



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

MAR - 4 2019

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** Transmittal of the 2019 Annual Civil Monetary Penalty Inflation Adjustment Rule

**FROM:** Rosemarie Kelley, Director  
Office of Civil Enforcement

A handwritten signature in blue ink that reads "Rosemarie Kelley".

**TO:** Regional Counsel  
Enforcement Directors  
Enforcement Coordinators  
OECA Office Directors  
OECA Division Directors

Attached is the 2019 Civil Monetary Penalty Inflation Adjustment Rule (2019 Rule). EPA promulgated the 2019 Rule to adjust the maximum and minimum statutory civil monetary penalty amounts under the statutes that EPA administers. The 2019 Rule is mandated by the 2015 amendments to the Federal Civil Penalty Inflation Adjustment Act (2015 Act),<sup>1</sup> which require each agency to publish its annual penalty inflation adjustment rule no later than January 15 each year. This year, however, we were unable to meet that deadline because the Office of Federal Register (OFR) was unable to publish the rule due to the lapse in appropriations from December 22, 2018, to January 25, 2019. After EPA and OFR resumed operations, the Office of Civil Enforcement (OCE) requested that OFR change the effective date of the rule from January 15, 2019, to February 6, 2019, the publication date, but not all of OCE's requested edits were made. To resolve these errors, OFR published a correction on February 25, 2019, which changed the January 15, 2019 references in the rule to February 6, 2019.<sup>2</sup> The 2019 Rule was published on February 6, 2019, and was effective the same day.<sup>3</sup>

**I. Applicability of the 2019 Rule and this Memorandum**

The 2019 Rule amended Table 2 of 40 C.F.R. § 19.4 with new statutory maximum and minimum penalty amounts.<sup>4</sup> This transmittal memorandum and the 2019 Rule do not amend EPA's penalty policies to

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<sup>1</sup> 28 U.S.C. § 2461 note, Pub. L. 114-74 (*see* 28 U.S.C. § 2461 note, Pub. L. 114-74) (*see* <https://www.congress.gov/114/plaws/publ74/PLAW-114publ74.pdf>).

<sup>2</sup> 84 Fed. Reg. 5955 (February 25, 2019).

<sup>3</sup> 84 Fed. Reg. 2056 (February 6, 2019).

<sup>4</sup> Background information on the 2019 Rule as well as the methodology for calculating the new statutory penalty amounts are contained in the 2019 Rule and are not provided in this transmittal memorandum.

account for inflation. In addition, this transmittal memorandum does not supersede the [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](#) (2018 Memorandum).<sup>5</sup> As noted in previous civil penalty inflation memoranda<sup>6</sup> and in the 2019 Rule, the changes EPA made to the statutory maximum and minimum civil penalty amounts in the 2019 Rule are distinct from the changes EPA makes to its penalty policies to account for inflation.<sup>7</sup> EPA last amended its penalty policies to account for inflation in the 2018 Memorandum. EPA plans to amend its penalty policies to account for inflation in January 2020.

## **I. Statutory Administrative Penalty Caps**

Note that, effective February 6, 2019, where the EPA seeks administrative penalties in a complaint, amended complaint, or through a 40 C.F.R. § 22.18 settlement, the increased administrative penalty caps in Table 2 of § 19.4 in the attached 2019 Rule apply if *some or all* of the violations occurred after November 2, 2015. The lower administrative penalty caps in Table 1 of § 19.4 apply if *all* of the violations occurred on or before November 2, 2015.

## **II. Further Information**

If you have any questions concerning the 2019 Rule, the correction, or this memorandum, please contact David Smith-Watts of OCE at (202) 564-4083 or by email at [smith-watts.david@epa.gov](mailto:smith-watts.david@epa.gov).

cc: Tom Mariani, Chief, EES, DOJ  
Deputy and Assistant Chiefs, EES, DOJ  
Kathie Stein, Environmental Appeals Judge  
Susan Biro, Chief Administrative Law Judge  
Regional Judicial Officers

Attachments: 2019 Rule promulgated in the Federal Register on February 6, 2019, and correction published on February 25, 2019.

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<sup>5</sup> As stated on page 3 of the 2018 Memorandum, “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 memorandum in accordance with inflation.” For example, industrial stormwater case teams should use the multiplier provided in the March 12, 2018 memorandum titled [Supplemental Amendment to the January 11, 2018 memorandum, Amendments to EPA's Civil Penalty Policies to Account for Inflation \(effective January 15, 2018\) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule, to account for inflation for the September 8, 2016 penalty guidance, Supplemental Guidance to the 1995 Interim Clean Water Act Settlement Policy for Violations of the Industrial Stormwater Requirements](#).

<sup>6</sup> For historical reference, the past penalty inflation rules and penalty policy amendments can be viewed on OCE's internet webpage here: <https://www.epa.gov/enforcement/enforcement-policy-guidance-publications#penalty>

<sup>7</sup> EPA's penalty policy amendments are not governed by the 2015 Act.

U.S. Code citation	CMP description	New maximum amount
(10) 12 U.S.C. 1786(k)(2)(A)	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	\$50,334.
(11) 12 U.S.C. 1786(k)(2)(A)	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	\$2,013,399.
(12) 12 U.S.C. 1786(k)(2)(A)	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (insured credit union).	\$2,013,399 or 1 percent of the total assets of the credit union, whichever is less.
(13) 12 U.S.C. 1786(w)(5)(ii)	Non-compliance with senior examiner post-employment restrictions.	\$331,174.
(14) 15 U.S.C. 1639e(k) .....	Non-compliance with appraisal independence requirements.	First violation: \$11,563 Subsequent violations: \$23,125.
(15) 42 U.S.C. 4012a(f)(5) ...	Non-compliance with flood insurance requirements .....	\$2,187.

(b) The adjusted amounts displayed in paragraph (a) of this section apply to civil monetary penalties that are assessed after the date the increase takes effect, including those whose associated violation or violations pre-dated the increase and occurred after November 2, 2015.

[FR Doc. 2019-01123 Filed 2-5-19; 8:45 am]

BILLING CODE 7535-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 19**

[FRL-9988-90-OAR-OECA]

**Civil Monetary Penalty Inflation Adjustment Rule**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of the maximum (or minimum) statutory civil monetary penalty amounts under the statutes EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (“the 2015 Act”). The 2015 Act prescribes a formula for annually adjusting the statutory maximum (or minimum) amount of civil penalties to reflect inflation, maintain the deterrent effect of statutory civil penalties, and promote compliance with the law. The 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.

**DATES:** This final rule is effective February 6, 2019, and applicable beginning January 15, 2019.

**FOR FURTHER INFORMATION, CONTACT:** David Smith-Watts, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564-4083; *smith-watts.david@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Since 1990, federal agencies have been required to issue regulations adjusting for inflation the statutory civil penalties<sup>1</sup> that can be imposed under the laws administered by that agency. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (DCIA), required agencies to review their statutory civil penalties every 4 years, and to adjust the statutory civil penalty amounts for inflation if the increase met the DCIA’s adjustment methodology. In accordance with the DCIA, EPA reviewed and, as appropriate, adjusted the civil penalty levels under each of the statutes the agency implements in 1996 (61 FR 69360), 2004 (69 FR 7121), 2008 (73 FR 75340), and 2013 (78 FR 66643).

The 2015 Act<sup>2</sup> required each federal agency to adjust the level of statutory

civil penalties under the laws implemented by that agency with an initial “catch-up” adjustment through an interim final rulemaking. The 2015 Act also required federal agencies, beginning on January 15, 2017, to make subsequent annual adjustments for inflation. Section 4 of the 2015 Act requires each federal agency to publish these annual adjustments by January 15 of each year. The purpose of the 2015 Act is to maintain the deterrent effect of civil penalties by translating originally enacted statutory civil penalty amounts to today’s dollars and rounding statutory civil penalties to the nearest dollar.

As required by the 2015 Act, EPA issued a catch-up rule on July 1, 2016, which was effective August 1, 2016 (81 FR 43091). EPA made its first annual adjustment on January 12, 2017, which was effective on January 15, 2017 (82 FR 3633). EPA made its second annual adjustment on January 10, 2018, which was effective on January 15, 2018 (83 FR 1190). Today’s rule implements the third annual adjustment mandated by the 2015 Act.

The 2015 Act describes the method for calculating the adjustments. Each statutory maximum and minimum<sup>3</sup> civil monetary penalty is multiplied by the cost-of-living adjustment, which is

L. 114-74) was signed into law on Nov. 2, 2015, and further amended the Federal Civil Penalties Inflation Adjustment Act of 1990.

<sup>3</sup> Under Section 3(2)(A) of the 2015 Act, “civil monetary penalty” means “a specific monetary amount as provided by Federal law”; or “has a maximum amount provided for by Federal law.” EPA-administered statutes generally refer to statutory maximum penalties, with the following exceptions: Section 311(b)(7)(D) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(D), refers to a minimum penalty of “not less than \$100,000 . . .”; Section 104B(d)(1) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1414b(d)(1), refers to an exact penalty of \$600 “[f]or each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992 . . .”; and Section 325(d)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(d)(1), refers to an exact civil penalty of \$25,000 for each frivolous trade secret claim.

<sup>1</sup> The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. 2461 note, defines “civil monetary penalty” as “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; and (B) is assessed or enforced by an agency pursuant to Federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.”

<sup>2</sup> The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub.

the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2018 exceeds the CPI-U for the month of October 2017.<sup>4</sup>

With this rule, the new statutory maximum and minimum penalty levels listed in the seventh column of Table 2 of 40 CFR 19.4 will apply to all civil penalties assessed on or after February 6, 2019, for violations that occurred after November 2, 2015, the date the 2015 Act was enacted. The former maximum and minimum statutory civil penalty levels, which are in the sixth column of Table 2 to 40 CFR 19.4, will now apply only to violations that occurred after November 2, 2015, where the penalties were assessed on or after January 15, 2018 but before February 6, 2019. The statutory penalty levels for violations that occurred after November 2, 2015, where the penalties were assessed on or after August 1, 2016 but before January 15, 2017, are codified in the fourth column of Table 2 to 40 CFR 19.4. The statutory civil penalty levels that apply to violations that occurred on or before November 2, 2015, are codified at Table 1 to 40 CFR 19.4.

The formula for determining the cost-of-living or inflation adjustment to statutory civil penalties consists of the following steps:

*Step 1:* The cost-of-living adjustment multiplier for 2019 is the percentage by which the CPI-U of October 2018 (252.885) exceeds the CPI-U for the month of October 2017 (246.663), which is 1.02522.<sup>5</sup> Multiply 1.02522 by the current penalty amount. This is the raw adjusted penalty value.

*Step 2:* Round the raw adjusted penalty value. Section 5 of the 2015 Act states that any adjustment shall be rounded to the nearest multiple of \$1. The result is the final penalty value for the year.

II. The 2015 Act Requires Federal Agencies To Publish Annual Penalty Inflation Adjustments Notwithstanding Section 553 of the Administrative Procedures Act

<sup>4</sup> Current and historical CPI-U's can be found on the Bureau of Labor Statistics' website here: <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-201810.pdf>.

<sup>5</sup> Section 5(b) of the 2015 Act states “. . . the term ‘cost-of-living adjustment’ means the percentage (if any) for each civil monetary penalty by which-

(A) the Consumer Price Index for the month of October preceding the date of the adjustment, exceeds

(B) the Consumer Price Index for the month of October 1 year before the month of October referred to in subparagraph (A).”

Because the CPI-U for October 2018 is 252.885 and the CPI-U for October 2017 is 246.663, the cost-of-living multiplier is 1.02522 (252.885 divided by 246.663).

Pursuant to section 4 of the 2015 Act, each federal agency is required to publish the next annual adjustments no later than January 15, 2019. However, due to the government shutdown from December 22, 2018, to January 25, 2019, EPA and the Office of **Federal Register** were unable to publish the rule by the January 15, 2019 deadline.

In accordance with section 553 of the Administrative Procedures Act (APA), most rules are subject to notice and comment and are effective no earlier than 30 days after publication in the **Federal Register**. However, Section 4(b)(2) of the 2015 Act provides that each agency shall make the annual inflation adjustments “notwithstanding section 553” of the APA. Consistent with the language of the 2015 Act, this rule is not subject to notice and an opportunity for public comment and will be effective on February 6, 2019.

### III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

#### 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 and was therefore not submitted to OMB for review.

#### B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

#### C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule merely increases the level of statutory civil penalties that can 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.

#### D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. Because the 2015 Act directs Federal agencies to publish this rule notwithstanding section 553 of the APA, this rule is not subject to notice and comment requirements or the RFA.

#### E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action is required by the 2015 Act, without the exercise of any policy discretion by EPA. This action also imposes no enforceable duty on any state, local or tribal governments or the private sector. Because the calculation of any increase is formula-driven pursuant to the 2015 Act, EPA has no policy discretion to vary the amount of the adjustment.

#### F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have a substantial direct effect 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.

#### G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This rule merely reconciles the real value of current statutory civil penalty levels to reflect and keep pace with the levels originally set by Congress when the statutes were enacted. The calculation of the increases is formula-driven and prescribed by statute, and EPA has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, this rule will not have a substantial direct effect 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.

#### H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer and Advancement Act (NTTAA)*

The rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. Rather, this action is mandated by the 2015 Act, which prescribes a formula for adjusting statutory civil penalties on an annual basis to reflect inflation.

*L. Congressional Review Act (CRA)*

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The 2015 Act directs Federal agencies to publish their annual penalty inflation adjustments “notwithstanding section 553 [of the APA].” EPA finds that the APA’s notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest.

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

Environmental protection, Administrative practice and procedure, Penalties.

Dated: December 21, 2018.

**Andrew R. Wheeler,**  
*Acting Administrator.*

For the reasons set out in the preamble, EPA amends title 40, chapter I, part 19 of the Code of Federal Regulations 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, Oct. 5, 1990, 104 Stat. 890, as amended by Pub. L. 104–134, title III, sec. 31001(s)(1), Apr. 26, 1996, 110 Stat. 1321–373; Pub. L. 105–362, title XIII, sec. 1301(a), Nov. 10, 1998, 112 Stat. 3293; Pub. L. 114–74, title VII, sec. 701(b), Nov. 2, 2015, 129 Stat. 599.

■ 2. Revise § 19.2 to read as follows:

**§ 19.2 Effective date.**

The statutory penalty levels in the last column of Table 1 to § 19.4 apply to all violations which occurred after December 6, 2013 through November 2, 2015, and to violations occurring after November 2, 2015, where penalties were assessed before August 1, 2016. The statutory civil penalty levels set forth in the fourth column of Table 2 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed on or after August 1, 2016 and before January 15, 2017. The statutory civil penalty levels set forth in the fifth column of Table 2 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed on or after January 15, 2017 but before January 15, 2018. The statutory civil penalty levels set forth in the sixth column of Table 2 of § 19.4 apply to all violations which occurred after November 2, 2015, where the penalties were assessed on or after January 15, 2018 but before February 6, 2019. The statutory civil penalty levels set forth in the seventh and last column of Table 2 of § 19.4 apply to all

violations which occur or occurred after November 2, 2015, where the penalties are assessed on or after February 6, 2019.

■ 3. In § 19.4, revise the introductory text and table 2 of section 19.4 to read as follows:

**§ 19.4 Statutory civil penalties, as adjusted for inflation, and tables.**

Table 1 to § 19.4 sets out the statutory civil penalty provisions of statutes administered by EPA, with the original statutory civil penalty levels, as enacted, and the operative statutory civil penalty levels, as adjusted for inflation, for violations that occurred on or before November 2, 2015, and for violations that occurred after November 2, 2015, where penalties were assessed before August 1, 2016. Table 2 to § 19.4 sets out the statutory civil penalty provisions of statutes administered by EPA, with the third column displaying the original statutory civil penalty levels, as enacted. The fourth column of Table 2 displays the operative statutory civil penalty levels where penalties were assessed on or after August 1, 2016 but before January 15, 2017, for violations that occurred after November 2, 2015. The fifth column displays the operative statutory civil penalty levels where penalties were assessed on or after January 15, 2017 but before January 15, 2018, for violations that occurred after November 2, 2015. The sixth column displays the operative statutory civil penalty levels where penalties were assessed on or after January 15, 2018 but before January 15, 2019, for violations that occurred after November 2, 2015. The seventh and last column displays the operative statutory civil penalty levels where penalties are assessed on or after January 15, 2019, for violations that occur or occurred after November 2, 2015.

\* \* \* \* \*

TABLE 2 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Environmental statute	Statutory civil penalties, as enacted	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after August 1, 2016 but before January 15, 2017	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2017 but before January 15, 2018	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2018 but before January 15, 2019	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties are assessed on or after January 15, 2019
7 U.S.C. 136l(a)(1) ...	Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).	\$5,000 .....	\$18,750 .....	\$19,057 .....	\$19,446 .....	\$19,936
7 U.S.C. 136l(a)(2) <sup>1</sup> ..	FIFRA .....	\$1,000/\$500/\$1,000 ...	\$2,750/\$1,772/\$2,750 .....	\$2,795/\$1,801/\$2,795 .....	\$2,852/\$1,838/\$2,852 .....	\$2,924/\$1,884/\$2,924
15 U.S.C. 2615(a)(1)	Toxic Substances Control Act (TSCA).	\$25,000 .....	\$37,500 .....	\$38,114 .....	\$38,892 .....	\$39,873
15 U.S.C. 2647(a) .....	TSCA .....	\$5,000 .....	\$10,781 .....	\$10,957 .....	\$11,181 .....	\$11,463
15 U.S.C. 2647(g) .....	TSCA .....	\$5,000 .....	\$8,908 .....	\$9,054 .....	\$9,239 .....	\$9,472
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act (PFCRA).	\$5,000 .....	\$10,781 .....	\$10,957 .....	\$11,181 .....	\$11,463
31 U.S.C. 3802(a)(2)	PFCRA .....	\$5,000 .....	\$10,781 .....	\$10,957 .....	\$11,181 .....	\$11,463

TABLE 2 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Environmental statute	Statutory civil penalties, as enacted	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after August 1, 2016 but before January 15, 2017	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2017 but before January 15, 2018	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2018 but before January 15, 2019	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2019
33 U.S.C. 1319(d)	Clean Water Act (CWA).	\$25,000	\$51,570	\$52,414	\$53,484	\$54,833
33 U.S.C. 1319(g)(2)(A).	CWA	\$10,000/\$25,000	\$20,628/\$51,570	\$20,965/\$52,414	\$21,393/\$53,484	\$21,933/\$54,833
33 U.S.C. 1319(g)(2)(B).	CWA	\$10,000/\$125,000	\$20,628/\$257,848	\$20,965/\$262,066	\$21,393/\$267,415	\$21,933/\$274,159
33 U.S.C. 1321(b)(6)(B)(i).	CWA	\$10,000/\$25,000	\$17,816/\$44,539	\$18,107/\$45,268	\$18,477/\$46,192	\$18,943/\$47,357
33 U.S.C. 1321(b)(6)(B)(ii).	CWA	\$10,000/\$125,000	\$17,816/\$222,695	\$18,107/\$226,338	\$18,477/\$230,958	\$18,943/\$236,783
33 U.S.C. 1321(b)(7)(A).	CWA	\$25,000/\$1,000	\$44,539/\$1,782	\$45,268/\$1,811	\$46,192/\$1,848	\$47,357/\$1,895
33 U.S.C. 1321(b)(7)(B).	CWA	\$25,000	\$44,539	\$45,268	\$46,192	\$47,357
33 U.S.C. 1321(b)(7)(C).	CWA	\$25,000	\$44,539	\$45,268	\$46,192	\$47,357
33 U.S.C. 1321(b)(7)(D).	CWA	\$100,000/\$3,000	\$178,156/\$5,345	\$181,071/\$5,432	\$184,767/\$5,543	\$189,427/\$5,683
33 U.S.C. 1414b(d)(1)	Marine Protection, Research, and Sanctuaries Act (MPRSA).	\$600	\$1,187	\$1,206	\$1,231	\$1,262
33 U.S.C. 1415(a)	MPRSA	\$50,000/\$125,000	\$187,500/\$247,336	\$190,568/\$251,382	\$194,457/\$256,513	\$199,361/\$262,982
33 U.S.C. 1901 note (see 1409(a)(2)(A)).	Certain Alaskan Cruise Ship Operations (CACSO).	\$10,000/\$25,000	\$13,669/\$34,172	\$13,893/\$34,731	\$14,177/\$35,440	\$14,535/\$36,334
33 U.S.C. 1901 note (see 1409(a)(2)(B)).	CACSO	\$10,000/\$125,000	\$13,669/\$170,861	\$13,893/\$173,656	\$14,177/\$177,200	\$14,535/\$181,669
33 U.S.C. 1901 note (see 1409(b)(1)).	CACSO	\$25,000	\$34,172	\$34,731	\$35,440	\$36,334
33 U.S.C. 1908(b)(1)	Act To Prevent Pollution From Ships (APPS).	\$25,000	\$70,117	\$71,264	\$72,718	\$74,552
33 U.S.C. 1908(b)(2)	APPS	\$5,000	\$14,023	\$14,252	\$14,543	\$14,910
42 U.S.C. 300g-3(b)	Safe Drinking Water Act (SDWA).	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 300g-3(g)(3)(A).	SDWA	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 300g-3(g)(3)(B).	SDWA	\$5,000/\$25,000	\$10,781/\$37,561	\$10,957/\$38,175	\$11,181/\$38,954	\$11,463/\$39,936
42 U.S.C. 300g-3(g)(3)(C).	SDWA	\$25,000	\$37,561	\$38,175	\$38,954	\$39,936
42 U.S.C. 300h-2(b)(1).	SDWA	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 300h-2(c)(1).	SDWA	\$10,000/\$125,000	\$21,563/\$269,535	\$21,916/\$273,945	\$22,363/\$279,536	\$22,927/\$286,586
42 U.S.C. 300h-2(c)(2).	SDWA	\$5,000/\$125,000	\$10,781/\$269,535	\$10,957/\$273,945	\$11,181/\$279,536	\$11,463/\$286,586
42 U.S.C. 300h-3(c)	SDWA	\$5,000/\$10,000	\$18,750/\$40,000	\$19,057/\$40,654	\$19,446/\$41,484	\$19,936/\$42,530
42 U.S.C. 300i(b)	SDWA	\$15,000	\$22,537	\$22,906	\$23,374	\$23,963
42 U.S.C. 300j-1(c)	SDWA	\$100,000/\$1,000,000	\$131,185/\$1,311,850	\$133,331/\$1,333,312	\$136,052/\$1,360,525	\$139,483/\$1,394,837
42 U.S.C. 300j(e)(2)	SDWA	\$2,500	\$9,375	\$9,528	\$9,722	\$9,967
42 U.S.C. 300j-4(c)	SDWA	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 300j-6(b)(2).	SDWA	\$25,000	\$37,561	\$38,175	\$38,954	\$39,936
42 U.S.C. 300j-23(d)	SDWA	\$5,000/\$50,000	\$9,893/\$98,935	\$10,055/\$100,554	\$10,260/\$102,606	\$10,519/\$105,194
42 U.S.C. 4852d(b)(5)	Residential Lead-Based Paint Hazard Reduction Act of 1992.	\$10,000	\$16,773	\$17,047	\$17,395	\$17,834
42 U.S.C. 4910(a)(2)	Noise Control Act of 1972.	\$10,000	\$35,445	\$36,025	\$36,760	\$37,687
42 U.S.C. 6928(a)(3)	Resource Conservation and Recovery Act (RCRA).	\$25,000	\$93,750	\$95,284	\$97,229	\$99,681
42 U.S.C. 6928(c)	RCRA	\$25,000	\$56,467	\$57,391	\$58,562	\$60,039
42 U.S.C. 6928(g)	RCRA	\$25,000	\$70,117	\$71,264	\$72,718	\$74,552
42 U.S.C. 6928(h)(2)	RCRA	\$25,000	\$56,467	\$57,391	\$58,562	\$60,039
42 U.S.C. 6934(e)	RCRA	\$5,000	\$14,023	\$14,252	\$14,543	\$14,910
42 U.S.C. 6973(b)	RCRA	\$5,000	\$14,023	\$14,252	\$14,543	\$14,910
42 U.S.C. 6991e(a)(3)	RCRA	\$25,000	\$56,467	\$57,391	\$58,562	\$60,039
42 U.S.C. 6991e(d)(1)	RCRA	\$10,000	\$22,587	\$22,957	\$23,426	\$24,017
42 U.S.C. 6991e(d)(2)	RCRA	\$10,000	\$22,587	\$22,957	\$23,426	\$24,017
42 U.S.C. 7413(b)	Clean Air Act (CAA)	\$25,000	\$93,750	\$95,284	\$97,229	\$99,681
42 U.S.C. 7413(d)(1)	CAA	\$25,000/\$200,000	\$44,539/\$356,312	\$45,268/\$362,141	\$46,192/\$369,532	\$47,357/\$378,852
42 U.S.C. 7413(d)(3)	CAA	\$5,000	\$8,908	\$9,054	\$9,239	\$9,472
42 U.S.C. 7524(a)	CAA	\$25,000/\$2,500	\$44,539/\$4,454	\$45,268/\$4,527	\$46,192/\$4,619	\$47,357/\$4,735
42 U.S.C. 7524(c)(1)	CAA	\$200,000	\$356,312	\$362,141	\$369,532	\$378,852
42 U.S.C. 7545(d)(1)	CAA	\$25,000	\$44,539	\$45,268	\$46,192	\$47,357
42 U.S.C. 9604(e)(5)(B).	Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 9606(b)(1)	CERCLA	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 9609(a)(1)	CERCLA	\$25,000	\$53,907	\$54,789	\$55,907	\$57,317
42 U.S.C. 9609(b)	CERCLA	\$25,000/\$75,000	\$53,907/\$161,721	\$54,789/\$164,367	\$55,907/\$167,722	\$57,317/\$171,952
42 U.S.C. 9609(c)	CERCLA	\$25,000/\$75,000	\$53,907/\$161,721	\$54,789/\$164,367	\$55,907/\$167,722	\$57,317/\$171,952

TABLE 2 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Environmental statute	Statutory civil penalties, as enacted	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after August 1, 2016 but before January 15, 2017	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2017 but before January 15, 2018	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2018 but before January 15, 2019	Statutory civil penalties for violations that occurred after November 2, 2015, where penalties were assessed on or after January 15, 2019
42 U.S.C. 11045(a) ...	Emergency Planning and Community Right-To-Know Act (EPCRA).	\$25,000 .....	\$53,907 .....	\$54,789 .....	\$55,907 .....	\$57,317
42 U.S.C. 11045(b)(1)(A).	EPCRA .....	\$25,000 .....	\$53,907 .....	\$54,789 .....	\$55,907 .....	\$57,317
42 U.S.C. 11045(b)(2)	EPCRA .....	\$25,000/\$75,000 .....	\$53,907/\$161,721 .....	\$54,789/\$164,367 .....	\$55,907/\$167,722 .....	\$57,317/\$171,952
42 U.S.C. 11045(b)(3)	EPCRA .....	\$25,000/\$75,000 .....	\$53,907/\$161,721 .....	\$54,789/\$164,367 .....	\$55,907/\$167,722 .....	\$57,317/\$171,952
42 U.S.C. 11045(c)(1)	EPCRA .....	\$25,000 .....	\$53,907 .....	\$54,789 .....	\$55,907 .....	\$57,317
42 U.S.C. 11045(c)(2)	EPCRA .....	\$10,000 .....	\$21,563 .....	\$21,916 .....	\$22,363 .....	\$22,927
42 U.S.C. 11045(d)(1)	EPCRA .....	\$25,000 .....	\$53,907 .....	\$54,789 .....	\$55,907 .....	\$57,317
42 U.S.C. 14304(a)(1)	Mercury-Containing and Rechargeable Battery Management Act (Battery Act).	\$10,000 .....	\$15,025 .....	\$15,271 .....	\$15,583 .....	\$15,976
42 U.S.C. 14304(g) ...	Battery Act .....	\$10,000 .....	\$15,025 .....	\$15,271 .....	\$15,583 .....	\$15,976

<sup>1</sup> Note that 7 U.S.C. 1361(a)(2) contains three separate statutory maximum civil penalty provisions. The first mention of \$1,000 and the \$500 statutory maximum civil penalty amount were originally enacted in 1978 (Pub. L. 95–396), and the second mention of \$1,000 was enacted in 1972 (Pub. L. 92–516).

[FR Doc. 2019–00785 Filed 2–5–19; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2013–0492; FRL–9989–03–Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Delaware; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the remaining portions of a state implementation plan (SIP) revision submitted by the State of Delaware. This revision addresses the infrastructure requirement for interstate transport of pollution with respect to the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on March 8, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0492. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Joseph Schulingkamp, (215) 814–2021, or by email at [schulingkamp.joseph@epa.gov](mailto:schulingkamp.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On May 29, 2013, Delaware submitted, through the Delaware Department of Natural Resources and Environmental Control (DNREC), a revision to its SIP to satisfy the infrastructure requirements of section 110(a)(2) of the CAA for the 2010 1-hour SO<sub>2</sub> NAAQS, including the interstate transport requirements of section 110(a)(2)(D)(i)(I). On January 22, 2014 (79 FR 3506), EPA approved Delaware’s infrastructure SIP submittal for the 2010 1-hour SO<sub>2</sub> NAAQS for all applicable elements of section 110(a)(2) with the exception of 110(a)(2)(D)(i)(I). On August 8, 2018 (83 FR 39035), EPA published a notice of proposed rulemaking (NPRM) approving the portion of Delaware’s SIP addressing the interstate transport requirements of section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> NAAQS. For more information on SO<sub>2</sub> pollution, EPA’s infrastructure requirements, and interstate transport requirements, see Section I of the August 8, 2018 NPRM.

**II. Summary of SIP Revision and EPA’s Analysis**

The portions of Delaware’s May 29, 2013 SIP submittal addressing interstate

transport (for section 110(a)(2)(D)(i)(I)) discuss how Delaware does not significantly contribute with respect to the 2010 1-hour SO<sub>2</sub> NAAQS to nonattainment in, or interfere with maintenance in, any other state and discusses prevailing wind direction in the region. Delaware described in its submittal several existing SIP-approved measures and other federally enforceable source-specific measures, pursuant to permitting requirements under the CAA, that apply to SO<sub>2</sub> sources within the State.

After evaluating the information on emissions, monitoring data, and meteorological data, EPA concluded that the level of SO<sub>2</sub> emissions in Delaware is primarily due to point sources, which have substantially and permanently reduced SO<sub>2</sub> emissions in the past five years. Additionally, the historical and recent data from SO<sub>2</sub> monitors in close proximity to Delaware’s borders support the conclusion that emissions from point sources in Delaware have been substantially reduced and are not impacting neighboring states. Based on this information, EPA agreed with Delaware’s general conclusion that the existing Delaware SIP is adequate to prevent sources in Delaware from significantly contributing to nonattainment or interfering with maintenance in another state with respect to the 2010 1-hour SO<sub>2</sub> NAAQS. A detailed summary of EPA’s review and rationale for our approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> NAAQS may be found in EPA’s technical support document (TSD) (docket number: EPA–R03–OAR–2013–0492) and will not be restated here.

whether the deceased has been convicted of a Federal capital crime or sex offense as referred to in paragraph (a)(1) or (4) of this section; or

(ii) An appropriate State official, requesting notification of whether the deceased has been convicted of a State capital crime or sex offense as referred to in paragraph (a)(2) or (4) of this section.

(2) The Under Secretary for Memorial Affairs, or his or her designee, will defer decision on whether to approve interment or memorialization until after a response is received from the Attorney General or appropriate State official.

(f) *Decision after inquiry.* Where an inquiry has been initiated under paragraph (e) of this section, the Under Secretary for Memorial Affairs, or his or her designee, will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411 upon receipt of the notification requested, unless the Under Secretary for Memorial Affairs, or his or her designee, initiates an inquiry pursuant to § 38.618(a).

(g) *Notice of decision.* Written notice of a decision under paragraph (d) or (f) of this section will be provided by the Under Secretary for Memorial Affairs, or his or her designee, to the personal representative of the deceased, along with written notice of appellate rights in accordance with § 19.25 of this title. This notice of appellate rights will include notice of the opportunity to file a notice of disagreement with the decision of the Under Secretary for Memorial Affairs, or his or her designee. Action following receipt of a notice of disagreement with a denial of eligibility for interment or memorialization under this section will be in accordance with §§ 19.26 through 19.38 of this title.

#### **PART 39—AID FOR THE ESTABLISHMENT, EXPANSION, AND IMPROVEMENT, OR OPERATION AND MAINTENANCE, OF VETERANS CEMETERIES**

■ 3. The authority citation for part 39 is revised to read as follows:

**Authority:** 38 U.S.C. 101, 501, 2408, 2411, 3765.

■ 4. Amend § 39.10 by adding paragraph (b)(4) to read as follows:

##### **§ 39.10 Cemetery requirements and prohibitions and recapture provisions.**

\* \* \* \* \*

(b) \* \* \*

(4) Who has been convicted of a Federal or State crime causing the person to be a tier III sex offender for purposes of the Sex Offender Registration and Notification Act (34

U.S.C. 20901, *et seq.*); who, for such crime, is sentenced to a minimum of life imprisonment; and whose conviction is final (other than a person whose sentence was commuted by the President or Governor of a State).

\* \* \* \* \*

[FR Doc. 2019-03078 Filed 2-22-19; 8:45 am]

**BILLING CODE 8320-01-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 19**

[FRL-9988-90-OECA]

##### **Civil Monetary Penalty Inflation Adjustment Rule**

###### *Correction*

In rule document 2019-00785, appearing on pages 2056-2060, in the issue of Wednesday, February 6, 2019, make the following correction:

1. On page 2056, in the first column, in the standard document heading, the Document Identification Number that reads “[FRL-9988-90-OAR-OECA]” should read “[FRL-9988-90-OECA]”.

2. On the same page, in the second column, the “**DATES:**” section should read, “This final rule is effective February 6, 2019”.

##### **§ 19.4 Statutory civil penalties, as adjusted for inflation, and tables. [Corrected]**

■ 3. On page 2058, in the third column, in the thirty-first line, “January 15, 2019” should read “February 6, 2019”.

■ 4. On the same page, in the same column, in the thirty-sixth line, “January 15, 2019” should read “February 6, 2019”.

\* \* \* \* \*

■ 5. On pages 2058-2060, in the table titled “Table 2 of Section 19.4—Civil Monetary Penalty Inflation Adjustments”, in the sixth column headings, the date “January 15, 2019” should read “February 6, 2019”.

■ 6. On the same pages, in the same table, in the seventh column headings, the date “January 15, 2019” should read “February 6, 2019”.

\* \* \* \* \*

[FR Doc. C1-2019-00785 Filed 2-22-19; 8:45 am]

**BILLING CODE 1301-0-D**

#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Part 622**

[Docket No. 160426363-7275-02]

**RIN 0648-XG770**

##### **Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2018-2019 Commercial Hook-and-Line Closure for King Mackerel in the Gulf of Mexico Southern Zone**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) to close the hook-and-line component of the commercial sector for king mackerel in the Gulf of Mexico (Gulf) southern zone. This closure is necessary to protect the Gulf king mackerel resource.

**DATES:** This temporary rule is effective from 12:01 a.m., local time, on February 22, 2019, through June 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [kelli.odonnell@noaa.gov](mailto:kelli.odonnell@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for Gulf migratory group king mackerel (Gulf king mackerel) below apply as either round or gutted weight.

The king mackerel fishery in the Gulf is divided into western, northern, and southern zones, which have separate commercial quotas. The southern zone for Gulf king mackerel encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast, which includes the EEZ off Collier and Monroe Counties in south Florida (50 CFR 622.369(a)(1)(iii)).