

is incorporated by reference in the Code of Federal Regulations, and thus more effective in supporting USPS efforts related to compliance and enforcement. The Postal Service expects that incorporation by reference of Publication 52 in the *Code of Federal Regulations*, will increase the visibility of the mailing standards contained in Publication 52 and thereby maximize their effectiveness and usefulness.

Since their removal from the DMM, the mailing standards provided in Publication 52 have undergone few changes of significance; indeed, several of those changes have expanded the options available to HAZMAT mailers. With regard to changes having a wider impact on mailers, such as those required to conform Publication 52 to the revised standards for the shipment of lithium batteries established by the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the International Civil Aviation Organization (ICAO), the Postal Service has been careful to provide advance notice to interested parties, with an opportunity to comment, and to shape the final standards in response to the comments received. See, e.g. 82 FR 11372 (February 22, 2017), and 82 FR 34712 (July 26, 2017). Relating to violations of mailing standards for hazardous materials, the Postal Service currently has civil enforcement authority granted by the Postal Accountability and Enhancement Act of 2006, and authority to assess criminal penalties under 18 U.S.C. 1716. As a result, the Postal Service believes that the incorporation by reference of Publication 52 should have little or no impact on mailers of hazardous, restricted, or perishable materials, and the Postal Service would expect few comments in response to a proposed rule. Accordingly, the Postal Service has chosen to publish only a final rule in support of this action.

The Postal Service further believes that incorporation by reference of Publication 52 is justified in view of the unique qualities of the publication, including its length, the detailed description of conditions relating to the mailing of hazardous, restricted, or perishable materials, and the presence of numerous color figures and images in the document. In addition, the potential for serious injury to Postal Service employees and the general public, as well as the potential for damage to USPS equipment and other assets resulting from improperly prepared, packaged, or marked hazardous materials, provide support for the incorporation by reference of a separate

publication dealing specifically with such matters.

#### List of Subjects in 39 CFR Part 113

Hazardous, restricted, and perishable mail, Incorporation by reference.

■ In consideration of the matters discussed above, the Postal Service adds new 39 CFR part 113 as follows:

#### PART 113—HAZARDOUS, RESTRICTED, AND PERISHABLE MAIL

Sec.

113.1 Scope and purpose.

113.2 Incorporation by reference.

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

##### § 113.1 Scope and purpose.

This part applies to the mailing and shipment of hazardous, restricted, and perishable materials. In order to mail hazardous, restricted, and perishable materials, mailers must properly prepare their mailings in accordance with the standards contained in USPS Publication 52 (incorporated by reference, see § 113.2).

##### § 113.2 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection by appointment only, during normal hours of operation, at the U.S. Postal Service Library, 475 L'Enfant Plaza West SW, Washington, DC 20260–1641 (call 202–268–2906), and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

(b) United States Postal Service, Product Classification Office, USPS Headquarters, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5013: <http://pe.usps.com/text/pub52/welcome.htm>.

(1) *Publication 52, Hazardous, Restricted and Perishable Mail, dated August 2017, IBR approved for § 113.1.*

(2) [Reserved]

**Stanley F. Mires,**  
*Attorney, Federal Compliance.*

[FR Doc. 2018–00266 Filed 1–9–18; 8:45 am]

**BILLING CODE 7710–12–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 19

[FRL–9972–92–OECA]

#### Civil Monetary Penalty Inflation Adjustment Rule

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of statutory civil monetary penalty amounts under the statutes EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (“the 2015 Act”). The 2015 Act prescribes a formula for annually adjusting statutory civil penalties to reflect inflation, maintain the deterrent effect of statutory civil penalties, and promote compliance with the law. The rule does not necessarily revise the penalty amounts that EPA chooses to seek pursuant to its civil penalty policies in a particular case. EPA’s civil penalty policies, which guide enforcement personnel in how to exercise EPA’s statutory penalty authorities, take into account a number of fact-specific considerations, e.g., the seriousness of the violation, the violator’s good faith efforts to comply, any economic benefit gained by the violator as a result of its noncompliance, and a violator’s ability to pay.

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

**FOR FURTHER INFORMATION CONTACT:** David Smith-Watts, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564–4083; [smith-watts.david@epa.gov](mailto:smith-watts.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Since 1990, federal agencies have been required to issue regulations adjusting for inflation the statutory civil penalties<sup>1</sup> that can be imposed under

<sup>1</sup> The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 28 U.S.C. 2461 note, defines “civil monetary penalty” as “any penalty, fine, or other sanction that—(A)(i) is for a specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; and (B) is assessed or enforced by an agency pursuant to Federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.”

the laws administered by that agency. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (DCIA), required agencies to review their statutory civil penalties every 4 years, and to adjust the statutory civil penalty amounts for inflation if the increase met the DCIA's adjustment methodology. In accordance with the DCIA, EPA reviewed and, as appropriate, adjusted the civil penalty levels under each of the statutes the agency implements in 1996 (61 FR 69360), 2004 (69 FR 7121), 2008 (73 FR 75340), and 2013 (78 FR 66643).

The 2015 Act<sup>2</sup> requires agencies to: (1) Adjust the level of statutory civil penalties with an initial "catch-up" adjustment through an interim final rulemaking; and (2) beginning January 15, 2017, make subsequent annual adjustments for inflation. The purpose of the 2015 Act is to maintain the deterrent effect of civil penalties by translating originally enacted statutory civil penalty amounts to today's dollars and rounding statutory civil penalties to the nearest dollar.

As required by the 2015 Act, EPA issued a catch up rule on July 1, 2016, which was effective August 1, 2016 (81 FR 43091), and EPA made its first annual adjustment on January 12, 2017, which was effective January 15, 2017 (82 FR 3633). Today's rule implements the second annual penalty inflation adjustments mandated by the 2015 Act. Section 4 of the 2015 Act requires each federal agency to publish annual adjustments to all civil penalties under the laws implemented by that agency. These annual adjustments are required to be published by January 15 of each year. The 2015 Act describes the method for calculating the adjustments. Each statutory maximum civil monetary penalty is multiplied by the cost-of-living adjustment, which is the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2017 exceeds the CPI-U for the month of October 2016.

With this rule, the new statutory maximum (or minimum<sup>3</sup>) penalty levels

listed in the sixth column of Table 2 of 40 CFR 19.4 will apply to all civil penalties assessed on or after January 15, 2018, for violations that occurred after November 2, 2015, when the 2015 Act was enacted. The former maximum statutory civil penalty levels, which are in the fifth column of Table 2 to 40 CFR 19.4, will now apply only to violations that occurred after November 2, 2015, where the penalties were assessed on or after January 15, 2017 but before January 15, 2018. The statutory penalty levels for violations that occurred after November 2, 2015, where the penalties were assessed on or after August 1, 2016 but before January 15, 2017, are codified in the fourth column of Table 2 to 40 CFR 19.4. The statutory civil penalty levels that apply to violations that occurred on or before November 2, 2015, are codified at Table 1 to 40 CFR 19.4.

The formula for determining the cost-of-living or inflation adjustment to statutory civil penalties consists of the following steps:

*Step 1:* The cost-of-living adjustment multiplier for 2018, based on the CPI-U of October 2017, is 1.02041.<sup>4</sup> Multiply 1.02041 by the current penalty amount. This is the raw adjusted penalty value.

*Step 2:* Round the raw adjusted penalty value. Section 5 of the 2015 Act states that any adjustment shall be rounded to the nearest multiple of \$1. The result is the final penalty value for the year.

## II. The 2015 Act Requires Federal Agencies To Publish Annual Penalty Inflation Adjustments Notwithstanding Section 553 of the Administrative Procedures Act

Section 4 of the 2015 Act directs federal agencies to publish the second annual adjustments no later than January 15, 2018. In accordance with section 553 of the Administrative Procedures Act (APA), most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. However, Section 4(b)(2) of the 2015 Act provides that each agency shall make

the annual inflation adjustments "notwithstanding section 553" of the APA. According to OMB guidance issued to Federal agencies on the implementation of the 2018 annual adjustment,<sup>5</sup> the phrase "notwithstanding section 553" means that "the public procedure the APA generally provides—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment." Consistent with the language of the 2015 Act and OMB's implementation guidance, this rule is not subject to notice and an opportunity for public comment and will be effective immediately upon publication.

## III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

### C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule merely increases the level of statutory civil penalties that can be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations.

### D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. Because the 2015 Act directs Federal agencies to publish this rule notwithstanding section 553 of the APA, this rule is not subject to notice and comment requirements or the RFA.

<sup>5</sup> See OMB Memorandum M-18-03 at p. 4.

<sup>2</sup> The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114-74) was signed into law on Nov. 2, 2015, and further amended the Federal Civil Penalties Inflation Adjustment Act of 1990.

<sup>3</sup> Under Section 3(2)(A) of the 2015 Act, "civil monetary penalty" means "a specific monetary amount as provided by Federal law"; or "has a maximum amount provided for by Federal law." EPA-administered statutes generally refer to statutory maximum penalties, with the following exceptions: Section 311(b)(7)(D) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(D), refers to a minimum penalty of "not less than \$100,000 . . ."; Section

104B(d)(1) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1414b(d)(1), refers to an exact penalty of \$600 "[f]or each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992 . . ."; and Section 325(d)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(d)(1), refers to an exact civil penalty of \$25,000 for each frivolous trade secret claim.

<sup>4</sup> Office of Management and Budget Memorandum, *Implementation of the Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (OMB Memorandum M-18-03) at p. 1 (December 15, 2017).

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action is required by the 2015 Act, without the exercise of any policy discretion by EPA. This action also imposes no enforceable duty on any state, local or tribal governments or the private sector. Because the calculation of any increase is formula-driven pursuant to the 2015 Act, EPA has no policy discretion to vary the amount of the adjustment.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have a substantial direct effect 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.

*G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. This rule merely reconciles the real value of current statutory civil penalty levels to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute, and EPA has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, this rule will not have a substantial direct effect on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

*H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

*I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

The rulemaking does not involve technical standards.

*K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. Rather, this action is mandated by the 2015 Act, which prescribes a formula for adjusting statutory civil penalties on an annual basis to reflect inflation.

*L. Congressional Review Act (CRA)*

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The 2015 Act directs Federal agencies to publish their annual penalty inflation adjustments “notwithstanding section 553 [of the APA].” Because OMB has instructed Federal agencies that this provision means that “notice, an opportunity for comment, and a delay in the effective date” are not required for agencies to issue regulations implementing the annual adjustment,<sup>6</sup> EPA finds that the APA’s notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest.

**List of Subjects in 40 CFR Part 19**

Environmental protection, Administrative practice and procedure, Penalties.

Dated: January 3, 2018.

**E. Scott Pruitt,**  
*Administrator.*

For the reasons set out in the preamble, EPA amends title 40, chapter I, part 19 of the Code of Federal Regulations as follows:

**PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

■ 1. The authority citation for part 19 continues to read as follows:

**Authority:** Pub. L. 101–410, Oct. 5, 1990, 104 Stat. 890, as amended by Pub. L. 104–134, title III, sec. 31001(s)(1), Apr. 26, 1996, 110 Stat. 1321–373; Pub. L. 105–362, title XIII, sec. 1301(a), Nov. 10, 1998, 112 Stat. 3293; Pub. L. 114–74, title VII, sec. 701(b), Nov. 2, 2015, 129 Stat. 599.

■ 2. Revise § 19.2 to read as follows:

**§ 19.2 Effective date.**

The statutory penalty levels in the last column of Table 1 to § 19.4 apply to all violations which occurred after December 6, 2013 through November 2, 2015, and to violations occurring after November 2, 2015, where penalties were assessed before August 1, 2016. The statutory civil penalty levels set forth in the fourth column of Table 2 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed on or after August 1, 2016 and before January 15, 2017. The statutory civil penalty levels set forth in the fifth column of Table 2 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed after January 15, 2017 but before January 15, 2018. The statutory civil penalty levels set forth in the sixth and last column of Table 2 of § 19.4 apply to all violations which occur or occurred after November 2, 2015, where the penalties are assessed after January 15, 2018.

■ 3. In § 19.4, revise the introductory text and table 2 to read as follows:

**§ 19.4 Statutory civil penalties, as adjusted for inflation, and tables.**

Table 1 to § 19.4 sets out the statutory civil penalty provisions of statutes administered by EPA, with the original statutory civil penalty levels, as enacted, and the operative statutory civil penalty levels, as adjusted for inflation, for violations that occurred on or before November 2, 2015, and for violations that occurred after November 2, 2015, where penalties were assessed before August 1, 2016. Table 2 to § 19.4 sets out the statutory civil penalty provisions of statutes administered by EPA, with the third column displaying the original statutory civil penalty levels, as enacted. The fourth column of Table 2 displays the operative statutory civil penalty levels where penalties were assessed on or after August 1, 2016 but before January 15, 2017, for violations that occurred after November 2, 2015. The fifth column displays the operative statutory civil penalty levels

<sup>6</sup> See OMB Memorandum M–18–03 at p. 4.

where penalties are assessed on or after January 15, 2017 but before January 15, 2018, for violations that occur or occurred after November 2, 2015. The

sixth and last column displays the operative statutory civil penalty levels where penalties are assessed on or after January 15, 2018, for violations that

occur or occurred after November 2, 2015.  
\* \* \* \* \*

TABLE 2 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

| U.S. Code citation                       | Environmental statute   | Statutory civil penalties, as enacted | Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after August 1, 2016 but before January 15, 2017 | Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2017 but before January 15, 2018 | Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2018 |
|--|---|---------------------------------------|--|--|--|
| 7 U.S.C. 136l(a)(1)                      | FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).                    | \$5,000                               | \$18,750   | \$19,057   | \$19,446   |
| 7 U.S.C. 136l(a)(2) <sup>1</sup>         | FIFRA   | 1,000/500/1,000                       | 2,750/1,772/2,750  | 2,795/1,801/2,795  | 2,852/1,838/2,795  |
| 15 U.S.C. 2615(a)(1)                     | TOXIC SUBSTANCES CONTROL ACT (TSCA).  | 25,000                                | 37,500   | 38,114   | 38,892   |
| 15 U.S.C. 2647(a)                        | TSCA  | 5,000                                 | 10,781   | 10,957   | 11,181   |
| 15 U.S.C. 2647(g)                        | TSCA  | 5,000                                 | 8,908  | 9,054  | 9,239  |
| 31 U.S.C. 3802(a)(1)                     | PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA).                                       | 5,000                                 | 10,781   | 10,957   | 11,181   |
| 31 U.S.C. 3802(a)(2)                     | PFCRA   | 5,000                                 | 10,781   | 10,957   | 11,181   |
| 33 U.S.C. 1319(d)                        | CLEAN WATER ACT (CWA)   | 25,000                                | 51,570   | 52,414   | 53,484   |
| 33 U.S.C. 1319(g)(2)(A)                  | CWA   | 10,000/25,000                         | 20,628/51,570  | 20,965/52,414  | 21,393/53,484  |
| 33 U.S.C. 1319(g)(2)(B)                  | CWA   | 10,000/125,000                        | 20,628/257,848   | 20,965/262,066   | 21,393/267,415   |
| 33 U.S.C. 1321(b)(6)(B)(i)               | CWA   | 10,000/25,000                         | 17,816/44,539  | 18,107/45,268  | 18,477/46,192  |
| 33 U.S.C. 1321(b)(6)(B)(ii)              | CWA   | 10,000/125,000                        | 17,816/222,695   | 18,107/226,338   | 18,477/230,958   |
| 33 U.S.C. 1321(b)(7)(A)                  | CWA   | 25,000/1,000                          | 44,539/1,782   | 45,268/1,811   | 46,192/1,848   |
| 33 U.S.C. 1321(b)(7)(B)                  | CWA   | 25,000                                | 44,539   | 45,268   | 46,192   |
| 33 U.S.C. 1321(b)(7)(C)                  | CWA   | 25,000                                | 44,539   | 45,268   | 46,192   |
| 33 U.S.C. 1321(b)(7)(D)                  | CWA   | 100,000/3,000                         | 178,156/5,345  | 181,071/5,432  | 184,767/5,543  |
| 33 U.S.C. 1414b(d)(1)                    | MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA).                       | 600                                   | 1,187  | 1,206  | 1,231  |
| 33 U.S.C. 1415(a)                        | MPRSA   | 50,000/125,000                        | 187,500/247,336  | 190,568/251,382  | 194,457/256,513  |
| 33 U.S.C. 1901 note (see 1409(a)(2)(A)). | CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO).                                 | 10,000/25,000                         | 13,669/34,172  | 13,893/34,731  | 14,177/35,440  |
| 33 U.S.C. 1901 note (see 1409(a)(2)(B)). | CACSO   | 10,000/125,000                        | 13,669/170,861   | 13,893/173,656   | 14,177/177,200   |
| 33 U.S.C. 1901 note (see 1409(b)(1)).    | CACSO   | 25,000                                | 34,172   | 34,731   | 35,440   |
| 33 U.S.C. 1908(b)(1)                     | ACT TO PREVENT POLLUTION FROM SHIPS (APPS).                                     | 25,000                                | 70,117   | 71,264   | 72,718   |
| 33 U.S.C. 1908(b)(2)                     | APPS  | 5,000                                 | 14,023   | 14,252   | 14,543   |
| 42 U.S.C. 300g-3(b)                      | SAFE DRINKING WATER ACT (SDWA)  | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 300g-3(g)(3)(A)                | SDWA  | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 300g-3(g)(3)(B)                | SDWA  | 5,000/25,000                          | 10,781/37,561  | 10,957/38,175  | 11,181/38,954  |
| 42 U.S.C. 300g-3(g)(3)(C)                | SDWA  | 25,000                                | 37,561   | 38,175   | 38,954   |
| 42 U.S.C. 300h-2(b)(1)                   | SDWA  | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 300h-2(c)(1)                   | SDWA  | 10,000/125,000                        | 21,563/269,535   | 21,916/273,945   | 22,363/279,536   |
| 42 U.S.C. 300h-2(c)(2)                   | SDWA  | 5,000/125,000                         | 10,781/269,535   | 10,957/273,945   | 11,181/279,536   |
| 42 U.S.C. 300h-3(c)                      | SDWA  | 5,000/10,000                          | 18,750/40,000  | 19,057/40,654  | 19,446/41,484  |
| 42 U.S.C. 300i(b)                        | SDWA  | 15,000                                | 22,537   | 22,906   | 23,374   |
| 42 U.S.C. 300i-1(c)                      | SDWA  | 100,000/1,000,000                     | 131,185/1,311,850  | 133,331/1,333,312  | 136,052/1,360,525  |
| 42 U.S.C. 300j(e)(2)                     | SDWA  | 2,500                                 | 9,375  | 9,528  | 9,722  |
| 42 U.S.C. 300j-4(c)                      | SDWA  | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 300j-6(b)(2)                   | SDWA  | 25,000                                | 37,561   | 38,175   | 38,954   |
| 42 U.S.C. 300j-23(d)                     | SDWA  | 5,000/50,000                          | 9,893/98,935   | 10,055/100,554   | 10,260/102,606   |
| 42 U.S.C. 4852d(b)(5)                    | RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.                      | 10,000                                | 16,773   | 17,047   | 17,395   |
| 42 U.S.C. 4910(a)(2)                     | NOISE CONTROL ACT OF 1972   | 10,000                                | 35,445   | 36,025   | 36,760   |
| 42 U.S.C. 6928(a)(3)                     | RESOURCE CONSERVATION AND RECOVERY ACT (RCRA).                                  | 25,000                                | 93,750   | 95,284   | 97,229   |
| 42 U.S.C. 6928(c)                        | RCRA  | 25,000                                | 56,467   | 57,391   | 58,562   |
| 42 U.S.C. 6928(g)                        | RCRA  | 25,000                                | 70,117   | 71,264   | 72,718   |
| 42 U.S.C. 6928(h)(2)                     | RCRA  | 25,000                                | 56,467   | 57,391   | 58,562   |
| 42 U.S.C. 6934(e)                        | RCRA  | 5,000                                 | 14,023   | 14,252   | 14,543   |
| 42 U.S.C. 6973(b)                        | RCRA  | 5,000                                 | 14,023   | 14,252   | 14,543   |
| 42 U.S.C. 6991e(a)(3)                    | RCRA  | 25,000                                | 56,467   | 57,391   | 58,562   |
| 42 U.S.C. 6991e(d)(1)                    | RCRA  | 10,000                                | 22,587   | 22,957   | 23,426   |
| 42 U.S.C. 6991e(d)(2)                    | RCRA  | 10,000                                | 22,587   | 22,957   | 23,426   |
| 42 U.S.C. 7413(b)                        | CLEAN AIR ACT (CAA)   | 25,000                                | 93,750   | 95,284   | 97,229   |
| 42 U.S.C. 7413(d)(1)                     | CAA   | 25,000/200,000                        | 44,539/356,312   | 45,268/362,141   | 46,192/369,532   |
| 42 U.S.C. 7413(d)(3)                     | CAA   | 5,000                                 | 8,908  | 9,054  | 9,239  |
| 42 U.S.C. 7524(a)                        | CAA   | 25,000/2,500                          | 44,539/4,454   | 45,268/4,527   | 46,192/4,619   |
| 42 U.S.C. 7524(c)(1)                     | CAA   | 200,000                               | 356,312  | 362,141  | 369,532  |
| 42 U.S.C. 7545(d)(1)                     | CAA   | 25,000                                | 44,539   | 45,268   | 46,192   |
| 42 U.S.C. 9604(e)(5)(B)                  | COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA). | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 9606(b)(1)                     | CERCLA  | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 9609(a)(1)                     | CERCLA  | 25,000                                | 53,907   | 54,789   | 55,907   |

TABLE 2 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

| U.S. Code citation       | Environmental statute   | Statutory civil penalties, as enacted | Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after August 1, 2016 but before January 15, 2017 | Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2017 but before January 15, 2018 | Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2018 |
|--------------------------|---|---------------------------------------|--|--|--|
| 42 U.S.C. 9609(b)        | CERCLA  | 25,000/75,000                         | 53,907/161,721   | 54,789/164,367   | 55,907/167,722   |
| 42 U.S.C. 9609(c)        | CERCLA  | 25,000/75,000                         | 53,907/161,721   | 54,789/164,367   | 55,907/167,722   |
| 42 U.S.C. 11045(a)       | EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).               | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 11045(b)(1)(A) | EPCRA   | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 11045(b)(2)    | EPCRA   | 25,000/75,000                         | 53,907/161,721   | 54,789/164,367   | 55,907/167,722   |
| 42 U.S.C. 11045(b)(3)    | EPCRA   | 25,000/75,000                         | 53,907/161,721   | 54,789/164,367   | 55,907/167,722   |
| 42 U.S.C. 11045(c)(1)    | EPCRA   | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 11045(c)(2)    | EPCRA   | 10,000                                | 21,563   | 21,916   | 22,363   |
| 42 U.S.C. 11045(d)(1)    | EPCRA   | 25,000                                | 53,907   | 54,789   | 55,907   |
| 42 U.S.C. 14304(a)(1)    | MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT). | 10,000                                | 15,025   | 15,271   | 15,583   |
| 42 U.S.C. 14304(g)       | BATTERY ACT   | 10,000                                | 15,025   | 15,271   | 15,583   |

<sup>1</sup> Note that 7 U.S.C. 136.(a)(2) contains three separate statutory maximum civil penalty provisions. The first mention of \$1,000 and the \$500 statutory maximum civil penalty amount were originally enacted in 1978 (Pub. L. 95–396), and the second mention of \$1,000 was enacted in 1972 (Pub. L. 92–516).

[FR Doc. 2018–00287 Filed 1–9–18; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R04–OAR–2007–0085; FRL–9972–85–Region 4]

**Air Plan Approval; NC; Open Burning and Miscellaneous Revisions**

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

**ACTION:** Final rule.

**SUMMARY:** Due to adverse comments received, the Environmental Protection Agency (EPA) is amending the North Carolina State Implementation Plan (SIP) to remove some provisions made effective through the direct final rule that was published on July 18, 2017. EPA stated that if adverse comments were received by the close of the comment period, the rule would be withdrawn and not take effect, or if adverse comments were received on an amendment, paragraph, or section of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. EPA received adverse comments on two specific SIP revisions. Therefore, EPA is removing only the portions of the SIP related to those two revisions.

**DATES:** This rule is effective January 10, 2018.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2007–0085. 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, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta C. Ward, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Ward can be reached via telephone at (404) 562–9140, or via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

**SUPPLEMENTARY INFORMATION:** On July 18, 2017, EPA published a direct final rule (82 FR 32767) approving several revisions to the North Carolina SIP. The revisions consisted of changes to or the addition of the following regulations: 15A NCAC Subchapter 2D—Air

Pollution Control Requirements, Section .0101, *Definitions*; Section .0103, *Copies of Referenced Federal Regulations*; Section .1901 *Purpose, Scope, and Impermissible Open Burning Section*; .1902, *Definitions*; Section .1903, *Permissible Open Burning Without An Air Quality Permit*; Section .2001, *Purpose, Scope, and Applicability*; and 15A NCAC Subchapter 2Q—Air Quality Permits, Section .0103, *Definitions*; Section .0105, *Copies of Referenced Documents*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0806, *Cotton Gins*; Section .0808, *Peak Shaving Generators*; and Section .0810, *Air Curtain Burners*. On the same day, EPA published proposed rule (82 FR 32782), proposing approval of those same revisions to the North Carolina SIP and providing a 30-day comment period for both the direct final rule and the proposed rule.<sup>1</sup> The direct final rule explained that if EPA received adverse comments, the Agency would withdraw the relevant portion(s) of the direct final action. EPA received adverse comments on the portions of the rulemaking related to the North Carolina regulations 15A NCAC Subchapter 2Q—Air Quality Permits, Section .0808, *Peak Shaving Generators*, and Section .0810, *Air Curtain Burners*, only. However, EPA was not able to withdraw these portions of the direct final action before the action became effective. Therefore, EPA is amending § 52.1770 by removing the portions of the SIP related to these two North Carolina regulations. EPA is not

<sup>1</sup> On September 6, 2017 (82 FR 42055), EPA reopened the comment period for the proposed rule, with comments due on or before September 21, 2017.