

## Environmental Protection Agency

## § 19.2

(c) *Benefits.* In addition to other benefits provided herein, Environmental Protection Research fellows shall be entitled to benefits as provided by law or regulation for other civilian employees of the Agency.

(d) *Training.* Environmental Protection Research fellows are eligible for training at Government expense on the same basis as other Agency employees.

### § 18.9 Duration of Environmental Protection Research Fellowships.

Initial appointments to Environmental Protection Research fellowships may be made for varying periods not in excess of 5 years. Such an appointment may be extended for varying periods not in excess of 5 years for each period in accordance with procedures and requirements established by the Administrator or designee.

### § 18.10 Appointment of Special Research Consultants for Environmental Protection.

(a) *Purpose.* When the EPA requires the services of consultants with expertise in environmental sciences or engineering who cannot be obtained when needed through regular civil service appointment or under the compensation provisions of the Classification Act of 1949, Special Research Consultants may be appointed to assist and advise in the operations of the EPA, subject to the provisions of the following paragraphs and in accordance with such instructions as may be issued from time to time by the Administrator or designee.

(b) *Appointments.* Appointments, pursuant to the provisions of this section, may be made by those officials in the EPA to whom authority has been delegated by the Administrator or designee.

(c) *Compensation.* The per diem or other rates of compensation shall be fixed by the appointing officer in accordance with criteria established by the Administrator or designee.

### § 18.11 Standards of Conduct and Financial Disclosure.

All individuals appointed to an Environmental Protection Research Fellowship or as a Special Research Consultant shall be subject to the same

current standards and disclosure regulations and requirements as Title 5 appointees.

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

Sec.

19.1 Applicability.

19.2 Effective date.

19.3 [Reserved]

19.4 Penalty adjustment and table.

AUTHORITY: Public Law 101-410, 28 U.S.C. 2461 note; Public Law 104-134, 31 U.S.C. 3701 note.

SOURCE: 73 FR 75345, Dec. 11, 2008, unless otherwise noted.

### § 19.1 Applicability.

This part applies to each statutory provision under the laws administered by the Environmental Protection Agency concerning the civil monetary penalties which may be assessed in either civil judicial or administrative proceedings.

### § 19.2 Effective date.

The increased penalty amounts set forth in the last column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations which occur after January 12, 2009. The penalty amounts that were adjusted in EPA's initial adjustment to each statutory civil penalty amount that was published in the FEDERAL REGISTER on December 31, 1996 (61 FR 69360), and became effective on January 30, 1997, apply to all violations under the applicable statutes and regulations which occurred after January 30, 1997, through March 15, 2004. The penalty amounts that were adjusted in EPA's second adjustment to each statutory civil penalty amount that was published in the FEDERAL REGISTER on February 13, 2004 (69 FR 7121), and became effective on March 15, 2004, apply to all violations under the applicable statutes and regulations which occurred after March 15, 2004, through January 12, 2009.

§ 19.3

40 CFR Ch. I (7-1-09 Edition)

§ 19.3 [Reserved]

are set out in Table 1. The last column in the table provides the newly effective statutory civil penalty amounts.

§ 19.4 Penalty adjustment and table.

The adjusted statutory penalty provisions and their applicable 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
7 U.S.C. 136l.(a)(1).	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).	\$5,000	\$5,500	\$6,500	\$7,500
7 U.S.C. 136l.(a)(2).	FIFRA .....	500/1,000	550/1,000	650/1,100	750/1,100
15 U.S.C. 2615(a)(1).	TOXIC SUBSTANCES CONTROL ACT (TSCA).	25,000	27,500	32,500	37,500
15 U.S.C. 2647(a).	TSCA .....	5,000	5,500	6,500	7,500
15 U.S.C. 2647(g).	TSCA .....	5,000	5,000	5,500	7,500
31 U.S.C. 3802(a)(1).	PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA).	5,000	5,500	6,500	7,500
31 U.S.C. 3802(a)(2).	PFCRA .....	5,000	5,500	6,500	7,500
33 U.S.C. 1319(d).	CLEAN WATER ACT (CWA) .....	25,000	27,500	32,500	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
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
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
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
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
33 U.S.C. 1321(b)(7)(B).	CWA .....	25,000	27,500	32,500	37,500
33 U.S.C. 1321(b)(7)(C).	CWA .....	25,000	27,500	32,500	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
33 U.S.C. 1415(a).	MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA).	50,000/125,000	55,000/137,500	65,000/157,500	70,000/177,500
33 U.S.C. 1414b(d)(1) <sup>1</sup> .	MPRSA .....	600	660	760	860
33 U.S.C. 1901 note (see 1409(a)(2)(A)).	CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO).	10,000/25,000	<sup>2</sup> 10,000/25,000	10,000/25,000	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
33 U.S.C. 1901 note (see 1409(b)(1)).	CACSO .....	25,000	25,000	25,000	27,500
42 U.S.C. 300g-3(b).	SAFE DRINKING WATER ACT (SDWA).	25,000	27,500	32,500	37,500
42 U.S.C. 300g-3(g)(3)(A).	SDWA .....	25,000	27,500	32,500	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
42 U.S.C. 300g-3(g)(3)(C).	SDWA .....	25,000	25,000	27,500	32,500
42 U.S.C. 300h-2(b)(1).	SDWA .....	25,000	27,500	32,500	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
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
42 U.S.C. 300h-3(c).	SDWA .....	5,000/10,000	5,500/11,000	6,500/11,000	7,500/16,000

Environmental Protection Agency

§ 19.4

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

U.S. code citation	Environmental statute	Statutory penalties, as enacted	Penalties effective after January 30, 1997 through March 15, 2004	Penalties effective after March 15, 2004 through January 12, 2009	Penalties effective after January 12, 2009
42 U.S.C. 300i(b)	SDWA .....	15,000	15,000	16,500	16,500
42 U.S.C. 300i-1(c).	SDWA .....	20,000/50,000	<sup>3</sup> 22,000/ 55,000	100,000/ 1,000,000	110,000/ 1,100,000
42 U.S.C. 300j(e)(2).	SDWA .....	2,500	2,750	2,750	3,750
42 U.S.C. 300j-4(c).	SDWA .....	25,000	27,500	32,500	37,500
42 U.S.C. 300j-6(b)(2).	SDWA .....	25,000	25,000	27,500	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
42 U.S.C. 4852d(b)(5).	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.	10,000	11,000	11,000	16,000
42 U.S.C. 4910(a)(2).	NOISE CONTROL ACT OF 1972 .....	10,000	11,000	11,000	16,000
42 U.S.C. 6928(a)(3).	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA).	25,000	27,500	32,500	37,500
42 U.S.C. 6928(c)	RCRA .....	25,000	27,500	32,500	37,500
42 U.S.C. 6928(g)	RCRA .....	25,000	27,500	32,500	37,500
42 U.S.C. 6928(h)(2).	RCRA .....	25,000	27,500	32,500	37,500
42 U.S.C. 6934(e)	RCRA .....	5,000	5,500	6,500	7,500
42 U.S.C. 6973(b)	RCRA .....	5,000	5,500	6,500	7,500
42 U.S.C. 6991e(a)(3).	RCRA .....	25,000	27,500	32,500	37,500
42 U.S.C. 6991e(d)(1).	RCRA .....	10,000	11,000	11,000	16,000
42 U.S.C. 6991e(d)(2).	RCRA .....	10,000	11,000	11,000	16,000
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA) .....	25,000	27,500	32,500	37,500
42 U.S.C. 7413(d)(1).	CAA .....	25,000/ 200,000	27,500/ 220,000	32,500/ 270,000	37,500/ 295,000
42 U.S.C. 7413(d)(3).	CAA .....	5,000	5,500	6,500	7,500
42 U.S.C. 7524(a)	CAA .....	2,500/25,000	2,750/27,500	2,750/32,500	3,750/37,500
42 U.S.C. 7524(c)(1).	CAA .....	200,000	220,000	270,000	295,000
42 U.S.C. 7545(d)(1).	CAA .....	25,000	27,500	32,500	37,500
42 U.S.C. 9604(e)(5)(B).	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA).	25,000	27,500	32,500	37,500
42 U.S.C. 9606(b)(1).	CERCLA .....	25,000	27,500	32,500	37,500
42 U.S.C. 9609(a)(1).	CERCLA .....	25,000	27,500	32,500	37,500
42 U.S.C. 9609(b)	CERCLA .....	25,000/75,000	27,500/82,500	32,500/97,500	37,500/ 107,500
42 U.S.C. 9609(c)	CERCLA .....	25,000/75,000	27,500/82,500	32,500/97,500	37,500/ 107,500
42 U.S.C. 11045(a).	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	25,000	27,500	32,500	37,500
42 U.S.C. 11045(b).	EPCRA .....	25,000/75,000	27,500/82,500	32,500/97,500	37,500/ 107,500
42 U.S.C. 11045(c)(1).	EPCRA .....	25,000	27,500	32,500	37,500
42 U.S.C. 11045(c)(2).	EPCRA .....	10,000	11,000	11,000	16,000
42 U.S.C. 11045(d)(1).	EPCRA .....	25,000	27,500	32,500	37,500
42 U.S.C. 14304(a)(1).	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT).	10,000	10,000	11,000	16,000

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

U.S. code citation	Environmental statute	Statutory penalties, as enacted	Penalties effective after January 30, 1997 through March 15, 2004	Penalties effective after March 15, 2004 through January 12, 2009	Penalties effective after January 12, 2009
42 U.S.C. 14304(g).	BATTERY ACT .....	10,000	10,000	11,000	16,000

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

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

<sup>3</sup>The original statutory penalty amounts of 20,000 and 50,000 under section 1432(c) of the Safe Drinking Water Act, 42 U.S.C. 300-1(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.

[73 FR 75345, Dec. 11, 2008; 74 FR 627, Jan. 7, 2009]

## PART 20—CERTIFICATION OF FACILITIES

Sec.

- 20.1 Applicability.
- 20.2 Definitions.
- 20.3 General provisions.
- 20.4 Notice of intent to certify.
- 20.5 Applications.
- 20.6 State certification.
- 20.7 General policies.
- 20.8 Requirements for certification.
- 20.9 Cost recovery.
- 20.10 Revocation.

### APPENDIX A TO PART 20—GUIDELINES FOR CERTIFICATION

AUTHORITY: Secs. 301, 704, 80 Stat. 379, 83 Stat. 667; 5 U.S.C. 301, 26 U.S.C. 169.

SOURCE: 36 FR 22382, Nov. 25, 1971, unless otherwise noted.

#### § 20.1 Applicability.

The regulations of this part apply to certifications by the Administrator of water or air pollution control facilities for purposes of section 169 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 169, as to which the amortization period began after December 31, 1975. Certification of air or water pollution control facilities as to which the amortization period began before January 1, 1976, will continue to be governed by Environmental Protection Agency regulations published November 25, 1971, at 36 FR 22382. Applicable regula-

tions of the Department of Treasury are at 26 CFR 1.169 *et seq.*

[43 FR 1340, Jan. 9, 1978]

#### § 20.2 Definitions.

As used in this part, the following terms shall have the meaning indicated below:

(a) *Act* means, when used in connection with water pollution control facilities, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*) or, when used in connection with air pollution control facilities, the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

(b) *State certifying authority* means:

(1) For water pollution control facilities, the State pollution control agency as defined in section 502 of the Act.

(2) For air pollution control facilities, the air pollution control agency designated pursuant to section 302(b)(1) of the Act; or

(3) For both air and water pollution control facilities, any interstate agency authorized to act in place of the certifying agency of a State.

(c) *Applicant* means any person who files an application with the Administrator for certification that a facility is in compliance with the applicable regulations of Federal agencies and in furtherance of the general policies of the United States for cooperation with the States in the prevention and abatement of water or air pollution under the Act.

(d) *Administrator* means the Administrator, Environmental Protection Agency.