

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 19 and 27**

[FRL-5711-7]

Civil Monetary Penalty Inflation Adjustment Rule**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Corrections To final rule.

SUMMARY: This document contains corrections to the Civil Monetary Penalty Inflation Adjustment Rule, final regulations (FRL-5671-1), which were published Tuesday, December 31, 1996, (61 FR 69359). The regulations adjusted the Environmental Protection Agency's ("EPA") civil monetary penalties ("CMPs") for inflation as mandated by the Debt Collection Improvement Act of 1996 ("DCIA"). A corrected version of Table 1, from 40 CFR 19.4, which now lists all but one of the EPA's civil monetary penalty authorities, appears near the end of this notice.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: For further information, contact Steven M. Spiegel, Office of Regulatory Enforcement, Multimedia Enforcement Division, Mail Code 2248W, 401 M Street, SW, Washington, D.C. 20460, or at (703) 308-8507. Further information may also be requested by electronic mail (e-mail) to: spiegel.steven@epamail.epa.gov. The December 31, 1996 Final Rule and this Correction are also available on the Office of Enforcement and Compliance Assurance's Web page at <http://www.epa.gov/oeca>.

SUPPLEMENTARY INFORMATION:

Need For Correction

As published, the preamble and final regulations contain errors which may prove misleading and are in need of clarification. The changes made through these corrections are all technical in nature and can be broken down into three categories. First, there were five instances in which the exact section of a statute was not cited correctly in the preamble (which errors were repeated in the rule). Second, there were two errors in the new maximum penalty figures. Third, there are other minor non-substantive changes, as well as the addition of explanatory information which does not affect the original rule, but provides a more complete and understandable document and rule to the public. The additions concern the August 1996 amendments to the Safe Drinking Water Act, which went into

effect on August 6, 1996. For purposes of clarity and providing the public with one table that lists all of EPA's civil penalty authorities, the four new civil penalty provisions from the August 1996 amendments to the Safe Drinking Water Act have been added to Table 1 in Section 19.4 (even though these penalty provisions are not subject to adjustment for inflation pursuant to the DCIA at this time). These additions are identified below. Thus the revised Table 1 of Section 19.4 now provides a list of all but one of the applicable statutory provisions and maximum civil penalties. There is one statutory provision which has not yet been adjusted. EPA anticipates performing a rule-making to adjust 15 U.S.C. 2615, as amended by the Residential Lead-Based Paint Act of 1992, 42 U.S.C. 4852d, and the corresponding regulations in 40 CFR Part 745, which were omitted from the December 31, 1996 rule-making.

Effect of Correction

Since all of the corrections are technical in nature and do not affect the substance of the rule, the original effective date of January 30, 1997, applies to those corrected provisions, as well as to the other original provisions of the final rule which did not require correction. The identified corrections to Table A in the preamble correspond to the corrections and additions to Table 1 in Section 19.4. A corrected version of Table 1, 40 CFR 19.4, which now lists all but one of EPA's civil monetary penalty authorities, appears near the end of this notice.

Correction of Publication

Accordingly, the publication on December 31, 1996 of the preamble and final regulations (FRL-5671-1) which were the subject of F.R. Doc. 96-32972, are corrected and added to as follows:

Preamble [Corrected]

On page 69360, Table A.—Summary of Civil Monetary Penalty Inflation Adjustment Calculations, the first column, is corrected as follows:

7 USC 1361(1) is corrected to read 7 USC 1361.(a)(1)—(the number 136, is followed by the letter "I", not the number one).

7 USC 1361(2) is corrected to read 7 USC 1361.(a)(2)—(the number 136, is followed by the letter "I", not the number one).

15 USC 2615 is corrected to 15 USC 2615(a).

On page 69361, Table A, is corrected as follows:

33 U.S.C. 1321(b)(7)(A) in the first column is correct, but the fourth column figure of "10,000", is corrected to

"25,000". The seventh column figure of 15,000, is corrected to 30,000. The eighth column figure of "11,000" is corrected to "27,500".

33 U.S.C. 1321(b)(7)(D) in the first column is correct, but the eighth column figure of "11,000" is corrected to "110,000".

42 U.S.C. 300i-1(b) is corrected to 42 U.S.C. 300i-1(c).

On page 69362, for 42 U.S.C. 6934(e), the fourth column, the figure "25,000" is corrected to read "5,000".

On page 69363, 42 U.S.C. 11045(d)(2)(3) is corrected to 42 U.S.C. 11045(d) (1).

In the first column, first sentence, insert "will" so the sentence reads "Future adjustments also will be made in accordance with the statutory formula."

Preamble [Additions]

Supplementary Information. On page 69360, in the third column, in the first full sentence, add the phrase ", along with the new penalty amounts set by the 1996 amendments to the Safe Drinking Water Act," between the words "statutory maximum amounts" and "are set out in Table 1 * * *".

On page 69361, 42 U.S.C. 300g-3(g)(3)(B), in the first column is correct; for the second column, change the word "penalty" to "penalties"; third column, replace "1986" with "1996"; fourth column, replace "5,000" with "5,000/25,000"; replace the figures in the fifth, sixth and seventh columns with "N/A"; and in the eighth column, replace "5,500" with "5,000/25,000".

Following 42 U.S.C. 300g-3(g)(3)(B), add a new row starting with 42 U.S.C. 300g-3(g)(3)(C) in the first column; for the second column, insert SAFE DRINKING WATER ACT/ THRESHOLD REQUIRING CIVIL JUDICIAL ACTION PER SEC. 1414(g)(3)(B) & (C); third column, insert "1996"; fourth column, insert "25,000"; insert "N/A" for the figures in the fifth, sixth and seventh columns; and in the eighth column, "25,000".

Following 42 U.S.C. 300h-3(c)2, add a new row for 42 U.S.C. 300i(b); for the second column, insert SAFE DRINKING WATER ACT/ FAILURE TO COMPLY WITH IMMINENT AND SUBSTANTIAL ENDANGERMENT ADMIN. ORDER ; third column, insert "1996"; fourth column, insert "15,000"; insert "N/A" for the figures in the fifth, sixth and seventh columns; and in the eighth column, insert "15,000".

Following 42 U.S.C. 300j-4(c), add a new row for 42 U.S.C. 300j-6(b)(2); for the second column, insert SAFE DRINKING WATER ACT/ FAILURE TO COMPLY WITH ADMIN. ORDER

ISSUED TO FED. FACILITY ; third column, insert "1996"; fourth column, insert "25,000"; insert "N/A" for the figures in the fifth, sixth and seventh columns; and in the eighth column, insert "25,000".

Procedural Requirements

I. Small Business Regulatory Enforcement Fairness Act

In the December 31, 1996 notice, EPA found good cause, pursuant to 5 U.S.C. 553(b)(3)(B) of the Administrative Procedure Act ("APA"), that soliciting public comment prior to publication of the rule was not necessary because EPA is carrying out a ministerial, non-discretionary duty per direction of an Act of Congress. EPA finds that good cause continues to apply to this rule, and therefore the effective date

provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), do not govern the effective date of today's action as well. Additionally, the fact that these changes are technical and do not affect the substance of the previously issued rule also meets the "good cause" exception to the effective date requirements of section 553(d) of the Administrative Procedure Act as well.

Under Executive Order 12866 (58 F.R. 51735, October 4, 1993), this action is not a "significant regulatory action" and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (PL. 104-4). Because this action is not subject to notice-and-comment

requirements under the APA or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under 5 U.S.C. 801(a)(1)(A), as added by SBREFA, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's Federal Register. This rule is a not a "major rule" as defined by 5 U.S.C. 804(a).

PART 19 [CORRECTED WITH ADDITIONS]

Beginning on page 69364, Table 1 of Section 19.4—Civil Monetary Penalty Inflation Adjustments, is corrected to read as follows:

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
7 U.S.C. 1361.(a)(1)	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—GENERAL—COMMERCIAL APPLICATORS, ETC.	\$5,500.
7 U.S.C. 1361.(a)(2)	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—PRIVATE APPLICATORS—FIRST AND SUBSEQUENT OFFENSES OR VIOLATIONS.	\$550/\$1,000.
15 U.S.C. 2615(a)	TOXIC SUBSTANCES CONTROL ACT CIVIL PENALTY	\$27,500.
15 U.S.C. 2647(a)	ASBESTOS HAZARD EMERGENCY RESPONSE ACT CIVIL PENALTY	\$5,500.
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE CLAIM.	\$5,500.
31 U.S.C. 3802(a)(2)	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE STATEMENT.	\$5,500.
33 U.S.C. 1319(d)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY	\$27,500.
33 U.S.C. 1319(g)(2)(A)	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	\$11,000/\$27,500.
33 U.S.C. 1319(g)(2)(B)	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	\$11,000/\$137,500.
33 U.S.C. 1321(b)(6)(B)(I) ..	CLEAN WATER ACT VIOLATION/ADMIN PENALTY OF SEC 311(b)(3)&(j) PER VIOLATION AND MAXIMUM.	\$11,000/\$27,500.
33 U.S.C. 1321(b)(6)(B)(ii) ..	CLEAN WATER ACT VIOLATION/ADMIN PENALTY OF SEC 311(b)(3)&(j) PER VIOLATION AND MAXIMUM.	\$11,000/\$137,500.
33 U.S.C. 1321(b)(7)(A)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION PER DAY OR PER BARREL OR UNIT.	\$27,500 or \$1,100 per barrel or unit.
33 U.S.C. 1321(b)(7)(B)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(c)&(e)(1)(B).	\$27,500.
33 U.S.C. 1321(b)(7)(C)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(j)	\$27,500.
33 U.S.C. 1321(b)(7)(D)	CLEAN WATER ACT VIOLATION/MINIMUM CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION OR PER BARREL/UNIT.	\$110,000 or \$3,300 per barrel or unit.
33 U.S.C. 1414b(d)	MARINE PROTECTION, RESEARCH & SANCTUARIES ACT VIOL SEC 104b(d) ...	\$660.
33 U.S.C. 1415(a)	MARINE PROTECTION RESEARCH AND SANCTUARIES ACT VIOLATIONS—FIRST & SUBSEQUENT VIOLATIONS.	\$55,000/\$137,500.
42 U.S.C. 300g-3(b)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(b)	\$27,500.
42 U.S.C. 300g-3(c)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(c)	\$27,500.
42 U.S.C. 300g-3(g)(3)(A) ..	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(g)(3)(a) ..	\$27,500.
42 U.S.C. 300g-3(g)(3)(B) ..	SAFE DRINKING WATER ACT/MAXIMUM ADMINISTRATIVE PENALTIES PER SEC 1414(g)(3)(B).	\$5,000/\$25,000.
42 U.S.C. 300g-3(g)(3)(C) ..	SAFE DRINKING WATER ACT/THRESHOLD REQUIRING CIVIL JUDICIAL ACTION PER SEC 1414(g)(3)(C).	\$25,000.
42 U.S.C. 300h-2(b)(1)	SDWA/CIVIL JUDICIAL PENALTY/VIOLATIONS OF REQS—UNDERGROUND INJECTION CONTROL (UIC).	\$27,500.
42 U.S.C. 300h-2(c)(1)	SDWA/CIVIL ADMIN PENALTY/VIOLATIONS OF UIC REQS—PER VIOLATION AND MAXIMUM.	\$11,000/\$137,500.
42 U.S.C. 300h-2(c)(2)	SDWA/CIVIL ADMIN PENALTY/VIOLATIONS OF UIC REQS—PER VIOLATION AND MAXIMUM.	\$5,500/\$137,500.
42 U.S.C. 300h-3(c)(1)	SDWA/VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL	\$5,500.
42 U.S.C. 300h-3(c)(2)	SDWA/WILLFUL VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL.	\$11,000.

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
42 U.S.C. 300i(b)	SDWA/FAILURE TO COMPLY WITH IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER.	\$15,000.
42 U.S.C. 300i-1(c)	SDWA/ATTEMPTING TO OR TAMPERING WITH PUBLIC WATER SYSTEM/CIVIL JUDICIAL PENALTY.	\$22,000/\$55,000.
42 U.S.C. 300j(e)(2)	SDWA/FAILURE TO COMPLY W/ORDER ISSUED UNDER SEC. 1441(c)(1)	\$2,750.
42 U.S.C. 300j-4(c)	SDWA/REFUSAL TO COMPLY WITH REQS. OF SEC. 1445(a) OR (b)	\$27,500.
42 U.S.C. 300j-6(b)(2)	SDWA/FAILURE TO COMPLY WITH ADMIN. ORDER ISSUED TO FEDERAL FACILITY.	\$25,000.
42 U.S.C. 300j-23(d)	SDWA/VIOLATIONS/SECTION 1463(b)—FIRST OFFENSE/REPEAT OFFENSE	\$5,500/\$55,000.
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C ASSESSED PER ORDER.	\$27,500.
42 U.S.C. 6928(c)	RES. CONS. & REC. ACT/CONTINUED NONCOMPLIANCE OF COMPLIANCE ORDER.	\$27,500.
42 U.S.C. 6928(g)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C	\$27,500.
42 U.S.C. 6928(h)(2)	RES. CONS. & REC. ACT/NONCOMPLIANCE OF CORRECTIVE ACTION ORDER	\$27,500.
42 U.S.C. 6934(e)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH SECTION 3013 ORDER	\$5,500.
42 U.S.C. 6973(b)	RES. CONS. & REC. ACT/VIOLATIONS OF ADMINISTRATIVE ORDER	\$5,500.
42 U.S.C. 6991e(a)(3)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH UST ADMINISTRATIVE ORDER.	\$27,500.
42 U.S.C. 6991e(d)(1)	RES. CONS. & REC. ACT/FAILURE TO NOTIFY OR FOR SUBMITTING FALSE INFORMATION.	\$11,000.
42 U.S.C. 6991e(d)(2)	RCRA/VIOLATIONS OF SPECIFIED UST REGULATORY REQUIREMENTS	\$11,000.
42 U.S.C. 6992d(a)(2)	RCRA/NONCOMPLIANCE W/MEDICAL WASTE TRACKING ACT ASSESSED THRU ADMIN ORDER.	\$27,500.
42 U.S.C. 6992d(a)(4)	RCRA/NONCOMPLIANCE W/MEDICAL WASTE TRACKING ACT ADMINISTRATIVE ORDER.	\$27,500.
42 U.S.C. 6992d(d)	RCRA/VIOLATIONS OF MEDICAL WASTE TRACKING ACT—JUDICIAL PENALTIES.	\$27,500.
42 U.S.C. 7413(b)	CLEAN AIR ACT/VIOLATION/OWNERS & OPERATORS OF STATIONARY AIR POLLUTION SOURCES—JUDICIAL PENALTIES.	\$27,500.
42 U.S.C. 7413(d)(1)	CLEAN AIR ACT/VIOLATION/OWNERS & OPERATORS OF STATIONARY AIR POLLUTION SOURCES-ADMINISTRATIVE PENALTIES PER VIOLATION & MAX.	\$27,500/\$220,000.
42 U.S.C. 7413(d)(3)	CLEAN AIR ACT/MINOR VIOLATIONS/STATIONARY AIR POLLUTION SOURCES—FIELD CITATIONS.	\$5,500.
42 U.S.C. 7524(a)	TAMPERING OR MANUFACTURE/SALE OF DEFEAT DEVICES IN VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY PERSONS.	\$2,750.
42 U.S.C. 7524(a)	VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY MANUFACTURERS OR DEALERS; ALL VIOLATIONS OF 7522(a)(1),(2), (4),&(5) BY ANYONE.	\$27,500.
42 U.S.C. 7524(c)	ADMINISTRATIVE PENALTIES AS SET IN 7524(a) & 7545(d) WITH A MAXIMUM ADMINISTRATIVE PENALTY.	\$220,000.
42 U.S.C. 7545(d)	VIOLATIONS OF FUELS REGULATIONS	\$27,500.
42 U.S.C. 9604(e)(5)(B)	SUPERFUND AMEND. & REAUTHORIZATION ACT/NONCOMPLIANCE W/REQUEST FOR INFO OR ACCESS.	\$27,500.
42 U.S.C. 9606(b)(1)	SUPERFUND/WORK NOT PERFORMED W/IMMINENT, SUBSTANTIAL ENDANGERMENT.	\$27,500.
42 U.S.C. 9609 (a) & (b)	SUPERFUND/ADMIN. PENALTY VIOLATIONS UNDER 42 U.S.C. SECT. 9603, 9608, OR 9622.	\$27,500.
42 U.S.C. 9609(b)	SUPERFUND/ADMIN. PENALTY VIOLATIONS—SUBSEQUENT	\$82,500.
42 U.S.C. 9609(c)	SUPERFUND/CIVIL JUDICIAL PENALTY/VIOLATIONS OF SECT. 9603, 9608, 9622.	\$27,500.
42 U.S.C. 9609(c)	SUPERFUND/CIVIL JUDICIAL PENALTY/SUBSEQUENT VIOLATIONS OF SECT. 9603, 9608, 9622.	\$82,500.
42 U.S.C. 11045 (a) & (b) (1), (2) & (3).	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES.	\$27,500.
42 U.S.C. 11045(b) (2) & (3).	EPCRA CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES—SUBSEQUENT VIOLATIONS.	\$82,500.
42 U.S.C. 11045(c)(1)	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11022 OR 11023.	\$27,500.
42 U.S.C. 11045(c)(2)	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11021 OR 11043(b).	\$11,000.
42 U.S.C. 11045(d)(1)	EPCRA—FRIVOLOUS TRADE SECRET CLAIMS—CIVIL AND ADMINISTRATIVE PENALTIES.	\$27,500.

PART 27—[CORRECTED]

On page 69366, in the first column, the amendatory instruction identified as number “4” is corrected to “3”.

Michael M. Stahl,

Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance.

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