



## OFFICE OF SITE REMEDIATION ENFORCEMENT

WASHINGTON, D.C. 20460

### **MEMORANDUM**

**SUBJECT:** 2024 Revised Penalty Matrix for CERCLA § 106(b)(1) Civil Penalty Policy

**FROM:** Anne Berube, Director  
Regional Support Division  
Office of Site Remediation Enforcement

**TO:** Regional Superfund Legal Branch Chiefs, Regions 1-10

This memorandum transmits the updated matrix for the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 106(b)(1) penalty policy as found in the “Interim Policy on Settlement of CERCLA Section 106(b)(1) Penalty Claims and Section 107(c)(3) Punitive Damages Claims for Noncompliance with Administrative Orders” (“[1997 Penalty Policy](#)”) (September 1997).

### **Background on increases of maximum amount of statutory penalty**

On December 27, 2023, the U.S. Environmental Protection Agency (EPA) published a final rule titled “Civil Monetary Penalty Inflation Adjustment” (88 Fed. Reg. 89309), as mandated by the 1990 Federal Civil Penalties Inflation Adjustment Act, as amended by the 2015 Federal Civil Penalties Inflation Adjustment Act Improvement Act (“2015 Act”).<sup>1</sup> The purpose of the rule is to adjust the civil monetary penalty maximums to keep pace with inflation so that these penalties maintain their deterrent effect. As detailed in the rule, the inflation adjustment was based on the relevant increase in the Consumer Price Index for all Urban Consumers (CPI-U).

This memorandum announces EPA’s twelfth inflation adjustment of the maximum daily CERCLA § 106(b)(1) penalty. Under the December 2023 final rule, resulting in the twelfth adjustment, the current maximum daily amount of the statutory civil penalty that a court can assess for a CERCLA § 106(b)(1) violation that occurred after November 2, 2015, is \$69,733.

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<sup>1</sup> Headquarters transmitted this rulemaking to the EPA Regions via the memorandum, “[Amendments to the EPA’s Civil Penalty Policies to Account for Inflation \(effective January 15, 2024\)](#),” dated January 10, 2024, and signed by David M. Uhlmann, Assistant Administrator for Enforcement and Compliance Assurance, (“2024 OECA Memorandum”).

As originally enacted in 1980, the CERCLA statute established a maximum amount of \$5,000. In 1986 amendments to the CERCLA statute, Congress increased the maximum to \$25,000. The Agency made adjustments every few years until the 2015 Act, which required the EPA to make the penalty inflation adjustments annually.

The table below details the statutory maximum amount in CERCLA as originally enacted by Congress in 1980; the increased amount after Congress amended the CERCLA statute in 1986; and the maximum amounts established by EPA regulation thereafter.

	<b>Year</b>	<b>Maximum Penalty</b>
Original maximum	1980 CERCLA statute	\$5,000
Congressional increase of maximum	1986 CERCLA statutory amendments	\$25,000
EPA's 1 <sup>st</sup> increase	1997	\$27,500
EPA's 2 <sup>nd</sup> increase	2004	\$32,500
EPA's 3 <sup>rd</sup> increase	2009	\$37,500
EPA's 4 <sup>th</sup> increase	2016	\$53,907
EPA's 5 <sup>th</sup> increase	2017	\$54,789
EPA's 6 <sup>th</sup> increase	2018	\$55,907
EPA's 7 <sup>th</sup> increase	2019	\$57,317
EPA's 8 <sup>th</sup> increase	2020	\$58,328
EPA's 9 <sup>th</sup> increase	2021	\$59,017
EPA's 10 <sup>th</sup> increase	2022	\$62,689
EPA's 11 <sup>th</sup> increase	2023	\$67,544
EPA'S 12 <sup>th</sup> increase	2023	\$69,733

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

Consistent with the increases of the maximum penalty amount, EPA typically exercises its discretion to make corresponding increases of the dollar amounts in the policies it uses when negotiating settlements of penalty claims. The Office of Site Remediation Enforcement (OSRE) is issuing this memorandum to increase the dollar amounts in the Agency's policy for settling CERCLA § 106(b)(1) penalty claims.<sup>2</sup>

In updating the penalty matrix in the CERCLA § 106(b)(1) Civil Penalty Policy, OSRE adjustments begin with the 1997 policy's statutory maximum of \$27,500. OSRE calculates a multiplier by dividing the new statutory maximum penalty by \$27,500. OSRE has routinely used this approach to avoid having the highest amount in the matrix be less than the statutory maximum. In using this approach, OSRE's intent is to maintain the matrix's deterrent effect for *all* violations, including the most serious ones.

### **Latest increase of dollar amounts in CERCLA § 106(b)(1) settlement policy**

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<sup>2</sup> Today's memorandum effectively supersedes the March 7, 2023, memorandum, "2023 Revised Penalty Matrix for CERCLA § 106(b)(1) Civil Penalty Policy" signed by Kenneth Patterson.

For the latest penalty inflation increases, OSRE divided the new statutory maximum (\$69,733) by the 1997 policy's statutory maximum (\$27,500), yielding a multiplier of 2.535745, which was then applied to the dollar amounts in the 1997 matrix. The attached revised matrix presents the increased dollar amounts that case teams should use when negotiating settlements of penalty claims for violations that occur after November 2, 2015.

OSRE plans to make the next modification to this matrix in early 2025 and to use the same approach of calculating a multiplier and applying it to the other amounts in the 1997 policy.

For questions regarding the CERCLA § 106(b)(1) penalty adjustments or other aspects of CERCLA § 106(b)(1) penalties, please contact Mike Northridge in OSRE (202-564-4263; [northridge.michael@epa.gov](mailto:northridge.michael@epa.gov)).

#### Attachment

cc: Kenneth Patterson, Director, OSRE, OECA  
David Smith-Watts, Office of Civil Enforcement, OECA  
Lawrence Douchand, Director, Office of Superfund Response and Technology Innovation, Office of Land and Emergency Management (OLEM)

## Attachment

For violations that occur after November 2, 2015, the table below replaces the table found on page 3 of the “[Interim Policy on Settlement of CERCLA Section 106\(b\)\(1\) Penalty Claims and Section 107\(c\)\(3\) Punitive Damages Claims for Noncompliance with Administrative Orders](#) (September 1997).”

For violations that occurred on or before November 2, 2015, and a penalty has not yet been assessed, refer to the 2009 Revised Penalty Matrix for CERCLA § 106(b)(1) Civil Penalty Policy, available on the Agency’s website at <https://www.epa.gov/enforcement/guidance-penalty-matrix-cercla-section-106b1-civil-penalty-policy>.

In cases where a violation began before November 2, 2015 and continued after that date, use both matrices, as appropriate.<sup>3</sup>

### 2023 Revised Penalty Matrix for CERCLA § 106(b)(1)

Recalcitrance				
Harm		Recalcitrance I	Recalcitrance II	Recalcitrance III
	Harm A	\$44,629 to \$69,733	\$22,315 to \$44,629	\$6,975 to \$22,315
	Harm B	\$22,315 to \$44,629	\$6,975 to \$22,315	\$1,395 to \$6,975
	Harm C	\$6,975 to \$22,315	\$1,395 to \$6,975	\$279 to \$1,395

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<sup>3</sup> For additional details regarding how to address violations spanning dates of different penalty adjustment policies, please contact the designated Headquarters contact.