This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
24 CFR Parts 28, 30, 87, 180, and 3282
[Docket No. FR–6139–F–01]
RIN 2501–AD90
Adjustment of Civil Monetary Penalty Amounts for 2019
AGENCY: Office of the General Counsel, HUD.
ACTION: Final rule.

**SUPPLEMENTARY INFORMATION:**

### I. Background


This rule makes the required 2019 inflation adjustment of civil penalty amounts. Since HUD is not applying these adjustments retroactively, the 2019 increase applies to violations occurring on or after this rule’s effective date. HUD provides a table showing how, for each component, the penalties are being adjusted for 2019 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 Code of Federal Regulations citation for the penalty. In the third column (“Previous Amount”), HUD provides the amount of the penalty 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 1.02522. Pursuant to the 2015 Act, adjustments are rounded to the nearest dollar.

<table>
<thead>
<tr>
<th>Description</th>
<th>Statutory citation</th>
<th>Regulatory citation (24 CFR)</th>
<th>Previous amount</th>
<th>2019 adjusted amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advance Disclosure of Funding</td>
<td>Department of Housing and Urban Development Act (42 U.S.C. 3537a(c)).</td>
<td>§ 30.20</td>
<td>$19,639</td>
<td>$20,134.</td>
</tr>
<tr>
<td>Disclosure of Subsidy Layering</td>
<td>Department of Housing and Urban Development Act (42 U.S.C. 3545(f)).</td>
<td>§ 30.25</td>
<td>$19,639</td>
<td>$20,134.</td>
</tr>
<tr>
<td>Other FHA Participants Violations</td>
<td>HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).</td>
<td>§ 30.36</td>
<td>Per Year: $1,963,870</td>
<td>Per Year: $2,013,399</td>
</tr>
<tr>
<td>Indian Loan Mortgages Violations</td>
<td>Housing Community Development Act of 1992 (12 U.S.C. 1715z–13a(g)(2)).</td>
<td>§ 30.40</td>
<td>Per Violation: $9,819</td>
<td>Per Violation: $10,067</td>
</tr>
<tr>
<td>Multifamily &amp; Section 202 or 811 Owners Violations</td>
<td>HUD Reform Act of 1989 (12 U.S.C. 1735f–15(c)(2)).</td>
<td>§ 30.45</td>
<td>Per Year: $1,963,870</td>
<td>Per Year: $2,013,399</td>
</tr>
</tbody>
</table>


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III. Justification for Final Rulemaking for the 2019 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 final rule makes the required 2019 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, therefore, that it is unnecessary to delay the effectiveness of the 2019 inflation adjustments to solicit 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 2019 inflation adjustments are made in accordance with a statutorily prescribed formula that does not permit discretion. Accordingly, a delay in the effectiveness of the 2019 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.

HUD 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) 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. 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 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)(4), 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, Consumer, 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, 160, and 3282 to read as follows:

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

§ 28.10 Basis for civil penalties and assessments.

(a) Claims. (1) A civil penalty of not more than $11,463 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 $11,463 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

§ 30.20 Ethical violations by HUD employees.

(b) Maximum penalty. The maximum penalty is $20,134 for each violation.

§ 30.25 Violations by applicants for assistance.

(b) Maximum penalty. The maximum penalty is $20,134 for each violation.

§ 30.35 Mortgagees and lenders.

(c)(1) Amount of penalty. The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 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) Amount of penalty. The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 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) Amount of penalty. The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 for all violations committed during any one-year period. * * * * *

§ 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 $50,334. * * * * *

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

§ 30.50 GNMA issuers and custodians.

(c) Amount of penalty. The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 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 $10,067 for each violation, up to a limit of $2,013,399 during any one-year period. * * * * *

§ 30.65 Failure to disclose lead-based paint hazards.

(c) Amount of penalty. The maximum penalty is $17,834 for each violation.
§ 30.68 Section 8 owners.

* * * * *
(c) Maximum penalty. The maximum penalty for each violation under this section is $39,121.

* * * * *

PART 87—NEW RESTRICTIONS ON LOBBYING

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


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 $20,134 and not more than $201,340 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B of this part) to be filed or amended if required herein, shall be subject to a civil penalty of not less than $20,134 and not more than $201,340 for each such failure.

* * * * *

(e) First offenders under paragraph (a) or (b) of this section shall be subject to a civil penalty of $20,134, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between $20,134 and $201,340 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:


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) $21,039, 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) $52,596, 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) $105,194, 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 is revised to read as follows:


19. Revise § 3282.10 to read as follows:

§ 3282.10 Civil and criminal penalties.

Failure to comply with this part 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 $2,924 for each violation, up to $20,134. These penalties are subject to an appropriate civil penalty for each such expenditure.

* * * * *

PART 3282 is revised to read as follows:

§ 3282.10 Civil and criminal penalties.

Failure to comply with this part 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 $2,924 for each violation, up to $20,134. These penalties are subject to an appropriate civil penalty for each such expenditure.

* * * * *

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044


AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation’s regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe certain interest assumptions under the benefit payments regulation for plans with valuation dates in April 2019 and interest assumptions under the asset allocation regulation for plans with valuation dates in the second quarter of 2019. These interest assumptions are used for valuing benefits and paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective April 1, 2019.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (rifkin.melissa@pbgc.gov), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400, ext. 6563. (TTTY users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 6563.)


Lump Sum Interest Assumption

PBGC uses the interest assumptions in appendix B to part 4022 ("Lump Sum Interest Rates for PBGC Payments") to determine whether a benefit is payable as a lump sum and to determine the amount to pay as a lump sum. Because some private-sector pension plans use these interest rates to determine lump sum amounts payable to plan...