administrator.*

[FR Doc. 2018–15141 Filed 7–13–18; 8:45 am]

**BILLING CODE 4410–09–P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Parts 28, 30, 87, 180, and 3282**

[Docket No. FR–6076–F–01]

**RIN 2501–AD86**

**Adjustment of Civil Monetary Penalty Amounts for 2018**

**AGENCY:** Office of the General Counsel, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule provides for 2018 inflation adjustments of civil monetary penalty amounts required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:** *Effective date for 2018 inflation adjustment:* August 15, 2018.

**FOR FURTHER INFORMATION CONTACT:**

Dane Narode, Associate General Counsel, Office of Program Enforcement, Department of Housing and Urban Development, 1250 Maryland Avenue SW, Suite 200, Washington, DC 20024; telephone number 202–245–4141 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the Federal Information Relay Service, toll-free, at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) (Pub. L. 114–74, Sec. 701), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), requires agencies to make annual adjustments to civil monetary penalty (CMP) amounts for inflation “notwithstanding section 553 of title 5, United States Code.” Section 553 refers to the Administrative Procedure Act, which might otherwise require a delay for advance notice and opportunity for public comment on future annual inflation adjustments. This annual adjustment is for 2018.

The annual adjustment is based on the percent change between the U.S.

Department of Labor’s Consumer Price Index for All Urban Consumers (“CPI–U”) for the month of October preceding the date of the adjustment, and the CPI–U for October of the prior year (28 U.S.C. 2461 note, section (5)(b)(1)). Based on that formula, the cost-of-living adjustment multiplier for 2018 is 1.02041.<sup>1</sup> Pursuant to the 2015 Act, adjustments are rounded to the nearest dollar.<sup>2</sup>

**II. This Final Rule**

This rule makes the required 2018 inflation adjustment. Since HUD is not applying these adjustments retroactively, the 2018 increases apply to violations occurring on or after this rule’s effective date. For each component, HUD provides a table showing how the penalties are being adjusted for 2018 pursuant to the 2015 Act. In the first column (“Description”), HUD provides a description of the penalty. In the second column

(“Statutory Citation”), HUD provides the United States Code statutory citation providing for the penalty. In the third column (“Regulatory Citation”), HUD provides the Code of Federal Regulations citation under Title 24 for the penalty. In the fourth column (“Previous Amount”), HUD provides the amount of the penalty pursuant to the rule implementing the 2017 adjustment (82 FR 24521, May 30, 2017). In the fifth column (“2018 Adjusted Amount”), HUD lists the penalty after applying the 2018 inflation adjustment.

Description	Statutory citation	Regulatory citation (24 CFR)	Previous amount	2018 Adjusted amount
False Claims & Statements .....	Omnibus Budget Reconciliation Act of 1986 (31 U.S.C. 3802(a)(1)).	28.10	\$10,957 .....	\$11,181.
Advance Disclosure of Funding	Department of Housing and Urban Development Act (42 U.S.C. 3537a(c)).	30.20	\$19,246 .....	\$19,639.
Disclosure of Subsidy Layering	Department of Housing and Urban Development Act (42 U.S.C. 3545(f)).	30.25	\$19,246 .....	\$19,639.
FHA Mortgagees and Lenders Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).	30.35	Per Violation: \$9,623 .....	Per Violation: \$9,819.
Other FHA Participants Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).	30.36	Per Year: \$1,924,589 .....	Per Year: \$1,963,870.
Indian Loan Mortgagees Violations.	Housing Community Development Act of 1992 (12 U.S.C. 1715z–13a(g)(2)).	30.40	Per Violation: \$9,623 .....	Per Violation: \$9,819.
Multifamily & Section 202 or 811 Owners Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–15(c)(2)).	30.45	Per Year: \$1,924,589 .....	Per Year: \$1,963,870.
Ginnie Mae Issuers & Custodians Violations.	HUD Reform Act of 1989 (12 U.S.C. 1723i(b)).	30.50	Per Violation: \$9,623 .....	Per Violation: \$9,819.
Title I Broker & Dealers Violations.	HUD Reform Act of 1989 (12 U.S.C. 1703).	30.60	Per Violation: \$9,623 .....	Per Violation: \$9,819.
Lead Disclosure Violation .....	Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d(b)(1)).	30.65	Per Year: \$1,924,589 .....	Per Year: \$1,963,870.
Section 8 Owners Violations .....	Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d(b)(1)).	30.65	\$17,047 .....	\$17,395.
Section 8 Owners Violations .....	Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437z–1(b)(2)).	30.68	\$37,396 .....	\$38,159.
Lobbying Violation .....	The Lobbying Disclosure Act of 1995 (31 U.S.C. 1352).	87.400	Min: \$19,246 .....	Min: \$19,639.
Fair Housing Act Civil Penalties	Fair Housing Amendments Act of 1988 (42 U.S.C. 3612(g)(3)).	180.671(a)	Max: \$192,459 .....	Max: \$196,387.
Manufactured Housing Regulations Violation.	Housing Community Development Act of 1974 (42 U.S.C. 5410).	3282.10	No Priors: \$20,111 .....	No Priors: \$20,521.
			One Prior: \$50,276 .....	One Prior: \$51,302.
			Two or More Priors: \$100,554 ..	Two or More Priors: \$102,606.
			Per Violation: \$2,795 .....	Per Violation: \$2,852.
			Per Year: \$3,493,738 .....	Per Year: \$3,565,045.

**II. Justification for Final Rulemaking for the 2018 Adjustments**

HUD generally publishes regulations for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for

exceptions to the general rule if the agency finds good cause to omit advanced notice and public participation. The good cause requirement is satisfied when prior public procedure is “impractical, unnecessary, or contrary to the public interest” (see 24 CFR 10.1). As

discussed, this rule makes the required 2018 inflation adjustment, which HUD does not have discretion to change. Moreover, the 2015 Act specifies that a delay in the effective date under the Administrative Procedure Act is not required for annual adjustments under the 2015 Act. HUD has determined,

<sup>1</sup> Office of Management and Budget, M–18–03, Memorandum for the Heads of Executive Departments and Agencies, Implementation of Penalty Inflation Adjustments for 2018, Pursuant to

the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. (<https://www.whitehouse.gov/wp-content/uploads/2017/11/>

M-18-03.pdf). (October 2017 CPI–U (246.663)/ October 2016 CPI–U (241.729) = 1.02041.)

<sup>2</sup> 28 U.S.C. 2461 note.

therefore, that it is unnecessary to delay the effectiveness of the 2018 inflation adjustments to solicit prior public comments.

Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that any HUD regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days. This rule does not authorize the imposition of a civil money penalty—rather, it makes a standard inflation adjustment to penalties that were previously authorized. As noted above, the 2018 inflation adjustments are made in accordance with a statutorily prescribed formula that does not provide for agency discretion. Accordingly, a delay in the effectiveness of the 2018 inflation adjustments in order to provide the public with an opportunity to comment is unnecessary because the 2015 Act exempts the adjustments from the need for delay, the rule does not authorize the imposition of a civil money penalty, and, in any event, HUD would not have the discretion to make changes as a result of any comments.

#### IV. Findings and Certifications

##### *Regulatory Review—Executive Orders 12866 and 13563*

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) requires that for every new regulation issued, at least two prior regulations be identified for removal, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.

As discussed above in this preamble, this final rule adjusts existing civil monetary penalties for inflation by a statutorily required amount.

As a result of this review, OMB determined that this rule was not significant under Executive Order 12866 and Executive Order 13563. Moreover, as this rule is not a significant regulatory action under Executive Order 12866, it is not considered an Executive Order 13771 regulatory action.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

##### *Unfunded Mandates Reform*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA)<sup>3</sup> requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.<sup>4</sup> However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking. As discussed above, HUD has determined, for good cause, that prior notice and public comment is not required on this rule and, therefore, the UMRA does not apply to this final rule.

##### *Executive Order 13132, Federalism*

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This

rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

##### *Environmental Review*

This interim final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern, or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

##### **List of Subjects**

###### *24 CFR Part 28*

Administrative practice and procedure, Claims, Fraud, Penalties.

###### *24 CFR Part 30*

Administrative practice and procedure, Grant programs-housing and community development, Loan programs-housing and community development, Mortgage insurance, Penalties.

###### *24 CFR Part 87*

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

###### *24 CFR Part 180*

Administrative practice and procedure, Aged, Civil rights, Fair housing, Individuals with disabilities, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

###### *24 CFR Part 3282*

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Manufactured homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 28, 30, 87, 180, and 3282 to read as follows:

#### **PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986**

■ 1. The authority citation for part 28 continues to read as follows:

<sup>3</sup> 2 U.S.C. 1532.

<sup>4</sup> 2 U.S.C. 1534.

**Authority:** 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812; 42 U.S.C. 3535(d).

■ 2. In § 28.10, revise paragraphs (a)(1) introductory text and (b)(1) introductory text to read as follows:

**§ 28.10 Basis for civil penalties and assessments.**

(a) *Claims.* (1) A civil penalty of not more than \$11,181 may be imposed upon any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know:

\* \* \* \* \*

(b) *Statements.* (1) A civil penalty of not more than \$11,181 may be imposed upon any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that:

\* \* \* \* \*

**PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT**

■ 3. The authority citation for part 30 continues to read as follows:

**Authority:** 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 1 note and 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

■ 4. In § 30.20, revise paragraph (b) to read as follows:

**§ 30.20 Ethical violations by HUD employees.**

\* \* \* \* \*

(b) *Maximum penalty.* The maximum penalty is \$19,639 for each violation.

■ 5. In § 30.25, revise paragraph (b) to read as follows:

**§ 30.25 Violations by applicants for assistance.**

\* \* \* \* \*

(b) *Maximum penalty.* The maximum penalty is \$19,639 for each violation.

■ 6. In § 30.35, revise the first sentence in paragraph (c)(1) to read as follows:

**§ 30.35 Mortgagees and lenders.**

\* \* \* \* \*

(c)(1) \* \* \* The maximum penalty is \$9,819 for each violation, up to a limit of \$1,963,870 for all violations committed during any one-year period.

\* \* \*

\* \* \* \* \*

■ 7. In § 30.36, revise the first sentence in paragraph (c) to read as follows:

**§ 30.36 Other participants in FHA programs.**

\* \* \* \* \*

(c) \* \* \* The maximum penalty is \$9,819 for each violation, up to a limit of \$1,963,870 for all violations

committed during any one-year period.  
\* \* \*

■ 8. In § 30.40, revise the first sentence in paragraph (c) to read as follows:

**§ 30.40 Loan guarantees for Indian housing.**

\* \* \* \* \*

(c) \* \* \* The maximum penalty is \$9,819 for each violation, up to a limit of \$1,963,870 for all violations committed during any one-year period.

\* \* \*

■ 9. In § 30.45, revise paragraph (g) to read as follows:

**§ 30.45 Multifamily and section 202 or 811 mortgagors.**

\* \* \* \* \*

(g) *Maximum penalty.* The maximum penalty for each violation under paragraphs (c) and (f) of this section is \$49,096.

\* \* \* \* \*

■ 10. In § 30.50, revise the first sentence in paragraph (c) to read as follows:

**§ 30.50 GNMA issuers and custodians.**

\* \* \* \* \*

(c) \* \* \* The maximum penalty is \$9,819 for each violation, up to a limit of \$1,963,870 during any one-year period.

\* \* \*

■ 11. In § 30.60, revise paragraph (c) to read as follows:

**§ 30.60 Dealers or sponsored third-party originators.**

\* \* \* \* \*

(c) *Amount of penalty.* The maximum penalty is \$9,819 for each violation, up to a limit for any particular person of \$1,963,870 during any one-year period.

■ 12. In § 30.65, revise paragraph (b) to read as follows:

**§ 30.65 Failure to disclose lead-based paint hazards.**

\* \* \* \* \*

(b) *Amount of penalty.* The maximum penalty is \$17,395 for each violation.

■ 13. In § 30.68, revise paragraph (c) to read as follows:

**§ 30.68 Section 8 owners.**

\* \* \* \* \*

(c) *Maximum penalty.* The maximum penalty for each violation under this section is \$38,159.

\* \* \* \* \*

**PART 87—NEW RESTRICTIONS ON LOBBYING**

■ 14. The authority citation for part 87 continues to read as follows:

**Authority:** 28 U.S.C. 1 note; 31 U.S.C. 1352; 42 U.S.C. 3535(d).

■ 15. In § 87.400, revise paragraphs (a), (b), and (e) to read as follows:

**§ 87.400 Penalties.**

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than \$19,639 and not more than \$196,387 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than \$19,639 and not more than \$196,387 for each such failure.

\* \* \* \* \*

(e) First offenders under paragraph (a) or (b) of this section shall be subject to a civil penalty of \$19,639, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between \$19,639 and \$196,387 as determined by the agency head or his or her designee.

\* \* \* \* \*

**PART 180—CONSOLIDATED HUD HEARING PROCEDURES FOR CIVIL RIGHTS MATTERS**

■ 16. The authority citation for part 180 continues to read as follows:

**Authority:** 28 U.S.C. 1 note; 29 U.S.C. 794; 42 U.S.C. 2000d–1, 3535(d), 3601–3619, 5301–5320, and 6103.

■ 17. In § 180.671, revise paragraphs (a)(1) through (3) to read as follows:

**§ 180.671 Assessing civil penalties for Fair Housing Act cases.**

(a) \* \* \*

(1) \$20,521, if the respondent has not been adjudged in any administrative hearing or civil action permitted under the Fair Housing Act or any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local governmental agency, to have committed any prior discriminatory housing practice.

(2) \$51,302, if the respondent has been adjudged in any administrative hearing or civil action permitted under the Fair Housing Act, or under any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local government agency, to have committed one other discriminatory housing practice and the adjudication was made during the 5-year period preceding the date of filing of the charge.

(3) \$102,606, if the respondent has been adjudged in any administrative hearings or civil actions permitted under the Fair Housing Act, or under

any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local government agency, to have committed two or more discriminatory housing practices and the adjudications were made during the 7-year period preceding the date of filing of the charge.

\* \* \* \* \*

## PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

■ 18. The authority citation for part 3282 continues to read as follows:

**Authority:** 28 U.S.C. 1 note; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 5424.

■ 19. Revise § 3282.10 to read as follows:

### § 3282.10 Civil and criminal penalties.

Failure to comply with these regulations may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410. The maximum amount of penalties imposed under section 611 of the Act shall be \$2,852 for each violation, up to a maximum of \$3,565,045 for any related series of violations occurring within one year from the date of the first violation.

Dated: July 8, 2018.

**J. Paul Compton, Jr.,**

*General Counsel.*

[FR Doc. 2018–15116 Filed 7–13–18; 8:45 am]

BILLING CODE 4210–67–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2017–0337; FRL–9980–68—Region 3]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Interstate Transport Requirements for the 2012 Fine Particulate Matter Standard

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia (the Commonwealth or Virginia). This revision pertains to the infrastructure requirement for interstate transport of pollution with respect to the 2012 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards

(NAAQS). EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on August 15, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0337. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) 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 through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Joseph Schulingkamp, (215) 814–2021, or by email at [schulingkamp.joseph@epa.gov](mailto:schulingkamp.joseph@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

On May 9, 2018 (83 FR 21233), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. In the NPR, EPA proposed approval of Virginia’s submittal to address the infrastructure requirements under section 110(a)(2)(D)(i) of the CAA for the 2012 PM<sub>2.5</sub> NAAQS. The formal SIP revision was submitted by Virginia through the Department of Environmental Quality (VADEQ) on May 16, 2017.

#### II. Summary of SIP Revision and EPA Analysis

Virginia’s May 16, 2017 SIP submittal includes a summary of annual emissions of oxides of nitrogen (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>), both of which are precursors of PM<sub>2.5</sub>. The emissions summary shows that emissions from Virginia sources have been steadily decreasing for sources that could potentially contribute, with respect to the 2012 PM<sub>2.5</sub> NAAQS, to nonattainment in, or interfere with maintenance of, any other state. The submittal also included currently available air quality monitoring data for PM<sub>2.5</sub>, and its precursors SO<sub>2</sub> and NO<sub>2</sub>, which Virginia alleged show that PM<sub>2.5</sub> levels continue to be below the 2012 PM<sub>2.5</sub> NAAQS in Virginia.

Additionally, Virginia described in its submittal several existing SIP-approved

measures and other federally enforceable source-specific measures, pursuant to permitting requirements under the CAA, that apply to sources of PM<sub>2.5</sub> and its precursors within Virginia. Virginia concludes that the Commonwealth does not significantly contribute to, nor interfere with the maintenance of, another state for the 2012 PM<sub>2.5</sub> NAAQS.

A detailed summary of Virginia’s submittal and EPA’s review and rationale for approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2012 PM<sub>2.5</sub> NAAQS may be found in the NPR and Technical Support Document (TSD) for this rulemaking action, which are available online at [www.regulations.gov](http://www.regulations.gov), Docket number EPA–R03–OAR–2017–0337.

EPA used the information in the 2016 PM<sub>2.5</sub> Memorandum<sup>1</sup> and additional information for the evaluation and came to the same conclusion as Virginia. As discussed in greater detail in the TSD, EPA identified the potential downwind nonattainment and maintenance receptors identified in the 2016 PM<sub>2.5</sub> Memorandum, and then evaluated them to determine if Virginia’s emissions could potentially contribute to nonattainment and maintenance problems in 2021, the attainment year for moderate PM<sub>2.5</sub> nonattainment areas. EPA concluded Virginia was not significantly contributing to nonattainment nor interfering with maintenance with 2012 PM<sub>2.5</sub> NAAQS by any other state.

#### III. Public Comments

Two anonymous public comments were received on the NPR. The first comment generally discussed greenhouse gases and climate change and was determined to not be relevant nor specific to this rulemaking action. Thus, no response is provided for this comment. The second comment expressed that the commenter would not like to see particulate pollution from Virginia or any state degrade Allegheny County, Pennsylvania’s air. As explained in the proposed rulemaking in detail, EPA determined that Virginia’s emission sources do not contribute significantly to nonattainment, nor interfere with maintenance, of the 2012 PM<sub>2.5</sub> NAAQS in another state. EPA also concluded

<sup>1</sup> “Information on the Interstate Transport “Good Neighbor” Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I).” Memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards (March 17, 2016). A copy is included in the docket for this rulemaking action.