



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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

April 20, 2005

MEMORANDUM

FROM: Kenneth Patterson, Director /s/
Regional Support Division, Office of Site Remediation Enforcement
Office of Enforcement and Compliance Assurance

TO: Regional Superfund Legal Branch Chiefs, Regions I-X
Superfund Division Directors, Regions I-X

SUBJECT: Revised Penalty Matrix for CERCLA §106(b)(1) Civil Penalty Policy

This memorandum transmits the updated penalty matrix for the CERCLA Section 106(b)(1) Penalty Policy as found in the "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." This document can be found at:
<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/interm-sec106-rpt.pdf>

On February 13, 2004, the Environmental Protection Agency published a final rule in the Federal Register entitled, "Civil Monetary Penalty Inflation Adjustment Rule" as mandated by the Debt Collection Improvement Act of 1996. The purpose of the rule was to adjust the maximum civil monetary penalties (CMP) to keep pace with inflation so that the CMPs maintain their deterrent effect. The rule took effect on March 15, 2004. On September 21, 2004, Acting Assistant Administrator Thomas Skinner issued a memorandum that further implemented the Civil Monetary Penalty Inflation Adjustment Rule. The memo increased the dollar figures in EPA's penalty matrices by 17.23%, which reflects the inflationary increase between June 1996 to June 2003, as measured by the Consumer Price Index for all urban consumers. It is important to keep in mind that the updated penalties are effective only for violations that occurred after March 14, 2004. For any violations that took place before March 14, 2004, the penalty matrix before the update should be used.

Any questions regarding penalty adjustment can be directed to Michael Northridge (202- 564-4263) or Ben Bahk (202-564-4293) of my staff. General questions regarding CERCLA §106 penalties should be directed to Doug Dixon (202-564-4232).

cc: Bruce Gelber, EES, DOJ
CERCLA Section 106 UAO workgroup

The following table replaces the table found on page 3 of the “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.”

	Recalcitrance			
		Recalcitrance I	Recalcitrance II	Recalcitrance III
Harm	Harm A	\$20,631 to \$32,500	\$10,316 to \$20,630	\$3,226 to \$10,315
	Harm B	\$10,316 to \$20,630	\$3,226 to \$10,315	\$646 to \$3,225
	Harm C	\$3,226 to \$10,315	\$646 to \$3,225	\$130 to \$645

Note: According to the September 21, 2004 Skinner Memorandum, the final gravity-based portion of the penalty should be rounded to the nearest unit of \$100.