

NUCLEAR REGULATORY COMMISSION

[NRC-2018-0082]

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 (Enforcement Policy or Policy) to address the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Improvements Act). 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 was effective on January 12, 2018.

ADDRESSES: Please refer to Docket ID **NRC-2018-0082** 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 <http://www.regulations.gov> and search for Docket ID **NRC-2018-0082**. 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 <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then 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.

- **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, telephone: 301-287-9143, e-mail: Gerald.Gulla@nrc.gov, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background

In 1990, Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990, 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 of the United States signed into law 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 section 2.205(j) of title 10 of the *Code of Federal Regulations* (CFR), "Civil Penalties"; and (2) a false claim or statement made under the Program Fraud Civil Remedies Act, codified in 10 CFR 13.3, "Basis for Civil Penalties and Assessments."

Pursuant to the 2015 Improvements Act, the NRC codified on January 12, 2018 (83 FR 1515), the revised maximum daily base CMP based on the percentage change in the consumer price index between October 2017 and October 2016. Because this revised monetary value directly impacts the CMPs assessed to NRC licensees, the NRC's Enforcement Policy table of civil penalties requires revision. Specifically, the monetary amounts found in Section 8.0, "Table of Base Civil Penalties" items a – e and g. This monetary adjustment does not include item "f" since its monetary value is based on the estimated or actual cost of authorized disposal and not on the monetary value codified in 10 CFR 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	\$290,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM and uranium conversion facilities	\$145,000
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	\$72,500
d. Test reactors, contractors, waste disposal licensees, industrial radiographers, and other large material users	\$29,000
e. Research reactors, academic, medical, or other small material users.....	\$14,500
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 3.7×10^4 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	\$7,250

II. Procedural Requirements

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.

Congressional Review Act

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

Dated at Rockville, Maryland, this 10th day of May, 2018.

For the Nuclear Regulatory Commission.

/RA/

Victor McCree,
Executive Director for Operations.