

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485 and the collections of information in 21 CFR part 830 have been approved under OMB control number 0910–0720.

Dated: January 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 575

Annual Adjustment of Civil Monetary Penalty To Reflect Inflation

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: In compliance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the Act) and Office of Management and Budget (OMB) guidance, the National Indian Gaming Commission (NIGC or Commission) is amending its civil monetary penalty rule to reflect an annual adjustment for inflation in order to improve the penalty's effectiveness and maintain its deterrent effect. The Act provides that the new penalty level must apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase.

DATES: This final rule will have an effective date of January 15, 2018.

FOR FURTHER INFORMATION CONTACT: Contact Armando J. Acosta, Senior Attorney, Office of General Counsel, National Indian Gaming Commission, at (202) 632–7003; fax (202) 632–7066 (not toll-free numbers).

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). Beginning in 2017, the Act requires agencies to make annual

inflationary adjustments to their civil monetary penalties by January 15th of each year, in accordance with annual OMB guidance.

II. Calculation of Annual Adjustment

On December 15, 2017, OMB issued guidance to agencies to calculate the annual adjustment. *See* M–18–03 Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, Subject: *Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (December 15, 2017). According to OMB, the cost-of-living adjustment multiplier for 2018, based on the Consumer Price Index (CPI–U) for the month of October 2017, not seasonally adjusted, is 1.02041.

Pursuant to this guidance, the Commission has calculated the annual adjustment level of the civil monetary penalty contained in 25 CFR 575.4 (“The Chairman may assess a civil fine, not to exceed \$50,276 per violation, against a tribe, management contractor, or individual operating Indian gaming for each notice of violation . . .”). The 2018 adjusted level of the civil monetary penalty is \$51,302 (\$50,276 × 1.02041).

III. Regulatory Matters

Regulatory Planning and Review

This final rule is not a significant rule under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy or 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.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not involve entitlements, grants, user fees, or loan programs or the rights or obligations of recipients.

(4) This regulatory change does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Commission certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rule makes annual adjustments for inflation.

Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. The rule will not result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

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

Takings

Under the criteria in Executive Order 12630, this final rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable “taking.” Thus, a takings implication assessment is not required.

Federalism

Under the criteria in Executive Order 13132, this final rule has no substantial direct effect 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.

Civil Justice Reform

This final rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation. It is written in clear language and contains clear legal standards.

Consultation With Indian Tribes

In accordance with the President's memorandum of April 29, 1994, *Government-to-Government Relations with Native American Tribal Governments*, Executive Order 13175 (59 FR 22951, November 6, 2000), the

Commission has determined that consultations with Indian gaming tribes is not practicable, as Congress has mandated that annual civil penalty adjustments in the Act be implemented no later than January 15th of each year.

Paperwork Reduction Act

This final rule does not affect any information collections under the Paperwork Reduction Act.

National Environmental Policy Act

This final rule does not constitute a major federal action significantly affecting the quality of the human environment.

Information Quality Act

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

Effects on the Energy Supply

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

Clarity of This Regulation

The Commission is required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule that the Commission publishes must:

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

Required Determinations Under the Administrative Procedure Act

In accordance with the Act, agencies are to annually adjust civil monetary penalties without providing an opportunity for notice and comment, and without a delay in its effective date. Therefore, the Commission is not required to complete a notice and comment process prior to promulgation.

List of Subjects in 25 CFR Part 575

Administrative practice and procedure, Gaming, Indian lands, Penalties.

For the reasons set forth in the preamble, the Commission amends 25 CFR part 575 as follows:

PART 575—CIVIL FINES

- 1. The authority citation for part 575 continues to read as follows:

Authority: 25 U.S.C. 2705(a), 2706, 2713, 2715; and Sec. 701, Pub. L. 114-74, 129 Stat. 599.

§ 575.4 [Amended]

- 2. Amend the introductory text of § 575.4 by removing “\$50,276” and adding in its place “\$51,302”.

Dated: January 9, 2018.

Jonodev O. Chaudhuri,
Chairman,

Kathryn Isom-Clause,
Vice Chair,

E. Sequoyah Simermeyer,
Associate Commissioner.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0868]

RIN 1625-AA09

Drawbridge Operation Regulation; Isthmus Slough, Coos Bay, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Oregon State secondary highway bridge (Isthmus Slough Bridge), across Isthmus Slough, mile 1.0, at Coos Bay, OR. To accommodate Oregon Department of Transportation’s (ODOT) preservation, painting and replacement of the bridge equipment, ODOT will operate half the double bascule span (single leaf). Additionally, during the period of this work, the non-functioning leaf of the span’s vertical clearance will be reduced.

DATES: This temporary final rule is effective from 6 a.m. on February 26, 2018 to 6 p.m. on July 31, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-2017-0868 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or

email Steven M. Fischer, Bridge Administrator, Thirteenth Coast Guard District Bridge Program Office, telephone 206-220-7282; email d13-pf-d13bridges@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
ODOT Oregon Department of Transportation
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

On October 24, 2017, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Isthmus Slough, Coos Bay, OR, in the **Federal Register** (82 FR 49153). We received no comments on this rule. ODOT owns and operates the double bascule Isthmus Slough Bridge, across Isthmus Slough, mile 1.0, at Coos Bay, OR. The operating regulation has been temporarily modified to accommodate ODOT’s painting, preservation, and upgrading of the bridge electrical systems. Isthmus Slough provides no alternate routes to pass around the Isthmus Slough Bridge. To facilitate this event, ODOT will operate the double bascule bridge in single leaf mode (half of the span), and reduce the vertical clearance of the non-functioning leaf. Up to ten feet of containment will be installed under the non-functioning leaf only, and will reduce the vertical clearance to 18 feet. Vessels that do not require an opening may transit under the bridge at any time. We approved a temporary deviation on August 4, 2017 (82 FR 36332), with the same change in bridge operations as this rule change. We have not received any reports of problems or complaints with the subject bridge operating under the temporary deviation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. Isthmus Slough Bridge, across Isthmus Slough, mile 1.0, at Coos Bay, OR, is a double bascule drawbridge, and provides a vertical clearance of 28 feet in the closed-to-navigation position referenced to the vertical clearance above mean high water tide level. ODOT cannot complete scheduled maintenance and equipment upgrades unless the operating schedule for the subject bridge is changed.