

Waiver of Proposed Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B)). There is good cause to waive rulemaking here as unnecessary.

Rulemaking is “unnecessary” in those situations in which “the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001), quoting U.S. Department of Justice, *Attorney General’s Manual on the Administrative Procedure Act* 31 (1947) and *South Carolina v. Block*, 558 F. Supp. 1004, 1016 (D.S.C. 1983).

This regulatory action merely effectuates our intent from the 2016 rulemaking to remove 34 CFR part 461 from the Code of Federal Regulations. In 2016, when we intended to remove 34 CFR part 461 from the Code of Federal Regulations, we provided notice and an opportunity to comment on this regulatory action. At that time, we received no comments regarding the proposed removal of 34 CFR part 461. Furthermore, these regulations were promulgated under the National Literacy Act (Pub. L. 102–73) (NLA) in 1992, which was superseded by Title II of the Workforce Investment Act of 1998. Therefore, there is good cause to remove 34 CFR part 461.

The APA also generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). For the same reasons there is good cause to waive rulemaking under 5 U.S.C. 553(b)(B), there is good cause to make these final regulations effective upon publication.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 601(2), the Regulatory Flexibility Act applies only to rules for which an agency publishes a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

Paperwork Reduction Act of 1995

This rule does not contain any information collection requirements. The previously OMB-approved information collection (OMB Control Number 1800–0026) associated with 34 CFR part 461 expired on 03/01/2006.

Accessible Format

Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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List of Subjects in 34 CFR Part 461

Adult education, Grant programs—education, Reporting and recordkeeping requirements, Teachers.

Dated: February 26, 2019.

Scott Stump,

Assistant Secretary for Career, Technical, and Adult Education.

PART 461—[Removed and Reserved]

For the reasons discussed in the preamble, and under the authority of section 414 of the Department of Education Organization Act, 20 U.S.C. 3474, and section 437 of the General Education Provisions Act (20 U.S.C. 1221e–3), the Secretary of Education amends chapter IV of title 34 of the Code of Federal Regulations by removing and reserving part 461.

[FR Doc. 2019–03660 Filed 2–28–19; 8:45 am]

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DEPARTMENT OF THE INTERIOR**Office of the Secretary of the Interior****43 CFR Part 10**

[NPS–WASO–NAGPRA–27233;
PPWOVPADU0/PPMPRL1Y.Y00000]

RIN 1024–AE56

Civil Penalties Inflation Adjustments

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule revises U.S. Department of the Interior regulations implementing the Native American Graves Protection and Repatriation Act to provide for annual adjustments of civil penalties to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes.

DATES: This rule is effective on March 1, 2019.

FOR FURTHER INFORMATION CONTACT: Melanie O’Brien, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:**I. Background**

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (“the Act”). The Act requires Federal agencies to adjust the level of civil monetary penalties annually for inflation no later than January 15 of each year.

II. Calculation of Annual Adjustments

The Office of Management and Budget (OMB) recently issued guidance to assist Federal agencies in implementing the annual adjustments required by the Act which agencies must complete by January 15, 2019. See December 14, 2018, Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, Office of Management and Budget, re: *Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (M–19–04)*. The guidance states that the cost-of-living adjustment multiplier for 2019, based on the Consumer Price Index (CPI–U) for the month of October 2018, not seasonally

adjusted, is 1.02522. (The annual inflation adjustments are based on the percent change between the October CPI-U preceding the date of the adjustment, and the prior year's October CPI-U.) The guidance instructs agencies to complete the 2019 annual adjustment by multiplying each applicable penalty by the multiplier, 1.025221, and rounding to the nearest dollar.

The annual adjustment applies to all civil monetary penalties with a dollar amount that are subject to the Act. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for

violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. This final rule adjusts the following civil monetary penalties contained in the Department regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) for 2019 by multiplying 1.025221 by each penalty amount as updated by the adjustment made in 2018:

CFR citation	Description of the penalty	Current penalty including catch-up adjustment	Annual adjustment (multiplier)	Adjusted penalty
43 CFR 10.12(g)(2)	Failure of Museum to Comply	\$6,666	1.025221	\$6,834
43 CFR 10.12(g)(3)	Continued Failure to Comply Per Day	1,334	1.025221	1,368

Consistent with the Act, the adjusted penalty levels for 2019 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2019 will apply to penalties assessed after that date including, if consistent with agency policy, assessments associated with violations that occurred on or after November 2, 2015. The Act does not, however, change previously assessed penalties that the Department is collecting or has collected. Nor does the Act change an agency's existing statutory authorities to adjust penalties.

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed

this rule in a manner consistent with these requirements.

B. Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). The RFA does not apply to this final rule because the Office of the Secretary is not required to publish a proposed rule for the reasons explained below in Section III.M.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

E. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

F. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

G. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:
 (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
 (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175 and Departmental policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian

tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

J. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information see 43 CFR 46.210(i).) We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

M. Administrative Procedure Act

The Act requires agencies to publish annual inflation adjustments by no later than January 15 of each year, notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the 2019

annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Hawaiian Natives, Historic preservation, Indians—claims, Indians—lands, Museums, Penalties, Public lands, Reporting and recordkeeping requirements.

For the reasons given in the preamble, the Office of the Secretary amends 43 CFR part 10 as follows.

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS

- 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 470dd; 25 U.S.C. 9, 3001 *et seq.*

§ 10.12 [Amended]

- 2. In § 10.12:
 - i. In paragraph (g)(2), remove “\$6,666” and add in its place “\$6,834”.
 - ii. In paragraph (g)(3), remove “\$1,334” and add in its place “\$1,368”.

Andrea Travnicek,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, exercising the authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019-03659 Filed 2-28-19; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80-286; FCC 18-182]

Jurisdictional Separations and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, via a non-substantive change request, an information collection associated with the Commission's Report and Order, FCC 18-182, published February 15, 2019. This document is consistent with that Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the requirements.

DATES: The amendments to 47 CFR 36.3(b), published at 84 FR 4351 (February 15, 2019), are effective March 1, 2019.

FOR FURTHER INFORMATION CONTACT:

Marvin Sacks, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-2017 or via email at marvin.sacks@fcc.gov.

SUPPLEMENTARY INFORMATION:

This document announces that, on February 22, 2019, OMB approved, via a non-substantive change request, an information collection requirement associated with amendments to 47 CFR 36.3(b) adopted in the Commission's Report and Order, FCC 18-182, published at 84 FR 4351. The OMB Control Number is 3060-0400 (Part 61, Tariff Review Plan (TRP)). The Commission publishes this document as an announcement of the effective date of the amendments to 47 CFR 36.3(b). If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1-A620, 445 12th Street, SW, Washington, DC 20554. Please include the OMB Control Number, 3060-0400, in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on February 22, 2019, for the non-substantive change to information requirements contained in the Commission's rules at 47 CFR 36.3(b).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-0400. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.