



[7590-01-P]

**NUCLEAR REGULATORY COMMISSION**

**[NRC-2019-0242]**

**Revision of the NRC Enforcement Policy**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Revision to policy statement.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is publishing a revision to its Enforcement Policy to address the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The 2015 Improvements Act amended the Federal Civil Penalties Inflation Adjustment Act (FCPIAA) of 1990, and now requires Federal agencies to adjust their maximum civil monetary penalty annually for inflation.

**DATES:** This action is effective on January 15, 2020.

**ADDRESSES:** Please refer to Docket ID **NRC-2019-0242** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2019-0242**. Address questions about NRC dockets to

Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Gerry Gulla, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-287-9143, e-mail: [Gerald.Gulla@nrc.gov](mailto:Gerald.Gulla@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Discussion**

In 1990, Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), to provide for regular adjustment for inflation of civil monetary penalties (CMPs). As amended by the Debt Collection Improvement Act of 1996, the FCPIAA

required that the head of each Federal agency review, and if necessary, adjust by regulation the CMPs assessed under statutes enforced by the agency at least once every four years.

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Improvements Act), which further amended the FCPIAA and requires Federal agencies to adjust their CMPs annually for inflation no later than January 15 of each year. These requirements apply to the NRC's maximum CMP amounts for (1) a violation of the Atomic Energy Act (AEA) of 1954, as amended, or any regulation or order issued under the AEA, codified in § 2.205(j) of title 10 of the *Code of Federal Regulations* (10 CFR), "Civil Penalties"; and (2) a false claim or statement made under the Program Fraud Civil Remedies Act, codified in § 13.3, "Basis for Civil Penalties and Assessments."

Pursuant to the 2015 Improvements Act, today the NRC published in the Rules section of the *Federal Register* a revision to § 2.205(j), increasing the maximum CMP for a violation of the AEA to \$303,471 per violation, per day. This adjustment requires a corresponding revision to the NRC Enforcement Policy. Specifically, the maximum CMP amount found in Section 8.0, "Table of Base Civil Penalties" of the NRC Enforcement Policy is being updated to \$300,000, consistent with the NRC's existing practice of rounding the maximum CMP amount codified in § 2.205(j) down to the nearest multiple of \$10,000. Lesser CMP amounts in the table of base civil penalties are also being adjusted to maintain the same proportional relationship amongst the penalty amounts, except for item "f.", which is based on the estimated or actual cost of authorized disposal and not on the monetary value codified in § 2.205(j).

Accordingly, the NRC has revised its Policy to read as follows:

8.0 TABLE OF BASE CIVIL PENALTIES

TABLE A

a. Power reactors, gaseous diffusion uranium enrichment plants, and high-level waste repository .....	\$300,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM and uranium conversion facilities .....	\$150,000
c. All other fuel fabricators, including facilities under construction, authorized to possess Category III quantities of SNM, industrial processors, independent spent fuel and monitored retrievable storage installations, mills, gas centrifuge and laser uranium enrichment facilities .....	\$75,000
d. Test reactors, contractors, waste disposal licensees, industrial radiographers, and other large material users .....	\$30,000
e. Research reactors, academic, medical, or other small material users.....	\$15,000
f. Loss, abandonment, or improper transfer or disposal of regulated material, regardless of the use or type of licensee:	
1. Sources or devices with a total activity greater than $3.7 \times 10^4$ MBq (1 Curie), excluding hydrogen-3 (tritium) .....	\$54,000
2. Other sources or devices containing the materials and quantities listed in 10 CFR 31.5(c)(13)(i) .....	\$17,000
3. Sources and devices not otherwise described above .....	\$7,000
g. Individuals who release safeguards information .....	\$7,500

## **II. Paperwork Reduction Act Statement**

This policy statement does not contain any new or amended collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collection of information were approved by the Office of Management and Budget (OMB), approval numbers 3150-0010 and 3150-0136.

## **Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

## **III. Congressional Review Act**

This action is not a rule as defined in the Congressional Review Act (5 U.S.C. 801-808).

Dated in Rockville, Maryland, this 31st day of December, 2019.

For the Nuclear Regulatory Commission.

Margaret M. Doane,  
Executive Director for Operations.

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