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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

JUN - 5 2006

**MEMORANDUM**

SUBJECT: Penalty Policy Supplements Pursuant to the 2004 Civil Monetary Penalty Inflation Adjustment Rule

FROM: Stephanie P. Brown, Acting Director Stephanie Brown
Toxics and Pesticides Enforcement Division
Office of Civil Enforcement

TO: Regional Counsels
Regional TSCA, FIFRA, and EPCRA Division Directors

This memorandum modifies each enforcement response/penalty policy (Penalty Policy) within the purview of the Toxics and Pesticides Enforcement Division (TPED) to adjust for the Civil Monetary Penalty Inflation Adjustment Rule published in the Federal Register on February 13, 2004 (69 Fed. Reg. 7121), and codified at 40 C.F.R. Parts 19 and 27 (Final Rule). The matrices herein supercede and void any interim matrices for the 2004 rule issued or used by TPED or a Regional Office. In accordance with the Final Rule, all violations occurring on or after March 15, 2004 are subject to statutory penalties adjusted for inflation. A complete list of each Penalty Policy subject to this memorandum is provided at Attachment A. Appendix B provides instructions for amending each Penalty Policy, as well as updated matrices for insertion into each policy.

The adjustments here follow the implementation policy established in the attached September 21, 2004 memorandum signed by Thomas V. Skinner. That memorandum provides for adjusting each cell in a penalty matrix by multiplying the existing gravity-based penalty component by 1.1723. We are aware that this approach results in penalty amounts (within matrix cells) that are not rounded-off as compared to previous iterations. This is the outcome required by proper application of the Final Rule. The September 21, 2004 memorandum also provides for rounding the aggregate penalty in a particular case to the nearest $100 unit after calculating and summing the gravity-based penalties for each count in the case.

Violations occurring before March 15, 2004 and after January 30, 1997 remain subject to penalties adjusted for inflation as specified in TPED's April 18, 1997 memorandum entitled Penalty Policy Supplements Pursuant to the Civil Penalty Inflation Adjustment Rule. Copies of this memorandum are available upon request.

Please contact Brian Dyer at (202) 564-4166 (dyer.brian@epa.gov) if you have any questions concerning these penalty adjustments.

Attachments

cc: Rosemarie Kelley, U.S. EPA OECA/OCE
David Abdalla, U.S. EPA OECA/OCE
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Paula Bisson, U.S. EPA Region 9
Scott Downey, U.S. EPA Region 10

## ATTACHMENT A

### FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

FIFRA: Worker Protection Standard Penalty Policy - Interim Final - (09/01/97)

Enforcement Response Policy for the Federal Insecticide, Fungicide and Rodenticide Act --Good Laboratory Practice (GLP) Regulations - (09/30/91)

Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) - (07/02/90)

FIFRA Section 7(c) Enforcement Response Policy - (02/10/86)

### TOXIC SUBSTANCES CONTROL ACT

Section 1018 - Disclosure Rule Enforcement Response Policy - (02/01/00)

Reporting and Recordkeeping Rules and Requirements: TSCA SECTIONS 8, 12 AND 13 - (03/31/99)

Polychlorinated Biphenyl's Penalty Policy - (02/26/98)

Enforcement Response Policy for TSCA Section 4 Test Rules - (05/28/86)

Amendment to the TSCA Section 5 Enforcement Response Policy - (06/08/89)

Asbestos Hazard Emergency Response Act (AHERA) Enforcement Response Policy - (01/31/89)

Interim Final Enforcement Response Policy – Asbestos Abatement Projects: Worker Protection: Final Rule - (11/14/89)

Final TSCA GLP Enforcement Response Policy - (04/09/85)

### EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Enforcement Response Policy for Section 313 of the Emergency Planning Community Right-To-Know Act (1989) and Section 6607 of the Pollution Prevention Act (1990), Amended - (04/12/01)

Enforcement Response Policy for Sections 304, 311, and 312 of the Emergency Planning and Community Right-to-Know Act (1989) and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act -(09/30/99)

| PENALTY POLICY | DIRECTION |
|---|---|
| **FIFRA** | |
| FIFRA: Worker Protection Standard Penalty Policy - Interim Final (09/01/97) | Insert table (p. 4-A) behind page 4. |
| Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act – Good Laboratory Practice (GLP) Regulations (09/30/91) | No insert.<br>When proposing penalty amounts under the Enforcement Response Policy for GLP Regulations, dated September 30, 1991, actual dollar amounts are determined by using the ERP for FIFRA (07/02/90). See directions below for FIFRA ERP. |
| Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (07/02/90) | Insert after page 19-A in the policy and page C-1 in the appendix. |
| FIFRA Section 7(c) Enforcement Response Policy (02/10/86) | No insert.<br>While the FIFRA ERP (1990) does not supersede the Section 7(c) ERP (1986), the matrix setting forth the penalties in the ERP for FIFRA (07/02/90) should be used instead of the matrix in the 1986 policy. |
| **TSCA** | |
| Section 1018 – Disclosure Rule Enforcement Response Policy (02/01/00) | Insert matrix (Appendix B-4-A) behind Appendix B-4 |
| Reporting and Recordkeeping Rules and Requirements: TSCA SECTIONS 8, 12, AND 13 (03/31/99) | Insert matrix (p.7-B) behind page 7-A. |
| Polychlorinated Biphenyls Penalty Policy (04/09/90) | Insert matrix (p.9-B) behind page 9-A. |
| Enforcement Response Policy for TSCA Section 4 Test Rules (05/28/86) | Insert matrix (p2-B) behind page 2-A. |
| Amendment to the TSCA Section 5 Enforcement Response Policy (06/08/89) | Insert matrix (p.16-B) behind page 16-A. |
| Asbestos Hazard Emergency Response Act (AHERA) Enforcement Response Policy (01/31/89) | Insert matrix (p.11-B) behind page 11-A.<br>Insert matrix (p.17-B) behind page 17-A. |
| Interim Final Enforcement Response Policy – Asbestos Abatement Projects: Worker Protection: Final Rule (11/14/89) | Insert matrix (p. 6-B) behind page 6-A. |
| Final TSCA GLP Enforcement Response Policy (04/09/85) | Insert matrix (p.4-B) behind page 4-A. |
| **EPCRA** | |
| Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-To-Know Act (1989) and Section 6607 of the Pollution Prevention Act (1990), Amended (04/12/01) | Insert matrix (p11-B) behind page 11-A. |
| Final Enforcement Response Policy for Sections 304, 311, 312 of EPCRA and Section 103 of CERCLA (09/30/99) | Insert matrix (pp. 20C & 20D) behind page 20B. |

Gravity-based penalty table to supplement **Worker Protection Standard Penalty Policy - Interim Final (09/01/97)** for violations that occur on or after March 15, 2004. Insert behind page 4.

**Determining the Appropriate Enforcement Response**

In conclusion, the following chart summarizes when issuance of a NOW or a Civil Administrative Complaint is the appropriate enforcement response:

| PERSON | FIRST VIOLATION | SECOND VIOLATION WITHIN FIVE (5) YEARS |
|---|---|---|
| Registrant OR Commercial applicator[1] OR Wholesaler OR Dealer OR Retailer OR Distributor[1] | If gravity adjustment factor is 3 or below (minor violations)-->NOW under § 9(c)(3)<br><br>If gravity adjustment factor is 4 or greater--> Civil Administrative Complaint for a §14(a)(1) violator category with a penalty amount up to $5,000/violation if committed prior to 1/30/97; or up to $5,500/violation if committed on or after 1/30/97; **or up to $6,500/violation if committed on or after March 15, 2004**[2] | Civil Administrative Complaint for a §14(a)(1) violator category with a penalty amount up to $5,000/violation if committed prior to 1/30/97; or up to $5,500/violation if committed on or after 1/30/97; **or up to $6,500/violation if committed on or after March 15, 2004.**[2] |
| Private applicator[1] | NOW for a § 14(a)(2) violator category | Civil Administrative Complaint for a §14(a)(2) violator category with a penalty amount up to $1,000/violation if committed prior to March 15, 2004; **or up to $1,100/violation if committed on or after March 15, 2004.**[2,3] |
| "For hire" applicator | Civil Administrative Complaint for a § 14(a)(2) violator category with a penalty amount up to $500/violation if committed prior to 1/30/97; or<br>$550/violation if committed on or after 1/30/97; **or $650/violation if committed on or after March 15, 2004.**[1] | Civil Administrative Complaint for a §14(a)(2) violator category for a penalty amount up to $1,000/violation if committed prior to March 15, 2004; **or $1,100/violation if committed on or after March 15, 2004**[2,3] |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

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1 Also see FIFRA ERP ASSESSING ADMINISTRATIVE CIVIL PENALTIES (pg. 17) and footnotes (pg. 10), regarding further discussions on distributors, and commercial, "for-hire" and private applicators.

2 Even if the Total gravity adjustment level is 4 or greater, and if the violation occurs despite the "exercise of due care," and no "significant harm" occurs, a NOW under §14(a)(4) may be issued at any time.

3 Prior written warning or citation will be considered for any FIFRA violation.

Gravity-based penalty matrix to supplement **Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (07/02/90) for Section 14(a)(1)** violations that occur on or after March 15, 2004. Insert behind page 19-A.

CIVIL PENALTY MATRIX FOR FIFRA SECTION 14(a)(1)

**SIZE OF BUSINESS**

| LEVEL | I | II | III |
|---|---|---|---|
| **LEVEL 1** | $6,500 | $6,500 | $6,500 |
| **LEVEL 2** | $6,500 | $5,158 | $3,869 |
| **LEVEL 3** | $5,158 | $3,869 | $2,579 |
| **LEVEL 4** | $3,869 | $2,579 | $1,290 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity-based penalty matrix to supplement **Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (07/02/90) for Section 14(a)(2)** violations that occur on or after March 15, 2004. Insert behind page 19-B.

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CIVIL PENALTY MATRIX FOR FIFRA SECTION 14(a)(2)†

**SIZE OF BUSINESS**

| LEVEL | I | II | III |
|---|---|---|---|
| **LEVEL 1** | $1,100[1] | $1,100[1] | $1,100[1] |
| **LEVEL 2** | $1,100[1] | $1,032 | $774 |
| **LEVEL 3** | $1,032 | $774 | $650 |

† This 14(a)(2) matrix is only for use in determining civil penalties issued subsequent to a notice of warning or following a citation for a prior violation, or in the case of a "for hire" applicator using a registered general use pesticide, subsequent to the issuance of a civil penalty of $650.

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**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

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[1] **In the matter of Petrocco Farms**, the Administrative Law Judge identified a typographical error in the December 31, 1996, Civil Monetary Penalty Inflation Adjustment Rule published at 40 C.F.R. §19.4 which incorrectly listed the statutory maximum penalty for FIFRA § 14(a)(2) as $1,000. The statutory maximum amount for FIFRA § 14(a)(2) should have been adjusted by the 10% inflation factor to $1,100 in the codified table in the 1996 publication. The correct amount was published in the preamble but not in the table.

As a result of the 1996 error and the peculiarities of the rounding provisions of the penalty inflation rule, the statutory maximum penalty for FIFRA § 14(a)(2) in the recent Civil Monetary Penalty Inflation Adjustment Rule that was effective on March 15, 2004, was incorrectly increased to $1,200 when the penalty amount should have remained $1,100. **Therefore, $1,000 is the statutory maximum for violations occurring between January 30, 1997, and March 14, 2004, and $1,100 is the statutory maximum for violations occurring on or after March 15, 2004.**

Gravity-based penalty matrix to supplement **Section 1018-Disclosure Rule Enforcement Response Policy (02/01/00)** for violations that occur on or after March 15, 2004. Insert behind Appendix B-4.

| EXTENT CATEGORY MATRIX | | | |
|---|---|---|---|
| **Occupant of the target housing is:** | **Pregnant woman, a child under 6 years of age, or age of occupant not provided** | **Child 6 years of age or older but less than 18 years of age** | **Occupant is 18 years of age or older** |
| **EXTENT** | ***Major*** | ***Significant*** | ***Minor*** |

**GRAVITY-BASED PENALTY (GBP) MATRIX**

The GBP, a function of the nature, circumstances and extent of each violation, is determined by using the following matrix:

| CIRCUMSTANCE | MAJOR | SIGNIFICANT | MINOR |
|---|---|---|---|
| | EXTENT | EXTENT | EXTENT |
| HIGH | | | |
| Level 1 | $11,000 | $7,737 | $2,579 |
| Level 2 | $10,316 | $6,448 | $1,547 |
| MEDIUM | | | |
| Level 3 | $7,737 | $5,158 | $774 |
| Level 4 | $5,158 | $3,224 | $516 |
| LOW | | | |
| Level 5 | $2,579 | $1,676 | $258 |
| Level 6 | $1,290 | $645 | $129 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity based penalty matrix to supplement **Recordkeeping and Reporting Rules and Requirements for TSCA Sections 8, 12 and 13** for violations that occur on or after March 15, 2004. Insert behind page 8.

**TSCA §§ 8, 12, & 13**
**GRAVITY BASED PENALTY MATRIX**

| CIRCUMSTANCES | EXTENT<br>A<br>Major | B<br>Significant | C<br>Minor |
|---|---|---|---|
| LEVELS<br>1<br>High Range<br>2 | $32,500<br>$25,791 | $21,922<br>$16,764 | $6,448<br>$3,869 |
| 3<br>Mid Range<br>4 | $19,343<br>$12,895 | $12,895<br>$7,737 | $1,934<br>$1,290 |
| 5<br>Low Range<br>6 | $6,448<br>$2,579 | $3,869<br>$1,676 | $645<br>$258 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity Based Penalty Matrix to supplement **PCB Penalty Policy** (4/9/90) for violations that occur on or after March 15, 2004. Insert behind page 9-A.

**TSCA § 6 (PCB)**
**GRAVITY BASED PENALTY MATRIX**

| CIRCUMSTANCES (probability of damages) | EXTENT<br>A<br>Major | <br>B<br>Significant | <br>C<br>Minor |
|---|---|---|---|
| LEVELS<br>1<br>High Range<br>2 | $32,500<br>$25,791 | $21,922<br>$16,764 | $6,448<br>$3,869 |
| 3<br>Mid Range<br>4 | $19,343<br>$12,895 | $12,895<br>$7,737 | $1,934<br>$1,290 |
| 5<br>Low Range<br>6 | $6,448<br>$2,579 | $3,869<br>$1,676 | $645<br>$258 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity Based Penalty Matrix to supplement **TSCA Section 4 Test Rule Enforcement Response Policy** (5/28/86) for violations that occur on or after March 15, 2004. Insert behind page 2-A.

**TSCA § 4**
**GRAVITY BASED PENALTY MATRIX**

| CIRCUMSTANCES (probability of damages) | EXTENT<br>A<br>Major | B<br>Significant | C<br>Minor |
|---|---|---|---|
| **LEVELS**<br>**1**<br>**High Range**<br>**2** | $32,500<br>- - | $21,922<br>- - | $6,448<br>- - |
| **3**<br>**Mid Range**<br>**4** | $19,343<br>$12,895 | $12,895<br>$7,737 | $1,934<br>$1,290 |
| **5**<br>**Low Range**<br>**6** | $6,448<br>$2,579 | $3,869<br>$1,676 | $645<br>$258 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity Based Penalty Matrix to supplement **TSCA Section 5 Enforcement Response Policy (07/01/93)** for violations that occur on or after March 15, 2004. Insert behind page 16-A

**TSCA § 5**
**GRAVITY BASED PENALTY MATRIX**

| CIRCUMSTANCES | EXTENT<br>A<br>Major | B<br>Significant | C<br>Minor |
|---|---|---|---|
| LEVELS<br>1<br>High Range<br>2 | $32,500<br>$25,791 | $21,922<br>$16,764 | $6,448<br>$3,869 |
| 3<br>Mid Range<br>4 | $19,343<br>$12,895 | $12,895<br>$7,737 | $1,934<br>$1,290 |
| 5<br>Low Range<br>6 | $6,448<br>$2,579 | $3,869<br>$1,676 | $645<br>$258 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity Based Penalty Matrix to supplement **Interim Final Enforcement Response Policy for the Asbestos Hazard Emergency Response Act (1/31/89)** for violations that occur on or after March 15, 2004. Insert behind page 11-A.

**Base Penalty for LEA's**

| CIRCUMSTANCES (Levels) | Extent LEVEL A MAJOR (>3,000 sq.ft. or 1,000 linear ft. | Extent LEVEL B SIGNIFICANT (>160 sq.ft. or 260 linear ft. but <3,000 sq. ft. or 1,000 linear ft.) | Extent LEVEL C MINOR (<or = 160 sq. ft. or 260 linear ft.) |
|---|---|---|---|
| LEVEL 1<br>LEVEL 2 | $6,500<br>$6,096 | $5,182<br>$3,658 | $1,524<br>$914 |
| LEVEL 3<br>LEVEL 4 | $4,572<br>$3,048 | $3,048<br>$1,829 | $457<br>$305 |
| LEVEL 5<br>LEVEL 6 | $1,524<br>$610 | $914<br>$396 | $152<br>$61 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity based penalty matrix to supplement **Interim Final Enforcement Response Policy for the Asbestos Hazard Emergency Response Act (1/31/89)** for violations that occur on or after March 15, 2004. Insert behind page 17-A.

**AHERA -"Other Persons"-**

| CIRCUMSTANCES (Levels) | Extent LEVEL A MAJOR | Extent LEVEL B SIGNIFICANT | Extent LEVEL C MINOR |
|---|---|---|---|
| LEVEL 1<br>LEVEL 2 | $5,500<br>$4,365 | $3,710<br>$2,834 | $1,090<br>$654 |
| LEVEL 3<br>LEVEL 4 | $3,272<br>$2,182 | $2.182<br>$1,309 | $327<br>$218 |
| LEVEL 5<br>LEVEL 6 | $1,090<br>$436 | $654<br>$283 | $109<br>$44 |

Note: > = greater than; < = less than.

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity based penalty matrix to supplement Interim Final Enforcement Response Policy – Asbestos Abatement Projects: Worker Protection: Final Rule (11/14/89) for violations that occur on or after March 15, 2004. Insert behind page 6-A.

**Asbestos Worker Protection**

| CIRCUMSTANCES (Levels) | Extent LEVEL A MAJOR | Extent LEVEL B SIGNIFICANT | Extent LEVEL C MINOR |
|---|---|---|---|
| LEVEL 1<br>LEVEL 2 | $32,500<br>$25,791 | $21,922<br>$16,764 | $6,448<br>$3,869 |
| LEVEL 3<br>LEVEL 4 | $19,343<br>$12,895 | $12,895<br>$7,737 | $1,934<br>$1,290 |
| LEVEL 5<br>LEVEL 6 | $6,448<br>$2,579 | $3,869<br>$1,676 | $645<br>$258 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity Based Penalty Matrix to supplement **TSCA Good Laboratory Practices Regulations Enforcement Policy (4/9/85)** for violations that occur on or after March 15, 2004. Insert behind page 4-A.

**TSCA GLP**
**GRAVITY BASED PENALTY MATRIX**

| CIRCUMSTANCES (probability of damages) | EXTENT<br>A<br>Major | B<br>Significant | C<br>Minor |
|---|---|---|---|
| LEVELS<br>1<br>High Range<br>2 | $32,500<br>- - | $21,922<br>- - | $6,448<br>- - |
| 3<br>Mid Range<br>4 | $19,343<br>- - | $12,895<br>- - | $1,934<br>- - |
| 5<br>Low Range<br>6 | $6,448<br>- - | $3,869<br>- - | $645<br>- - |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity-based penalty matrix to supplement **Enforcement Response Policy for Section 313 of the Emergency Planning Community Right-To-Know Act (1989) and Section 6607 of the Pollution Prevention Act (1990), Amended (04/12/01)** for violations that occur on or after March 15, 2004. Insert behind page 11-A.

## GRAVITY-BASED PENALTY MATRIX FOR EPCRA SECTION 313

| CIRCUMSTANCE LEVEL | EXTENT | | |
|---|---|---|---|
| | A Major | B Significant | C Minor |
| LEVEL 1 | $32,500 | $21,922 | $6,448 |
| LEVEL 2 | $25,791 | $16,764 | $3,869 |
| LEVEL 3 | $19,343 | $12,895 | $1,934 |
| LEVEL 4 | $12,895 | $7,737 | $1,290 |
| LEVEL 5 | $6,448 | $3,869 | $645 |
| LEVEL 6 | $2,579 | $1,676 | $258 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity-based penalty matrix to supplement **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 (09/30/99)** for violations that occur on or after March 15, 2004. Insert behind page 20-B.

**Table II**

**CIVIL PENALTY MATRIX FOR CERCLA SECTION 103, EPCRA SECTION 304†, AND EPCRA SECTION 312**

**GRAVITY (Quantity Released/Stored)**

| **EXTENT (timeliness of notification/timeliness of inventory submission)** | **LEVEL A (greater than 10 times the RQ/MTL)** | **LEVEL B (greater than 5 but less than or equal to 10 times the RQ/MTL)** | **LEVEL C (greater than 1 but less than or equal to 5 times the RQ/MTL)** |
|---|---|---|---|
| **LEVEL 1 (more than 2 hours/30 days)** | $32,500<br>$24,180 | $24,179<br>$16,120 | $16,119<br>$8,061 |
| **LEVEL 2 (between 1 and 2 hours/after 20 but within 30 days)** | $24,179<br>$16,120 | $16,119<br>$8,061 | $8,060<br>$4,032 |
| **LEVEL 3 (within 1 hour, but after 15 minutes/after 10 but within 20 days)** | $16,119<br>$8,061 | $8,060<br>$4,032 | $4,030<br>$2,014 |

† While the penalty amounts in this matrix apply to EPCRA § 304(c), the criteria associated with the levels do not apply. To determine the appropriate extent level for violations of § 304, *see* pp. 12-13, *supra*.

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**

Gravity-based penalty matrix to supplement **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 (09/30/99)** for violations that occur on or after March 15, 2004. Insert behind page 20-C.

**Table II (continued)**

**CIVIL PENALTY MATRIX FOR EPCRA SECTION 311**

**GRAVITY (Quantity Stored)**

| **EXTENT (timeliness of MSDS submission)** | **LEVEL A (greater than 10 times the MTL)** | **LEVEL B (greater than 5 but less than or equal to 10 times the MTL)** | **LEVEL C (greater than 1 but less than or equal to 5 times the MTL)** |
|---|---|---|---|
| **LEVEL 1 (more than 30 days)** | $11,000<br>$9,673 | $9,671<br>$6,449 | $6,448<br>$3,225 |
| **LEVEL 2 (after 20 but within 30 days)** | $9,671<br>$6,449 | $6,448<br>$3,225 | $3,224<br>$1,613 |
| **LEVEL 3 (after 10 but within 20 days)** | $6,448<br>$3,225 | $3,224<br>$1,613 | $1,612<br>$807 |

**Note: After calculating the gravity-based penalty for each count, the total applicable gravity-based penalty for all counts in a particular case/matter should be rounded to the nearest unit of $100 as required by the memorandum from Thomas Skinner, dated September 21, 2004, implementing the Civil Monetary Penalty Adjustment Rule as published in the Federal Register on February 13, 2004 (69 FR 7121).**