

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As noted in the above discussion regarding the applicability of the APA, DEA was not required to publish a general notice of proposed rulemaking. Consequently, the RFA does not apply.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year.” Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act (CRA)

This rule is not a major rule as defined by the CRA, 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ Accordingly, the IFR amending 21 CFR part 1308, which published on October 6, 2020 (85 FR 63014), is adopted as final without change.

D. Christopher Evans,
Acting Administrator.

[FR Doc. 2021–11512 Filed 6–1–21; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 723, 724, 845, and 846

[Docket ID: OSM 2021–001; S1D1S
SS08011000 SX064A000 212S180110;
S2D2S SS08011000 SX064A00 21XS501520]

RIN 1029–AC79

Civil Monetary Penalty Inflation Adjustments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Act), and Office of Management and Budget (OMB) guidance, this rule adjusts for inflation the level of civil monetary penalties assessed under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

DATES: Effective June 2, 2021.

FOR FURTHER INFORMATION CONTACT: Kathleen G. Vello, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4558, Washington, DC 20240; Telephone (202) 208–1908. Email: kvello@osmre.gov.

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I. Background

A. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

Section 518 of SMCRA, 30 U.S.C. 1268, authorizes the Secretary of the Interior to assess civil monetary penalties (CMPs) for violations of SMCRA. The Office of Surface Mining Reclamation and Enforcement’s (OSMRE) regulations implementing the CMP provisions of section 518 are located in 30 CFR parts 723, 724, 845, and 846. We are adjusting CMPs in six sections—30 CFR 723.14, 723.15, 724.14, 845.14, 845.15, and 846.14.

On November 2, 2015, the President signed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (2015 Act) into law. The 2015 Act, which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (codified as amended at 28 U.S.C. 2461 note), requires Federal agencies to promulgate rules to adjust the level of CMPs to account for inflation. The 2015 Act required an initial “catch-up” adjustment. OSMRE published the initial adjustment in the **Federal Register** on July 8, 2016 (81 FR 44535), and the adjustment took effect on August 1, 2016. The 2015 Act also requires agencies to publish annual inflation adjustments in the **Federal Register** no later than January 15 of each year. These adjustments are aimed at maintaining the deterrent effect of civil penalties and furthering the policy goals of the statutes that authorize the penalties. Further, the 2015 Act provides that agencies must adjust civil monetary penalties “notwithstanding section 553 of [the Administrative Procedure Act (APA)].” Therefore, “the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.” December 23, 2020, Memorandum for the Heads of Executive Departments and Agencies (M–21–10) from Russell T. Vought,

Director, Office of Management and Budget, *Implementation of Penalty Inflation Adjustments for 2021*,

Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (OMB Memorandum), at 3.

Pursuant to SMCRA and the 2015 Act, this final rule reflects the statutorily required CMP adjustments as follows:

CFR citation	Points (where applicable)	Current penalty dollar amounts	Adjusted penalty dollar amounts
30 CFR 723.14	1	\$68	\$69
	2	137	139
	3	206	208
	4	274	277
	5	342	346
	6	411	416
	7	479	485
	8	546	552
	9	616	623
	10	685	693
	11	752	761
	12	821	831
	13	888	898
	14	958	969
	15	1,028	1,040
	16	1,095	1,108
	17	1,163	1,177
	18	1,233	1,248
	19	1,301	1,316
	20	1,369	1,385
	21	1,438	1,455
	22	1,506	1,524
	23	1,574	1,593
	24	1,642	1,661
	25	1,711	1,731
	26	2,054	2,078
	27	2,396	2,424
	28	2,736	2,768
	29	2,949	2,984
	30	3,423	3,463
	31	3,764	3,808
	32	4,106	4,155
	33	4,449	4,502
	34	4,791	4,848
	35	5,133	5,194
	36	5,475	5,540
	37	5,819	5,888
	38	6,160	6,233
	39	6,502	6,579
	40	6,843	6,924
	41	7,188	7,273
	42	7,529	7,618
	43	7,870	7,963
	44	8,213	8,310
	45	8,555	8,656
	46	8,898	9,003
	47	9,239	9,348
	48	9,583	9,696
	49	9,924	10,041
	50	10,266	10,387
	51	10,607	10,732
	52	10,952	11,081
	53	11,294	11,427
	54	11,635	11,773
	55	11,979	12,121
	56	12,320	12,466
	57	12,661	12,811
	58	13,003	13,157
	59	13,347	13,505
	60	13,688	13,850
	61	14,030	14,196
	62	14,373	14,543
	63	14,716	14,890
	64	15,058	15,236
	65	15,399	15,581
	66	15,743	15,929
	67	16,084	16,274
	68	16,426	16,620

CFR citation	Points (where applicable)	Current penalty dollar amounts	Adjusted penalty dollar amounts
	69	16,768	16,966
	70	17,112	17,314
30 CFR 723.15(b) (Assessment of separate violations for each day)	2,566	2,596
30 CFR 724.14(b) (Individual civil penalties)	17,112	17,314
30 CFR 845.14	1	68	69
	2	137	139
	3	206	208
	4	274	277
	5	342	346
	6	411	416
	7	479	485
	8	546	552
	9	616	623
	10	685	693
	11	752	761
	12	821	831
	13	888	898
	14	958	969
	15	1,028	1,040
	16	1,095	1,108
	17	1,163	1,177
	18	1,233	1,248
	19	1,301	1,316
	20	1,369	1,385
	21	1,438	1,455
	22	1,506	1,524
	23	1,574	1,593
	24	1,642	1,661
	25	1,711	1,731
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CFR citation	Points (where applicable)	Current penalty dollar amounts	Adjusted penalty dollar amounts
	69	16,768	16,966
	70	17,112	17,314
30 CFR 845.15(b) (Assessment of separate violations for each day)	2,566	2,596
30 CFR 846.14(b) (Individual civil penalties)	17,112	17,314

In the chart above, there are no numbers listed in the “Points” column relative to 30 CFR 723.15(b), 30 CFR 724.14(b), 30 CFR 845.15(b), and 30 CFR 846.14(b) because those regulatory provisions do not set forth numbers of points. For those provisions, the current regulations only set forth the dollar amounts shown in the chart in the “Current Penalty Dollar Amounts” column; the adjusted amounts, which we are adopting in this rule, are shown in the “Adjusted Penalty Dollar Amounts” column.

B. Calculation of Adjustments

OMB issued guidance on the 2021 annual adjustments for inflation. See OMB Memorandum (December 23, 2020). The OMB Memorandum notes that the 1990 Act defines “civil monetary penalty” as “any penalty, fine, or other sanction that . . . is for a specific monetary amount as provided by Federal law; or . . . has a maximum amount provided for by Federal law; and . . . is assessed or enforced by an agency pursuant to Federal law; and . . . is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts” *Id.* at 2. It further instructs that agencies “are to adjust ‘the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment.’” *Id.* The 1990 Act, as amended by the 2015 Act, and the OMB Memorandum specify that the annual inflation adjustments are based on the percent change between the Consumer Price Index for all Urban Consumers (the CPI-U) published by the Department of Labor for the month of October in the year of the previous adjustment, and the October CPI-U for the preceding year. The recent OMB Memorandum specified that the cost-of-living adjustment multiplier for 2021, not seasonally adjusted, is 1.01182 (the October 2020 CPI-U (260.388) divided by the October 2019 CPI-U (257.346) = 1.01182). OSMRE used this guidance to identify applicable CMPs and calculate the required inflation adjustments. The 1990 Act, as amended by the 2015 Act, specifies that any resulting increases in CMPs must be rounded according to a

stated rounding formula and that the increased CMPs apply only to violations that occur after the date that the increases take effect.

Generally, OSMRE assigns points to a violation as described in 30 CFR 723.13 and 845.13. The CMP owed is based on the number of points received, ranging from one point to 70 points. For example, under our existing regulations in 30 CFR 845.14, a violation totaling 70 points would amount to a \$17,112 CMP. To adjust this amount, we multiply \$17,112 by the 2020 inflation factor of 1.01182, resulting in a raw adjusted amount of \$17,314.26. Because the 2015 Act requires us to round any increase in the CMP amount to the nearest dollar, in this case a violation of 70 points would amount to a new CMP of \$17,314. Pursuant to the 2015 Act, the increases in this final rule apply to CMPs assessed after the date the increases take effect, even if the associated violation predates the applicable increase.

C. Effect of the Rule in Federal Program States and on Indian Lands

OSMRE directly regulates surface coal mining and reclamation operations within a State or on Tribal lands if the State or Tribe does not obtain its own approved program pursuant to sections 503 or 710(j) of SMCRA, 30 U.S.C. 1253 or 1300(j). The increases in CMPs contained in this rule will apply to the following Federal program States: Arizona, California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for those States appear at 30 CFR parts 903, 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. Under 30 CFR 750.18, the increases in CMPs also apply to Indian lands under the Federal program for Indian lands.

D. Effect of the Rule on Approved State Programs

As a result of litigation, see *In re Permanent Surface Mining Regulation Litigation*, No. 79–1144, Mem. Op. (D.D.C. May 16, 1980), 19 Env’t Rep. Cas. (BNA) 1477, State regulatory programs are not required to mirror all of the penalty provisions of our

regulations. Thus, this rule has no effect on CMPs in States with SMCRA primacy.

II. Procedural Matters

A. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that agency regulations exclusively implementing the annual inflation adjustments are not significant, provided they are consistent with the OMB Memorandum. Because this final rule exclusively implements the annual inflation adjustments, is consistent with the OMB Memorandum, and will have an annual impact of less than \$100 million, it is not significant under Executive Order 12866.

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 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, to the extent permitted by statute.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for all 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 Federal Civil Penalties

Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties annually for inflation “notwithstanding section 553 [of the Administrative Procedure Act].” Thus, no proposed rule will be published, and the RFA does not apply to this rulemaking.

C. 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) Will 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) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

D. 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.

E. Takings (Executive Order 12630)

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

F. Federalism (Executive Order 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.

G. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 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.

H. Consultation With Indian Tribes (Executive Order 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department’s consultation policy, under Departmental Manual Part 512, Chapters 4 and 5, and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on Federally-recognized Tribes or Alaska Native Claims Settlement Act (ANCSA) Corporations, and that consultation under the Department’s Tribal consultation policy is not required.

I. 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.

J. 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.

K. Effects on Energy Supply, Distribution, and Use (Executive Order 13211)

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

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of

June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe that we have not met these requirements in issuing this final rule, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section. Your comments should be as specific as possible in order to help us determine whether any future revisions to the rule are necessary. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

M. Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

N. Administrative Procedure Act

We are issuing this final rule without prior public notice or opportunity for public comment. As discussed above, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to publish adjusted penalties annually. Under the 2015 Act, the public procedure that the Administrative Procedure Act generally requires—notice, an opportunity for comment, and a delay in the effective date—is not required for agencies to issue regulations implementing the annual adjustments required by the 2015 Act. See OMB Memorandum, M–21–10, at 3.

List of Subjects

30 CFR Part 723

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

30 CFR Part 724

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

30 CFR Part 845

Administrative practice and procedure, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 846

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

Glenda H. Owens,
Deputy Director, Office of Surface Mining Reclamation and Enforcement.

For the reasons given in the preamble, the Department of the Interior amends 30 CFR parts 723, 724, 845, and 846 as set forth below.

PART 723—CIVIL PENALTIES

■ 1. The authority citation for part 723 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 *et seq.*, and 31 U.S.C. 3701.

■ 2. Revise the table in § 723.14 to read as follows:

§ 723.14 Determination of amount of penalty.

* * * * *

TABLE 1 TO § 723.14

Points	Dollars
1	69
2	139
3	208
4	277
5	346
6	416
7	485
8	552
9	623
10	693
11	761
12	831
13	898
14	969
15	1,040
16	1,108
17	1,177
18	1,248
19	1,316
20	1,385
21	1,455
22	1,524
23	1,593
24	1,661
25	1,731
26	2,078
27	2,424
28	2,768
29	2,984
30	3,463
31	3,808
32	4,155
33	4,502
34	4,848
35	5,194
36	5,540
37	5,888
38	6,233
39	6,579
40	6,924
41	7,273
42	7,618
43	7,963

TABLE 1 TO § 723.14—Continued

Points	Dollars
44	8,310
45	8,656
46	9,003
47	9,348
48	9,696
49	10,041
50	10,387
51	10,732
52	11,081
53	11,427
54	11,773
55	12,121
56	12,466
57	12,811
58	13,157
59	13,505
60	13,850
61	14,196
62	14,543
63	14,890
64	15,236
65	15,581
66	15,929
67	16,274
68	16,620
69	16,966
70	17,314

■ 3. In § 723.15, revise introductory text of paragraph (b) to read as follows:

§ 723.15 Assessment of separate violations for each day.

* * * * *

(b) In addition to the civil penalty provided for in paragraph (a) of this section, whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, 30 U.S.C. 1271(a), a civil penalty of not less than \$2,596 will be assessed for each day during which such failure to abate continues, except that:

* * * * *

PART 724—INDIVIDUAL CIVIL PENALTIES

■ 4. The authority citation for part 724 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 *et seq.*, and 31 U.S.C. 3701.

■ 5. In § 724.14, revise the first sentence of paragraph (b) to read as follows:

§ 724.14 Amount of individual civil penalty.

* * * * *

(b) The penalty will not exceed \$17,314 for each violation. * * *

PART 845—CIVIL PENALTIES

■ 6. The authority citation for part 845 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 *et seq.*, 31 U.S.C. 3701, Pub. L. 100–202, and Pub. L. 100–446.

■ 7. Revise the table in § 845.14 to read as follows:

§ 845.14 Determination of amount of penalty.

* * * * *

TABLE 1 TO § 845.14

Points	Dollars
1	69
2	139
3	208
4	277
5	346
6	416
7	485
8	552
9	623
10	693
11	761
12	831
13	898
14	969
15	1,040
16	1,108
17	1,177
18	1,248
19	1,316
20	1,385
21	1,455
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31	3,808
32	4,155
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34	4,848
35	5,194
36	5,540
37	5,888
38	6,233
39	6,579
40	6,924
41	7,273
42	7,618
43	7,963
44	8,310
45	8,656
46	9,003
47	9,348
48	9,696
49	10,041
50	10,387
51	10,732
52	11,081
53	11,427
54	11,773
55	12,121
56	12,466
57	12,811
58	13,157
59	13,505
60	13,850
61	14,196

TABLE 1 TO § 845.14—Continued

Points	Dollars
62	14,543
63	14,890
64	15,236
65	15,581
66	15,929
67	16,274
68	16,620
69	16,966
70	17,314

■ 8. In § 845.15, revise introductory text of paragraph (b) to read as follows:

§ 845.15 Assessment of separate violations for each day.

* * * * *

(b) In addition to the civil penalty provided for in paragraph (a) of this section, whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, 30 U.S.C. 1271(a), a civil penalty of not less than \$2,596 will be assessed for each day during which such failure to abate continues, except that:

* * * * *

PART 846—INDIVIDUAL CIVIL PENALTIES

■ 9. The authority citation for part 846 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 *et seq.*, and 31 U.S.C. 3701.

■ 10. In § 846.14, revise the first sentence of paragraph (b) to read as follows:

§ 846.14 Amount of individual civil penalty.

* * * * *

(b) The penalty will not exceed \$17,314 for each violation. * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[EPA-HQ-OA-2018-0259; FRL-10024-32-ORD]

RIN 2080-AA15

Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information; Implementation of Vacatur

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is removing the regulatory provisions associated with the final rule Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information. This action effectuates the vacatur of the final rule ordered by the United States District Court for the District of Montana. It is also responsive to the Executive order entitled “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,” signed on January 20, 2021.

DATES: This final rule is effective May 28, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OA-2018-0259. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Bennett Thompson, Office of Science Advisor, Policy and Engagement (8104R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-1071; email address: osp_staff@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action removes requirements for how the EPA considers the availability of dose-response data underlying its pivotal science used in its significant regulatory actions and influential scientific information. The EPA recognizes any entity interested in submitting studies to EPA or how EPA evaluates and considers science in EPA regulations may be interested in this final rule.

B. Why is EPA issuing this action?

The EPA is removing the regulatory provisions associated with the final rule “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information” (86 FR 469, January 6, 2021), herein referred to as

the “2021 final rule” (Ref. 1). This action effectuates the vacatur of the final rule ordered by the United States District Court for the District of Montana in *Environmental Defense Fund et al. v. EPA*, No. 21-cv-00003 (D. Mon. Feb. 1, 2021) (*EDF v. EPA*).

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause under section 553(b)(B) to issue this final rule without prior proposal and opportunity for comment because this action undertakes the ministerial tasks of removing regulatory provisions vacated by the court in *EDF v. EPA* (Ref. 2).

As a matter of law, the order issued by the court in *EDF v. EPA* on February 1, 2021 vacated the 2021 final rule. It is, therefore, unnecessary to provide notice and an opportunity for comment on this action, which carries out the court’s orders by removing the 2021 final rule from 40 CFR part 30.

In addition, EPA finds that it has good cause to make these revisions immediately effective upon publication under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d). Section 553(d) provides that final rules shall not become effective until 30 days after publication in the **Federal Register** “except . . . as otherwise provided by the agency for good cause.” The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. Fed. Comm’n Comm’n*, 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should, “balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.” *Gavrilovic*, 551 F.2d at 1105. EPA has determined that there is good cause under section 553(d) for making this final rule effective immediately because this action merely implements the court order vacating the 2021 final rule. Delaying the effectiveness of this rule further would prolong the period of time between the change in the law (*i.e.*, the court’s vacatur) and the