



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

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** 2021 Revised Penalty Matrix for RCRA § 7003 Civil Penalty Policy

**FROM:** Kenneth Patterson, Director  
Regional Support Division  
Office of Site Remediation Enforcement

**TO:** RCRA Enforcement Managers, Regions 1-10

This memorandum transmits the updated matrix for the Resource Conservation and Recovery Act (RCRA) Section 7003 Civil Penalty Policy as found in the “Guidance on the Use of Section 7003 of RCRA” (October 1997).<sup>1</sup>

**Background on increases of maximum amount of statutory penalty**

On December 23, 2020, the U.S. Environmental Protection Agency (EPA) published a final rule titled “Civil Monetary Penalty Inflation Adjustment” (85 Fed. Reg. 83818), as mandated by the 1990 Federal Civil Penalties Inflation Adjustment Act, as amended by the 2015 Federal Civil Penalties Inflation Adjustment Act Improvement Act (2015 Act). The purpose of the rule is to adjust the civil monetary penalty maximums to keep pace with inflation so that these penalties maintain their deterrent effect. As detailed in the rule, the inflation adjustment was based on the relevant increase in the Consumer Price Index for all Urban Consumers (CPI-U).

This is the ninth inflation adjustment of the RCRA §7003(b) daily penalty maximum. The first took effect in 1997 (raising the maximum daily RCRA §7003(b) penalty from \$5,000 to \$5,500). The second, third, and fourth adjustments took effect in 2004 (\$6,500), 2009 (\$7,500), and 2016 (\$14,023), respectively. The 2015 Act required the EPA to make the penalty inflation adjustments annually. Beginning in 2017, the fifth adjustment (\$14,252) went into effect, followed by the sixth adjustment (\$14,543) in 2018, the seventh adjustment (\$14,910) in 2019, and the eighth adjustment in early 2020 (\$15,173).

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<sup>1</sup> This 1997 policy can be found at <https://www.epa.gov/enforcement/guidance-use-administrative-orders-under-rcra-section-7003>.

Under the December 2020 final rule, resulting in the ninth adjustment, the current maximum daily amount of the statutory civil penalty that a court can assess for a RCRA § 7003(a) order violation that occurred after November 2, 2015 is \$15,352.

### **Background on increases of the dollar amounts in policies on settlements of penalty claims**

Consistent with the increases of the maximum penalty amounts, the EPA has typically exercised its discretion to make corresponding increases of the dollar amounts in the policies it uses when negotiating settlements of penalty claims. The Office of Site Remediation Enforcement (OSRE) is issuing this memorandum to increase the dollar amounts in the Agency's policy for settling RCRA § 7003(b) penalty claims.<sup>2</sup>

In updating the penalty matrix in the RCRA § 7003 policy, OSRE adjustments begin with the 1997 policy's statutory maximum of \$5,500. OSRE calculates a multiplier by dividing the new statutory maximum penalty by the maximum amount used in the 1997 policy (\$5,500). OSRE has historically used this approach to avoid having the highest amount in the matrix be less than the statutory maximum. In using this approach, OSRE's intent is to maintain the matrix's deterrent effect for all violations, including the most serious ones.

### **Latest increase of dollar amounts in RCRA § 7003 policy**

For the latest penalty inflation increases, OSRE divided the new statutory maximum (\$15,352) by the 1997 policy's statutory maximum (\$5,500), yielding a multiplier of 2.79127 which was then applied to the dollar amounts in the 1997 matrix. The attached revised matrix presents the increased dollar amounts that case teams should use when negotiating settlements of penalty claims for violations that occurred after November 2, 2015.

OSRE plans to make the next modification to this matrix in early 2022 and will use the same approach of calculating a multiplier and applying it to the other amounts in the 1997 policy.

For questions regarding the RCRA § 7003(b) penalty adjustments, please contact Mike Northridge in OSRE (202-564-4263; northridge.michael@epa.gov). For other questions regarding RCRA §7003(b) penalties, please contact Mike Northridge or Peter Neves in OSRE (202-564-6072; neves.peter@epa.gov).

Attachment

cc: Cyndy Mackey, Director, OSRE, OECA  
Rosemarie Kelley, Director, Office of Civil Enforcement (OCE), OECA  
David Smith-Watts, OCE, OECA  
Carolyn Hoskinson, Director, Office of Resource Conservation and Recovery (ORCR),  
Office of Land and Emergency Management (OLEM)

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<sup>2</sup> This memorandum effectively supersedes the January 15, 2020, memorandum, "2020 Revised Penalty Matrix for RCRA § 7003 Civil Penalty Policy," signed by Kenneth Patterson.

## Attachment

For violations that occur after November 2, 2015, the table below replaces the table found on page 43 of the 1997 “[Guidance on the Use of Section 7003 of RCRA.](#)”

For violations that occurred on or before November 2, 2015 and a penalty has not yet been assessed, practitioners should refer to the 2009 Revised Penalty Matrix for RCRA § 7003, available on the Agency’s website at <https://www.epa.gov/enforcement/guidance-penalty-matrix-rcra-section-7003-civil-penalty-policy>.

In cases where a violation began before November 2, 2015 and continued after that date, practitioners should use both matrices, as appropriate.<sup>3</sup>

### Revised Penalty Matrix for RCRA § 7003

Extent of Deviation				
Potential For Harm		MAJOR	MODERATE	MINOR
	MAJOR	\$3,070 to \$15,352	\$2,303 to \$12,282	\$1,689 to \$9,211
	MODERATE	\$1,228 to \$6,755	\$768 to \$4,913	\$461 to \$3,070
	MINOR	\$307 to \$1,842	\$307 to \$921	\$307

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<sup>3</sup> For additional details regarding how to address violations spanning dates of different penalty adjustment policies, see contact the designated Headquarters contact.