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§ 83.635 Drug-free workplace.

Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of the recipient are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

§ 83.640 Employee.

(a) *Employee* means the employee of a recipient directly engaged in the performance of work under the award, including—

- (1) All direct charge employees;
- (2) All indirect charge employees, unless their impact or involvement in the performance of work under the award is insignificant to the performance of the award; and
- (3) Temporary personnel and consultants who are directly engaged in the performance of work under the award and who are on the recipient's payroll.

(b) This definition does not include workers not on the payroll of the recipient (*e.g.*, volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the payroll; or employees of subrecipients or subcontractors in covered workplaces).

§ 83.645 Federal agency or agency.

Federal agency or agency means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency.

§ 83.650 Grant.

Grant means an award of financial assistance that, consistent with 31 U.S.C. 6304, is used to enter into a relationship—

(a) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Federal Government's direct benefit or use; and

(b) In which substantial involvement is not expected between the Federal agency and the recipient when carrying out the activity contemplated by the award.

§ 83.655 Individual.

Individual means a natural person.

§ 83.660 Recipient.

Recipient means any individual, corporation, partnership, association, unit of government (except a Federal agency) or legal entity, however organized, that receives an award directly from a Federal agency.

§ 83.665 State.

State means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 83.670 Suspension.

Suspension means an action taken by a Federal agency that immediately prohibits a recipient from participating in Federal Government procurement contracts and covered non-procurement transactions for a temporary period, pending completion of an investigation and any judicial or administrative proceedings that may ensue. A recipient so prohibited is suspended, in accordance with the Federal Acquisition Regulation for procurement contracts (48 CFR part 9, subpart 9.4) and the common rule, Government-wide Debarment and Suspension (Non-procurement), that implements Executive Order 12549 and Executive Order 12689. Suspension of a recipient is a distinct and separate action from suspension of an award or suspension of payments under an award.

PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

- Sec.
- 85.1 In general.
 - 85.2 Calculation of adjustment.
 - 85.3 Adjustments to penalties.
 - 85.5 Adjustments to penalties for violations occurring after November 2, 2015.

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.

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EFFECTIVE DATE NOTE: By AG Order 3690-2016, 81 FR 42500, June 30, 2016, the authority citation to part 85 was revised, effective Aug. 1, 2016. For the convenience of the user, the revised text is set forth 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.

SOURCE: Order No. 2249-99, 64 FR 47103, Aug. 30, 1999, unless otherwise noted.

§ 85.1 In general.

(a) In accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 104-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104-134, 110 Stat. 1321, the civil monetary penalties provided by law within the jurisdiction of the Department of Justice and listed in section 85.3 are adjusted as set forth in this part, effective for violations occurring on or after September 29, 1999.

(b) Reference should be made to regulations of the Immigration and Naturalization Service in title 8 of the Code of Federal Regulations for the adjustment of civil monetary penalties pertaining to immigration matters. In addition, adjustments to civil penalties relating to unauthorized employment of aliens, immigration related unfair employment practices, and civil document fraud are addressed in 28 CFR 68.52.

EFFECTIVE DATE NOTE: By AG Order 3690-2016, 81 FR 42500, June 30, 2016, § 85.1 was revised, effective Aug. 1, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 85.1 In general.

(a) For violations occurring on or before November 2, 2015, and for civil penalties assessed before August 1, 2016, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department of Justice and listed in section 85.3 are adjusted as set forth in that section, in accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 104-410, 104 Stat. 890, in effect prior to November 2, 2015.

(b) For civil penalties assessed after August 1, 2016, whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department of Justice are adjusted as set forth in section 85.5, in ac-

cordance with the requirements of the Bipartisan Budget Act of 2015, Public Law 114-74, section 701 (Nov. 2, 2015), 28 U.S.C. 2461 note.

§ 85.2 Calculation of adjustment.

(a) The inflation adjustments described in § 85.3 were determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty assessed or enforced by the Department of Justice by the cost-of-living adjustment as that term is defined by the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410. Any increase so determined was rounded to the nearest—

(1) Multiples of \$10 in the case of penalties less than or equal to \$100;

(2) Multiples of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;

(3) Multiples of \$1000 in the case of penalties greater than \$1000 but less than or equal to \$10,000;

(4) Multiples of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;

(5) Multiples of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and

(6) Multiples of \$25,000 in the case of penalties greater than \$200,000.

(b) Notwithstanding the provisions of paragraph (a) of this section, the initial adjustment for each penalty is capped at 10%.

EFFECTIVE DATE NOTE: By AG Order 3690-2016, 81 FR 42500, June 30, 2016, § 85.2 was removed and reserved, effective Aug. 1, 2016.

§ 85.3 Adjustments to penalties.

The civil monetary penalties provided by law within the jurisdiction of the respective components of the Department, as set forth in paragraphs (a) through (d) of this section, are adjusted in accordance with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, as follows. The adjusted penalties set forth in paragraphs (a), (c), and (d) of this section are effective for violations occurring on or after September 29, 1999.

(a) *Civil Division.* (1) 5 U.S.C. App. 4 102(f)(6)(C)(i), Ethics in Government

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Act of 1978, knowing and willful disclosure, solicitation, or receipt of information with respect to blind trusts: from \$10,000 to \$11,000.

(2) 5 U.S.C. App. 4 102(f)(6)(C)(ii), Ethics in Government Act of 1978, negligent disclosure, solicitation, or receipt of information with respect to blind trusts: from \$5,000 to \$5,500.

(3) 5 U.S.C. App. 4 104(a), Ethics in Government Act of 1978, falsification or failure to file required reports: from \$10,000 to \$11,000.

(4) 5 U.S.C. App. 4 105(c)(2), Ethics in Government Act of 1978, unlawful acquisition or use of public reports: from \$10,000 to \$11,000.

(5) 5 U.S.C. App. 4 504(a), Ethics Reform Act of 1989, violations of limitations on outside earned income and employment: from \$10,000 to \$11,000.

(6) 12 U.S.C. 1833a(b)(1), Financial Institutions Reform, Recovery, and Enforcement Act of 1989, violation: from \$1,000,000 to \$1,100,000.

(7) 12 U.S.C. 1833a(b)(2), Financial Institutions Reform, Recovery, and Enforcement Act of 1989, continuing violations (per day): minimum from \$1,000,000 to \$1,100,000; maximum from \$5,000,000 to \$5,500,000.

(8) 22 U.S.C. 2399b(a)(3)(A), Foreign Assistance Act of 1961, fraudulent claim for assistance: from \$2,000 to \$2,200.

(9) 31 U.S.C. 3729(a), False Claims Act, violations: minimum from \$5,000 to \$5,500; maximum from \$10,000 to \$11,000.

(10) 31 U.S.C. 3802(a)(1), Program Fraud Civil Remedies Act, violation involving false claim: from \$5,000 to \$5,500.

(11) 31 U.S.C. 3802(a)(2), Program Fraud Civil Remedies Act, violation involving false statement: from \$5,000 to \$5,500.

(12) 40 U.S.C. 489(b)(1), Federal Property and Administrative Services Act of 1949, violation involving surplus government property: from \$2,000 to \$2,200.

(13) 41 U.S.C. 55(a)(1)(B), Anti-Kickback Act of 1986, violation involving kickbacks: from \$10,000 to \$11,000.

(b) *Civil Rights Division.* (1) 18 U.S.C. 248(c)(2)(B), Freedom of Access to Clinic Entrances Act of 1994 (Nonviolent Physical Obstruction):

(i) The civil monetary penalty amount for a first order for nonviolent physical obstruction, initially set at \$10,000, is adjusted to \$11,000 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to \$16,000 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent order for nonviolent physical obstruction, initially set at \$15,000, is adjusted to \$16,500 for a violation occurring on or after April 28, 2014.

(2) 18 U.S.C. 248(c)(2)(B), Freedom of Access to Clinic Entrances Act of 1994 (Other Violations):

(i) The civil monetary penalty amount for a first order other than for nonviolent physical obstruction, initially set at \$15,000, is adjusted to \$16,500 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent order other than for nonviolent physical obstruction, initially set at \$25,000, is adjusted to \$27,500 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to \$37,500 for a violation occurring on or after April 28, 2014.

(3) 42 U.S.C. 3614(d)(1)(C), Fair Housing Act of 1968, as amended (Pattern or Practice Violation):

(i) The civil monetary penalty amount for a first order, initially set at \$50,000, is adjusted to \$55,000 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to \$75,000 for a violation occurring on or after April 28, 2014.

(ii) The civil monetary penalty amount for a subsequent order, initially set at \$100,000, is adjusted to \$110,000 for a violation occurring on or after September 29, 1999, and before April 28, 2014, and is adjusted to \$150,000 for a violation occurring on or after April 28, 2014.

(4) 50 U.S.C. App. 597(b)(3), Servicemembers Civil Relief Act of 2003, as amended:

(i) The civil monetary penalty amount for a first violation, initially set at \$55,000, is adjusted to \$60,000 for a violation occurring on or after April 28, 2014.

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(ii) The civil monetary penalty amount for a subsequent violation, initially set at \$110,000, is adjusted to \$120,000 for a violation occurring on or after April 28, 2014.

(c) *Criminal Division*. 18 U.S.C. 216(b), Ethics Reform Act of 1989, violation: from \$50,000 to \$55,000.

(d) *Drug Enforcement Administration*. 21 U.S.C. 961(1), Controlled Substances Import Export Act, transshipment and in-transit shipment of controlled substances: from \$25,000 to \$27,500.

[Order No. 2249-99, 64 FR 47103, Aug. 30, 1999, as amended by AG Order No. 3324-2014, 79 FR 17436, Mar. 28, 2014]

EFFECTIVE DATE NOTE: By AG Order 3690-2016, 81 FR 42500, June 30, 2016, § 85.3 was amended by revising the heading and the introductory text, effective Aug. 1, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 85.3 Adjustments to penalties for violations occurring on or before November 2, 2015.

For all violations occurring on or before November 2, 2015, and for assessments made before August 1, 2016, for violations occurring after November 2, 2015, the civil monetary penalties provided by law within the ju-

risdiction of the respective components of the Department, as set forth in paragraphs (a) through (d) of this section, are adjusted as provided in this section in accordance with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, as in effect prior to November 2, 2015. The adjusted penalties set forth in paragraphs (a), (c), and (d) of this section are effective for violations occurring on or after September 29, 1999, and on or before November 2, 2015, and for assessments made before August 1, 2016, for violations occurring after November 2, 2015. For civil penalties assessed after August 1, 2016, whose associated violations occurred after November 2, 2015, see the adjusted penalty amounts in section 85.5.

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

For civil penalties assessed after August 1, 2016, 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 following table.

| U.S.C. Citation | Name/Description | CFR Citation | DOJ Penalty as of 11/2/15 (\$) ¹ | New DOJ penalty ² |
|--------------------------------|--|--------------------------|---|------------------------------|
| ATF | | | | |
| 18 U.S.C. 922(t)(5) | Brady Law—Nat'l Instant Criminal Check System; Transfer of firearm without checking NICS. | ..... | 5,000 | 8,162 |
| 18 U.S.C. 924(p) | Child Safety Lock Act; Secure gun storage or safety device, violation. | ..... | 2,500 | 2,985 |
| Civil Division | | | | |
| 12 U.S.C. 1833a(b)(1) | Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Violation. | 28 CFR 85.3(a)(6) | 1,100,000 | 1,893,610 |
| 12 U.S.C. 1833a(b)(2) | FIRREA Violation (continuing) (per day). | 28 CFR 85.3(a)(7) | 1,100,000 | 1,893,610 |
| 12 U.S.C. 1833a(b)(2) | FIRREA Violation (continuing) | 28 CFR 85.3(a)(7) | 5,500,000 | 9,468,050 |
| 22 U.S.C. 2399b(a)(3)(A) | Foreign Assistance Act; Fraudulent Claim for Assistance (per act). | 28 CFR 85.3(a)(8) | 2,200 | 5,500** |
| 31 U.S.C. 3729(a) | False Claims Act; ³ Violations | 28 CFR 85.3(a)(9) | Min. 5,500 | Min. 10,781 |
| 31 U.S.C. 3802(a)(1) | Program Fraud Civil Remedies Act; Violations Involving False Claim (per claim). | 28 CFR 71.3(a) | 5,500 | Max. 11,000 .. 10,781 |
| 31 U.S.C. 3802(a)(2) | Program Fraud Civil Remedies Act; Violation Involving False Statement (per statement). | 28 CFR 71.3(f) | 5,500 | 10,781 |
| 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) | 2,200 | 5,500** |
| 41 U.S.C. 8706(a)(1)(B) | Anti-Kickback Act; Violation Involving Kickbacks ⁴ (per occurrence). | 28 CFR 85.3(a)(13) | 11,000 | 21,563 |

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|--|--|-------------------------------|---|------------------------------|
| 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). | | 5,000 | 7,954 |
| 18 U.S.C. 216(b) | Ethics Reform Act of 1989; Penalties for Conflict of Interest Crimes ⁵ (per violation). | 28 CFR 85.3(c) | 55,000 | 94,681 |
| 41 U.S.C. 2105(b)(1) | Office of Federal Procurement Policy Act; ⁶ Violation by an individual (per violation). | ..... | 50,000 | 98,935 |
| 41 U.S.C. 2105(b)(2) | Office of Federal Procurement Policy Act; ⁶ Violation by an organization (per violation). | ..... | 500,000 | 989,345 |
| 42 U.S.C. 5157(d) | Disaster Relief Act of 1974; ⁷ Violation (per violation). | ..... | 5,000 | 12,500 ** |
| 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) | 16,000 | 15,909 |
| 18 U.S.C. 248(c)(2)(B)(ii) | FACE Act; Nonviolent physical obstruction, subsequent violation. | 28 CFR 85.3(b)(1)(ii) | 16,500 | 23,863 |
| 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) | 16,500 | 23,863 |
| 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) | 37,500 | 39,772 |
| 42 U.S.C. 3614(d)(1)(C)(i) | Fair Housing Act of 1968; first violation. | 28 CFR 85.3(b)(3)(i) | 75,000 | 98,935 |
| 42 U.S.C. 3614(d)(1)(C)(ii) | Fair Housing Act of 1968; subsequent violation. | 28 CFR 85.3(b)(3)(ii) | 150,000 | 197,869 |
| 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) | 75,000 | 89,078 |
| 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) | 150,000 | 178,156 |
| 50 U.S.C. App. 597(b)(3) | Servicemembers Civil Relief Act of 2003; first violation. | 28 CFR 85.3(b)(4)(i) | 60,000 | 59,810 |
| 50 U.S.C. App. 597(b)(3) | Servicemembers Civil Relief Act of 2003; subsequent violation. | 28 CFR 85.3(b)(4)(ii) | 120,000 | 119,620 |
| Criminal Division | | | | |
| 18 U.S.C. 983(h)(1) | Civil Asset Forfeiture Reform Act of 2000; Penalty for Frivolous Assertion of Claim. | ..... | Min. 250 | Min. 342 |
| 18 U.S.C. 1956(b) | Money Laundering Control Act of 1986; Violation ⁸. | ..... | Max. 5,000 | Max. 6,834 21,563 |
| DEA | | | | |
| 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) | 11,000 | 19,787 |
| 21 U.S.C. 961(1) | Controlled Substance Import Export Act; Drug abuse, import or export. | 28 CFR 85.3(d) | 27,500 | 68,750 ** |
| 21 U.S.C. 842(c)(1)(A) | Controlled Substances Act ("CSA"); Violations of 842(a)—other than (5), (10) and (16)—Prohibited acts re: controlled substances (per violation). | ..... | 25,000 | 62,500 ** |
| 21 U.S.C. 842(c)(1)(B) | CSA; Violations of 842(a)(5) and (10)—Prohibited acts re: controlled substances. | | 10,000 | 14,502 |

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| U.S.C. Citation | Name/Description | CFR Citation | DOJ Penalty as of 11/2/15 (\$) ¹ | New DOJ penalty ² |
|------------------------------|---|--------------|---|------------------------------|
| 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). | ..... | 500,000 | 500,855 |
| 21 U.S.C. 842(c)(1)(D) | CSA; Violation of 825(e) at the retail level—False labeling of anabolic steroids (per violation). | ..... | 1,000 | 1,002 |
| 21 U.S.C. 842(c)(2)(C) | CSA; Violation of 842(a)(11) by a business—Distribution of laboratory supply with reckless disregard ⁹. | ..... | 250,000 | 375,613 |
| 21 U.S.C. 856(d) | Illicit Drug Anti-Proliferation Act of 2003; Maintaining drug-involved premises ¹⁰. | ..... | 250,000 | 321,403 |

Immigration-Related Penalties

| | | | | |
|-----------------------------------|---|---------------------------|-------------------------------------|---------------------------|
| 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. 375 | Min. 539 |
| 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) .. | Max 3,200 Min. 3,200 | Max. 4,313 Min. 4,313 |
| 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) | Max. 6,500 Min. 4,300 | Max. 10,781 Min. 6,469 |
| 8 U.S.C. 1324a(e)(5) | IRCA; Paperwork violation (per relevant individual). | 28 CFR 68.52(c)(5) | Max. 16,000 .. Min. 110 | Max. 21,563 Min. 216 |
| 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) | Max. 1,100 Min. 550 | Max. 2,156 Min. 751 |
| 8 U.S.C. 1324a(g)(2) | IRCA; Violation/prohibition of indemnity bonds (per violation). | 28 CFR 68.52(c)(7) | Max. 1,100 1,100 | Max. 1,502 2,156 |
| 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. 375 | Min. 445 |
| 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) | Max. 3,200 Min. 3,200 | Max. 3,563 Min. 3,563 |
| 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) .. | Max. 6,500 Min. 4,300 | Max. 8,908 Min. 5,345 |
| 8 U.S.C. 1324b(g)(2)(B)(iv)(IV). | IRCA; Unfair immigration-related employment practices, document abuse (per individual discriminated against). | 28 CFR 68.52(d)(1)(xii) | Max. 16,000 .. Min. 110 | Max. 17,816 Min. 178 |
| 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) ... | Max. 1,100 Min. 375 | Max. 1,782 Min. 445 |
| 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) | Max. 3,200 Min. 3,200 | Max. 3,563 Min. 3,563 |
| 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) .. | Max. 6,500 Min. 275 | Max. 8,908 Min. 376 |

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| U.S.C. Citation | Name/Description | CFR Citation | DOJ Penalty as of 11/2/15 (\$) ¹ | New DOJ penalty ² |
|-----------------------------------|---|------------------------|---|------------------------------|
| 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) | Max. 2,200 Min. 2,200 | Max. 3,005 Min. 3,005 |
| FBI | | | | |
| 49 U.S.C. 30505(a) | National Motor Vehicle Title Identification System; Violation (per violation). | ..... | 1,000 | 1,591 |
| Office of Justice Programs | | | | |
| 42 U.S.C. 3789g(d) | Confidentiality of information; State and Local Criminal History Record Information Systems—Right to Privacy Violation. | 28 CFR 20.25 | 11,000 | 27,500** |

** Adjusted penalty capped at 2.5 times the penalty amount in effect on November 2, 2015, the date of enactment of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, sec. 701 (“2015 Amendments”). See *id.* § 701(b)(2) (amending section 5(b)(2)(C) of the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) to provide that the amount of the first inflation adjustment after the date of enactment of the 2015 Amendments “shall not exceed 150 percent of the amount of that civil monetary penalty on the date of enactment of the [2015 Amendments].”).

¹ The figures set forth in this column represent the penalty as last adjusted by Department of Justice regulation or statute as of November 2, 2015.

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

³ Section 3729(a)(1) of Title 31 states 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) (2012) (citation omitted). 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.* § 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).

⁴ Section 8706(a)(1) of Title 41 states that “[t]he Federal Government in a civil action may recover from a person—(1) that knowingly engages in conduct prohibited by section 8702 of this title a civil penalty equal to—(A) twice the amount of each kick-back involved in the violation; and (B) not more than \$10,000 for each occurrence of prohibited conduct” 41 U.S.C. 8706(a)(1) (2012). 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.

⁵ Section 216(b) of Title 18 states 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) (2012). 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 § 216(b).

⁶ Section 2105(b) of Title 41 states, “(b) Civil penalties.—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 this title. On proof of that conduct by a preponderance of the evidence—(1) 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 (2) 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.” 41 U.S.C. 2105(b) (2012). 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).

⁷ 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) (2012). 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).

⁸ Section 1956(b)(1) of Title 18 states that “[w]hoever 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—(A) the value of the property, funds, or monetary instruments involved in the transaction; or (B) \$10,000.” 18 U.S.C. 1956(b)(1) (2012). 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).

⁹ Section 842(c)(2)(C) of Title 21 states that “[i]n addition to the penalties set forth elsewhere in this subchapter or subchapter II of this chapter, any business that violates paragraph (1) of subsection (a) of this 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 this 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) (2012). 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).

¹⁰ Section 856(d)(1) of Title 21 states that “(1) Any person who violates subsection (a) of this section shall be subject to a civil penalty of not more than the greater of—(A) \$250,000; or (B) 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) (2012). 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).

[AG Order 3690–2016, 81 FR 42500, June 30, 2016]

EFFECTIVE DATE NOTE: By AG Order 3690–2016, 81 FR 42500, June 30, 2016, § 85.5 was added, effective Aug. 1, 2016.