

Proposed Guidance Revisions: Regional Civil Penalty Assessment Procedures & Compliance Assurance Policies

Bureau of Air Quality
11/06/2025





Pennsylvania
Department of
Environmental Protection

Overview

- Introduction & Authority
- Guidance for the Application of Regional Civil Penalty Assessment Procedures
- Compliance Assurance Policies for Industries using Continuous Emission Monitoring Systems
- Proposed Changes to the Policies
- Next Steps



Introduction

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Air Quality

DOCUMENT NUMBER: 273-4130-003

TITLE: Guidance for the Application of Regional Civil Assessment Procedures

EFFECTIVE DATE: June 2, 2012

AUTHORITY: Act of January 8, 1960, P.L. (1959) 2119, No 787, as amended, known as The Air Pollution Control Act, (35 P.S. § 4001 et seq.)

POLICY: Outlines the procedures to be followed for assessing civil penalties for various violations.

PURPOSE: Provides uniformity for the assessment of penalties for various violations.

APPLICABILITY: Staff/Regulated Public

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The Guidance for the Application of Regional Civil Assessment Procedures (Penalty Policy) was last updated in 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Air Quality

DOCUMENT NUMBER: 273-4000-002

TITLE: Compliance Assurance Policy for Hospital Waste Incinerators

AUTHORITY: 35 P.S. Sec. 4001-4005 (Air Pollution Control Act) and Act 95 (75 PA C.S. Section 4706())

POLICY: Minimum actions for violations of monitoring requirements for new hospital waste incinerators.

PURPOSE:

The purpose of this policy is to establish uniform criteria for assessing monetary penalties for exceedances of emission standards and data availability requirements through agreements rather than criminal citations or civil penalty actions. The Department has found agreements to be effective in resolving violations without resorting to litigation. The benefit of this policy to the source owner is certainty in determining liabilities should violations occur.

DISCLAIMER:

There are 5 different Compliance Assurance Policies (CAPs) with varying updates 1996-2009.



Document #	Title	Page Length	Last Revision
273-4130-003	Guidance for the Application of Regional Civil Assessment Procedures	14	6/2/2012
273-4000-001	Compliance Assurance Policy for Cement Kilns with CEMS	14	5/24/1996
273-4000-005	Compliance Assurance Policy for Continuous Emission Monitoring Systems (CEMS) on Combustion Units	20	4/18/2009
273-4000-004	Compliance Assurance Policy for Continuous Emission Monitoring Systems (CEMS) on Fluid Catalytic Cracking Units	14	10/1/2004
273-4000-002	Compliance Assurance Policy for Hospital Waste Incinerators	49	5/24/1996
273-4000-003	AQ Compliance Assurance Policy for Municipal Waste Incinerators, including Revisions	72	5/24/1996



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Introduction- Penalty Policy and CAPs

- Guidance used by all 6 regional offices
- Establishes uniform criteria for penalties
- Only applicable when facilities are out of compliance
- Primary update to account for past inflation and future inflation adjustments using the Consumer Price Index for All-Urban Consumers (CPI-U)



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Authority: Section 9.1 PA Air Pollution Control Act

- Willfulness of violation
- Damage to air, water, soil or natural resources
- Financial benefit
- Deterrence of future violations
- Cost to the Department
- Size of the source
- Compliance history
- Severity and duration
- Voluntary reporting
- Degree of cooperation and speed of compliance
- Other relevant factors



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Penalty Policy

What is covered?

- Violations of Regulations and Permit Conditions
 - Reports/Notifications/Monitoring/Records
 - Operation inconsistent with good operating practices
- Various Emission violations, including Source Testing
- Visible/Fugitive/Malodor and Open Burning
- Small Source of NO_x
- Installation/Operation without a Plan Approval or Operating Permit

Penalty Policy Primary Updates

- 40% inflation adjustment
- Effective date explanation
- Biennial (every 2 years) inflation adjustment
- Section II - Include unpermitted sources and late permit fees sub-section
- Combined Sections III & IV
 - all the pollutant tables combined into one
 - removed non-ozone season amounts
 - added % over standard option for HAP emission exceedances



Penalty Policy Updates

- Clarified language and updated examples
- Spelled out the definition of an accidental release, removing CAA reference
- Areas where \$ are greater than inflation:
 - Section II C - raised to statutory max
 - Fugitive emissions



Penalty Policy Updates

- Section X Penalty Calculation Worksheet
 - Changed “Accidental” to “Not Willful”
 - Formatted attainment classification
 - Added size of facility to adjustment factor and definition of small business
 - Added DEP hourly rate + benefits to Department Costs
 - Included “sensitive area”/ EJ consideration to Deterrent Penalty

Penalty Policy Formatting Updates

- Added “Penalty” to title
- Formatting changes from paragraph to bulleted list on page 1
- Consistent language throughout
- Moved Operation w/o PA or OP to Section IX
- Updated EPA links to economic models



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CAPs



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CAP – Cement Kiln

- Last updated 5/24/1996
- Penalty adjustment due to inflation 2.0X
- Late Penalty adjustment from \$100/day to \$250/day
- Adjustment of Regional Manager's discretion to forgive a facility's total penalty from \$400 to \$500.
- Biennial (every 2 years) inflation adjustment tied to CPI-U begins 1/1/2028

CAP – Combustion Units

- Last updated 4/01/2009
- Penalty adjustment due to inflation 1.5X
- Late Penalty adjustment from \$100/day to \$250/day
- Adjustment of Regional Manager's discretion to forgive a facility's total penalty from \$200 to \$500
- Biennial (every 2 years) inflation adjustment tied to CPI-U begins 1/1/2028

CAP – Fluid Catalytic Cracking Unit

- Last updated 10/01/2004
- Penalty adjustment due to inflation 1.7X
- Late Penalty adjustment from \$100/day to \$250/day
- No adjustment to a Regional Manager's discretion to forgive a facility's total penalty of \$500
- Biennial (every 2 years) inflation adjustment tied to CPI-U begins 1/1/2028

- **Next Steps**

- Consider Advisory Committee Comments
- DEP Internal review
- Publish in *PA Bulletin* for public comment (estimate January 2026)
- Consider public comments
- Advisory Committees review of final guidance documents
- DEP Internal review
- Publish final Guidance



Get In Touch

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The Department of Environmental Protection's mission is to protect Pennsylvania's air, land and water resources and to provide for the health and safety of its residents and visitors, consistent with the rights and duties established under the Environmental Rights Amendment (Article 1, Section 27 of the Pennsylvania Constitution).