



DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1241

[Docket No. ONRR–2020–0002; DS63644000 DRT000000.CH7000 212D1113RT]

RIN 1012-AA29

Inflation Adjustments to Civil Monetary Penalty Rates for Calendar Year 2021

AGENCY: Office of the Secretary, Office of Natural Resources Revenue, Interior.

ACTION: Final rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) publishes this final rule to increase its maximum civil monetary penalty (CMP) rates to account for inflation occurring between October 2019 and October 2020.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: For questions on procedural issues, contact Luis Aguilar, Regulatory Specialist, by telephone at (303) 231-3418 or email to Luis.Aguilar@onrr.gov. For questions on technical issues, contact Michael Marchetti, Program Manager for Enforcement and Litigation Support, by telephone at (303) 231-3125 or email to Michael.Marchetti@onrr.gov. You may obtain a paper copy of this rule by contacting Mr. Aguilar by phone or email.

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I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively, “the Act”), codified at 28 U.S.C. 2461, requires Federal agencies to adjust their civil monetary penalty (CMP) rates for inflation every year.

In accordance with sections 4 and 5 of the Act, the annual CMP inflation adjustment for 2021 is based on the percent change in the Consumer Price Index for all Urban Consumers (CPI-U) between October 2019 and October 2020. The CPI-U for October 2019 was 257.346, and for October 2020 was 260.388, for an increase of 1.01182%. In accordance with section 5(a) of the Act, the new maximum CMP rates must be rounded to the nearest whole dollar. In accordance with section 6 of the Act, the new maximum penalty rates will apply only to CMPs, including those that are associated with violations predating the increase, that ONRR assesses after the date the increase takes effect.

ONRR assesses CMPs under the Federal Oil and Gas Royalty Management Act, 30 U.S.C. 1719, and its regulations at 30 CFR part 1241. ONRR calculates and assesses CMPs per violation, at the applicable rate, for each day such violation continues.

II. Inflation-Adjusted Maximum Rates

This final rule increases the maximum CMP rates for each of the four violation categories identified in 30 U.S.C. 1719(a) through (d) and 30 CFR part 1241. The following list identifies the existing ONRR regulations containing CMP rates and shows those rates before and after this increase.

30 CFR citation	Current penalty rate	2021 inflation adjustment multiplier	2021 adjusted penalty rate
1241.52(a)(2).....	\$1,273	1.01182	\$1,288
1241.52(b).....	\$12,740	1.01182	\$12,891
1241.60(b)(1).....	\$25,479	1.01182	\$25,780
1241.60(b)(2).....	\$63,699	1.01182	\$64,452

IV. Procedural Requirements

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

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the United States’ regulatory system to promote predictability, to reduce uncertainty, and to use the most innovative and least burdensome tools for achieving regulatory ends. E.O. 13563 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 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. ONRR developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, because the rule only makes adjustments for inflation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties with an annual inflation adjustment. Therefore, 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. 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, local government agencies; or geographic regions; and
- c. Does 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. This rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, ONRR is not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) requires because this rule is not an unfunded mandate.

E. Takings (E.O. 12630)

This rule does not result in a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, this rule does not require a takings implication assessment.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. 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), which requires that ONRR review all regulations to eliminate errors and ambiguity and to write them to minimize litigation; and

b. Meets the criteria of section 3(b)(2), which requires that ONRR write all regulations in clear language, using clear legal standards.

H. Consultation with Indian Tribal Governments (E.O. 13175)

The Department of the Interior (DOI) 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. Under the DOI's consultation policy and the criteria in E.O. 13175, ONRR evaluated this rule and determined that it will have no substantial, direct effects on federally recognized Indian Tribes and does not require consultation.

I. Paperwork Reduction Act

This rule:

(a) Does not contain any new information collection requirements; and

(b) Does not require a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). See 5 CFR 1320.4(a)(2).

J. National Environmental Policy Act of 1969 (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. ONRR is not required to provide a detailed statement under NEPA because this rule qualifies for categorical exclusion under 43 CFR 46.210(i) in that this rule is “. . . of an administrative, financial, legal, technical, or procedural nature. . . .” ONRR also has determined that this rule is not involved in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

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

This rule is not a significant energy action under the definition in E.O. 13211 and, therefore, does not require a Statement of Energy Effects.

L. Clarity of this Regulation

ONRR is required by E.O. 12866 (section 1(b)(12)), E.O. 12988 (section 3(b)(1)(B)), and E.O. 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 ONRR publishes 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;
- (e) Use lists and tables wherever possible;

If you feel that ONRR has not met these requirements, send your comments to Luis.Aguilar@onrr.gov. Your comments should be as specific as possible. For example, you should identify the number 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. Administrative Procedure Act (APA)

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, ONRR is issuing the 2021 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*.

Section 553(b) of the Administrative Procedure Act (APA) 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 prior public comment. Under section 553(b), ONRR finds that there is good

cause to promulgate this rule without first providing for public comment. ONRR is promulgating this final rule to implement the statutory directive in the Act, which requires agencies to publish a final rule and to update the civil penalty amounts by applying a specified formula. ONRR has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule prior to promulgation. Thus, providing for notice and public comment is unnecessary.

Furthermore, ONRR finds under section 553(d)(3) of the APA that good cause exists to make this direct final rule effective immediately upon publication in the *Federal Register*. In the Act, Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the *Federal Register* no later than January 15 of every year, notwithstanding section 553 of the APA. Under the statutory framework and OMB guidance, the new penalty levels are to take effect immediately upon publication. Moreover, an effective date after January 15 would delay application of the new penalty levels, contrary to Congress's intent.

List of Subjects in 30 CFR Part 1241

Administrative practice and procedure, Civil penalties, Coal, Geothermal, Inflation, Mineral resources, Natural gas, Notices of non-compliance, Oil.

Kimbra G. Davis,
Director for Office of Natural Resources Revenue.

Editorial note: This document was received for publication by the Office of the Federal Register on January 19, 2021.

Authority and Issuance

For the reasons discussed in the preamble, ONRR amends 30 CFR part 1241 as set forth below:

PART 1241—PENALTIES

1. The authority citation for part 1241 continues to read as follows:

AUTHORITY: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, 1801 *et seq.*

§ 1241.52 [Amended]

2. Amend § 1241.52 by:

a. In paragraph (a)(2), removing “\$1,273” and adding in its place “\$1,288”.

b. In paragraph (b) introductory text, removing “\$12,740” and adding in its place “\$12,891”.

§ 1241.60 [Amended]

3. Amend § 1241.60 by:

a. In paragraph (b)(1) introductory text, removing “\$25,479” and adding in its place “\$25,780”.

b. In paragraph (b)(2), removing “\$63,699” and adding in its place “\$64,452”.