

and amended citations in two provisions of the construction standards to show the correct incorporation-by-reference section.

In the DFR, OSHA stated that it would confirm the effective date of the DFR if it received no significant adverse comments. OSHA received eight favorable and no adverse comments on the DFR (see ID: OSHA–2013–0005–0008 thru –0015 in the docket for this rulemaking). Accordingly, OSHA is confirming the effective date of the final rule.

In addition to explicitly supporting the DFR, several of the commenters provided supplemental information. Mr. Charles Johnson of AltairStrickland stated that as a result of “[OSHA’s] incorporating both the 1968 and the [2011] versions of the ANSI Z535 standard by reference[,] both manufacturers and employers will likely migrate to the newer versions and the older versions will likely fade away as demand declines” (ID: OSHA–2013–0005–0011). Mr. Johnson also commented that “[h]ad OSHA deleted the reference to the ANSI Z35.1–1968 language, these signs would require replacement at considerable and unnecessary cost to employers.” *Id.*

A second commenter, Mr. Blair Brewster of MySafetySign.com, described several advantages and limitations of the updated ANSI signage standards, concluding that “[i]t would be arrogant to assume that a single standard is best. The ANSI Z535 designs, the traditional safety sign and tag designs, as well as the countless other designs to come, will all have their place and will all coexist” (ID: OSHA–2013–0005–0014).

A third commenter, Mr. Kyle Pitsor of the National Electrical Manufacturers Association (NEMA) stated that “[w]hile we would have preferred that the references to the outdated standards be removed entirely from OSHA’s regulations, NEMA agrees that giving employers the option of using signs and tags that meet either the 1967–1968 or the most recent versions of the standards will provide the greatest flexibility without imposing additional costs” (ID: OSHA–2013–0005–0013). Mr. Pitsor also helpfully noted that, contrary to proposed §§ 1910.6(e)(66) and (e)(67) and 1926.6(h)(28)–(h)(30), the International Safety Equipment Association (ISEA) is not authorized to sell the ANSI Z535 standards proposed for incorporation by reference, and these standards are not sold on the ISEA Web site, [www.safetysign.com](http://www.safetysign.com). In response to Mr. Pitsor’s comment, OSHA is correcting the incorporation-by-reference provisions in question in

29 CFR 1910.6 and 1926.6 in a separate **Federal Register** notice identifying the three locations where the public can purchase the updated ANSI Z535 standards.

Finally, OSHA received an email from Jonathan Stewart, Manager, Government Relations, NEMA, after the comment period ended (ID: OSHA–2013–0005–0015). In his email, Mr. Stewart mentioned NEMA’s earlier comments to the docket (ID: OSHA–2013–0005–0013), and stated that “[w]hile reflective of NEMA’s position, those comments did not include a clarification regarding the language that the NRPM used in Sec. 1926.200 Accident prevention signs and tags.” He further indicated that “[t]he language, while not inaccurate, was unclear regarding which figure(s) it intended to reference in the ANSI Z535.2–2011 standard.” Although this comment was late, OSHA considered it because it was a purely technical comment, pointing out an ambiguity in the cited provision’s reference to figures in the updated version of the national consensus standard, ANSI Z535.2–2011. OSHA finds that the comment has merit, and accordingly is clarifying the language in 29 CFR 1926.200(b) and (c) specifying which figures employers must follow in ANSI Z535.2–2011.

#### List of Subjects in 29 CFR Parts 1910 and 1926

Signage, Incorporation by reference, Occupational safety and health, Safety.

#### Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this final rule. OSHA is issuing this final rule pursuant to 29 U.S.C. 653, 655, and 657, 5 U.S.C. 553, Secretary of Labor’s Order 1–2012 (77 FR 3912), and 29 CFR part 1911.

Signed at Washington, DC, on October 30, 2013.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2013–26336 Filed 11–5–13; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 19

[FRL–9901–98–OECA]

RIN 2020–AA49

### Civil Monetary Penalty Inflation Adjustment Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** With this action, EPA is promulgating a final rule that amends the Civil Monetary Penalty Inflation Adjustment Rule. This action is mandated by the Debt Collection Improvement Act of 1996 (DCIA) to adjust for inflation certain statutory civil monetary penalties that may be assessed for violations of EPA-administered statutes and their implementing regulations. The Agency is required to review the civil monetary penalties under the statutes it administers at least once every four years and to adjust such penalties as necessary for inflation according to a formula prescribed by the DCIA. The regulations contain a list of all civil monetary penalty authorities under EPA-administered statutes and the applicable statutory amounts, as adjusted for inflation, since 1996.

**DATES:** This rule is effective December 6, 2013.

#### FOR FURTHER INFORMATION CONTACT:

Caroline Hermann, Special Litigation and Projects Division (2248A), Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564–2876.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Pursuant to section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note, each federal agency is required to issue regulations adjusting for inflation the statutory civil monetary penalties<sup>1</sup> (“civil penalties” or “penalties”) that can be imposed under the laws administered by that agency. The purpose of these adjustments is to

<sup>1</sup> Section 3 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note, defines “civil monetary penalty” to mean “any penalty, fine or other sanction that—(A)(i) is for a specific monetary amount as provided by federal law; or (ii) has a maximum amount provided for by federal law. . . .”

maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes. The DCIA requires adjustments to be made at least once every four years following the initial adjustment. EPA's initial adjustment to each statutory civil penalty amount was published in the **Federal Register** on December 31, 1996 (61 FR 69360), and became effective on January 30, 1997 ("the 1996 Rule"). EPA's second adjustment to civil penalty amounts was published in the **Federal Register** on February 13, 2004 (69 FR 7121), and became effective on March 15, 2004 ("the 2004 Rule"). EPA's third adjustment to civil penalty amounts was published in the **Federal Register** on December 11, 2008 (73 FR 75340), as corrected in the **Federal Register** on January 7, 2009 (74 FR 626), and became effective on January 12, 2009 ("the 2008 Rule").

Where necessary under the DCIA, this rule, specifically Table 1 in 40 CFR 19.4, adjusts for inflation the maximum and, in some cases, the minimum amount of the statutory civil penalty that may be imposed for violations of EPA-administered statutes and their implementing regulations. Table 1 of 40 CFR 19.4 identifies the applicable EPA-administered statutes and sets out the inflation-adjusted civil penalty amounts that may be imposed pursuant to each statutory provision after the effective dates of the 1996, 2004 and 2008 rules. Where required under the DCIA formula, this rule amends the adjusted penalty amounts in Table 1 of 40 CFR 19.4 for those violations that occur after the effective date of this rule.

The formula prescribed by the DCIA for determining the inflation adjustment, if any, to statutory civil penalties consists of the following four-step process:

1. *Determine the Cost-of-Living Adjustment (COLA).* The COLA is determined by calculating the percentage increase, if any, by which the Consumer Price Index<sup>2</sup> for all-urban consumers (CPI-U) for the month of June of the calendar year preceding the adjustment exceeds the CPI-U for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted.<sup>3</sup> Accordingly, the COLA

applied under this rule equals the percentage by which the CPI-U for June 2012 (*i.e.*, June of the year preceding this year), exceeds the CPI-U for June of the year in which the amount of a specific penalty was last adjusted (*i.e.*, 2008, 2004 or 1996, as the case may be). Given that the last inflation adjustment was published on December 11, 2008, the COLA for most civil penalties set forth in this rule was calculated by determining the percentage by which the CPI-U for June 2012 (229.478) exceeds the CPI-U for June 2008 (218.815), resulting in a COLA of 4.87 percent. For those few civil penalty amounts that were last adjusted under the 2004 Rule, the COLA equals 20.97 percent, calculated by determining the percentage by which the CPI-U for June 2012 (229.478) exceeds the CPI-U for June 2004 (189.7). In the case of the maximum civil penalty that can be imposed under section 311(b)(7)(A) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(A), which is the sole civil penalty last adjusted under the 1996 Rule, the COLA is 46.45 percent, determined by calculating the percentage by which the CPI-U for June 2012 (229.478) exceeds the CPI-U for June 1996 (156.7).

2. *Calculate the Raw Inflation Increase.* Once the COLA is determined, the second step is to multiply the COLA by the current civil penalty amount to determine the raw inflation increase.

3. *Apply the DCIA's Rounding Rule to the Raw Inflation Increase.* The third step is to round this raw inflation increase according to section 5(a) of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note. The DCIA's rounding rules require that any increase be rounded to the nearest multiple of: \$10 in the case of penalties less than or equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$100,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000. (See section 5(a) of the Federal Civil Penalties Inflation Adjustment Act of

1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note.)

4. *Add the Rounded Inflation Increase, if any, to the Current Penalty Amount.* Once the inflation increase has been rounded pursuant to the DCIA, the fourth step is to add the rounded inflation increase to the current civil penalty amount to obtain the new, inflation-adjusted civil penalty amount. For example, in this rule, the current statutory maximum penalty amounts that may be imposed under Clean Air Act (CAA) section 113(d)(1), 42 U.S.C. 7413(d)(1), and CAA section 205(c)(1), 42 U.S.C. 7524(c)(1), are increasing from \$295,000 to \$320,000. These penalty amounts were last adjusted with the promulgation of the 2008 Rule, when these penalties were adjusted for inflation from \$270,000 to \$295,000. Applying the COLA adjustment to the current penalty amount of \$295,000 results in a raw inflation increase of \$14,376 for both penalties. As stated above, the DCIA rounding rule requires the raw inflation increase to be rounded to the nearest multiple of \$25,000 for penalties greater than \$200,000. Rounding \$14,376 to the nearest multiple of \$25,000 equals \$25,000. That rounded increase increment of \$25,000 is then added to the \$295,000 penalty amount to arrive at a total inflation adjusted penalty amount of \$320,000. Accordingly, once this rule is effective, the statutory maximum amounts of these penalties will increase to \$320,000.

In contrast, this rule does not adjust those civil penalty amounts where the raw inflation amounts are not high enough to round up to the required multiple stated in the DCIA. For example, under section 3008(a)(3) of the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a)(3), the Administrator may assess a civil penalty of up to \$37,500 per day of noncompliance for each violation. This penalty was last adjusted for inflation under the 2008 Rule. Multiplying the applicable 4.87 percent COLA to the statutory civil penalty amount of \$37,500, the raw inflation increase equals only \$1,827.40; the DCIA rounding rule requires a raw inflation increase increment to be rounded to the nearest multiple of \$5,000 for penalties greater than \$10,000 but less than or equal to \$100,000. Because this raw inflation increase is not sufficient to be rounded up to a multiple of \$5,000, in accordance with the DCIA's rounding rule, this rule does not increase the \$37,500 penalty amount. However, if during the development of EPA's next Civil Monetary Penalty Inflation Adjustment Rule, anticipated to be

<sup>2</sup> Section 3 of the DCIA defines "Consumer Price Index" to mean "the Consumer Price Index for all-urban consumers published by the Department of Labor." Interested parties may find the relevant Consumer Price Index, published by the Department of Labor's Bureau of Labor Statistics, on the Internet. To access this information, go to the CPI Home Page at: [ftp://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt](http://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt).

<sup>3</sup> Section 5(b) of the DCIA defines the term "cost-of-living adjustment" to mean "the percentage (if

any) for each civil monetary penalty by which—(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law."

promulgated in 2017, the raw inflation increase can be rounded up to the next multiple of \$5,000, statutory maximum penalty amounts currently at \$37,500 will be increased to \$42,500.

Because of the low rate of inflation since 2008, coupled with the application of the DCIA's rounding rules, only 20 of the 88 statutory civil penalty provisions implemented by EPA are being adjusted for inflation under this rule. Assuming there are no changes to the mandate imposed by the DCIA, EPA intends to review all statutory penalty amounts and adjust them as necessary to account for inflation in the year 2017 and every four years thereafter.

## II. Technical Revision to Table 1 of 40 CFR 19.4 To Break Out Each of the Statutory Penalty Authorities Under Section 325(b) of the Emergency Planning and Community Right-To-Know Act (EPCRA)

EPA is revising the row of Table 1 of 40 CFR 19.4, which lists the statutory maximum penalty amounts that can be imposed under section 325(b) of EPCRA, 42 U.S.C. 11045(b), to break out separately the three penalty authorities contained in subsection (b). Since 1996, EPA has been adjusting for inflation all of the statutory maximum penalty amounts specified under EPCRA section 325(b), 42 U.S.C. 11045(b). Under past rules, the Agency has grouped the maximum penalty amounts that may be assessed under section 325(b) under the heading of 42 U.S.C. 11045(b) in Table 1 of 40 CFR 19.4. For example, under the 2008 Rule, Table 1 of 40 CFR 19.4 reflects that the statutory maximum penalties that can be imposed under any subparagraph of EPCRA section 325(b) are \$37,500 and \$107,500. Consistent with how the other penalty authorities are displayed under Part 19.4, Table 1 now delineates, on a subpart-by-subpart basis, the penalty authorities enumerated under section 325(b) of EPCRA, 42 U.S.C. 11045(b) (*i.e.*, 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)). That is, upon the effective date of this rule, the statutory maximum penalty that can be imposed under section 325(b)(1)(A) is \$37,500; the statutory maximum penalties that can be imposed under section 325(b)(2) are \$37,500 and \$117,500; and the statutory maximum penalties that can be imposed under section 325(b)(3) are \$37,500 and \$117,500.

## III. Effective Date

Section 6 of the DCIA provides that "any increase under [the DCIA] in a civil monetary penalty shall apply only to violations which occur after the date

the increase takes effect." (*See* section 6 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note.) Thus, the new inflation-adjusted civil penalty amounts may be applied only to violations that occur after the effective date of this rule.

## IV. Good Cause

Section 553(b) of the Administrative Procedure Act (APA) provides that, when an agency for good cause finds that "notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest," the agency may issue a rule without providing notice and an opportunity for public comment. EPA finds that there is good cause to promulgate this rule without providing for public comment. The primary purpose of this final rule is merely to implement the statutory directive in the DCIA to make periodic increases in civil penalty amounts by applying the adjustment formula and rounding rules established by the statute. Because the calculation of the increases is formula-driven and prescribed by statute, EPA has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule. Thus, notice and public comment is unnecessary.

In addition, EPA is making the technical revisions discussed above without notice and public comment. Because the technical revisions to Table 1 of 40 CFR 19.4 more accurately reflect the statutory provisions under each of the subparagraphs of section 325(b) (*i.e.*, under 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)) and do not constitute substantive revisions to the rule, these changes do not require notice and comment.

## V. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore is not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction

Act of 1995, 44 U.S.C. 3501–3521. Burden is defined at 5 CFR 1320.3(b). This rule merely increases the amount of civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations.

### C. Regulatory Flexibility Act

Today's final rule is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because although the rule is subject to the APA, the Agency has invoked the "good cause" exemption under 5 U.S.C. 553(b), therefore it is not subject to the notice and comment requirements.

### D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The action implements mandates specifically and explicitly set forth by Congress in the DCIA without the exercise of any policy discretion by EPA. By applying the adjustment formula and rounding rules prescribed by the DCIA, this rule adjusts for inflation the statutory maximum and, in some cases, the minimum, amount of civil penalties that can be assessed by EPA in an administrative enforcement action, or by the U.S. Attorney General in a civil judicial case, for violations of EPA-administered statutes and their implementing regulations. Because the calculation of any increase is formula-driven, EPA has no policy discretion to vary the amount of the adjustment. Given that the Agency has made a "good cause" finding that this rule is not subject to notice and comment requirements under the APA or any other statute (*see* Section IV of this notice), it is not subject to sections 202 and 205 of UMRA. EPA has also determined that this action is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule merely increases

the amount of civil penalties that could conceivably be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations.

*E. Executive Order 13132 (Federalism)*

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely increases the amount of civil penalties that could conceivably be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations. Thus, Executive Order 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule merely increases the amount of civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations. This final rule will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), 15 U.S.C. 272 note, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through the U.S. Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA lacks the discretionary authority to address environmental justice in this final rulemaking. The primary purpose of this final rule is merely to apply the DCIA’s inflation adjustment formula to make periodic increases in the civil penalties that may be imposed for violations of EPA-administered statutes and their implementing regulations. Thus, because calculation of the increases is formula-driven, EPA has no discretion in updating the rule to reflect the allowable statutory civil penalties derived from applying the formula.

Since there is no discretion under the DCIA in determining the statutory civil penalty amount, EPA cannot vary the amount of the civil penalty adjustment to address other issues, including environmental justice issues.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801–808, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 19**

Environmental protection, Administrative practice and procedure, Penalties.

Dated: October 29, 2013.

**Gina McCarthy,**

*Administrator, Environmental Protection Agency.*

For the reasons set out in the preamble, title 40, chapter I, part 19 of the Code of Federal Regulations is amended as follows:

**PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

■ 1. The authority citation for part 19 continues to read as follows:

**Authority:** Pub. L. 101–410, 28 U.S.C. 2461 note; Public Law 104–134, 31 U.S.C. 3701 note.

■ 2. Revise § 19.2 to read as follows:

**§ 19.2 Effective date.**

The increased penalty amounts set forth in the seventh and last column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations which occur after December 6, 2013. The penalty amounts in the sixth column of Table 1 to § 19.4 apply to violations under the applicable statutes and regulations which occurred after January 12, 2009, through December 6, 2013. The penalty amounts in the fifth column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations

which occurred after March 15, 2004, through January 12, 2009. The penalty amounts in the fourth column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations

which occurred after January 30, 1997, through March 15, 2004.

■ 3. Revise § 19.4 to read as follows:

**§ 19.4 Penalty adjustment and table.**

The adjusted statutory penalty provisions and their applicable amounts are set out in Table 1. The last column in the table provides the newly effective statutory civil penalty amounts.

TABLE 1 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

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 through December 6, 2013	Penalties effective after December 6, 2013
7 U.S.C. 136l.(a)(1) .....	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).	\$5,000	\$5,500	\$6,500	\$7,500	\$7,500
7 U.S.C. 136l.(a)(2) .....	FIFRA .....	\$500/\$1,000	\$550/\$1,000	\$650/\$1,100	\$750/\$1,100	\$750/\$1,100
15 U.S.C. 2615(a)(1) .....	TOXIC SUBSTANCES CONTROL ACT (TSCA).	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
15 U.S.C. 2647(a) .....	TSCA .....	\$5,000	\$5,500	\$6,500	\$7,500	\$7,500
15 U.S.C. 2647(g) .....	TSCA .....	\$5,000	\$5,000	\$5,500	\$7,500	\$7,500
31 U.S.C. 3802(a)(1) .....	PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA).	\$5,000	\$5,500	\$6,500	\$7,500	\$7,500
31 U.S.C. 3802(a)(2) .....	PFCRA .....	\$5,000	\$5,500	\$6,500	\$7,500	\$7,500
33 U.S.C. 1319(d) .....	CLEAN WATER ACT (CWA).	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
33 U.S.C. 1319(g)(2)(A) ..	CWA .....	\$10,000/\$25,000	\$11,000/\$27,500	\$11,000/\$32,500	\$16,000/\$37,500	\$16,000/\$37,500
33 U.S.C. 1319(g)(2)(B) ..	CWA .....	\$10,000/\$125,000	\$11,000/\$137,500	\$11,000/\$157,500	\$16,000/\$177,500	\$16,000/\$187,500
33 U.S.C. 1321(b)(6)(B)(i) ..	CWA .....	\$10,000/\$25,000	\$11,000/\$27,500	\$11,000/\$32,500	\$16,000/\$37,500	\$16,000/\$37,500
33 U.S.C. 1321(b)(6)(B)(ii) ..	CWA .....	\$10,000/\$125,000	\$11,000/\$137,500	\$11,000/\$157,500	\$16,000/\$177,500	\$16,000/\$187,500
33 U.S.C. 1321(b)(7)(A) ..	CWA .....	\$25,000/\$1,000	\$27,500/\$1,100	\$32,500/\$1,100	\$37,500/\$1,100	\$37,500/\$2,100
33 U.S.C. 1321(b)(7)(B) ..	CWA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
33 U.S.C. 1321(b)(7)(C) ..	CWA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
33 U.S.C. 1321(b)(7)(D) ..	CWA .....	\$100,000/\$3,000	\$110,000/\$3,300	\$130,000/\$4,300	\$140,000/\$4,300	\$150,000/\$5,300
33 U.S.C. 1414b(d)(1) <sup>1</sup> ..	MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA).	\$600	\$660	\$760	\$860	\$860
33 U.S.C. 1415(a) .....	MPRSA .....	\$50,000/\$125,000	\$55,000/\$137,500	\$65,000/\$157,500	\$70,000/\$177,500	\$75,000/\$187,500
33 U.S.C. 1901 note (see 1409(a)(2)(A)).	CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO).	\$10,000/\$25,000	\$10,000/\$25,000 <sup>2</sup>	\$10,000/\$25,000	\$11,000/\$27,500	\$11,000/\$27,500
33 U.S.C. 1901 note (see 1409(a)(2)(B)).	CACSO .....	\$10,000/\$125,000	\$10,000/\$125,000	\$10,000/\$125,000	\$11,000/\$137,500	\$11,000/\$147,500
33 U.S.C. 1901 note (see 1409(b)(1)).	CACSO .....	\$25,000	\$25,000	\$25,000	\$27,500	\$27,500
42 U.S.C. 300g-3(b) .....	SAFE DRINKING WATER ACT (SDWA).	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 300g-3(g)(3)(A).	SDWA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 300g-3(g)(3)(B).	SDWA .....	\$5,000/\$25,000	\$5,000/\$25,000	\$6,000/\$27,500	\$7,000/\$32,500	\$7,000/\$32,500
42 U.S.C. 300g-3(g)(3)(C).	SDWA .....	\$25,000	\$25,000	\$27,500	\$32,500	\$32,500
42 U.S.C. 300h-2(b)(1) ..	SDWA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 300h-2(c)(1) ..	SDWA .....	\$10,000/\$125,000	\$11,000/\$137,500	\$11,000/\$157,500	\$16,000/\$177,500	\$16,000/\$187,500
42 U.S.C. 300h-2(c)(2) ..	SDWA .....	\$5,000/\$125,000	\$5,500/\$137,500	\$6,500/\$157,500	\$7,500/\$177,500	\$7,500/\$187,500
42 U.S.C. 300h-3(c) .....	SDWA .....	\$5,000/\$10,000	\$5,500/\$11,000	\$6,500/\$11,000	\$7,500/\$16,000	\$7,500/\$16,000
42 U.S.C. 300i(b) .....	SDWA .....	\$15,000	\$15,000	\$16,500	\$16,500	\$21,500
42 U.S.C. 300i-1(c) .....	SDWA .....	\$20,000/\$50,000	\$22,000/\$55,000 <sup>3</sup>	\$100,000/ \$1,000,000	\$110,000/ \$1,100,000	\$120,000/ \$1,150,000
42 U.S.C. 300j(e)(2) .....	SDWA .....	\$2,500	\$2,750	\$2,750	\$3,750	\$3,750
42 U.S.C. 300j-4(c) .....	SDWA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 300j-6(b)(2) ..	SDWA .....	\$25,000	\$25,000	\$27,500	\$32,500	\$32,500
42 U.S.C. 300j-23(d) .....	SDWA .....	\$5,000/\$50,000	\$5,500/\$55,000	\$6,500/\$65,000	\$7,500/\$70,000	\$7,500/\$75,000
42 U.S.C. 4852d(b)(5) .....	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.	\$10,000	\$11,000	\$11,000	\$16,000	\$16,000
42 U.S.C. 4910(a)(2) .....	NOISE CONTROL ACT OF 1972.	\$10,000	\$11,000	\$11,000	\$16,000	\$16,000
42 U.S.C. 6928(a)(3) .....	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA).	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 6928(c) .....	RCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 6928(g) .....	RCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 6928(h)(2) .....	RCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 6934(e) .....	RCRA .....	\$5,000	\$5,500	\$6,500	\$7,500	\$7,500
42 U.S.C. 6973(b) .....	RCRA .....	\$5,000	\$5,500	\$6,500	\$7,500	\$7,500

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 through December 6, 2013	Penalties effective after December 6, 2013
42 U.S.C. 6991e(a)(3) .....	RCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 6991e(d)(1) .....	RCRA .....	\$10,000	\$11,000	\$11,000	\$16,000	\$16,000
42 U.S.C. 6991e(d)(2) .....	RCRA .....	\$10,000	\$11,000	\$11,000	\$16,000	\$16,000
42 U.S.C. 7413(b) .....	CLEAN AIR ACT (CAA) ..	\$25,000	\$27,500	\$32,500	\$37,500	\$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	\$37,500/\$320,000
42 U.S.C. 7413(d)(3) .....	CAA .....	\$5,000	\$5,500	\$6,500	\$7,500	\$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	\$3,750/\$37,500
42 U.S.C. 7524(c)(1) .....	CAA .....	\$200,000	\$220,000	\$270,000	\$295,000	\$320,000
42 U.S.C. 7545(d)(1) .....	CAA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$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	\$37,500
42 U.S.C. 9606(b)(1) .....	CERCLA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 9609(a)(1) .....	CERCLA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$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	\$37,500/\$117,500
42 U.S.C. 9609(c) .....	CERCLA .....	\$25,000/\$75,000	\$27,500/\$82,500	\$32,500/\$97,500	\$37,500/\$107,500	\$37,500/\$117,500
42 U.S.C. 11045(a) .....	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 11045(b)(1)(A) <sup>4</sup> .	EPCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 11045(b)(2) .....	EPCRA .....	\$25,000/\$75,000	\$27,500/\$82,500	\$32,500/\$97,500	\$37,500/\$107,500	\$37,500/\$117,500
42 U.S.C. 11045(b)(3) .....	EPCRA .....	\$25,000/\$75,000	\$27,500/\$82,500	\$32,500/\$97,500	\$37,500/\$107,500	\$37,500/\$117,500
42 U.S.C. 11045(c)(1) .....	EPCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$37,500
42 U.S.C. 11045(c)(2) .....	EPCRA .....	\$10,000	\$11,000	\$11,000	\$16,000	\$16,000
42 U.S.C. 11045(d)(1) .....	EPCRA .....	\$25,000	\$27,500	\$32,500	\$37,500	\$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	\$16,000
42 U.S.C. 14304(g) .....	BATTERY ACT .....	\$10,000	\$10,000	\$11,000	\$16,000	\$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. 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, Pub. L. 106–554, 33 U.S.C. 1901 note. The original statutory penalty amounts of \$20,000 and \$50,000 under section 1432(c) of the SDWA, 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 No. 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.

<sup>4</sup> Consistent with how the EPA’s other penalty authorities are displayed under Part 19.4, this Table now delineates, on a subpart-by-subpart basis, the penalty authorities enumerated under section 325(b) of EPCRA, 42 U.S.C. 11045(b) (i.e., 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)).

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BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R06–OAR–2010–0335; FRL–9902–50–Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Procedures for Stringency Determinations and Minor Permit Revisions for Federal Operating Permits**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On September 10, 2013, EPA published a direct final rule approving portions of three revisions to the Texas

State Implementation Plan (SIP) concerning the Texas Federal Operating Permits Program. The direct final action was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if we received relevant, adverse comments by October 10, 2013, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received timely adverse comments on the direct final rule. Therefore, EPA is withdrawing the direct final approval and will proceed to respond to all relevant, adverse comments in a subsequent action based on the parallel proposal published on September 10, 2013. As stated in the parallel proposal, EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published on September 10, 2013 (78 FR 55221), is withdrawn as of November 6, 2013.

**FOR FURTHER INFORMATION CONTACT:** Ms. Adina Wiley (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 28, 2013.

**Ron Curry,**  
*Regional Administrator, Region 6.*

Accordingly, the amendments to 40 CFR 52.2270 published in the **Federal Register** on September 10, 2013 (78 FR