

physician or psychologist must be currently licensed in the state in which the provider practices.

The examining physician or psychologist must have the training and experience to perform the type of examination requested. The examining physician or psychologist must have access to VTT, and the claimant must live in the same state in which the provider practices. The claimant shall have the right to refuse a VTT consultative examination without penalty.

A proposed rule was published on February 3, 2022, and comments were requested by April 4, 2022, 87 FR 6094, February 3, 2022. One comment was submitted. While expressing support for the proposed change as “a positive change by the agency to embrace the technological transformation,” the commenter quoted the proposed sentence in § 220.57(c)(2), which states that “[t]he examining physician or psychologist has the training and experience to perform the type of examination requested” and commented that this statement does not quantify the required minimum years of experience for the examining physician or psychologist. The commenter explained that unless years of experience are specified, any physician with just 1 prior experience of performing such kind of examination will be qualified and suggested that the minimum number of years of experience be added to the clause to avoid any confusion and make the rule clear. The Board considered the commenter’s suggestion, but decided not to quantify a minimum number of years of experience to use VTT as the examining physician or psychologist would be licensed and in good standing in the state in which he or she practices and would have the training and experience necessary to perform the type of examination or test required.

No changes were made in the proposed rule, which is now being published as a final regulation.

#### Regulatory Requirements

#### Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563.

#### Executive Order 13132 (Federalism)

This final rule will not have substantial direct effects on the States,

on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Board believes that this final rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### Regulatory Flexibility Act

We certify that this final rule would not have a significant economic impact on a substantial number of small entities because the final rule affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

#### Unfunded Mandates Reform Act of 1995

This final rule will not 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, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Paperwork Reduction Act

This final rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

#### List of Subjects in 20 CFR Part 220

Disability benefits, Railroad employees, Railroad retirement.

For the reasons discussed in the preamble, the Railroad Retirement Board amends 20 CFR part 220 as follows:

#### PART 220—DETERMINING DISABILITY

■ 1. The authority citation for part 220 continues to read as follows:

**Authority:** 45 U.S.C. 231a; 45 U.S.C. 231f.

■ 2. Amend § 220.57 by adding paragraph (c) to read as follows:

#### § 220.57 Types of purchased examinations and selection of sources.

\* \* \* \* \*

(c) *Use of video conferencing technology.* Video conferencing technology (VTT) may be used for a psychological or a psychiatric consultative examination provided that the following requirements are met:

(1) The examining physician or psychologist is currently state-licensed

in the state in which the provider practices;

(2) The examining physician or psychologist has the training and experience to perform the type of examination requested;

(3) The examining physician or psychologist has access to video teleconferencing technology;

(4) The examining physician or psychologist is permitted to perform the exam in accordance with state licensing laws and regulations;

(5) The protocol for the examination does not require physical contact;

(6) The claimant has the right to refuse a VTT examination without penalty; and

(7) The VTT examination complies with all requirements in this subpart governing consultative examinations.

Dated: May 4, 2022.

For the Board.

**Stephanie Hillyard,**

*Secretary to the Board.*

[FR Doc. 2022-09905 Filed 5-6-22; 8:45 am]

**BILLING CODE 7905-01-P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 85

[Docket No. OLP 172]

#### Civil Monetary Penalties Inflation Adjustments for 2022

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is adjusting for inflation the civil monetary penalties assessed or enforced by components of the Department, in accordance with the provisions of the Bipartisan Budget Act of 2015, for penalties assessed after May 9, 2022 with respect to violations occurring after November 2, 2015.

**DATES:** This rule is effective May 9, 2022.

**FOR FURTHER INFORMATION CONTACT:** Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue NW, Washington, DC 20530, telephone (202) 514-8059 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### I. Statutory Process for Implementing Annual Inflation Adjustments

Section 701 of the Bipartisan Budget Act of 2015, Public Law 114-74 (Nov. 2, 2015) (“BBA”), 28 U.S.C. 2461 note, substantially revised the prior provisions of the Federal Civil Monetary

Penalties Inflation Adjustment Act of 1990, Public Law 101–410 (the “Inflation Adjustment Act”), and substituted a different statutory formula for calculating inflation adjustments on an annual basis.

In accordance with the provisions of the BBA, on June 30, 2016 (81 FR 42491), the Department of Justice published an interim rule (“June 2016 interim rule”) to adjust for inflation the civil monetary penalties assessed or enforced by components of the Department after August 1, 2016, with respect to violations occurring after November 2, 2015, the date of enactment of the BBA. Readers may refer to the **SUPPLEMENTARY INFORMATION** (also known as the preamble) of the Department’s June 2016 interim rule for additional background information regarding the statutory authority for adjustments of civil monetary penalty amounts to take account of inflation and the Department’s past implementation of inflation adjustments. The June 2016 interim rule was finalized without change by the publication of a final rule on April 5, 2019 (84 FR 13525).

After the initial adjustments in 2016, the BBA also provides for agencies to adjust their civil penalties on January 15 of each year to account for inflation during the preceding year, rounded to the nearest dollar. Accordingly, on February 3, 2017 (82 FR 9131), and on January 29, 2018 (83 FR 3944), the Department published final rules pursuant to the BBA to make annual inflation adjustments in the civil monetary penalties assessed or enforced by components of the Department after those dates, with respect to violations occurring after November 2, 2015.

The Department has continued to promulgate rules adjusting the civil money penalties for inflation thereafter. Most recently, the Department published a final rule on December 13, 2021 (86 FR 70740), to adjust the civil money penalties to account for inflation occurring since 2020.

## II. Inflation Adjustments Made by This Rule

As required, the Department is publishing this final rule to adjust for 2022 the Department’s current civil penalties. Under the statutory formula, the adjustments made by this rule are based on the Bureau of Labor Statistics’ Consumer Price Index for October 2021. The OMB Memorandum for the Heads of Executive Departments and Agencies M–22–07 (Dec. 15, 2021) <https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf> (last visited May 2, 2022), instructs that the

applicable inflation factor for this adjustment is 1.06222.

Accordingly, this rule adjusts the civil penalty amounts in 28 CFR 85.5 by applying this inflation factor mechanically to each of the civil penalty amounts listed (rounded to the nearest dollar).

### Example:

- In 2016, the Program Fraud Civil Remedies Act penalty was increased to \$10,781 in accordance with the adjustment requirements of the BBA.

- For 2017, where the applicable inflation factor was 1.01636, the existing penalty of \$10,781 was multiplied by 1.01636 and revised to \$10,957 (rounded to the nearest dollar).

- For 2018, where the applicable inflation factor is 1.02041, the existing penalty of \$10,957 was multiplied by 1.02041 and revised to \$11,181 (rounded to the nearest dollar).

- Had an adjustment rule been published in 2019, where the applicable inflation factor was 1.02041, the existing penalty of \$11,181 would have been multiplied by 1.02522 and revised to \$11,463 (rounded to the nearest dollar).

- For the final rule in 2020 (*in which the ending 2019 penalty amounts were used as the starting penalty amounts for purposes of calculation*) the starting penalty of \$11,463 was multiplied by 1.01764 and revised to \$11,665 (rounded to the nearest dollar).

- For the final rule in 2021, where the applicable inflation factor was 1.01182, the existing penalty of \$11,665 was multiplied by 1.01182 and revised to \$11,803 (rounded to the nearest dollar).

- For this final rule in 2022, where the applicable inflation factor is 1.06222, the existing penalty of \$11,803 is multiplied by 1.06222 and revised to \$12,537 (rounded to the nearest dollar).

This rule adjusts for inflation civil monetary penalties within the jurisdiction of the Department of Justice for purposes of the Inflation Adjustment Act, as amended. Other agencies are responsible for the inflation adjustments of certain other civil monetary penalties that the Department’s litigating components bring suit to collect. The reader should consult the regulations of those other agencies for inflation adjustments to those penalties.

## III. Effective Date of Adjusted Civil Penalty Amounts

Under this rule, the adjusted civil penalty amounts are applicable only to civil penalties assessed after May 9, 2022, with respect to violations occurring after November 2, 2015, the date of enactment of the BBA.

The penalty amounts set forth in the existing table in 28 CFR 85.5 are

applicable to civil penalties assessed after August 1, 2016, and on or before the effective date of this rule, with respect to violations occurring after November 2, 2015. Civil penalties for violations occurring on or before November 2, 2015, and assessments made on or before August 1, 2016, will continue to be subject to the civil monetary penalty amounts set forth in the Department’s regulations in 28 CFR parts 20, 22, 36, 68, 71, 76, and 85 as such regulations were in effect prior to August 1, 2016 (or as set forth by statute if the amount had not yet been adjusted by regulation prior to August 1, 2016).

## IV. Statutory and Regulatory Analyses

### A. Administrative Procedure Act

The BBA provides that, for each annual adjustment made after the initial adjustments of civil penalties in 2016, the head of an agency shall adjust the civil monetary penalties each year notwithstanding 5 U.S.C. 553. Accordingly, this rule is being issued as a final rule without prior notice and public comment, and without a delayed effective date.

### B. Regulatory Flexibility Act

Only those entities that are determined to have violated Federal law and regulations would be affected by the increase in the civil penalty amounts made by this rule. A Regulatory Flexibility Act analysis is not required for this rule because publication of a notice of proposed rulemaking was not required. See 5 U.S.C. 603(a).

### C. Executive Orders 12866 and 13563—Regulatory Review

This final rule has been drafted in accordance with Executive Order 12866, “Regulatory Planning and Review,” section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review,” section 1, General Principles of Regulation. Executive Orders 12866 and 13563 direct agencies, in certain circumstances, to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

The Department of Justice has determined that this rule is not a “significant regulatory action” under Executive Order 12866, “Regulatory Planning and Review,” section 3(f), and, accordingly, this rule has not been

reviewed by the Office of Management and Budget. This final rule implements the BBA by making an across-the-board adjustment of the civil penalty amounts in 28 CFR 85.5 to account for inflation since the adoption of the Department's final rule published on December 13, 2021 (86 FR 70740).

*D. Executive Order 13132—Federalism*

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

*E. Executive Order 12988—Civil Justice Reform*

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

*F. Unfunded Mandates Reform Act of 1995*

This rule will not 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, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions

of the Unfunded Mandates Reform Act of 1995.

*G. Congressional Review Act*

This rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

**List of Subjects in 28 CFR Part 85**

Administrative practice and procedure, Penalties.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Assistant Attorney General, Office of Legal Policy, by AG Order No. 5328–2022, and for the reasons set forth in the preamble, chapter I of title 28 of the Code of Federal Regulations is amended as follows:

**PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT**

■ 1. The authority citation for part 85 continues to read as follows:

**Authority:** 5 U.S.C. 301, 28 U.S.C. 503; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321; Pub. L. 114–74, section 701, 28 U.S.C. 2461 note.

■ 2. Section 85.5 is revised to read as follows:

**§ 85.5 Adjustments to penalties for violations occurring after November 2, 2015.**

(a) For civil penalties assessed after May 9, 2022, whose associated violations occurred after November 2, 2015, the civil monetary penalties

provided by law within the jurisdiction of the Department are adjusted as set forth in the seventh column of table 1 to this section.

(b) For civil penalties assessed after December 13, 2021, and on or before May 9, 2022 whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are adjusted as set forth in the sixth column of table 1 to this section. For civil penalties assessed after June 19, 2020, and on or before December 13, 2021, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are adjusted as set forth in the fifth column of table 1 to this section. For civil penalties assessed after January 29, 2018, and on or before June 19, 2020, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are those set forth in the fourth column of table 1 to this section.

(c) For civil penalties assessed on or before January 29, 2018, the civil monetary penalties provided by law within the jurisdiction of the Department are set forth in 28 CFR 85.5 (revised as of July 1, 2017).

(d) All figures set forth in table 1 to this section are maximum penalties, unless otherwise indicated.

TABLE 1 TO § 85.5

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 1/29/2018 (\$)	DOJ penalty assessed after 6/19/2020 (\$)	DOJ penalty assessed after 12/13/2021 <sup>1</sup>	DOJ penalty assessed after 5/9/2022 <sup>2</sup>
<b>ATF</b>						
18 U.S.C. 922(t)(5) .....	Brady Law—Nat'l Instant Criminal Check System (NICS); Transfer of firearm without checking NICS.	.....	8,465 .....	8,831 .....	8,935 .....	9,491.
18 U.S.C. 924(p) .....	Child Safety Lock Act; Secure gun storage or safety device, violation.	.....	3,096 .....	3,230 .....	3,268 .....	3,471.
<b>Civil Division</b>						
12 U.S.C. 1833a(b)(1) .....	Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Violation.	28 CFR 85.3(a)(6)	1,963,870 .....	2,048,915 .....	2,073,133 .....	2,202,123.
12 U.S.C. 1833a(b)(2) .....	FIRREA Violation (continuing) (per day).	28 CFR 85.3(a)(7)	1,963,870 .....	2,048,915 .....	2,073,133 .....	2,202,123.
12 U.S.C. 1833a(b)(2) .....	FIRREA Violation (continuing)	28 CFR 85.3(a)(7)	9,819,351 .....	10,244,577 .....	10,365,668 .....	11,010,620.
22 U.S.C. 2399b(a)(3)(A) ...	Foreign Assistance Act; Fraudulent Claim for Assistance (per act).	28 CFR 85.3(a)(8)	5,704 .....	5,951 .....	6,021 .....	6,396.
31 U.S.C. 3729(a) .....	False Claims Act; <sup>3</sup> Violations	28 CFR 85.3(a)(9)	Min 11,181, Max 22,363.	Min 11,665, Max 23,331.	Min 11,803, Max 23,607.	Min 12,537, Max 25,076.
31 U.S.C. 3802(a)(1) .....	Program Fraud Civil Remedies Act; Violations Involving False Claim (per claim).	28 CFR 71.3(a) .....	11,181 .....	11,665 .....	11,803 .....	12,537.

TABLE 1 TO § 85.5—Continued

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 1/29/2018 (\$)	DOJ penalty assessed after 6/19/2020 (\$)	DOJ penalty assessed after 12/13/2021 <sup>1</sup>	DOJ penalty assessed after 5/9/2022 <sup>2</sup>
31 U.S.C. 3802(a)(2) .....	Program Fraud Civil Remedies Act; Violation Involving False Statement (per statement).	28 CFR 71.3(f) .....	11,181 .....	11,665 .....	11,803 .....	12,537.
40 U.S.C. 123(a)(1)(A) .....	Federal Property and Administrative Services Act; Violation Involving Surplus Government Property (per act).	28 CFR 85.3(a)(12)	5,704 .....	5,951 .....	6,021 .....	6,396.
41 U.S.C. 8706(a)(1)(B) .....	Anti-Kickback Act; Violation Involving Kickbacks <sup>4</sup> (per occurrence).	28 CFR 85.3(a)(13)	22,363 .....	23,331 .....	23,607 .....	25,076.
18 U.S.C. 2723(b) .....	Driver's Privacy Protection Act of 1994; Prohibition on Release and Use of Certain Personal Information from State Motor Vehicle Records—Substantial Non-compliance (per day).	.....	8,249 .....	8,606 .....	8,708 .....	9,250.
18 U.S.C. 216(b) .....	Ethics Reform Act of 1989; Penalties for Conflict of Interest Crimes <sup>5</sup> (per violation).	28 CFR 85.3(c) .....	98,194 .....	102,446 .....	103,657 .....	110,107.
41 U.S.C. 2105(b)(1) .....	Office of Federal Procurement Policy Act; <sup>6</sup> Violation by an individual (per violation).	.....	102,606 .....	107,050 .....	108,315 .....	115,054.
41 U.S.C. 2105(b)(2) .....	Office of Federal Procurement Policy Act; <sup>6</sup> Violation by an organization (per violation).	.....	1,026,054 .....	1,070,487 .....	1,083,140 .....	1,150,533.
42 U.S.C. 5157(d) .....	Disaster Relief Act of 1974; <sup>7</sup> Violation (per violation).	.....	12,964 .....	13,525 .....	13,685 .....	14,536.

**Civil Rights Division (excluding immigration-related penalties)**

18 U.S.C. 248(c)(2)(B)(i) .....	Freedom of Access to Clinic Entrances Act of 1994 ("FACE Act"); Nonviolent physical obstruction, first violation.	28 CFR 85.3(b)(1)(i).	16,499 .....	17,161 .....	17,364 .....	18,444.
18 U.S.C. 248(c)(2)(B)(ii) .....	FACE Act; Nonviolent physical obstruction, subsequent violation.	28 CFR 85.3(b)(1)(ii).	24,748 .....	25,820 .....	26,125 .....	27,750.
18 U.S.C. 248(c)(2)(B)(i) .....	FACE Act; Violation other than a nonviolent physical obstruction, first violation.	28 CFR 85.3(b)(2)(i).	24,748 .....	25,820 .....	26,125 .....	27,750.
18 U.S.C. 248(c)(2)(B)(ii) .....	FACE Act; Violation other than a nonviolent physical obstruction, subsequent violation.	28 CFR 85.3(b)(2)(ii).	41,248 .....	43,034 .....	43,543 .....	46,252.
42 U.S.C. 3614(d)(1)(C)(i) .....	Fair Housing Act of 1968; first violation.	28 CFR 85.3(b)(3)(i).	102,606 .....	107,050 .....	108,315 .....	115,054.
42 U.S.C. 3614(d)(1)(C)(ii) .....	Fair Housing Act of 1968; subsequent violation.	28 CFR 85.3(b)(3)(ii).	205,211 .....	214,097 .....	216,628 .....	230,107.
42 U.S.C. 12188(b)(2)(C)(i) .....	Americans With Disabilities Act; Public accommodations for individuals with disabilities, first violation.	28 CFR 36.504(a)(3)(i).	92,383 .....	96,384 .....	97,523 .....	103,591.
42 U.S.C. 12188(b)(2)(C)(ii) .....	Americans With Disabilities Act; Public accommodations for individuals with disabilities subsequent violation.	28 CFR 36.504(a)(3)(ii).	184,767 .....	192,768 .....	195,047 .....	207,183.
50 U.S.C. 4041(b)(3) .....	Servicemembers Civil Relief Act of 2003; first violation.	28 CFR 85.3(b)(4)(i).	62,029 .....	64,715 .....	65,480 .....	69,554.
50 U.S.C. 4041(b)(3) .....	Servicemembers Civil Relief Act of 2003; subsequent violation.	28 CFR 85.3(b)(4)(ii).	124,058 .....	129,431 .....	130,961 .....	139,109.

**Criminal Division**

18 U.S.C. 983(h)(1) .....	Civil Asset Forfeiture Reform Act of 2000; Penalty for Frivolous Assertion of Claim.	.....	Min 355, Max 7,088.	Min 370, Max 7,395.	Min 374, Max 7,482.	Min 397, Max 7,948.
18 U.S.C. 1956(b) .....	Money Laundering Control Act of 1986; Violation <sup>8</sup> .	.....	22,363 .....	23,331 .....	23,607 .....	25,076.

TABLE 1 TO § 85.5—Continued

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 1/29/2018 (\$)	DOJ penalty assessed after 6/19/2020 (\$)	DOJ penalty assessed after 12/13/2021 <sup>1</sup>	DOJ penalty assessed after 5/9/2022 <sup>2</sup>
<b>DEA</b>						
21 U.S.C. 844a(a) .....	Anti-Drug Abuse Act of 1988; Possession of small amounts of controlled substances (per violation).	28 CFR 76.3(a) .....	20,521 .....	21,410 .....	21,663 .....	23,011.
21 U.S.C. 961(1) .....	Controlled Substance Import Export Act; Drug abuse, import or export.	28 CFR 85.3(d) .....	71,301 .....	74,388 .....	75,267 .....	79,950.
21 U.S.C. 842(c)(1)(A) .....	Controlled Substances Act ("CSA"); Violations of 842(a)—other than (5), (10), (16) and (17)—Prohibited acts re: controlled substances (per violation).	.....	64,820 .....	67,627 .....	68,426 .....	72,683.
21 U.S.C. 842(c)(1)(B)(i) .....	CSA; Violations of 842(a)(5), (10), and (17)—Prohibited acts re: controlled substances.	.....	15,040 .....	15,691 .....	15,876 .....	16,864.
21 U.S.C. 842(c)(1)(B)(ii) .....	SUPPORT for Patients and Communities Act; Violations of 842(b)(ii)—Failures re: opioids.	.....	100,000 (Statutory amount of new penalty enacted 10/24/18) <sup>11</sup> .	101,764 .....	102,967 .....	109,374.
21 U.S.C. 842(c)(1)(C) .....	CSA; Violation of 825(e) by importer, exporter, manufacturer, or distributor—False labeling of anabolic steroids (per violation).	.....	519,439 .....	541,933 .....	548,339 .....	582,457.
21 U.S.C. 842(c)(1)(D) .....	CSA; Violation of 825(e) at the retail level—False labeling of anabolic steroids (per violation).	.....	1,039 .....	1,084 .....	1,097 .....	1,165.
21 U.S.C. 842(c)(2)(C) .....	CSA; Violation of 842(a)(11) by a business—Distribution of laboratory supply with reckless disregard <sup>9</sup> .	.....	389,550 .....	406,419 .....	411,223 .....	436,809.
21 U.S.C. 842(c)(2)(D) .....	SUPPORT for Patients and Communities Act; Violations of 842(a)(5), (10) and (17) by a registered manufacturer or distributor of opioids. Failures re: opioids.	.....	500,000 (Statutory amount of new penalty enacted 10/24/18) <sup>11</sup> .	508,820 .....	514,834 .....	546,867.
21 U.S.C. 856(d) .....	Illicit Drug Anti-Proliferation Act of 2003; Maintaining drug-involved premises <sup>10</sup> .	.....	333,328 .....	374,763 .....	379,193 .....	402,786.
<b>Immigration-Related Penalties</b>						
8 U.S.C. 1324a(e)(4)(A)(i) .....	Immigration Reform and Control Act of 1986 ("IRCA"); Unlawful employment of aliens, first order (per unauthorized alien).	28 CFR 68.52(c)(1)(i).	Min 559, Max 4,473.	Min 583, Max 4,667.	Min 590, Max 4,722.	Min 627, Max 5,016.
8 U.S.C. 1324a(e)(4)(A)(ii) .....	IRCA; Unlawful employment of aliens, second order (per such alien).	28 CFR 68.52(c)(1)(ii).	Min 4,473, Max 11,181.	Min 4,667, Max 11,665.	Min 4,722, Max 11,803.	Min 5,016, Max 12,537.
8 U.S.C. 1324a(e)(4)(A)(iii) .....	IRCA; Unlawful employment of aliens, subsequent order (per such alien).	28 CFR 68.52(c)(1)(iii).	Min 6,709, Max 22,363.	Min 6,999, Max 23,331.	Min 7,082, Max 23,607.	Min 7,523, Max 25,076.
8 U.S.C. 1324a(e)(5) .....	IRCA; Paperwork violation (per relevant individual).	28 CFR 68.52(c)(5)	Min 224, Max 2,236.	Min 234, Max 2,332.	Min 237, Max 2,360.	Min 252, Max 2,507.
8 U.S.C. 1324a, (note) .....	IRCA; Violation relating to participating employer's failure to notify of final nonconfirmation of employee's employment eligibility (per relevant individual).	28 CFR 68.52(c)(6)	Min 779, Max 1,558.	Min 813, Max 1,625.	Min 823, Max 1,644.	Min 874, Max 1,746.
8 U.S.C. 1324a(g)(2) .....	IRCA; Violation/prohibition of indemnity bonds (per violation).	28 CFR 68.52(c)(7)	2,236 .....	2,332 .....	2,360 .....	2,507.
8 U.S.C. 1324b(g)(2)(B)(iv)(I).	IRCA; Unfair immigration-related employment practices, first order (per individual discriminated against).	28 CFR 68.52(d)(1)(viii).	Min 461, Max 3,695.	Min 481, Max 3,855.	Min 487, Max 3,901.	Min 517, Max 4,144.

TABLE 1 TO § 85.5—Continued

U.S.C. citation	Name/description	CFR citation	DOJ penalty assessed after 1/29/2018 (\$)	DOJ penalty assessed after 6/19/2020 (\$)	DOJ penalty assessed after 12/13/2021 <sup>1</sup>	DOJ penalty assessed after 5/9/2022 <sup>2</sup>
8 U.S.C. 1324b(g)(2)(B)(iv)(II).	IRCA; Unfair immigration-related employment practices, second order (per individual discriminated against).	28 CFR 68.52(d)(1)(ix).	Min 3,695, Max 9,239.	Min 3,855, Max 9,639.	Min 3,901, Max 9,753.	Min 4,144, Max 10,360.
8 U.S.C. 1324b(g)(2)(B)(iv)(III).	IRCA; Unfair immigration-related employment practices, subsequent order (per individual discriminated against).	28 CFR 68.52(d)(1)(x).	Min 5,543, Max 18,477.	Min 5,783, Max 19,277.	Min 5,851, Max 19,505.	Min 6,215, Max 20,719.
8 U.S.C. 1324b(g)(2)(B)(iv)(IV).	IRCA; Unfair immigration-related employment practices, unfair documentary practices (per individual discriminated against).	28 CFR 68.52(d)(1)(xii).	Min 185, Max 1,848.	Min 193, Max 1,928.	Min 195, Max 1,951.	Min 207, Max 2,072.
8 U.S.C. 1324c(d)(3)(A) .....	IRCA; Document fraud, first order—for violations described in U.S.C. 1324c(a)(1)–(4) (per document).	28 CFR 68.52(e)(1)(i).	Min 461, Max 3,695.	Min 481, Max 3,855.	Min 487, Max 3,901.	Min 517, Max 4,144.
8 U.S.C. 1324c(d)(3)(B) .....	IRCA; Document fraud, subsequent order—for violations described in U.S.C. 1324c(a)(1)–(4) (per document).	28 CFR 68.52(e)(1)(iii).	Min 3,695, Max 9,239.	Min 3,855, Max 9,639.	Min 3,901, Max 9,753.	Min 4,144, Max 10,360.
8 U.S.C. 1324c(d)(3)(A) .....	IRCA; Document fraud, first order—for violations described in U.S.C. 1324c(a)(5)–(6) (per document).	28 CFR 68.52(e)(1)(ii).	Min 390, Max 3,116.	Min 407, Max 3,251.	Min 412, Max 3,289.	Min 438, Max 3,494.
8 U.S.C. 1324c(d)(3)(B) .....	IRCA; Document fraud, subsequent order—for violations described in U.S.C. 1324c(a)(5)–(6) (per document).	28 CFR 68.52(e)(1)(iv).	Min 3,116, Max 7,791.	Min 3,251, Max 8,128.	Min 3,289, Max 8,224.	Min 3,494, Max 8,736.
<b>FBI</b>						
49 U.S.C. 30505(a) .....	National Motor Vehicle Title Identification System; Violation (per violation).	.....	1,650 .....	1,722 .....	1,742 .....	1,850.
<b>Office of Justice Programs</b>						
34 U.S.C. 10231(d) .....	Confidentiality of information; State and Local Criminal History Record Information Systems—Right to Privacy Violation.	28 CFR 20.25 .....	28,520 .....	29,755 .....	30,107 .....	31,980.

<sup>1</sup> The figures set forth in this column represent the penalty as last adjusted by Department of Justice regulation on December 13, 2021.

<sup>2</sup> All figures set forth in this table are maximum penalties, unless otherwise indicated.

<sup>3</sup> Section 3729(a)(1) of Title 31 provides that any person who violates this section is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, plus 3 times the amount of damages which the Government sustains because of the act of that person. 31 U.S.C. 3729(a)(1) (2015). Section 3729(a)(2) permits the court to reduce the damages under certain circumstances to not less than 2 times the amount of damages which the Government sustains because of the act of that person. Id. section 3729(a)(2). The adjustment made by this regulation is only applicable to the specific statutory penalty amounts stated in subsection (a)(1), which is only one component of the civil penalty imposed under section 3729(a)(1).

<sup>4</sup> Section 8706(a)(1) of Title 41 provides that the Federal Government in a civil action may recover from a person that knowingly engages in conduct prohibited by section 8702 of Title 44 a civil penalty equal to twice the amount of each kickback involved in the violation and not more than \$10,000 for each occurrence of prohibited conduct. 41 U.S.C. 8706(a)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (a)(1)(B), which is only one component of the civil penalty imposed under section 8706.

<sup>5</sup> Section 216(b) of Title 18 provides that the civil penalty should be no more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. 18 U.S.C. 216(b) (2015). Therefore, the adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b), which is only one aspect of the possible civil penalty imposed under section 216(b).

<sup>6</sup> Section 2105(b) of Title 41 provides that the Attorney General may bring a civil action in an appropriate district court of the United States against a person that engages in conduct that violates section 2102, 2103, or 2104 of Title 41. 41 U.S.C. 2105(b) (2015). Section 2105(b) further provides that on proof of that conduct by a preponderance of the evidence, an individual is liable to the Federal Government for a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation that the individual received or offered for the prohibited conduct, and an organization is liable to the Federal Government for a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation that the organization received or offered for the prohibited conduct. Id. section 2105(b). The adjustments made by this regulation are only applicable to the specific statutory penalty amounts stated in subsections (b)(1) and (b)(2), which are each only one component of the civil penalties imposed under sections 2105(b)(1) and (b)(2).

<sup>7</sup> The Attorney General has authority to bring a civil action when a person has violated or is about to violate a provision under this statute. 42 U.S.C. 5157(b) (2015). The Federal Emergency Management Agency has promulgated regulations regarding this statute and has adjusted the penalty in its regulation. 44 CFR 206.14(d) (2015). The Department of Health and Human Services (HHS) has also promulgated a regulation regarding the penalty under this statute. 42 CFR 38.8 (2015).

<sup>8</sup> Section 1956(b)(1) of Title 18 provides that whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of the value of the property, funds, or monetary instruments involved in the transaction; or \$10,000. 18 U.S.C. 1956(b)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b)(1)(B), which is only one aspect of the possible civil penalty imposed under section 1956(b).

<sup>9</sup> Section 842(c)(2)(C) of Title 21 provides that in addition to the penalties set forth elsewhere in the subchapter or subchapter II of the chapter, any business that violates paragraph (11) of subsection (a) of the section shall, with respect to the first such violation, be subject to a civil penalty of not more than \$250,000, but shall not be subject to criminal penalties under the section, and shall, for any succeeding violation, be subject to a civil fine of not more than \$250,000 or double the last previously imposed penalty, whichever is greater. 21 U.S.C. 842(c)(2)(C) (2015). The adjustment made by this regulation regarding the penalty for a succeeding violation is only applicable to the specific statutory penalty amount stated in subsection (c)(2)(C), which is only one aspect of the possible civil penalty for a succeeding violation imposed under section 842(c)(2)(C).

<sup>10</sup> Section 856(d)(1) of Title 21 provides that any person who violates subsection (a) of the section shall be subject to a civil penalty of not more than the greater of \$250,000; or 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person. 21 U.S.C. 856(d)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (d)(1)(A), which is only one aspect of the possible civil penalty imposed under section 856(d)(1).

<sup>11</sup> The SUPPORT for Patients and Communities Act, Public Law 115–221 was enacted Oct. 24, 2018.

Dated: May 3, 2022.

**Hampton Y. Dellinger,**

*Assistant Attorney General, Office of Legal Policy.*

[FR Doc. 2022–09928 Filed 5–6–22; 8:45 am]

**BILLING CODE 4410–19–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2022–0187; FRL–9606–02–R4]

### Air Plan Approval; GA; Updates to References to Appendix W Modeling Guidelines

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) on September 1, 2020. Specifically, EPA is finalizing approval of updates to the incorporation by reference of federal prevention of significant deterioration (PSD) new source review (NSR) regulations in the Georgia SIP. Based on the approval of this SIP revision, EPA is also converting the previous conditional approval regarding Georgia's infrastructure SIP's PSD elements for the 2015 Ozone National Ambient Air Quality Standard (NAAQS) to a full approval. EPA is finalizing approval of these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective June 8, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2022–0187. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. 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 and Radiation 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:** Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8085. Mr. Ortiz can also be reached via electronic mail at [ortizborrero.josue@epa.gov](mailto:ortizborrero.josue@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 1, 2015, EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. See 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an “infrastructure SIP” or “iSIP.” States were required to submit such SIP revisions for the 2015 8-hour

ozone NAAQS to EPA no later than October 1, 2018.<sup>1</sup>

On September 24, 2018, Georgia met its requirement to submit an iSIP for the 2015 8-hour ozone NAAQS by the October 1, 2018, deadline. EPA subsequently approved most of the infrastructure SIP elements for the 2015 Ozone NAAQS for the State.<sup>2,3</sup> However, regarding the PSD elements of section 110(a)(2)(C), (D)(i)(II) (prong 3), and (J) (hereinafter referred to as element C, Prong 3, and element J, respectively), EPA conditionally approved<sup>4</sup> these portions of Georgia's iSIP submission because of outdated references to the federal guideline on air quality modeling found in Appendix W of 40 CFR part 51.<sup>5</sup>

For elements C and J to be approved for PSD, a state needs to demonstrate that its SIP meets the PSD-related infrastructure requirements of these sections. These requirements are met if the state's implementation plan includes a PSD program that meets current federal requirements. Element D(i)(II) (prong 3) is also approvable when a state's implementation plan contains a fully approved PSD program. EPA's PSD regulations at 40 CFR

<sup>1</sup> In infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

<sup>2</sup> For the State of Georgia, EPA approved most elements, except for the Prong 1 and Prong 2 interstate transport provisions, and the PSD provisions (elements C, Prong 3, and J), on March 11, 2020. See 85 FR 14147.

<sup>3</sup> The Prong 1 and Prong 2 interstate transport provisions for Georgia, were approved on 12/2/2021. See 86 FR 68413.

<sup>4</sup> Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval and EPA will issue a finding of disapproval.

<sup>5</sup> EPA conditionally approved the PSD provisions of element C, Prong 3, and element J on April 15, 2020. See 85 FR 20836. The notice of proposed rulemaking associated with the conditional approval provides additional information regarding the CAA's PSD iSIP provisions. See 85 FR 7695 (February 11, 2020).