

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

Bureau of Air Quality  
11/06/2025

JOSH SHAPIRO, GOVERNOR | JESSICA SHIRLEY, SECRETARY



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

# 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)

# 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



# 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 NOx
- 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



# CAPs

# 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

**Deborah Wehr or Todd Starner  
DEP/ Bureau of Air Quality  
400 Market Street  
Harrisburg, PA 17105**

...

**[dwehr@pa.gov](mailto:dwehr@pa.gov) or [tstarner@pa.gov](mailto:tstarner@pa.gov)**

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).