America, the State of Wyoming, the State of Montana, the State of North Dakota, and the State of Texas. This litigation has been consolidated and is now pending in the U.S. District Court for the District of Wyoming. *Wyoming* v. *U.S. Dep't of the Interior,* Case No. 2:16–cv–00285–SWS (D. Wyo.). Petitioners assert that the BLM was arbitrary and capricious in promulgating the Rule and that the Rule exceeds the BLM's statutory authority.

On March 28, 2017, the President issued Executive Order No. 13783 (E.O. 13783) entitled, ''Promoting Energy Independence and Economic Growth.'' E.O. 13783 directed the Secretary of the Interior (Secretary) to review the Rule for consistency with the policies set forth in Section 1 of E.O. 13783 and, if appropriate, publish for notice and comment a proposed rule suspending, revising, or rescinding the Rule. E.O. 13783 Sec. 7(b). On March 29, 2017, the Secretary issued Secretarial Order 3349 implementing E.O. 13783. The Department's review of the Rule is ongoing.

The Secretary has received written requests from WEA and the American Petroleum Institute (API) that the BLM suspend the Rule or postpone its compliance dates in light of the regulatory uncertainty created by the pending litigation and the ongoing administrative review of the Rule. Letter from Kathleen M. Sgamma to Secretary Zinke (April 4, 2017); letter from Jack N. Gerard to Secretary Zinke (May 16, 2017). Both API and WEA stated that operators face the prospect of significant expenditures to comply with provisions of the Rule that will become operative in January 2018. WEA specifically noted that the LDAR, storage tank, and pneumatic device provisions will require operators to begin purchasing and installing tens of thousands of replacement parts in the near future.

Section 705 of the Administrative Procedure Act (APA), 5 U.S.C. 705, provides that, ''[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review.'' The Rule obligates operators to comply with its ''capture percentage,'' flaring measurement, pneumatic equipment, storage tank, and LDAR provisions beginning on January 17, 2018. This compliance date has not yet passed and is within the meaning of the term ''effective date'' as that term is used in Section 705 of the APA. Considering the substantial cost that complying with these requirements poses to operators (see U.S. Bureau of Land Management, Regulatory Impact Analysis for: Revisions to 43 CFR subpart 3100 (Onshore Oil and Gas Leasing) and 43 CFR subpart 3600 (sic) (Onshore Oil and Gas Operations), Additions of 43 CFR subpart 3178 (Royalty-Free Use of Lease Production) and 43 CFR subpart 3179 (Waste Prevention and Resource Conservation) (November 10, 2016)), and the uncertain future these requirements face in light of the pending litigation and administrative review of the Rule, the BLM finds that justice requires it to postpone the future compliance dates for the following sections of the Rule: 43 CFR 3179.7, 3179.9, 3179.201, 3179.202, 3179.203, and 3179.301–3179.305.

While the BLM believes the Waste Prevention Rule was properly promulgated, the petitioners have raised serious questions concerning the validity of certain provisions of the Rule. Given this legal uncertainty, operators should not be required to expend substantial time and resources to comply with regulatory requirements that may prove short-lived as a result of pending litigation or the administrative review that is already under way. Postponing these compliance dates will help preserve the regulatory status quo while the litigation is pending and the Department reviews and reconsiders the Rule.

The provisions with compliance dates that have passed and are therefore unaffected by this document include: the requirement that operators submit a ''waste minimization plan'' with applications for permits to drill (43 CFR 3162.3–1), new regulations for the royalty-free use of production (43 CFR subpart 3178), new regulatory definitions of ''unavoidably lost'' and ''avoidably lost'' oil and gas (43 CFR 3179.4), limits on venting and flaring during drilling and production operations (43 CFR 3179.101–179.105), and requirements for downhole well maintenance and liquids unloading (43 CFR 3179.204).

Separately, the BLM intends to conduct notice-and-comment rulemaking to suspend or extend the compliance dates of those sections affected by the Rule.

II. Postponement of Compliance Dates

Pursuant to Section 705 of the APA, the BLM hereby postpones the future compliance dates for the following sections affected by the final rule entitled, ''Waste Prevention, Production Subject to Royalties, and Resource Conservation'', pending judicial review: 43 CFR 3179.7, 3179.9, 3179.201, 3179.202, 3179.203, and 3179.301–3179.305. BLM will publish a document announcing the outcome of that review.

Dated: June 9, 2017.

Katharine S. MacGregor

Delegated the Authority of the Assistant Secretary for Land and Minerals Management.

[FR Doc. 2017–12325 Filed 6–14–17; 8:45 am]

BILLING CODE 4310–84–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

National Endowment for the Arts

45 CFR Parts 1149 and 1158

RIN 3135–AA33

Implementing the Federal Civil Penalties Adjustment Act Improvements Act of 2015

AGENCY: National Endowment for the Arts, National Foundation for the Arts and Humanities.

ACTION: Interim final rule; request for comments.

SUMMARY: The National Endowment for the Arts (NEA) is adjusting the maximum civil monetary penalties that may be imposed for violations of the Program Fraud and Civil Remedies Act (PFCRA) and the NEA's Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect.

DATES:

Effective date: This rule is effective June 15, 2017.

Comments date: Submit comments on or before July 17, 2017.

ADDRESSES: You may submit comments, identified by RIN 3135–AA33, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: generalcounsel@arts.gov.* Include RIN 3135–AA33 in the subject line of the message.
- *Mail:* National Endowment for the Arts, Office of the General Counsel, 400 7th Street SW., Second Floor, Washington, DC 20506.
- *Hand Delivery/Courier:* National Endowment for the Arts, Office of the General Counsel, 400 7th Street SW., Second Floor, Washington, DC 20506.

Instructions: All submissions received must include the agency name and docket number or Regulatory

Information Number (3135–AA27) for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to 400 7th Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Aswathi Zachariah, Assistant General Counsel, National Endowment for the Arts, 400 7th St. SW., Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

1. Background

The 2015 Act requires agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rulemaking; and (2) make subsequent annual adjustments for inflation. Inflation adjustments will be based on the percent change in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment, relative to the October CPI–U in the year of the previous adjustment.

The Office of Management and Budget has issued two memoranda, providing guidance on implementing and calculating adjustments.[1]

The NEA has identified two civil penalties in its regulations that require adjustment: (1) The penalty associated with Restrictions on Lobbying (45 CFR 1158.400; 45 CFR part 1158, app. A) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 1149.9).

2. Method of Calculation

For the first adjustment made in accordance with the 2015 Act, the amount of the adjustment is calculated based on the percent change between the CPI–U for October of the last year in which penalties were previously adjusted (not including any adjustment made pursuant to the Inflation Adjustment Act before November 2, 2015), and the CPI–U for October 2015. The 10 percent cap on adjustments imposed by the Debt Collection Improvement Act of 1996 has been eliminated by the 2015 Act. Instead, the 2015 Act imposes a cap on the amount of this initial adjustment, such that the amount of the increase may not exceed 150 percent of the pre-adjustment penalty amount or range. As a result, the total penalty amount or range after the initial adjustment under the 2015 Act may not exceed 250 percent of the pre-adjustment penalty amount or range.

The 2015 Act also requires agencies to make annual adjustments to civil penalty amounts no later than January 15 of each year following the initial adjustment described above. For annual adjustments made in accordance with the 2015 Act, the amount of the adjustment is based on the percent increase between the CPI–U for the month of October preceding the date of the adjustment and the CPI–U for the October one year prior to the October immediately preceding the date of the adjustment. If there is no increase, there is no adjustment of civil penalties.

This interim final rule incorporates the initial adjustment and one annual adjustment, and applies those adjustments cumulatively to each of the two civil regulatory penalties identified herein.

A. Adjustments to Penalties Under the NEA's Program Fraud and Civil Remedies Act Regulations

For purposes of the initial adjustment under the 2015 Act, Congress last set or adjusted the amount of PFCRA civil penalties in 1986. Between October 1986 and October 2015, the CPI–U has increased by 215.628 percent. The post-adjustment penalty amount or range is obtained by multiplying the pre-adjustment penalty amount or range by the percent change in the CPI–U over the relevant time period, and rounding to the nearest dollar. Therefore, this post-adjustment maximum penalty under the PFCRA is $5,000 × 2.15628 = $10,781.40, which rounds to $10,781. The new, post-adjustment penalty less than 250 percent of the pre-adjustment penalty, so the limitation on the amount of the adjustment is not implicated. Therefore, the maximum penalty under the PFCRA for false claims or statements for purposes of the first adjustment will be $10,781.

This regulation also incorporates the subsequent required annual adjustment. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2015 and October 2016, the CPI–U increased by 101.636 percent. Therefore, the new post-adjustment maximum penalty under the PFCRA is $10,781 × 1.01636 = $10,957.38, which rounds to $10,957. The new, post-adjustment penalty is less than 250 percent of the pre-adjustment penalty, so the limitation on the amount of the adjustment is not implicated. Therefore, the maximum penalty under the PFCRA will be $10,957.

B. Adjustments to Penalties Under the NEA's Restrictions on Lobbying Regulations

For purposes of the initial adjustment under the 2015 Act, Congress last set or adjusted the amount of Restrictions on Lobbying civil penalties in 1989. Between October 1989 and October 2015, the CPI–U has increased by 189.361 percent. The post-adjustment penalty amount or range is obtained by multiplying the pre-adjustment penalty amount or range by the percent change in the CPI–U over the relevant time period, and rounding to the nearest dollar. Therefore, the post-adjustment minimum penalty under the law on Restrictions on Lobbying is $10,000 × 1.89361 = $18,936.10, which rounds to $18,936, and the post-adjustment maximum penalty under law on Restrictions on Lobbying is $100,000 × 1.89361 = $189,361. The new, post-adjustment penalties are less than 250 percent of the pre-adjustment penalties, so the limitation on the amount of the adjustment is not implicated. Therefore, the range of penalties under the law on Restrictions on Lobbying, for purposes of the first adjustment shall be between $18,936 and $189,361.

This regulation also incorporates the subsequent required annual adjustment. The post-adjustment penalty or range is obtained by multiplying the pre-adjustment penalty or range by the percent change in the CPI–U over the relevant time period and rounding to the nearest dollar. Between October 2015 and October 2016, the CPI–U increased by 101.636 percent. Therefore, the post-adjustment minimum penalty under the law on Restrictions on Lobbying is $18,936 × 1.01636 = $19,245.79, which rounds to $19,246, and the post-adjustment maximum penalty under law on Restrictions on Lobbying is $189,361 × 1.01636 = $192,458.95, which rounds to $192,459. The new, post-adjustment penalties are less than 250 percent of the pre-adjustment penalties, so the limitation on the amount of the adjustment is not implicated. Therefore, the range of penalties under the law on Restrictions on Lobbying, for purposes of the first adjustment shall be between $19,246 and $192,459.

3. Subsequent Annual Adjustments

The 2015 Act also requires agencies to make annual adjustments to civil penalty amounts no later than January 15 of each year following the initial adjustment described above. For subsequent annual adjustments made in accordance with the 2015 Act, the amount of the adjustment will have the

[1] OMB Memoranda M–16–06 and M–17–11.

same basis as the annual adjustments previously described herein (the percent increase between the CPI–U for the month of October preceding the date of the adjustment and the CPI–U for the October one year prior to the October immediately preceding the date of the adjustment). If there is no increase, there is no adjustment of civil penalties. Therefore, if the NEA adjusts penalties in January 2018, the adjustment will be calculated based on the percent change between the CPI–U for October 2017 (the October immediately preceding the date of adjustment) and October 2016 (the October one year prior to October 2017). The NEA will publish the amount of these annual inflation adjustments in the **Federal Register** no later than January 15 of each year.

4. Compliance

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 (E.O. 12866) established a process for review of rules by the Office of Information and Regulatory Affairs, which is within the Office of Management and Budget (OMB). Only ''significant'' proposed and final rules are subject to review under this Executive Order. ''Significant,'' as used in E.O. 12866, means ''economically significant.'' It refers to rules with (1) an impact on the economy of $100 million; or that (2) were inconsistent or interfered with an action taken or planned by another agency; (3) materially altered the budgetary impact of entitlements, grants, user fees, or loan programs; or (4) raised novel legal or policy issues.

This interim final rule would not be a significant policy change and OMB has not reviewed this interim final rule under E.O. 12866. We have made the assessments required by E.O. 12866 and determined that this rulemaking: (1) Will not have an effect of $100 million or more on the economy; (2) will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (3) will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; and (5) does not raise novel legal or policy issues.

Federalism (Executive Order 13132)

This rulemaking does not have Federalism implications, as set forth in E.O. 13132. As used in this order, Federalism implications mean ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' The NEA has determined that this rulemaking will not have Federalism implications within the meaning of E.O. 13132.

Civil Justice Reform (Executive Order 12988)

This Directive meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988. Specifically, this interim final rule is written in clear language designed to help reduce litigation.

Indian Tribal Governments (Executive Order 13175)

Under the criteria in E.O. 13175, we have evaluated this interim final rule and determined that it would have no potential effects on Federally recognized Indian Tribes.

Takings (Executive Order 12630)

Under the criteria in E.O. 12630, this rulemaking does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This rulemaking will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This rulemaking will not impose any ''information collection'' requirements under the Paperwork Reduction Act. Under the act, information collection means the obtaining or disclosure of facts or opinions by or for an agency by 10 or more nonfederal persons.

Unfunded Mandates Act of 1995 (Section 202, Pub. L. 104–4)

This rulemaking does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year.

National Environmental Policy Act of 1969 (5 U.S.C. 804)

The interim final rule will not have significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996 (Sec. 804, Pub. L. 104–121)

This interim final rule would not be a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This interim final rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible Web site. All information about the NEA required to be published in the **Federal Register** may be accessed at *www.arts.gov*. This Act also requires agencies to accept public comments on their rules ''by electronic means.'' See heading ''Public Participation'' for directions on electronic submission of public comments on this interim final rule.

Finally, the E-Government Act requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government Web site contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The Web site *https://www.regulations.gov* contains electronic dockets for the NEA's rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010 (5 U.S.C. 301)

Under this Act, the term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this rulemaking has been written in plain and clear language so that it can be used and understood by the public, the NEA has modeled the

language of this rule on the Federal Plain Language Guidelines.

Public Participation

The NEA has written this interim final rule in compliance with E.O. 13563 by ensuring its accessibility, consistency, simplicity of language, and overall comprehensibility. In addition, the public participation goals of this order are also satisfied by the NEA's participation in a process in which its views and information are made public to the extent feasible, and before any decisions are actually made. This will allow the public the opportunity to react to the comments, arguments, and information of others during the rulemaking process. The NEA initiates its participation in an open exchange by posting the regulation and its rulemaking docket on *https://www.regulations.gov.*

Finally, Section 2 of E.O. 13563 directs agencies, where feasible and appropriate, to seek the views of those who are likely to be affected by rulemaking. This provision emphasizes the importance of prior consultation with ''those who are likely to benefit from and those who are potentially subject to such rulemaking.'' One goal is to solicit ideas about alternatives, relevant costs and benefits (both quantitative and qualitative), and potential flexibilities. The NEA reaches out to interested and affected parties by soliciting comments.

List of Subjects in 45 CFR Parts 1149 and 1158

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Lobbying, Penalties.

For the reasons stated in the preamble, the NEA amends 45 CFR parts 1149 and 1158 as follows:

PART 1149—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 1. The authority citation for part 1149 is revised to read as follows:

Authority: 5 U.S.C. App. 8G(a)(2); 20 U.S.C. 959; 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

§ 1149.9 [Amended]

■ 2. Amend § 1149.9(a)(1) by removing ''$5,000'' and adding in its place ''$10,957''.

PART 1158—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1158 is revised to read as follows:

Authority: 20 U.S.C. 959; 28 U.S.C. 2461; 31 U.S.C. 1352.

§ 1158.400 [Amended]

■ 4. Amend § 1158.400(a) and (b) by:
■ a. Removing ''$10,000'' and adding in its place ''$19,246'' each place it appears.
■ b. Removing ''$100,000'' and adding in its place ''$192,459'' each place it appears.

Appendix A to Part 1158 [Amended]

■ 5. Amend appendix A to part 1158 by:
■ a. Removing ''$10,000'' and adding in its place ''$19,246'' each place it appears.
■ b. Removing ''$100,000'' and adding in its place ''$192,459'' each place it appears.

Dated: June 7, 2017.

Kathy N. Daum,

Director, Administrative Services Office.

[FR Doc. 2017–12071 Filed 6–14–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 161216999–7516–02]

RIN 0648–BG50

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS, upon request from the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary), hereby issues regulations pursuant to the Marine Mammal Protection Act (MMPA) to govern the taking of marine mammals incidental to commercial fireworks displays permitted by the Sanctuary in California, over the course of five years (2017–2022). These regulations, which allow for the issuance of Letters of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and establish requirements pertaining to the monitoring and reporting of such taking.

DATES: As of June 15, 2017, the expiration date of the rule published at 77 FR 31537 on May 29, 2012, is extended from June 28, 2017, to July 3, 2022. This final rule is effective July 4, 2017.

ADDRESSES: A copy of MBNMS's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for This Regulatory Action

These regulations, promulgated under the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), establish a framework for authorizing the take of marine mammals incidental to the commercial fireworks displays in four regions within the MBNMS: Half Moon Bay, Santa Cruz/Soquel, Monterey Peninsula, and Cambria. We received an adequate and complete application from the MBNMS on October 18, 2016, requesting 5-year regulations and authorization to take, by Level B harassment, California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina richardii*) incidental to commercial fireworks displays permitted by the MBNMS. Please see *Background* below for definitions of harassment. The Sanctuary's current incidental take authorization regulations expire June 28, 2017. The regulations implemented by this final rule would be valid from July 4, 2017 through July 3, 2022.

Legal Authority for the Regulatory Action

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to five years if, after notice and public comment, the agency makes certain findings and issue regulations that set forth permissible methods of taking pursuant to that activity, as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the