

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

U.S. code citation	Environmental statute	Statutory penalties, as enacted	Penalties effective after January 30, 1997 through March 15, 2004	Penalties effective after March 15, 2004 through January 12, 2009	Penalties effective after January 12, 2009
42 U.S.C. 6991e(d)(2)	RCRA	\$10,000	\$11,000	\$11,000	\$16,000
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA)	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 7413(d)(1)	CAA	\$25,000/200,000	\$27,500/220,000	\$32,500/270,000	\$37,500/295,000
42 U.S.C. 7413(d)(3)	CAA	\$5,000	\$5,500	\$6,500	\$7,500
42 U.S.C. 7524(a)	CAA	\$2,500/25,000	\$2,750/27,500	\$2,750/32,500	\$3,750/37,500
42 U.S.C. 7524(c)(1)	CAA	\$200,000	\$220,000	\$270,000	\$295,000
42 U.S.C. 7545(d)(1)	CAA	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 9604(e)(5)(B)	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA).	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 9606(b)(1)	CERCLA	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 9609(a)(1)	CERCLA	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 9609(b)	CERCLA	\$25,000/75,000	\$27,500/82,500	\$32,500/97,500	\$37,500/107,500
42 U.S.C. 9609(c)	CERCLA	\$25,000/75,000	\$27,500/82,500	\$32,500/97,500	\$37,500/107,500
42 U.S.C. 11045(a)	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 11045(b)	EPCRA	\$25,000/75,000	\$27,500/82,500	\$32,500/97,500	\$37,500/107,500
42 U.S.C. 11045(c)(1)	EPCRA	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 11045(c)(2)	EPCRA	\$10,000	\$11,000	\$11,000	\$16,000
42 U.S.C. 11045(d)(1)	EPCRA	\$25,000	\$27,500	\$32,500	\$37,500
42 U.S.C. 14304(a)(1)	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT).	\$10,000	\$10,000	\$11,000	\$16,000
42 U.S.C. 14304(g)	BATTERY ACT	\$10,000	\$10,000	\$11,000	\$16,000

<sup>1</sup> Note that 33 U.S.C. 1414b(d)(1)(B) contains additional penalty escalation provisions that must be applied to the penalty amounts set forth in this Table 1. The amounts set forth in this Table reflect an inflation adjustment to the calendar year 1992 penalty amount expressed in section 104B(d)(1)(A), which is used to calculate the applicable penalty amount under MPRSA section 104B(d)(1)(B) for violations that occur in any subsequent calendar year.

<sup>2</sup> CACSO was passed on December 21, 2000 as part of Title XIV of the Consolidated Appropriations Act of 2001, Public Law 106-554, 33 U.S.C. 1901 note.

<sup>3</sup> The original statutory penalty amounts of 20,000 and 50,000 under section 1432(c) of the Safe Drinking Water Act, 42 U.S.C. 300i-1(c), were subsequently increased by Congress pursuant to section 403 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188 (June 12, 2002), to 100,000 and 1,000,000, respectively. EPA did not adjust these new penalty amounts in its 2004 Civil Monetary Penalty Inflation Adjustment Rule ("2004 Rule"), 69 FR 7121 (February 13, 2004), because they had gone into effect less than two years prior to the 2004 Rule.

**PART 27—[AMENDED]**

■ 2. The authority citation for Part 27 continues to read as follows:

**Authority:** 31 U.S.C. 3801-3812; Public Law 101-410, 104 Stat. 890, 28 U.S.C. 2461 note; Public Law 104-134, 110 Stat. 1321, 31 U.S.C. 3701 note.

■ 3. Section 27.3 is amended by revising paragraphs (a)(1)(iv) and (b)(1)(ii) to read as follows:

**§ 27.3 Basis for civil penalties and assessments.**

- (a) \* \* \*
- (1) \* \* \*

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than the operative effective statutory maximum amount, as provided in 40 CFR 19.4,<sup>1</sup> for each such claim.

\* \* \* \* \*

- (b) \* \* \*
- (1) \* \* \*

(ii) Contains, or is accompanied by, an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than the operative effective statutory maximum amount, as provided in 40 CFR 19.4,<sup>2</sup> for each such statement.

\* \* \* \* \*

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<sup>1</sup> Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321).

<sup>2</sup> As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321).

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 112**

[EPA-HQ-OPA-2008-0569 FRL-8750-5]

**RIN 2050-AG48**

**Oil Pollution Prevention; Spill Prevention, Control and Countermeasures Rule; Revisions to the Regulatory Definition of "Navigable Waters"**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Correction.

**SUMMARY:** This document makes a correction to the Preamble of the final rule amending the Oil Pollution Prevention regulation published on November 26, 2008 (73 FR 71941). The final rule announced the vacatur of the July 17, 2002 revisions to the Clean Water Act section 311 regulatory definition of "navigable waters" in accordance with an order, issued by the United States District Court for the District of Columbia (D.D.C.) in

<sup>1</sup> As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, 104 Stat. 890), as amended by the Debt

American Petroleum Institute v. Johnson, 541 F.Supp.2d 165 (D.D.C. 2008), invalidating those revisions and restoring the regulatory definition of “navigable waters” promulgated by EPA in 1973. The final rule amended the definition of “navigable waters” in part 112 to comply with that decision.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at 800-424-9346 or TDD at 800-553-7672 (hearing impaired). In the Washington, DC metropolitan area, contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at 703-412-9810 or TDD 703-412-3323. For more detailed information, contact Hugo Paul Fleischman of EPA at 202-564-1968, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20460-0002, Mail Code 5104A.

#### Correction

The Preamble of the final rule E8-28123 published on November 26, 2008, beginning on page 71941 is corrected as follows:

1. On page 71941, second column, under the heading “Summary”, the citation for *American Petroleum Institute v. Johnson* is corrected to read “541 F.Supp.2d 165” instead of “571 F.Supp.2d 165”.

2. On page 71942, third column, first paragraph, the citation for *American Petroleum Institute v. Johnson* is corrected to read “541 F.Supp.2d 165” instead of “571 F.Supp.2d 165”.

Dated: December 4, 2008.

**Deborah Y. Dietrich,**

*Director, Office of Emergency Management.*  
[FR Doc. E8-29379 Filed 12-10-08; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### 43 CFR Part 423

RIN 1006-AA55

#### Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule reissues 43 CFR part 423 in its entirety. Amendments to 43 CFR part 423 were published in the **Federal Register** on September 24, 2008, (73 FR 54977) as an

interim final rule. This final rule contains only minor additional changes which we are making in response to the public comments received on the September 24, 2008 interim final rule.

**DATES:** This final rule is effective on January 12, 2009.

**FOR FURTHER INFORMATION CONTACT:** David Achterberg, Director, Security, Safety, and Law Enforcement, Bureau of Reclamation, PO Box 25007, Denver, Colorado, 80225, telephone 303-445-3736.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 12, 2001, Congress enacted Public Law 107-69, which provides for law enforcement authority within Reclamation projects and on Reclamation lands. Section 1(a) of this law requires the Secretary of the Interior to “issue regulations necessary to maintain law and order and protect persons and property within Reclamation projects and on Reclamation lands.” The Secretary of the Interior delegated this authority to the Commissioner of Reclamation.

On April 17, 2002, Reclamation published 43 CFR part 423, Public Conduct on Bureau of Reclamation Lands and Projects (67 FR 19092, Apr. 17, 2002) as an interim final rule. In the preamble to that rule, Reclamation stated its intent to replace the interim final rule with a more comprehensive public conduct rule and set April 17, 2003, as the interim final rule’s expiration date. In order to provide more time to develop the comprehensive public conduct rule, Reclamation later extended the expiration of the interim final rule to April 17, 2005 (68 FR 16214, Apr. 3, 2003), and again to April 17, 2006 (70 FR 15778, Mar. 29, 2005).

On September 13, 2005, Reclamation published a proposed public conduct rule (70 FR 54214, Sep. 13, 2005) and asked the public to comment on that proposed rule. The Final Rule, 43 CFR part 423, was published in the **Federal Register** on April 17, 2006 (71 FR 19790, Apr. 17, 2006).

On September 24, 2008, Reclamation published an interim final public conduct rule (73 FR 54977, Sep. 24, 2008) that made minor amendments to the existing part 423, and asked the public to comment on that rule. In response to those public comments, this final rule makes minor changes to the interim final rule.

In this publication, we are reprinting 43 CFR part 423 in its entirety with the amendments made in the September 24, 2008, interim final rule, as well as the

changes made as a result of comments we received during the public comment period which ended on November 24, 2008, so interested parties can view the rule as a cohesive document.

##### II. Summary of Comments and Responses

This section of the preamble provides responses to the comments received on the interim final rule published in the **Federal Register** on September 24, 2008 (73 FR 54977). Nine parties submitted comments during the 60-day public comment period which ended on November 24, 2008.

##### Comments and Responses

*Comment:* Several commenters were concerned about the changes we made to the effect that a seaplane is not considered a vessel under part 423.

*Response:* The question of whether seaplanes are considered “vessels” when on the water is essentially not material to whether seaplane activity is allowed or not allowed on any particular reservoir. The applicable rules of other entities such as the United States Coast Guard, the National Park Service, the States, and/or local governments remain in effect and must be observed. This includes other entities’ rules concerning the definition of “vessel,” and pilots must be aware of all applicable Federal, State and local laws and regulations when contemplating landings on Reclamation lands or waterbodies.

Due to the fact that the other entities that have varying degrees of jurisdiction over Reclamation waterbodies differ in how they define the term “vessel,” we added the sentence “A seaplane may be considered a vessel” to the definition of “vessel” in section 423.2 of this final rule. We also revised section 438(a) by adding the words “or seaplane” after the word “watercraft,” and we added the words “other watercraft, or seaplane” after the word “vessel” in section 438(b).

*Comment:* Several commenters expressed concern or disagreement regarding the status of particular Reclamation reservoirs or groups of reservoirs with respect to seaplane activity, difficulties in determining that status, and the allowance of seaplane activity in general.

*Response:* This rule does not determine the status of any particular reservoir or set of reservoirs with respect to seaplane activity. One of the purposes of the amendments made on September 24, 2008, was to recognize the aircraft-related laws and rules of other Federal, State, and local entities that have jurisdiction over the surface