



DEPARTMENT OF THE INTERIOR

Office of the Secretary of the Interior

43 CFR Part 10

[NPS-WASO-NAGPRA-NPS0039273; PPWOVPADU0/PPMPRLE1Y.Y00000]

RIN 1024-AE94

Civil Penalties Inflation Adjustments

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule revises U.S. Department of the Interior (DOI) regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) 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 statute. This rule also updates the mailing address for the NAGPRA Program.

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

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Manager, National NAGPRA Program, (202) 354-2204, National Park Service, 1849 C Street, NW, Washington, DC 20240. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

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 Public Law 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, 2025. *See* December 17, 2024, Memorandum for the Heads of Executive Departments and Agencies, from Shalanda D. Young, Director, Office of Management and Budget, re: *Implementation of Penalty Inflation Adjustments for 2025, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M-25-02). The guidance states that the cost-of-living adjustment multiplier for 2025, based on the Consumer Price Index (CPI-U) for the month of October 2024, not seasonally adjusted, is 1.02598.

Annual inflation adjustments are based on the percent change between each published October’s CPI-U. In this case, October 2024 CPI-U (315.664)/October 2023 CPI-U (307.671) = 1.02598. The guidance instructs agencies to complete the 2025 annual adjustment by multiplying each applicable penalty by the amount, 1.02598, 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 DOI regulations implementing NAGPRA for 2025 by multiplying 1.02598 by each penalty amount as updated by the adjustment made in 2024:

CFR Citation	Description of the Penalty	2024 Penalty	Annual Adjustment (Multiplier)	2025 Adjusted Penalty
43 CFR 10.11(c)(1)	Failure of Museum to Comply	\$8,315	1.02598	\$8,531
43 CFR 10.11(g)(4)	Continued Failure to Comply Per Day	\$1,664	1.02598	\$1,707
43 CFR 10.11(m)(1)	Continued Failure to Comply Per Day	\$1,496	1.02598	\$1,707 ¹

Consistent with the Act, the adjusted penalty levels for 2025 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2025 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.

¹ When DOI last updated the NAGPRA regulations to adjust the civil penalties on February 15, 2024 (89 FR 11740), it adjusted the daily civil penalty amounts in one of the two locations where they appear in 43 CFR 10.11. In order to accurately adjust the daily civil penalty amount in 43 CFR 10.11(m)(1) that was not updated in 2024, DOI is multiplying 1.02598 by the penalty amount that should be in the CFR had it been updated in 2024. The calculation therefore is \$1,664 multiplied by 1.02598 = \$1,707.

In addition to adjusting the amount of civil penalties, this rule updates the NAGPRA regulations at 43 CFR 10.1(e)(2) to reflect the new address of the NAGPRA Program. This change is needed to provide the public with accurate information about where communications to the NAGPRA Program Manager may be sent if electronic submission is not possible.

III. Procedural Requirements

A. Compliance with Other Laws, Executive Orders, and Department Policy. Regulatory Planning and Review (Executive Orders 12866 and 13563 and 14094)

Executive Order (E.O.) 14094 amends E.O. 12866 and reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866 and E.O. 13563. Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. 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 developed this rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and amended and reaffirmed by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA determined that this final rule is not significant.

B. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

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.L.

C. Congressional Review Act

This rule is not a major rule under 5 U.S.C. 804(2), the Congressional Review 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.

D. Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

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 (E.O. 12630)

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

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. A federalism summary impact statement is not required.

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) 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 (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. The Department has evaluated this rule under its consultation policy and under the criteria in E.O. 13175 and has determined that the rule has no substantial direct effects on federally recognized Indian Tribes 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 (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the 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 the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the OIRA Administrator as a significant energy action. A statement of energy effects is not required.

L. 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 procedure for rulemaking under the APA—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 2025 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*. Providing an opportunity for public comment and a delay in the effective date for changing the regulations to reflect the current mailing address of the NAGPRA Program Manager would be unnecessary and contrary to the public interest.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Alaska, Cemeteries, Citizenship and naturalization, Colleges and universities, Hawaiian Natives, Historic preservation, Human remains, Indians, Indians—claims, Indians—law, Indians—lands, Museums, Penalties, Public lands, Reporting and recordkeeping requirements, Treaties.

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: 25 U.S.C. 3001 et seq. and 25 U.S.C. 9.

§ 10.1 [Amended]

2. In § 10.1, remove “7360” and add in its place “2343” in paragraph (e)(2).

§ 10.11 [Amended]

3. In § 10.11:

- a. Remove “\$8,315” and add in its place “\$8,531” in paragraph (c)(1);
- b. Remove “\$1,664”. and add in its place “\$1,707” in paragraph (g)(4); and
- c. Remove “\$1,496” and add in its place “\$1,707” in paragraph (m)(1).

Shannon Estenoz,
Assistant Secretary for Fish and Wildlife and Parks.

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