



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

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

January 12, 2022

**MEMORANDUM**

**SUBJECT:** Amendments to EPA’s Civil Penalty Policies to Account for Inflation (effective January 15, 2022) and Transmittal of the 2022 Civil Monetary Penalty Inflation Adjustment Rule

**FROM:** Lawrence E. Starfield  
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**TO:** Regional Enforcement and Compliance Assurance Division Directors and Deputies  
Regional Counsels and Deputies  
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 2022 Civil Monetary Penalty Adjustment Rule (2022 Rule).<sup>1</sup> The 2022 Rule amends 40 C.F.R. § 19.4 to adjust the statutory maximum and minimum civil penalties under the various environmental laws implemented by EPA to account for inflation. The 2022 Rule was published on January 12, 2022, is effective the same day, and is attached to this memorandum. The amendments to EPA’s penalty policies are effective on January 15, 2022. This memorandum also clarifies the differences between EPA’s statutory maximum and minimum civil penalties and EPA’s penalty policies.

**I. Background**

The Federal Civil Penalties Inflation Adjustment Act Improvement Act (2015 Act)<sup>2</sup> 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 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.

To fulfill the initial catch-up requirement, EPA published the 2016 Civil Monetary Penalty Inflation Adjustment Rule on July 1, 2016, and it became effective on August 1, 2016.<sup>3,4</sup> To fulfill the second

<sup>1</sup> 87 Fed. Reg. 1676 (Jan. 12, 2022).

<sup>2</sup> 28 U.S.C. § 2461 note, Pub. L.114-74 (see <https://www.congress.gov/114/plaws/publ74/PLAW-114publ74.pdf>).

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

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

requirement of the 2015 Act requiring annual adjustments, EPA made its first annual adjustment in January 2017,<sup>5</sup> its second annual adjustment in January 2018,<sup>6</sup> its third annual adjustment in February 2019,<sup>7</sup> its fourth annual adjustment in January 2020,<sup>8</sup> and its fifth annual adjustment in December 2020.<sup>9</sup> The 2022 Rule, effective January 12, 2022, and transmitted as an attachment to this memorandum, makes the sixth annual adjustment.

Although not required by the 2015 Act, EPA decided to amend its penalty policies every two years and did so in 2016,<sup>10</sup> 2018,<sup>11</sup> and 2020,<sup>12</sup> 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 2022 Rule. Furthermore, the 2022 Rule does not necessarily revise the penalty amounts that EPA chooses to seek pursuant to its civil penalty policies in a particular case. EPA's civil penalty policies, which guide enforcement personnel on how to exercise 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.

This memorandum amends EPA's penalty policies to account for inflation to date. Looking ahead, EPA plans to amend its penalty policies to account for inflation again in January 2024, barring any significant changes in inflation.

## II. Applicability of this Memorandum

This memorandum supersedes the inflation-based amendments to EPA's penalty policies made in the 2020 memorandum, but it is not intended to change the methodology used in that memorandum. This memorandum partially supersedes EPA's 2013 inflation amendments memorandum because the 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 EPA's Expedited Settlement Agreement penalty policies, its policy or guidance on economic benefit of noncompliance, nor the non-penalty dollar amounts within such civil penalty policies (e.g., those amounts deemed "insignificant" or "de minimis" that apply when calculating economic benefit of noncompliance).

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

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

<sup>7</sup> 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).

<sup>8</sup> The 2020 Rule was published on January 13, 2020, and became effective the same day. 85 Fed. Reg. 1751.

<sup>9</sup> The 2021 Rule was actually published on December 23, 2020, and became effective the same day. 85 Fed. Reg. 83818.

<sup>10</sup> The July 27, 2016 memorandum is titled [\*Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation \(Effective August 1, 2016\)\*](#).

<sup>11</sup> 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\*](#).

<sup>12</sup> The January 15, 2020 memorandum is titled [\*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\*](#).

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 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 program-specific memorandum in accordance with inflation.

### III. Amendments to EPA’s Civil Penalty Policies

Consistent with the methodology used in the January 15, 2020 penalty policy inflation amendments memorandum, 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)*.**<sup>13</sup>

#### 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.<sup>14</sup> This initial gravity-based penalty will not be adjusted for inflation to reflect present value of the dollar. To adjust 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.<sup>15</sup> 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

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<sup>13</sup> The December 6, 2013 memorandum is titled [\*Amendments to the U.S. Environmental Protection Agency’s Civil Penalty Policies to Account for Inflation \(Effective December 6, 2013\)\*](#).

<sup>14</sup> 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.

<sup>15</sup> We are instructing case teams to round to the nearest dollar because this was the approach taken in the 2015 Act, EPA’s penalty inflation memoranda from July 27, 2016, January 11, 2018, and January 15, 2020, and the Office of Management and Budget’s (OMB) [February 24, 2016](#), [December 15, 2017](#), [December 14, 2018](#), [December 16, 2019](#), and [December 23, 2020](#) memoranda that instructed federal agencies how to implement the 2016 through 2021 Rules, respectively.

benefit<sup>16</sup> 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.<sup>17</sup>

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 EPA’s penalty policies is to account for inflation since the penalty policies were last amended for inflation in the January 15, 2020 memorandum, the majority of multipliers listed in Table A were calculated by multiplying the multipliers listed in the January 15, 2020 memorandum by the inflation increase that has occurred since the January 15, 2020 memorandum.<sup>18</sup>

## **IV. 2022 Rule and the Newly Adjusted Statutory Maximum and Minimum Amounts**

The 2022 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 2022 Rule, EPA calculated the new penalty amounts by multiplying the cost-of-living multiplier<sup>19</sup> by the previous statutory penalty amount as adjusted by the December 23, 2020 Rule. The result is the amount listed in the third column in Table 1 of 40 C.F.R. § 19.4 and the 2022 Rule. This amount applies to violations occurring after November 2, 2015, and assessed on or after January 12, 2022.

## **A. Penalty Pleading in Administrative Litigation**

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<sup>16</sup> 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.

<sup>17</sup> 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, 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).

<sup>18</sup> In the January 15, 2020 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 2019. Consistent with that methodology, the multipliers listed in Table A of this memorandum were calculated by multiplying the multipliers from the January 15, 2020 memorandum by the CPI-U increase from October 2019 to October 2021. We used the October 2021 CPI-U because this CPI-U was used to calculate the statutory increases in the 2022 Rule. The October 2021 CPI-U was 276.589 and the October 2019 CPI-U was 257.346, yielding an increase of 1.07477. However, several multipliers in Table A do not follow this general calculation framework, such as CWA section 311 (*see infra* note 23), CAA Stationary Source Appendix IV (*see infra* note 25), CAA Title II (*see infra* note 26), RCRA section 7003(b) (*see infra* note 27), CERCLA section 106(b) (*see infra* note 29), and Lead-Based Paint Disclosure Rule (*see infra* note 36).

<sup>19</sup> 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 2021 exceeds the CPI-U for the month of October 2020. The October 2021 CPI-U was 276.589 and the October 2020 CPI-U was 260.388 yielding an increase of 1.06222.

Where 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 each violation should be used.<sup>20</sup> 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, 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 12, 2022, where 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 2022 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.

## **V. Multiple Penalty Cycles – Case Team Discretion**

If the time period between seeking a penalty (through settlement or litigation) and the final penalty assessment<sup>21</sup> covers more than one penalty-adjustment cycle (for example, where a complaint is filed on December 15, 2020, but the final penalty order is not filed with the Hearing Clerk until April 1, 2022), 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 disruptive<sup>22</sup> *or* contrary to principles of judicial economy (for example, where the case has already gone to hearing based on previous penalty amounts).

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<sup>20</sup> 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.

<sup>21</sup> 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.

<sup>22</sup> Such disruptive impacts could be to settlement negotiations or to other case-related enforcement efforts such as by creating an additional burden on EPA's resources. If 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 EPA has not yet made a penalty demand or offer.

In a settlement context, if defendants or respondents have signed a consent decree or consent agreement, 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](mailto:smith-watts.david@epa.gov).

cc: Regional Administrators  
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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 12, 2022

**Table A: Chart Reflecting Penalty Policy Inflation Adjustment Multipliers**

Applicable Penalty Policy	Year Issued	Inflation Adjustment Multiplier as of January 15, 2022
<b>CWA</b>		
<a href="#"><u>Interim Clean Water Act Settlement Penalty Policy</u></a>	1995	1.79954
<a href="#"><u>Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act</u></a>	1998	1.68652 <sup>23</sup>
<a href="#"><u>CWA Section 404 Settlement Penalty Policy</u></a>	2001	1.55649
<a href="#"><u>Supplemental Guidance to the Interim Clean Water Act Settlement Penalty Policy (March 1, 1995) for Violations of the Construction Stormwater Requirements</u></a>	2008	1.27712
<a href="#"><u>Supplemental Guidance to the 1995 Interim Clean Water Act Settlement Penalty Policy for Violations of the Industrial Stormwater Requirements</u></a>	2016	1.16293 <sup>24</sup>
<b>SDWA</b>		
<a href="#"><u>UIC Program Judicial and Administrative Order Settlement Penalty Policy</u></a>	1993	1.89834

<sup>23</sup> Case teams should apply the 1990 CPI multiplier of 2.07183 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.

<sup>24</sup> 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 1.16293 multiplier.

<a href="#">New Public Water System Supervision Program Settlement Penalty Policy</a>	1994	1.85009
<b>CAA – Accidental Release Prevention/Risk Management Program</b>		
<a href="#">Final Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68</a>	2012	1.19571
<b>CAA – Stationary Source</b>		
<a href="#">Clean Air Act Stationary Source Civil Penalty Policy</a>	1991	2.01302
<a href="#">Appendix I – Penalty Policy for Violation of Permit Requirements</a>	1987	2.39887
<a href="#">Appendix II - Vinyl Chloride Civil Penalty Policy</a>	1985	2.54451
<a href="#">Appendix III - Asbestos Demolition and Renovation Civil Penalty Policy</a>	1992	1.95056
<a href="#">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</a>	1987	2.01302 <sup>25</sup>
<a href="#">Appendix VI - Leak Detection and Repair Penalty Policy</a>	2012	1.19571
<a href="#">Appendix VII – Penalty Policy for New Residential Wood Heaters</a>	1989	2.20214
<a href="#">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</a>	1990	2.07183

<sup>25</sup> For violations governed by Appendix IV, 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.



<a href="#"><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></a>	1993	1.89834
<a href="#"><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></a>	1994	1.85009
<a href="#"><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></a>	2007	1.32380
<a href="#"><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></a>	2008	1.27712
<b>CAA – Mobile Source</b>		
<a href="#"><u>Clean Air Act Title II Vehicle &amp; Engine Civil Penalty Policy</u></a>	2021	1.05737 <sup>26</sup>
<a href="#"><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></a>	2016	1.16293
<a href="#"><u>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</u></a>	2015	1.16293
<a href="#"><u>Civil Penalty Policy for Administrative Hearings</u></a>	1993	1.89834
<b>RCRA</b>		
<a href="#"><u>RCRA Civil Penalty Policy</u></a>	2003	1.72447

<sup>26</sup> Because the Clean Air Act Title II Vehicle & Engine Civil Penalty Policy was issued in January 2021, EPA calculated this multiplier by using inflation adjustment from January 2021 to October 2021. The January 2021 CPI-U is 261.582 and the October 2021 CPI-U is 276.589. 276.589 divided by 261.582 equals 1.05737.

<a href="#">Guidance on the Use of Section 7003 of RCRA</a>	1997	2.96491 <sup>27</sup>
<a href="#">Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot</a>	2018	1.09373 <sup>28</sup>
<b>CERCLA</b>		
<a href="#">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</a>	1997	2.27960 <sup>29</sup>
<b>CERCLA &amp; EPCRA</b>		
<a href="#">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</a>	1999	1.64441
<b>EPCRA</b>		
<a href="#">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)</a>	2017	1.16293 <sup>30</sup>
<b>FIFRA</b>		
<a href="#">FIFRA Enforcement Response Policy (FIFRA ERP)</a>	2009	1.27946
<a href="#">Appendix E to FIFRA ERP - Enforcement Response Policy for</a>	2010	

<sup>27</sup> For RCRA section 7003(b) penalties, EPA calculated this multiplier by dividing the 2022 statutory maximum of \$16,307 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.

<sup>28</sup> 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. Please note that the multiplier of 1.09373 applies to field citations. However, this multiplier 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.

<sup>29</sup> For CERCLA section 106(b)(1) penalties, EPA calculated this multiplier by dividing the 2022 statutory maximum of \$62,689 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.

<sup>30</sup> Case teams should apply the multiplier of 1.16293 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.

<a href="#">FIFRA Section 7(c): Establishment Reporting Requirements</a>		Use the 2009 FIFRA ERP and the 1.27946 multiplier
<a href="#">Appendix F to FIFRA ERP - Interim Final Penalty Policy for the Worker Protection Standard (WPS) (edited May 2018)</a>	2018	Use the 2009 FIFRA ERP and the 1.27946 multiplier <sup>31</sup>
<a href="#">Appendix G to FIFRA ERP - Enforcement Response Policy for the Federal Insecticide, Fungicide and Rodenticide Act Good Laboratory Practice (GLP) Regulations</a>	1991	Use the 2009 FIFRA ERP and the 1.27946 multiplier
<a href="#">Appendix H to the FIFRA ERP - Enforcement Response Policy for the FIFRA Pesticide Container/Containment Regulations</a>	2012	Use the 2009 FIFRA ERP and the 1.27946 multiplier
<b>TSCA</b>		
<a href="#">Guidelines for Assessment of Civil Penalties Under Section 16 of the Toxic Substance Control Act</a>	1980	1.74440
<a href="#">Enforcement Response Policy for Reporting and Recordkeeping Rules and Requirements for TSCA Sections 8, 12, and 13</a>	1999	1.74440 <sup>32</sup>
<a href="#">Amendment to the TSCA Section 5 Enforcement Response Policy – Penalty Limit for Untimely NOC Submissions</a>	1993	1.74440 <sup>33</sup>
<a href="#">Enforcement Response Policy for TSCA §4 Test Rules</a>	1986	1.74440
<a href="#">Final TSCA GLP Enforcement Response Policy</a>	1985	1.74440
<b>TSCA – Asbestos</b>		
<a href="#">Enforcement Response Policy for the Asbestos Model Accreditation Plan (MAP) – Addendum to the AHERA ERP</a>	1998	1.68652

<sup>31</sup> When EPA updated Appendix F to the FIFRA ERP in May 2018, EPA did not update or alter the penalty amounts from the 1997 version. Therefore, EPA case teams should use the penalty amounts listed in the 2018 version and apply the 1.27946 multiplier.

<sup>32</sup> 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.

<sup>33</sup> 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 1.74440 applies to both the 1993 amendment and 1989 policy.

<a href="#">Interim Final Enforcement Response Policy for the Asbestos Hazard Emergency Response Act</a>	1989	2.20214
<a href="#">Enforcement Response Policy for Asbestos Abatement Projects: Worker Protection Rule</a>	1989	1.74440
<b>TSCA – Lead-Based Paint</b>		
<a href="#">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</a>	2013 <sup>34</sup>	1.16293 <sup>35</sup>
<b>TSCA – PCBs</b>		
<a href="#">Polychlorinated Biphenyls (PCB) Penalty Policy</a>	1990	1.74440
<b>Residential Lead-Based Paint Hazard Reduction Act of 1992 Lead-Based Paint</b>		
<a href="#">Section 1018 – Disclosure Rule Enforcement Response and Penalty Policy</a>	2007	1.77336 <sup>36</sup>

<sup>34</sup> Appendix B-2 was updated in April 2013 within the April 2010 Policy.

<sup>35</sup> 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.

<sup>36</sup> For the Residential Lead-Based Paint Hazard Reduction Act section 1018 penalties, EPA calculated this multiplier by dividing the 2022 statutory maximum of \$19,507 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.