



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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: 2023 Revised Penalty Matrix for RCRA § 7003 Civil Penalty Policy

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

TO: Regional Counsel RCRA Legal Branch Chiefs, Regions 1-10

This memorandum transmits the updated matrix for the Resource Conservation and Recovery Act (RCRA) § 7003 Civil penalty policy as found in the [“Guidance on the Use of Section 7003 of RCRA”](#) (October 1997).

Background on increases of maximum amount of statutory penalty

On January 6, 2023, the U.S. Environmental Protection Agency (EPA) published a final rule titled “Civil Monetary Penalty Inflation Adjustment” (88 Fed. Reg. 986), 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 memorandum announces EPA’s eleventh inflation adjustment of the maximum daily RCRA § 7003(b) penalty. Under the January 6, 2023, final rule, resulting in the eleventh 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 \$17,570.

As enacted in 1976, the RCRA statute established a maximum amount of \$5,000. This was the amount prior to EPA’s first regulatory adjustment. The 2015 Act required the EPA to make the penalty inflation adjustments annually.

The table below details the statutory maximum amount in RCRA as enacted by Congress in 1976, and the maximum amounts established by EPA regulation thereafter.

	Year	Maximum Penalty
Original maximum	1976 RCRA statute	\$5,000
EPA's 1 st increase	1997	\$5,500
EPA's 2 nd increase	2004	\$6,500
EPA's 3 rd increase	2009	\$7,500
EPA's 4 th increase	2016	\$14,023
EPA's 5 th increase	2017	\$14,252
EPA's 6 th increase	2018	\$14,543
EPA's 7 th increase	2019	\$14,910
EPA's 8 th increase	2020	\$15,173
EPA's 9 th increase	2021	\$15,352
EPA's 10 th increase	2022	\$16,307
EPA's 11 th increase	2023	\$17,570

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

Consistent with the increases of the maximum penalty amounts, EPA typically exercises 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.¹

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 (\$17,570) by the 1997 policy's statutory maximum (\$5,500), yielding a multiplier of 3.194545 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 2024 and to 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).

¹ Today's memorandum effectively supersedes the January 21, 2022, memorandum, "2022 Revised Penalty Matrix for RCRA § 7003 Civil Penalty Policy".

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)

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.²

Revised Penalty Matrix for RCRA § 7003

Extent of Deviation				
Potential For Harm		MAJOR	MODERATE	MINOR
	MAJOR	\$3,514 to \$17,570	\$2,636 to \$14,056	\$1,933 to \$10,542
	MODERATE	\$1,406 to \$7,731	\$879 to \$5,622	\$527 to \$3,541
	MINOR	\$351 to \$2,108	\$351 to \$1,054	\$351

² For additional details regarding how to address violations spanning dates of different penalty adjustment policies, please contact the designated Headquarters contact.