

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

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA's evaluation of this issue is contained in the section of the preamble to the proposed rule titled "Environmental Justice Considerations."

*K. Congressional Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability. The rule makes factual determinations for specific entities and does not directly regulate any entities. The determination of attainment, clean data determination, and emission inventory approval do not in themselves create any new requirements beyond what is mandated by the CAA.

*L. Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 13, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

*40 CFR Part 81*

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental

relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 21, 2022.

**Martha Guzman Aceves,**  
*Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(593) to read as follows:

**§ 52.220 Identification of plan—in part.**

\* \* \* \* \*

(c) \* \* \*

(593) The following plan was submitted on July 18, 2018, by the Governor's designee, as an attachment to a letter dated July 16, 2018.

(i) [Reserved]

(ii) *Additional materials.* (A) Imperial County Air Pollution Control District.

(1) "Imperial County 2018 Annual Particulate Matter Less Than 2.5 Microns In Diameter State Implementation Plan," adopted April 24, 2018, Chapter 3 ("Emissions Inventory") excluding: Table 3–9a ("Direct PM<sub>2.5</sub> and PM<sub>2.5</sub> Precursor Emissions by Major Source Category in the Imperial County PM<sub>2.5</sub> Nonattainment Area, 2019 (Annual)"); Table 3–9b ("Condensable and Filterable PM<sub>2.5</sub> Emissions by Major Source Category in the Imperial County PM<sub>2.5</sub> Nonattainment Area, 2019 (Annual)"); Table 3–10a ("Direct PM<sub>2.5</sub> and PM<sub>2.5</sub> Precursor Emissions by Major Source Category in the Imperial County PM<sub>2.5</sub> Nonattainment Area, 2021 (Annual)"); Table 3–10b ("Condensable and Filterable PM<sub>2.5</sub> Emissions by Major Source Category in the Imperial County PM<sub>2.5</sub> Nonattainment Area, 2021 (Annual)"); Table 3–11a ("Direct PM<sub>2.5</sub> and PM<sub>2.5</sub> Precursor Emissions by Major Source Category in the Imperial County PM<sub>2.5</sub> Nonattainment Area, 2022 (Annual)"); Table 3–11b ("Condensable and Filterable PM<sub>2.5</sub> Emissions by Major Source Category in the Imperial County PM<sub>2.5</sub> Nonattainment Area, 2022 (Annual)"); and Section 3.17 ("Evaluation of Significant Precursors").

(2) [Reserved]

(B) [Reserved]

■ 3. Section 52.247 is amended by adding paragraph (q) to read as follows:

**§ 52.247 Control strategy and regulations: Fine Particle Matter.**

\* \* \* \* \*

(q) *Determination of attainment.*

Effective February 10, 2023, the EPA has determined that, based on 2019 to 2021 ambient air quality data, the Imperial County PM<sub>2.5</sub> nonattainment area has attained the 2012 annual PM<sub>2.5</sub> NAAQS. Under the provisions of the EPA's PM<sub>2.5</sub> implementation rule (see 40 CFR 51.1015), this determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment for as long as this area continues to attain the 2012 annual PM<sub>2.5</sub> NAAQS. If the EPA determines, after notice-and-comment rulemaking, that this area no longer meets the 2012 annual PM<sub>2.5</sub> NAAQS, the corresponding determination of attainment for that area shall be withdrawn.

[FR Doc. 2022–28278 Filed 1–10–23; 8:45 am]

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**FEDERAL MARITIME COMMISSION**

**46 CFR Part 506**

[Docket No. 22–77]

RIN 3072–AC94

**Inflation Adjustment of Civil Monetary Penalties**

**AGENCY:** Federal Maritime Commission.  
**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission (Commission) is publishing this final rule to adjust for inflation the civil monetary penalties assessed or enforced by the Commission, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act). The 2015 Act requires that agencies adjust and publish their new civil penalties by January 15 each year.

**DATES:** This rule is effective January 15, 2023.

**FOR FURTHER INFORMATION CONTACT:** William Cody, Secretary; Phone: (202) 523–5725; Email: [secretary@fmc.gov](mailto:secretary@fmc.gov).

**SUPPLEMENTARY INFORMATION:** This rule adjusts the civil monetary penalties assessable by the Commission in accordance with the 2015 Act, which

became effective on November 2, 2015. Public Law 114–74, section 701. The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note), in order to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect.

The 2015 Act requires agencies to adjust civil monetary penalties under their jurisdiction by January 15 each year, based on changes in the consumer price index (CPI–U) for the month of October in the previous calendar year. On December 15, 2022, the Office of Management and Budget published guidance stating that the CPI–U multiplier for October 2022 is 1.07745.<sup>1</sup> In order to complete the annual adjustment, the Commission must multiply the most recent civil penalty amounts in 46 CFR part 506 by the multiplier, 1.07745.

**Rulemaking Analyses and Notices**

*Notice and Effective Date*

Adjustments under the FCPIAA, as amended by the 2015 Act, are not subject to the procedural rulemaking requirements of the Administrative Procedure Act (APA) (5 U.S.C. 553), including the requirements for prior notice, an opportunity for comment, and a delay between the issuance of a final rule and its effective date.<sup>2</sup> As noted above, the 2015 Act requires that the Commission adjust its civil monetary penalties no later than January 15 of each year.

*Congressional Review Act*

The rule is not a “major rule” as defined by the Congressional Review

Act, codified at 5 U.S.C. 801 *et seq.* The rule will not result in: (1) an annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies. 5 U.S.C. 804(2).

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency promulgates a final rule after being required to publish a notice of proposed rulemaking under the APA (5 U.S.C. 553), the agency must prepare and make available a final regulatory flexibility analysis describing the impact of the rule on small entities or the head of the agency must certify that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 604–605. As indicated above, this final rule is not subject to the APA’s notice and comment requirements, and the Commission is not required to either conduct a regulatory flexibility analysis or certify that the final rule would not have a significant economic impact on a substantial number of small entities.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in rules to OMB in conjunction with the publication of the notice of proposed

rulemaking. 5 CFR 1320.11. This final rule does not contain any collection of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c).

*Regulation Identifier Number*

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The public may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at <https://www.reginfo.gov/public/do/eAgendaMain>.

**List of Subjects in 46 CFR Part 506**

Administrative practice and procedure, Claims, Penalties.

For the reasons stated in the preamble, 46 CFR part 506 is amended as follows:

**PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT**

■ 1. The authority citation for part 506 continues to read as follows:

*Authority:* 28 U.S.C. 2461.

■ 2. Amend § 506.4 by revising paragraph (d) to read as follows:

**§ 506.4 Cost of living adjustments of civil monetary penalties.**

\* \* \* \* \*

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

TABLE 1 TO PARAGRAPH (d)

United States Code citation	Civil monetary penalty description	Maximum penalty as of January 15, 2022	Maximum penalty as of January 15, 2023
46 U.S.C. 42304 .....	Adverse impact on U.S. carriers by foreign shipping practices .....	\$2,301,065	\$2,479,282
46 U.S.C. 41107(a) .....	Knowing and Willful violation/Shipping Act of 1984, or Commission regulation or order.	65,666	70,752
46 U.S.C. 41107(a) .....	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	13,132	14,149
46 U.S.C. 41108(b) .....	Operating in foreign commerce after tariff suspension .....	131,334	141,506
46 U.S.C. 42104 .....	Failure to provide required reports, etc./Merchant Marine Act of 1920 ....	10,360	11,162
46 U.S.C. 42106 .....	Adverse shipping conditions/Merchant Marine Act of 1920 .....	2,071,819	2,232,281
46 U.S.C. 42108 .....	Operating after tariff or service contract suspension/Merchant Marine Act of 1920.	103,591	111,614
46 U.S.C. 44102, 44104 ..	Failure to establish financial responsibility for non-performance of transportation.	26,167	28,194
46 U.S.C. 44103, 44104 ..	Failure to establish financial responsibility for death or injury .....	873	941
		26,167	28,194
		873	941

<sup>1</sup> Office of Management and Budget, M–23–05, Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties

Inflation Adjustment Act Improvements Act of 2015, at 1 (Dec. 15, 2022) (M–23–05).

<sup>2</sup> *Id.* at 3–4; FCPIAA section 4(b)(2).

TABLE 1 TO PARAGRAPH (d)—Continued

United States Code citation	Civil monetary penalty description	Maximum penalty as of January 15, 2022	Maximum penalty as of January 15, 2023
31 U.S.C. 3802(a)(1) .....	Program Fraud Civil Remedies Act/making false claim .....	12,537	13,508
31 U.S.C. 3802(a)(2) .....	Program Fraud Civil Remedies Act/giving false statement .....	12,537	13,508

By the Commission.

**William Cody,**

*Secretary.*

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