



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 15 2020

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Amendments to the EPA's Civil Penalty Policies to Account for Inflation (effective January 15, 2020) and Transmittal of the 2020 Civil Monetary Penalty Inflation Adjustment Rule

FROM: Susan Parker Bodine

A handwritten signature in blue ink, reading "Susan Parker Bodine", is placed next to the name in the "FROM:" field.

TO: Regional Administrators
Deputy Regional Administrators
Director, Office of Civil Enforcement

The purpose of this memorandum is twofold: (1) to amend all existing civil penalty policies to account for inflation; and (2) to transmit the recently promulgated 2020 Civil Monetary Penalty Adjustment Rule (2020 Rule).¹ The 2020 Rule amends 40 C.F.R. § 19.4 to adjust the statutory civil penalties under the various environmental laws implemented by the EPA to account for inflation. The 2020 Rule was published on January 13, 2020, is effective on January 13, 2020, and is attached to this memorandum. The amendments to the EPA's penalty policies are effective on January 15, 2020. This memorandum also clarifies the differences between the EPA's statutory maximum and minimum civil penalties and the EPA's penalty policies.

I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvement Act (2015 Act)² was signed into law on November 2, 2015, to improve the effectiveness of statutory maximum and minimum civil monetary penalties and to maintain their deterrent effect, thereby promoting compliance with the law. The 2015 Act instructed the EPA and other federal agencies to: (1) adjust the level of statutory maximum and minimum civil penalties with an initial "catch-up" rule; and (2) make subsequent annual adjustments for inflation beginning in January 2017. The 2015 Act also prescribed the formula that federal agencies must follow in making these adjustments.

¹ 85 Fed. Reg. 1751 (Jan. 13, 2020).

² 28 U.S.C. § 2461 note, Pub. L. 114-74 (see [https://www.congress.gov/114/plaws/publ74/plaw-114publ74.pdf](https://www.congress.gov/114/plaws/publ74/plaws/publ74/plaw-114publ74.pdf)).

To fulfill the initial catch-up requirement, the EPA published the 2016 Civil Monetary Penalty Inflation Adjustment Rule on July 1, 2016, and it became effective on August 1, 2016.^{3,4} To fulfill the second requirement of the 2015 Act requiring annual adjustments, the EPA made its first annual adjustment in January 2017,⁵ its second annual adjustment in January 2018,⁶ and its third annual adjustment in February 2019.⁷ The 2020 Rule, effective January 13, 2020, and transmitted as an attachment to this memorandum, makes the fourth annual adjustment.

Although not required by the 2015 Act, the EPA decided to amend its penalty policies every two years and did so in 2016 and 2018 to better account for inflation going forward. While consistent with the purposes of the 2015 Act, these penalty policy amendments and the methodology used in making these amendments are not governed by, and are distinct from, the 2015 Act and the 2020 Rule. Furthermore, the 2020 Rule does not necessarily revise the penalty amounts that the EPA chooses to seek pursuant to its civil penalty policies in a particular case. The EPA's civil penalty policies, which guide enforcement personnel on how to exercise the 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.

To make the 2016 policy amendments, the EPA's Office of Enforcement and Compliance Assurance (OECA) issued a memorandum on July 27, 2016, that amended the EPA's penalty policies to account for inflation.⁸ That memorandum was effective on August 1, 2016. On January 11, 2018, OECA issued a memorandum amending the EPA's penalty policies to account for inflation, effective on January 15, 2018.⁹ This memorandum thus amends the EPA's penalty policies to account for inflation to date. Looking ahead, the EPA plans to amend its penalty policies to account for inflation again in January 2022, barring any significant changes in inflation.

II. Applicability of this Memorandum

This memorandum supersedes the inflation-based amendments to the EPA's penalty policies made in the 2018 memorandum, but is not intended to change the methodology used in that memorandum. This memorandum partially supersedes the EPA's 2013 inflation amendments memorandum because the

³ The 2016 Rule was published on July 1, 2016, and became effective on August 1, 2016. 81 Fed. Reg. 43,091.

⁴ Past inflation adjustment rules and past amendments to the EPA's penalty policies to account for inflation can be found here: <https://www.epa.gov/enforcement/enforcement-policy-guidance-publications>.

⁵ The 2017 Rule was published on January 12, 2017, and became effective on January 15, 2017. 82 Fed. Reg. 3633.

⁶ The 2018 Rule was published on January 10, 2018, and became effective on January 15, 2018. 83 Fed. Reg. 1190.

⁷ The EPA did not meet the January 15 deadline because the Office of Federal Register was unable to publish the rule due to the lapse in appropriations from December 22, 2018, to January 25, 2019. The 2019 Rule was published on February 6, 2019, and became effective the same day. 84 Fed. Reg. 2056. A technical correction was published on February 25, 2019. 84 Fed. Reg. 5955 (February 25, 2019).

⁸ The July 27, 2016 memorandum is titled [*Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation \(Effective August 1, 2016\)*](#).

⁹ The January 11, 2018 memorandum is titled [*Amendments to the EPA's Civil Penalty Policies to Account for Inflation \(effective January 15, 2018\) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*](#).

multipliers contained in the 2013 memorandum should still be used for violations that occurred on or before November 2, 2015.

This memorandum does not modify the EPA's Expedited Settlement Agreement penalty policies, economic benefit of noncompliance, nor does it modify the non-penalty dollar amounts in civil penalty policies, such as the amounts deemed "insignificant" or "de minimis" that apply when calculating economic benefit of noncompliance.

The penalty policies listed in Table A are the most recent narrative versions of each policy. The "narrative version" is the applicable media-specific penalty policy that comprehensively explains how the EPA enforcement practitioners should calculate penalties for purposes of administrative actions or settlements. This memorandum does not change or alter the narrative version of the media-specific penalty policies; this memorandum only alters the numerical gravity-based penalty amounts that are calculated under those policies to account for inflation.

Media enforcement programs may modify their penalty policies individually, and any such modifications may supersede application of this memorandum for that program. Practitioners should rely on the multipliers in Table A until the applicable penalty policy is modified or civil penalty policy amounts are adjusted by subsequent memorandum in accordance with inflation.

III. Amendments to the EPA's Civil Penalty Policies

Consistent with the methodology used in the January 11, 2018 penalty policy inflation amendments memorandum, the EPA is amending its penalty policies through the use of multipliers listed in Table A of this memorandum. Please note that the multipliers listed in Table A should be used for violations occurring after November 2, 2015. **For violations occurring on or before November 2, 2015, use the multipliers listed in the December 6, 2013, inflation adjustment memorandum titled *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)*.**¹⁰

A. Application of Inflation Multiplier to Gravity-Based Portion of Penalty

For each violation occurring after November 2, 2015, find the applicable penalty policy in Table A and use the policy to determine the initial calculated gravity-based penalty for your case.¹¹ This initial gravity-based penalty will not be adjusted for inflation to reflect present value of the dollar. To adjust

¹⁰ The December 6, 2013 memorandum is titled [*Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation \(Effective December 6, 2013\)*](#).

¹¹ Most media specific penalty policies define "gravity" as the "seriousness of the violation." Each media specific penalty policy uses specific factors to calculate the gravity component. Many of these factors are taken from their respective statutes and some factors are unique to that specific penalty policy. Therefore, it is important for case teams to review each specific penalty policy to understand how the gravity component is defined and how it is calculated. The media-specific penalty policies are listed in Table A of this memorandum.

the penalty figure into present value, multiply the initial calculated gravity-based portion of the penalty by the multiplier associated with the applicable penalty policy listed in Table A. Next, round the inflation-adjusted gravity-based portion of the penalty amount to the nearest dollar.¹² Then, if applicable, calculate the gravity-based portion of the penalty for each violation occurring on or before November 2, 2015, using the applicable inflation multiplier from the guidance memorandum dated December 6, 2013. Add the gravity-based portion of the penalty for pre-November 3, 2015 violations to the gravity-based portion of the penalty for post-November 2, 2015 violations to calculate the total gravity-based penalty. Once the total gravity-based penalty has been calculated, incorporate economic benefit¹³ and any other factors (e.g., ability to pay, litigation considerations, etc.) that apply as instructed by the penalty policy to arrive at the total penalty.¹⁴

Enforcement practitioners should apply the multipliers in Table A only to the penalty amounts adopted within the “narrative” penalty policies listed in Table A. The multipliers in Table A should not be applied to penalty policies issued after the date of this memorandum unless expressly stated in the subsequent narrative penalty policy.

B. Derivation of the Inflation Multipliers

Because the purpose of amending the EPA’s penalty policies is to account for inflation since the penalty policies were last amended for inflation in the January 11, 2018 memorandum, the majority of multipliers listed in Table A were calculated by multiplying the multipliers listed in the January 11, 2018 memorandum by the inflation increase that has occurred since the January 11, 2018 memorandum.¹⁵

¹² We are instructing case teams to round to the nearest dollar because this was the approach taken in the 2015 Act, the EPA’s penalty inflation memoranda from July 27, 2016, and January 11, 2018, and the Office of Management and Budget’s (OMB) [February 24, 2016](#), [December 15, 2017](#), and [December 14, 2018](#) memoranda that instructed federal agencies how to implement the 2016 Rule, 2018 Rule, and 2019 Rule, respectively.

¹³ We are not modifying the long-standing approach of calculating economic benefit separately from the gravity-based amount, because economic benefit calculations already take inflation into account. The inflation adjustments in this guidance only apply to the gravity-based portion of the penalty.

¹⁴ If the total penalty amount calculated is greater than the statutory maximum amount, then the statutory maximum amount would apply. Similarly, the entire penalty sought (including economic benefit) in an administrative enforcement action cannot exceed any applicable administrative penalty caps. Note that penalty amounts greater than those calculated using the EPA penalty policies and this memorandum may be appropriate in limited circumstances. For example, in a formal administrative enforcement context, the EPA may seek, and presiding officers or the Environmental Appeals Board may assess, higher penalties provided such amounts do not exceed the statutory maximum, are in accordance with statutory civil penalty factors, and consider applicable civil penalty guidelines, and provided that any deviations from applicable penalty policies are persuasively and convincingly explained. *See, e.g.*, 40 C.F.R. § 22.27(b) and *In Re Morton L. Friedman & Schmitt Construction Company*, 11 E.A.D. 302 (EAB 2004).

¹⁵ In the January 11, 2018 memorandum, most of the multipliers were calculated using the increase established by the Consumer Price Index for all Urban Consumers (CPI-U) from the date the penalty policy was issued through October 2017. Consistent with that methodology, the multipliers listed in Table A of this memorandum were calculated by multiplying the multipliers from the January 11, 2018 memorandum by the CPI-U increase from October 2017 to October 2019. We used the October 2019 CPI-U because this CPI-U was used to calculate the statutory increases in the 2020 Rule. The October 2019 CPI-U was 257.346 and the October 2017 CPI-U was 246.663, yielding an increase of 1.04331. However, several multipliers in Table A do not follow this general calculation framework, such as CWA section 311 (*see infra* note 20), CAA Stationary

IV. 2020 Rule and the Newly Adjusted Statutory Maximum and Minimum Amounts

The 2020 Rule was promulgated to fulfill the annual statutory maximum and minimum inflation adjustment requirement in the 2015 Act. As instructed by the 2015 Act and as explained in the 2020 Rule, the EPA calculated the new penalty amounts by multiplying the cost-of-living multiplier¹⁶ by the previous statutory penalty amount as adjusted by the 2019 Rule. The result is the amount listed in the third column in Table 1 of 40 C.F.R. § 19.4 and the 2020 Rule. This amount applies to violations occurring after November 2, 2015, and assessed on or after January 13, 2020.

A. Penalty Pleading in Administrative Litigation

Where the EPA decides to cite the statutory maximum and/or minimum penalty amount in an administrative pleading (such as in an administrative complaint), the applicable statutory maximum and/or minimum penalty amount in effect for the violations should be used.¹⁷ The EPA should cite the statutory maximum and minimum penalty provisions and 40 C.F.R. § 19.4, along with the applicable inflation-adjusted penalty maximum levels set forth in 40 C.F.R. § 19.4. Multiple penalty-adjustment cycles should only be used when violations occurred on or before November 2, 2015 and after November 2, 2015. If this arises, the EPA should cite each applicable penalty-adjustment cycle and the corresponding penalty amount. Particularly where violations have occurred both after November 2, 2015, and before such date, case teams also may find it helpful to state that the statutory maximum and minimum civil penalty level has been adjusted over time as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 note; Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996, and most recently, by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. § 2461 note; Pub. L. 114-74, Section 701).

B. Statutory Administrative Penalty Caps

Note that, effective January 13, 2020, where the EPA seeks administrative penalties in a complaint, amended complaint, or through a settlement under 40 C.F.R. § 22.18, the increased administrative penalty caps in Table 1 of § 19.4 in the attached 2020 Rule apply if *some or all* of the violations occurred after November 2, 2015. The lower administrative penalty caps in Table 2 of § 19.4 apply if *all* violations occurred on or before November 2, 2015.

Source Appendix IV (*see infra* note 22), RCRA section 7003(b) (*see infra* note 23), Underground Storage Tanks (*see infra* note 24), CERCLA section 106(b) (*see infra* note 25), and TSCA Section 1018 Disclosure Rule (*see infra* note 31).

¹⁶ The statutory cost-of-living adjustment multiplier is the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2019 exceeds the CPI-U for the month of October 2018. The October 2019 CPI-U was 257.346 and the October 2018 CPI-U was 252.885 yielding an increase of 1.01764.

¹⁷ If a respondent/defendant challenges the validity of any statutory maximum penalty amount, as adjusted in 40 C.F.R. Part 19, please notify the Office of Civil Enforcement of the challenge, so that OECA, the Region and the U.S. Department of Justice, as appropriate, can coordinate our response before it is filed.

V. Multiple Penalty Cycles – Case Team Discretion

If the time period between seeking a penalty (through settlement or litigation) and the final penalty assessment¹⁸ covers more than one penalty-adjustment cycle (for example, where a complaint is filed on December 15, 2018, but the final penalty order is not filed with the Hearing Clerk until April 1, 2020), the case team would have discretion to modify the penalty amount sought (for example, to be consistent with the penalty amounts in the most recent annual inflation adjustment rule or guidance). But such modifications would *not* be expected where doing so would be:

- a. unnecessary to achieve sufficient deterrence; and
- b. *either* inappropriately disruptive¹⁹ *or* contrary to principles of judicial economy (for example, where the case has already gone to hearing based on previous penalty amounts).

In a settlement context, if defendants or respondents have signed a consent decree or consent agreement, the EPA would not expect the case team to renegotiate the penalty amount due to subsequent inflation adjustments. Prior to any such formal written settlement commitment (for example, where the parties may have reached an agreement in principle), case teams have discretion to decide whether to modify their penalty demand due to subsequent inflation adjustments (for example, depending on how far along the negotiations have progressed, the likely impact of an increased penalty on negotiations, the case team's evaluation of the likelihood that any informal agreements will not be consummated, and/or other factors).

VI. Further Information

Our goal in issuing this guidance is to make these penalty policy modifications easy to implement, but if you have any questions concerning this memorandum, please contact David Smith-Watts of the Office of Civil Enforcement at (202) 564-4083 or by email at smith-watts.david@epa.gov.

cc: Lawrence Starfield, Principal Deputy Assistant Administrator, OECA
John Irving, Deputy Assistant Administrator, OECA
Regional Counsel and Deputies
ECAD Directors and Deputies
Enforcement Coordinators
All OECA Employees

¹⁸ Note that enforcement personnel can only *seek* penalties. *Assessment* of penalties is effective in a formal administrative action once a final penalty order is filed with the Hearing Clerk, 40 C.F.R. §§ 22.31 and 22.6, or in civil judicial cases once the court enters a consent decree or issues a judgment awarding penalties.

¹⁹ Such disruptive impacts could be to settlement negotiations, or to other case-related enforcement efforts such as by creating an additional burden on the EPA's resources. If the EPA has not made a penalty demand or offer, a disruptive impact on negotiations is less likely where the penalty is recalculated to be consistent with the most recent inflation-adjustment amounts. It is possible, however, that a recalculation would be unduly burdensome and disruptive to the case team's efforts where, for example, there are an extremely large number of violations, the penalty calculation is complex, and/or where contractor resources are needed to perform such a calculation. In such circumstances, the case team would have discretion to determine that recalculating the penalty is not warranted even though the EPA has not yet made a penalty demand or offer.

Tom Mariani, Chief, DOJ-EES
Deputy and Assistant Chiefs, DOJ-EES
Environmental Appeals Board Judges
Susan Biro, Chief Administrative Law Judge
Regional Judicial Officers

Attachments (2)

1. Table A: Chart Reflecting Inflation Adjustment Multipliers
2. Rule promulgated in the *Federal Register* on January 13, 2020

Table A: Chart Reflecting Penalty Policy Inflation Adjustment Multipliers

Applicable Penalty Policy	Year Issued	Inflation Adjustment Multiplier as of January 15, 2020
CWA		
Interim Clean Water Act Settlement Penalty Policy	1995	1.67435
Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act	1998	1.56919 ²⁰
CWA Section 404 Settlement Penalty Policy	2001	1.44821
Supplemental Guidance to the Interim Clean Water Act Settlement Penalty Policy (March 1, 1995) for Violations of the Construction Stormwater Requirements	2008	1.18827
Supplemental Guidance to the 1995 Interim Clean Water Act Settlement Penalty Policy for Violations of the Industrial Stormwater Requirements	2016	1.08203 ²¹
SDWA		
UIC Program Judicial and Administrative Order Settlement Penalty Policy	1993	1.76628

²⁰ Case teams should apply the 1990 CPI multiplier of 1.92769 to the per-barrel discharge penalty amounts in the last column of the penalty matrix on page 11. This is an appropriate multiplier because such civil penalties under CWA § 311(b)(7)(A) & (D) concern environmental exposure (*i.e.*, the discharge of oil and hazardous substances), and because the per-barrel penalty matrix column contained in the 1998 penalty policy reflects the statutory maximum penalty amounts in effect when this penalty authority was enacted in 1990. It is important for the penalty matrix to retain a maximum per-barrel penalty policy amount that equals the current statutory maximum and to increase the other penalty policy matrix cells proportionally by the same inflation adjustment multiplier.

²¹ Case teams should apply this multiplier to this 2016 penalty policy and also to the [2018 Supplemental Amendment](#), which applies to industrial stormwater cases. The narrative contained in the 2018 Supplemental Amendment continues to be applicable, but the 1.02168 multiplier referenced throughout is no longer applicable because it has been superseded by the 1.08203 multiplier.

New Public Water System Supervision Program Settlement Penalty Policy	1994	1.72139
CAA – Accidental Release Prevention/Risk Management Program		
Final Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68	2012	1.11253
CAA – Stationary Source		
Clean Air Act Stationary Source Civil Penalty Policy	1991	1.87298
Appendix I – Penalty Policy for Violation of Permit Requirements	1987	2.23198
Appendix II - Vinyl Chloride Civil Penalty Policy	1985	2.36750
Appendix III - Asbestos Demolition and Renovation Civil Penalty Policy	1992	1.81486
Appendix IV - Clean Air Act Penalty Policy as Applied to Stationary Sources of Volatile Organic Compounds (VOC) Where Reformulation of Low Solvent Technology is the Applicable Method of Compliance	1987	1.87298 ²²
Appendix VI - Leak Detection and Repair Penalty Policy	2012	1.11253
Appendix VII – Penalty Policy for New Residential Wood Heaters	1989	2.04894

²² For violations governed by Appendix IV, the EPA is using the same multiplier that applies to the 1991 “*Clean Air Act Stationary Source Civil Penalty Policy*” because the gravity-based component of such violations is calculated using the 1991 policy.

<u>Appendix VIII - Clean Air Act Civil Penalty Policy Applicable to Persons Who Manufacture or Import Controlled Substances in Amounts Exceeding Allowances Properly Held Under 40 C.F.R. Part 82: Protection of Stratospheric Ozone</u>	1990	1.92770
<u>Appendix IX - Clean Air Act Civil Penalty Policy Applicable to Persons Who Perform Service for Consideration on a Motor Vehicle Air Conditioner Involving the Refrigerant or Who Sell Small Containers of Refrigerant in Violation of 40 C.F.R. Part 82, Protection of the Stratospheric Ozone, Subpart B: Servicing of Motor Vehicle Air Conditioners</u>	1993	1.76628
<u>Appendix X - Clean Air Act Civil Penalty Policy for Violations of 40 C.F.R. Part 82, Subpart F: Maintenance, Service, Repair, and Disposal of Appliances Containing Refrigerant</u>	1994	1.72139
<u>Appendix XI - National Petroleum Refinery Initiative Implementation: Application of Clean Air Action Stationary Source Penalty Policy for Violations of Benzene Waste Operations NESHAP Requirements</u>	2007	1.23170
<u>EPA Region 10's Civil Penalty Guidelines for the Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon, and Washington. 40 C.F.R. Part 49</u>	2008	1.18827
CAA – Mobile Source		
<u>Clean Air Act Mobile Source Civil Penalty Policy - Vehicle and Engine Certification Requirements</u>	2009	1.19045
<u>Clean Air Act Mobile Source Fuels Civil Penalty Policy Title II of the Clean Air Act --40 C.F.R. Part 80 Fuels Standards Requirements</u>	2016	1.08203

North American and U.S. Caribbean Sea Emissions Control Areas Penalty Policy for Violations by Ships of the Sulfur in Fuel Standard and Related Provisions	2015	1.08203
Civil Penalty Policy for Administrative Hearings	1993	1.76628
RCRA		
RCRA Civil Penalty Policy	2003	1.60451
Guidance on the Use of Section 7003 of RCRA	1997	2.75873 ²³
Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot	2018	1.01764 ²⁴
CERCLA		
Interim Policy on Settlement of CERCLA Section 106(b)(1) Penalty Claims and Section 107(c)(3) Punitive Damages Claims for Noncompliance with Administrative Orders	1997	2.12102 ²⁵

²³ For RCRA section 7003(b) penalties, the EPA calculated this multiplier by dividing the 2020 statutory maximum of \$15,173 by \$5,500, which is the maximum amount set forth in the 1997 narrative policy's matrix. This multiplier maintains the penalty policy's deterrent effect for all violations, including the most serious violations.

²⁴ Case teams should calculate the gravity-based portion of the penalty using the penalty amounts in the 2018 Interim Consolidated Penalty Policy. For narrative instructions only, case teams should use the 1990 [U.S. EPA Penalty Guidance for Violations for UST Regulations](#) when calculating standard UST penalties and use the 1993 [Guidance on Field Citations Enforcement](#) narrative guidance on issuing field citations. The EPA calculated the multiplier of 1.01764 by dividing the October 2019 CPI-U of 257.346 by the October 2018 CPI-U of 252.885, because the penalty values in the 2018 Interim Consolidated Penalty Policy were last updated in October 2018. Please note that the inflation multiplier of 1.01764 should not be applied to the Expedited Settlement Agreement (ESA) penalty amounts in the 2018 Policy. As stated in Section II. of this memorandum, this memorandum does not modify ESA penalty policies.

²⁵ For CERCLA section 106(b)(1) penalties, the EPA calculated this multiplier by dividing the 2020 statutory maximum of \$58,328 by \$27,500, which is the maximum amount set forth in the 1997 narrative policy's matrix. This multiplier maintains the penalty policy's deterrent effect for all violations, including the most serious violations.

CERCLA & EPCRA		
Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act	1999	1.53001
EPCRA		
Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990), February 24, 2017 (Amended)	2017	1.08203 ²⁶
FIFRA		
FIFRA Enforcement Response Policy (FIFRA ERP)	2009	1.19045
Appendix E to FIFRA ERP - Enforcement Response Policy for FIFRA Section 7(c): Establishment Reporting Requirements	2010	Use the 2009 FIFRA ERP and the 1.19045 multiplier
Appendix F to FIFRA ERP - Interim Final Penalty Policy for the Worker Protection Standard	1997	Use the 2009 FIFRA ERP and the 1.19045 multiplier
Appendix G to FIFRA ERP - Enforcement Response Policy for the Federal Insecticide, Fungicide and Rodenticide Act Good Laboratory Practice (GLP) Regulations	1991	Use the 2009 FIFRA ERP and the 1.19045 multiplier
Appendix H to the FIFRA ERP - Enforcement Response Policy for the FIFRA Pesticide Container/Containment Regulations	2012	Use the 2009 FIFRA ERP and the 1.19045 multiplier

²⁶ Case teams should apply the multiplier of 1.08203 to the second matrix on page 11 of the Policy. This multiplier should not be applied to the first matrix on page 11 of the Policy.

TSCA		
Guidelines for Assessment of Civil Penalties Under Section 16 of the Toxic Substance Control Act	1980	1.62304
Enforcement Response Policy for Reporting and Recordkeeping Rules and Requirements for TSCA Sections 8, 12, and 13	1999	1.62304 ²⁷
Amendment to the TSCA Section 5 Enforcement Response Policy – Penalty Limit for Untimely NOC Submissions	1993	1.62304 ²⁸
Enforcement Response Policy for TSCA §4 Test Rules	1986	1.62304
Final TSCA GLP Enforcement Response Policy	1985	1.62304
TSCA – Asbestos		
Enforcement Response Policy for the Asbestos Model Accreditation Plan (MAP) – Addendum to the AHERA ERP	1998	1.56919
Interim Final Enforcement Response Policy for the Asbestos Hazard Emergency Response Act	1989	2.04894
Enforcement Response Policy for Asbestos Abatement Projects: Worker Protection Rule	1989	1.62304

²⁷ The “Penalty Matrix For Violations Occurring After January 30, 1997” on page 8 of this policy should be ignored. For all violations governed by this policy, the multiplier should be applied to the penalty amounts in the “Penalty Matrix For Violations Occurring On or Before January 30, 1997” found on the same page.

²⁸ Note that this Amendment from July 1, 1993 amends the June 8, 1989 policy titled “Amendment TSCA Section 5 Enforcement Response Policy.” The multiplier of 1.62304 applies to both the 1993 amendment and 1989 policy.

TSCA – Lead-Based Paint		
<u>Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education (PRE) Rule; Renovation, Repair and Painting (RRP) Rule; and Lead-Based Paint Activities (LBPA) Rule</u>	2013 ²⁹	1.08203 ³⁰
<u>Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy</u>	2007	1.64990 ³¹
TSCA – PCBs		
<u>Polychlorinated Biphenyls (PCB) Penalty Policy</u>	1990	1.62304

²⁹ Appendix B-2 was updated in April 2013 within the April 2010 Policy.

³⁰ The 2010 “*Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule*” and the 2007 “*Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy*” both penalize violators who fail to provide and document receipt of certain information related to the presence or risk of lead-based paint. Instead of having differing penalty amounts for essentially the same type of deficiency, we have adopted the penalty matrix from the 2007 Section 1018 Disclosure Rule penalty policy in the Pre-Renovation Education Rule component of the 2010 Consolidated Lead-Based Paint penalty policy. Therefore, Level “a” penalties apply to violations of the Lead-Based Paint Renovation, Repair and Painting Rule and the Lead-Based Paint Activities (Abatement) Rule. Level “b” penalties are derived from the current Section 1018 Lead-Based Paint Disclosure Rule matrix because the major activities of the Disclosure Rule and Pre-renovation Education Rule are very similar. Therefore, under this Policy, Level “b” penalties apply to violations of the Pre-Renovation Education Rule.

³¹ For TSCA section 1018 penalties, the EPA calculated this multiplier by dividing the 2020 statutory maximum of \$18,149 by \$11,000, which is the maximum amount set forth in the 2007 narrative policy’s matrix. This multiplier maintains the penalty policy’s deterrent effect for all violations, including the most serious violations.

* * * Payment of this fee does not apply to mailers who present only qualified full-service flat-size mailings (under 705.23.3.1a).

500 Additional Services

508 Recipient Services

4.0 Post Office Box Service

4.4 Basis of Fees and Payment

4.4.2 Fee Changes

[Revise the second sentence of 4.4.2; to read as follows:]

* * * In addition, the USPS may assign a fee group to a new ZIP Code, may reassign one or more 5-digit ZIP Codes to the next higher or lower fee group based on the ZIP Codes' cost and market characteristics, or may regroup 5-digit ZIP Codes.

5.0 Caller Service

5.5 Basis of Fees and Payment

5.5.3 Fee Changes

[Revise the text of 5.5.3 by adding new last sentence; to read as follows:]

* * * In addition, the USPS may assign a fee group to a new ZIP Code, may reassign one or more 5-digit ZIP Codes to the next higher or lower fee group based on the ZIP Codes' cost and market characteristics, or may regroup 5-digit ZIP Codes.

700 Special Standards

705 Advanced Preparation and Special Postage Payment Systems

22.0 Seamless Acceptance Program

22.3 Basic Standards

[Revise the introductory text of 22.3, by adding new second and third sentences to read as follows:]

* * * Any permits used in a Seamless acceptance mailing will not prevent that mailing from being finalized regardless of if an annual fee is due on that permit. However, the first time the permit is used for a non-seamless mailing the mailer will have to

pay the permit fee if they do not meet the requirements for a fee waiver.* * *

23.0 Full-Service Automation Option

23.2 General Eligibility Standards

[Revise the first sentence of the introductory text of 23.2; to read as follows:]

First-Class Mail (FCM), Periodicals, and USPS Marketing Mail, cards (FCM only), letters (except letters using simplified address format) and flats meeting eligibility requirements for automation or carrier route prices (except for USPS Marketing Mail ECR saturation flats), and Bound Printed Matter presorted or carrier route barcoded flats, are potentially eligible for full-service incentives.* * *

23.3 Fees

[Revise the title of 23.3.1; to read as follows:]

23.3.1 Eligibility for Exception to Payment of Annual Fees and Waiver of Deposit of Permit Imprint Mail Restrictions

[Revise the introductory text of 23.3.1; to read as follows:]

Mailers who present automation or presort mailings (of First-Class Mail cards, letters, and flats, USPS Marketing Mail letters and flats, or Bound Printed Matter flats) that contain 90 percent or more full-service eligible mail as full-service, and 75 percent of their total mail is eligible for full-service incentives, are eligible for the following exception to standards:

[Revise the text of item 23.3.1a; to read as follows:]

a. Annual presort mailing or destination entry fees, as applicable, do not apply to mailings entered by mailers who meet both the 90 percent and 75 percent full-service thresholds, for qualified full-service mailings, as specified in 23.3.1.* * *

Notice 123 (Price List)

[Revise prices as applicable.]

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2019-28488 Filed 1-10-20; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 19

[FRL-10003-77-OECA]

Civil Monetary Penalty Inflation Adjustment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of the maximum (and minimum) statutory civil monetary penalty amounts under the statutes the 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 the statutory maximum (and minimum) amount of 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 the EPA chooses to seek pursuant to its civil penalty policies in a particular case. The EPA's civil penalty policies, which guide enforcement personnel on how to exercise the 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 January 13, 2020.

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.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1996, Federal agencies have been required to issue regulations adjusting for inflation the statutory civil penalties¹ that can be imposed under

¹ 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—(1)(i) is for a

Continued

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, the 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 Act² required each Federal agency to adjust the level of statutory civil penalties under the laws implemented by that agency with an initial "catch-up" adjustment through an interim final rulemaking. The 2015 Act also required Federal agencies, beginning on January 15, 2017, to make subsequent annual adjustments for inflation. Section 4 of the 2015 Act requires each Federal agency to publish these annual adjustments by January 15 of each year. 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, the EPA issued a catch-up rule on July 1, 2016, which was effective August 1, 2016 (81 FR 43091). The EPA made its first annual adjustment on January 12, 2017, which was effective on January 15, 2017 (82 FR 3633). The EPA made its second annual adjustment on January 10, 2018, which was effective on January 15, 2018 (83 FR 1190). The EPA made its third annual adjustment on February 6, 2019 (84 FR 2056) and issued a subsequent correction on February 25, 2019 (84 FR 5955). This rule implements the fourth annual adjustment mandated by the 2015 Act.

The 2015 Act provides a formula for calculating the adjustments. Each statutory maximum and minimum³

specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; and (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

² 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.

³ 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

civil monetary penalty as currently adjusted is multiplied by the cost-of-living adjustment multiplier, which is the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2019 exceeds the CPI-U for the month of October 2018.⁴

With this rule, the new statutory maximum and minimum penalty levels listed in the third column of Table 1 of 40 CFR 19.4 will apply to all civil penalties assessed on or after January 13, 2020, for violations that occurred after November 2, 2015, the date the 2015 Act was enacted. The former maximum and minimum statutory civil penalty levels, which are in the fourth column of Table 1 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 February 6, 2019, but before January 13, 2020. The statutory civil penalty levels that apply to violations that occurred on or before November 2, 2015, are codified at Table 2 to 40 CFR 19.4.⁵ The fifth column of Table 1 and the seventh column of Table 2 display the statutory civil penalty levels as originally enacted.

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 2020 is the percentage by which the CPI-U of October 2019 (257.346) exceeds the CPI-U for the month of October 2018 (252.885), which is 1.01764.⁶ Multiply 1.01764 by the

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.

⁴ Current and historical CPI-U's can be found on the Bureau of Labor Statistics' website here: <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-201910.pdf>.

⁵ With this rule, for ease of reference, the order of the Tables and the columns within each Table are now presented in reverse chronological order.

⁶ Section 5(b) of the 2015 Act provides that the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of October preceding the date of the adjustment, exceeds

(2) the Consumer Price Index for the month of October 1 year before the month of October referred to in paragraph (2).

Because the CPI-U for October 2019 is 257.346 and the CPI-U for October 2018 is 252.885, the cost-

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

Pursuant to section 4 of the 2015 Act, each Federal agency is required to publish annual adjustments no later than January 15 each year. 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. Consistent with the language of the 2015 Act, this rule is not subject to notice and an opportunity for public comment and will be effective on January 13, 2020.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.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 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.

of-living multiplier is 1.01764 (257.346 divided by 252.885).

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.

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 the 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, the 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 the 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.

Thus, Executive Order 13175 does not apply to this action.

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 the 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 EPA finds that the APA’s notice and comment rulemaking procedures are unnecessary because the 2015 Act directs Federal agencies to publish their annual penalty inflation adjustments “notwithstanding section 553 [of the APA].”

List of Subjects in 40 CFR Part 19

Environmental protection, Administrative practice and procedure, Penalties.

Dated: December 19, 2019.

Andrew R. Wheeler,
Administrator.

For the reasons set out in the preamble, the 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.

(a) The statutory civil penalty levels set forth in the third column of Table 1 of § 19.4 apply to all violations which occur or occurred after November 2, 2015, where the penalties are assessed on or after January 13, 2020. The statutory civil penalty levels set forth in the fourth column of Table 1 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed on or after February 6, 2019 but before January 13, 2020.

(b) The statutory penalty levels in the third column of Table 2 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 January 12, 2009 through December 6, 2013. The statutory civil penalty levels set forth in the fifth column of Table 2 of § 19.4 apply to all violations which occurred after March 15, 2004 through January 12, 2009. The statutory civil penalty levels set forth in the sixth column of Table 2 of § 19.4 apply to all violations which occurred after January 30, 1997 through March 15, 2004.

■ 3. Revise § 19.4 to read as follows:

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

Table 1 of this section sets out the statutory civil penalty provisions of statutes administered by the EPA, with the third column setting out the latest operative statutory civil penalty levels for violations that occur or occurred after November 2, 2015, where penalties

are assessed on or after January 13, 2020. The fourth column displays the operative statutory civil penalty levels where penalties were assessed on or after February 6, 2019, but before

January 13, 2020. Table 2 of this section sets out the statutory civil penalty provision of statutes administered by the EPA, with 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 1 OF § 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Environmental statute	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after February 6, 2019 but before January 13, 2020	Statutory civil penalties, as enacted
7 U.S.C. 136(a)(1)	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).	\$20,288	\$19,936	\$5,000
7 U.S.C. 136(a)(2) ¹	FIFRA	2,976/1,917/2,976	2,924/1,884/2,924	1,000/500/1,000
15 U.S.C. 2615(a)(1)	TOXIC SUBSTANCES CONTROL ACT (TSCA).	40,576	39,873	25,000
15 U.S.C. 2647(a)	TSCA	11,665	11,463	5,000
15 U.S.C. 2647(g)	TSCA	9,639	9,472	5,000
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA).	11,665	11,463	5,000
31 U.S.C. 3802(a)(2)	PFCRA	11,665	11,463	5,000
33 U.S.C. 1319(d)	CLEAN WATER ACT (CWA)	55,800	54,833	25,000
33 U.S.C. 1319(g)(2)(A)	CWA	22,320/55,800	21,933/54,833	10,000/25,000
33 U.S.C. 1319(g)(2)(B)	CWA	22,320/278,995	21,933/274,159	10,000/125,000
33 U.S.C. 1321(b)(6)(B)(i)	CWA	19,277/48,192	18,943/47,357	10,000/25,000
33 U.S.C. 1321(b)(6)(B)(ii)	CWA	19,277/240,960	18,943/236,783	10,000/125,000
33 U.S.C. 1321(b)(7)(A)	CWA	48,192/1,928	47,357/1,895	25,000/1,000
33 U.S.C. 1321(b)(7)(B)	CWA	48,192	47,357	25,000
33 U.S.C. 1321(b)(7)(C)	CWA	48,192	47,357	25,000
33 U.S.C. 1321(b)(7)(D)	CWA	192,768/5,783	189,427/5,683	100,000/3,000
33 U.S.C. 1414b(d)(1)	MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA).	1,284	1,262	600
33 U.S.C. 1415(a)	MPRSA	202,878/267,621	199,361/262,982	50,000/125,000
33 U.S.C. 1901 note (see 1409(a)(2)(A)).	CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO).	14,791/36,975	14,535/36,334	10,000/25,000
33 U.S.C. 1901 note (see 1409(a)(2)(B)).	CACSO	14,791/184,874	14,535/181,669	10,000/125,000
33 U.S.C. 1901 note (see 1409(b)(1)).	CACSO	36,975	36,334	25,000
33 U.S.C. 1908(b)(1)	ACT TO PREVENT POLLUTION FROM SHIPS (APPS).	75,867	74,552	25,000
33 U.S.C. 1908(b)(2)	APPS	15,173	14,910	5,000
42 U.S.C. 300g-3(b)	SAFE DRINKING WATER ACT (SDWA).	58,328	57,317	25,000
42 U.S.C. 300g-3(g)(3)(A)	SDWA	58,328	57,317	25,000
42 U.S.C. 300g-3(g)(3)(B)	SDWA	11,665/40,640	11,463/39,936	5,000/25,000
42 U.S.C. 300g-3(g)(3)(C)	SDWA	40,640	39,936	25,000
42 U.S.C. 300h-2(b)(1)	SDWA	58,328	57,317	25,000
42 U.S.C. 300h-2(c)(1)	SDWA	23,331/291,641	22,927/286,586	10,000/125,000
42 U.S.C. 300h-2(c)(2)	SDWA	11,665/291,641	11,463/286,586	5,000/125,000
42 U.S.C. 300h-3(c)	SDWA	20,288/43,280	19,936/42,530	5,000/10,000
42 U.S.C. 300i(b)	SDWA	24,386	23,963	15,000
42 U.S.C. 300i-1(c)	SDWA	141,943/1,419,442	139,483/1,394,837	100,000/1,000,000
42 U.S.C. 300j(e)(2)	SDWA	10,143	9,967	2,500
42 U.S.C. 300j-4(c)	SDWA	58,328	57,317	25,000
42 U.S.C. 300j-6(b)(2)	SDWA	40,640	39,936	25,000
42 U.S.C. 300j-23(d)	SDWA	10,705/107,050	10,519/105,194	5,000/50,000
42 U.S.C. 4852d(b)(5)	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.	18,149	17,834	10,000
42 U.S.C. 4910(a)(2)	NOISE CONTROL ACT OF 1972.	38,352	37,687	10,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA).	101,439	99,681	25,000

TABLE 1 OF § 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Environmental statute	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after February 6, 2019 but before January 13, 2020	Statutory civil penalties, as enacted
42 U.S.C. 6928(c)	RCRA	61,098	60,039	25,000
42 U.S.C. 6928(g)	RCRA	75,867	74,552	25,000
42 U.S.C. 6928(h)(2)	RCRA	61,098	60,039	25,000
42 U.S.C. 6934(e)	RCRA	15,173	14,910	5,000
42 U.S.C. 6973(b)	RCRA	15,173	14,910	5,000
42 U.S.C. 6991e(a)(3)	RCRA	61,098	60,039	25,000
42 U.S.C. 6991e(d)(1)	RCRA	24,441	24,017	10,000
42 U.S.C. 6991e(d)(2)	RCRA	24,441	24,017	10,000
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA)	101,439	99,681	25,000
42 U.S.C. 7413(d)(1)	CAA	48,192/385,535	47,357/378,852	25,000/200,000
42 U.S.C. 7413(d)(3)	CAA	9,639	9,472	5,000
42 U.S.C. 7524(a)	CAA	48,192/4,819	47,357/4,735	25,000/2,500
42 U.S.C. 7524(c)(1)	CAA	385,535	378,852	200,000
42 U.S.C. 7545(d)(1)	CAA	48,192	47,357	25,000
42 U.S.C. 9604(e)(5)(B)	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA).	58,328	57,317	25,000
42 U.S.C. 9606(b)(1)	CERCLA	58,328	57,317	25,000
42 U.S.C. 9609(a)(1)	CERCLA	58,328/174,985	57,317/171,952	25,000/75,000
42 U.S.C. 9609(b)	CERCLA	58,328/174,985	57,317/171,952	25,000/75,000
42 U.S.C. 11045(a)	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	58,328	57,317	25,000
42 U.S.C. 11045(b)(1)(A)	EPCRA	58,328	57,317	25,000
42 U.S.C. 11045(b)(2)	EPCRA	58,328/174,985	57,317/171,952	25,000/75,000
42 U.S.C. 11045(b)(3)	EPCRA	58,328/174,985	57,317/171,952	25,000/75,000
42 U.S.C. 11045(c)(1)	EPCRA	58,328	57,317	25,000
42 U.S.C. 11045(c)(2)	EPCRA	23,331	22,927	10,000
42 U.S.C. 11045(d)(1)	EPCRA	58,328	57,317	25,000
42 U.S.C. 14304(a)(1)	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT).	16,258	15,976	10,000
42 U.S.C. 14304(g)	BATTERY ACT	16,258	15,976	10,000

¹ 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).

TABLE 2 OF § 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Environmental statute	Statutory civil penalties for violations after December 6, 2013 through November 2, 2015, or assessed before August 1, 2016	Statutory civil penalties for violations after January 12, 2009 through December 6, 2013	Statutory civil penalties for violations after March 15, 2004 through January 12, 2009	Statutory civil penalties for violations after January 30, 1997 through March 15, 2004	Statutory civil penalties, as enacted
7 U.S.C. 136(a)(1)	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).	\$7,500	\$7,500	\$6,500	\$5,500	\$5,000
7 U.S.C. 136(a)(2)	FIFRA	750/1,100	750/1,100	650/1,100	550/1,000	500/1,000
15 U.S.C. 2615(a)(1)	TOXIC SUBSTANCES CONTROL ACT (TSCA).	37,500	37,500	32,500	27,500	25,000
15 U.S.C. 2647(a)	TSCA	7,500	7,500	6,500	5,500	5,000
15 U.S.C. 2647(g)	TSCA	7,500	7,500	5,500	5,000	5,000
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT (PFCA).	7,500	7,500	6,500	5,500	5,000

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

U.S. Code citation	Environmental statute	Statutory civil penalties for violations after December 6, 2013 through November 2, 2015, or assessed before August 1, 2016	Statutory civil penalties for violations after January 12, 2009 through December 6, 2013	Statutory civil penalties for violations after March 15, 2004 through January 12, 2009	Statutory civil penalties for violations after January 30, 1997 through March 15, 2004	Statutory civil penalties, as enacted
31 U.S.C. 3802(a)(2)	PFCRA	7,500	7,500	6,500	5,500	5,000
33 U.S.C. 1319(d)	CLEAN WATER ACT (CWA)	37,500	37,500	32,500	27,500	25,000
33 U.S.C. 1319(g)(2)(A)	CWA	16,000/37,500	16,000/37,500	11,000/32,500	11,000/27,500	10,000/25,000
33 U.S.C. 1319(g)(2)(B)	CWA	16,000/187,500	16,000/177,500	11,000/157,500	11,000/137,500	10,000/125,000
33 U.S.C. 1321(b)(6)(B)(i) ..	CWA	16,000/37,500	16,000/37,500	11,000/32,500	11,000/27,500	10,000/25,000
33 U.S.C. 1321(b)(6)(B)(ii) ..	CWA	16,000/187,500	16,000/177,500	11,000/157,500	11,000/137,500	10,000/125,000
33 U.S.C. 1321(b)(7)(A)	CWA	37,500/2,100	37,500/1,100	32,500/1,100	27,500/1,100	25,000/1,000
33 U.S.C. 1321(b)(7)(B)	CWA	37,500	37,500	32,500	27,500	25,000
33 U.S.C. 1321(b)(7)(C)	CWA	37,500	37,500	32,500	27,500	25,000
33 U.S.C. 1321(b)(7)(D)	CWA	150,000/5,300	140,000/4,300	130,000/4,300	110,000/3,300	100,000/3,000
33 U.S.C. 1414b(d)(1) ¹	MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA)	860	860	760	660	600
33 U.S.C. 1415(a)	MPRSA	75,000/187,500	70,000/177,500	65,000/157,500	55,000/137,500	50,000/125,000
33 U.S.C. 1901 note (see 1409(a)(2)(A)).	CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO)	11,000/27,500	11,000/27,500	10,000/25,000	10,000/ ² 25,000	10,000/25,000
33 U.S.C. 1901 note (see 1409(a)(2)(B)).	CACSO	11,000/147,500	11,000/137,500	10,000/125,000	10,000/125,000	10,000/125,000
33 U.S.C. 1901 note (see 1409(b)(1)).	CACSO	27,500	27,500	25,000	25,000	25,000
42 U.S.C. 300g-3(b)	SAFE DRINKING WATER ACT (SDWA)	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 300g-3(g)(3)(A)	SDWA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 300g-3(g)(3)(B)	SDWA	7,000/32,500	7,000/32,500	6,000/27,500	5,000/25,000	5,000/25,000
42 U.S.C. 300g-3(g)(3)(C)	SDWA	32,500	32,500	27,500	25,000	25,000
42 U.S.C. 300h-2(b)(1)	SDWA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 300h-2(c)(1)	SDWA	16,000/187,500	16,000/177,500	11,000/157,500	11,000/137,500	10,000/125,000
42 U.S.C. 300h-2(c)(2)	SDWA	7,500/187,500	7,500/177,500	6,500/157,500	5,500/137,500	5,000/125,000
42 U.S.C. 300h-3(c)	SDWA	7,500/16,000	7,500/16,000	6,500/11,000	5,500/11,000	5,000/10,000
42 U.S.C. 300i(b)	SDWA	21,500	16,500	16,500	15,000	15,000
42 U.S.C. 300i-1(c)	SDWA	120,000/1,150,000	110,000/1,100,000	100,000/1,000,000	22,000/ ³ 55,000	20,000/50,000
42 U.S.C. 300j(e)(2)	SDWA	3,750	3,750	2,750	2,750	2,500
42 U.S.C. 300j-4(c)	SDWA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 300j-6(b)(2)	SDWA	32,500	32,500	27,500	25,000	25,000
42 U.S.C. 300j-23(d)	SDWA	7,500/75,000	7,500/70,000	6,500/65,000	5,500/55,000	5,000/50,000
42 U.S.C. 4852d(b)(5)	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992	16,000	16,000	11,000	11,000	10,000
42 U.S.C. 4910(a)(2)	NOISE CONTROL ACT OF 1972	16,000	16,000	11,000	11,000	10,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 6928(c)	RCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 6928(g)	RCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 6928(h)(2)	RCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 6934(e)	RCRA	7,500	7,500	6,500	5,500	5,000
42 U.S.C. 6973(b)	RCRA	7,500	7,500	6,500	5,500	5,000
42 U.S.C. 6991e(a)(3)	RCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 6991e(d)(1)	RCRA	16,000	16,000	11,000	11,000	10,000
42 U.S.C. 6991e(d)(2)	RCRA	16,000	16,000	11,000	11,000	10,000
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA)	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 7413(d)(1)	CAA	37,500/320,000	37,500/295,000	32,500/270,000	27,500/220,000	25,000/200,000
42 U.S.C. 7413(d)(3)	CAA	7,500	7,500	6,500	5,500	5,000

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

U.S. Code citation	Environmental statute	Statutory civil penalties for violations after December 6, 2013 through November 2, 2015, or assessed before August 1, 2016	Statutory civil penalties for violations after January 12, 2009 through December 6, 2013	Statutory civil penalties for violations after March 15, 2004 through January 12, 2009	Statutory civil penalties for violations after January 30, 1997 through March 15, 2004	Statutory civil penalties, as enacted
42 U.S.C. 7524(a)	CAA	3,750/37,500	3,750/37,500	2,750/32,500	2,750/27,500	2,500/25,000
42 U.S.C. 7524(c)(1)	CAA	320,000	295,000	270,000	220,000	200,000
42 U.S.C. 7545(d)(1)	CAA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 9604(e)(5)(B)	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA).	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 9606(b)(1)	CERCLA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 9609(a)(1)	CERCLA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 9609(b)	CERCLA	37,500/117,500	37,500/107,500	32,500/97,500	27,500/82,500	25,000/75,000
42 U.S.C. 9609(c)	CERCLA	37,500/117,500	37,500/107,500	32,500/97,500	27,500/82,500	25,000/75,000
42 U.S.C. 11045(a)	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 11045(b)(1)(A) ⁴	EPCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 11045(b)(2)	EPCRA	37,500/117,500	37,500/107,500	32,500/97,500	27,500/82,500	25,000/75,000
42 U.S.C. 11045(b)(3)	EPCRA	37,500/117,500	37,500/107,500	32,500/97,500	27,500/82,500	25,000/75,000
42 U.S.C. 11045(c)(1)	EPCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 11045(c)(2)	EPCRA	16,000	16,000	11,000	11,000	10,000
42 U.S.C. 11045(d)(1)	EPCRA	37,500	37,500	32,500	27,500	25,000
42 U.S.C. 14304(a)(1)	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT).	16,000	16,000	11,000	10,000	10,000
42 U.S.C. 14304(g)	BATTERY ACT	16,000	16,000	11,000	10,000	10,000

¹ Note that 33 U.S.C. 1414b (d)(1)(B) contains additional penalty escalation provisions that must be applied to the penalty amounts set forth in this Table 2. The amounts set forth in this Table 2 reflect an inflation adjustment to the calendar year 1992 penalty amount expressed in section 104B(d)(1)(A), which is used to calculate the applicable penalty amount under MPRSA section 104B(d)(1)(B) for violations that occur in any subsequent calendar year.

² CACSO was passed on December 21, 2000 as part of Title XIV of the Consolidated Appropriations Act of 2001, Public Law 106-554, 33 U.S.C. 1901 note.

³ The original statutory penalty amounts of \$20,000 and \$50,000 under section 1432(c) of the SDWA, 42 U.S.C. 300i-1(c), were subsequently increased by Congress pursuant to section 403 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188 (June 12, 2002), to \$100,000 and \$1,000,000, respectively. The EPA did not adjust these new penalty amounts in its 2004 Civil Monetary Penalty Inflation Adjustment Rule ("2004 Rule"), published on February 13, 2004, because they had gone into effect less than two years prior to the 2004 Rule.

⁴ Consistent with how the EPA's other penalty authorities are displayed under this section, this Table 2 now delineates, on a subpart-by-subpart basis, the penalty authorities enumerated under section 325(b) of EPCRA, 42 U.S.C. 11045(b) (i.e., 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)).

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Parts 1149 and 1158

RIN 3135-AA33

Civil Penalties Adjustment for 2020

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Final rule.

SUMMARY: The National Endowment for the Arts (NEA) is adjusting the maximum civil monetary penalties (CMPs) that may be imposed for violations of the Program Fraud Civil Remedies Act (PFCRA) and the NEA's Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the