I. Background


The 2015 Act requires agencies to:
1. Adjust the level of civil monetary penalties for inflation with an initial "catch-up" adjustment through an interim final rulemaking in 2016;
2. Make subsequent annual adjustments for inflation beginning in 2017; and

The purpose of these adjustments is to maintain the deterrent effect of civil monetary penalties and promote compliance with the law (see Sec. 1, Pub. L. 101–410).

As required by the 2015 Act, the BLM issued an interim final rule that adjusted the level of civil monetary penalties in BLM regulations with the initial "catch-up" adjustment (RIN 1004–AE46, 81 FR 41860), which was published on June 28, 2016, and became effective on July 28, 2016. On January 19, 2017, the BLM published a final rule (RIN 1004–AE49, 82 FR 6305) updating the civil penalty amounts to the 2017 annual adjustment levels. Final rules updating the civil penalty amounts to 2018, 2019, and 2020 annual adjustment levels were published in subsequent years (RIN 1004–AE51, 83 FR 3992; RIN 1004–AE56, 84 FR 22379; and RIN 1004–AE77, 85 FR 10617, respectively).


II. Calculation of 2021 Adjustment

In accordance with the 2015 Act and OMB Memorandum M–21–10, the BLM has identified applicable civil monetary penalties in its regulations and calculated the annual adjustments. 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, nor does it include fees for services, licenses, permits, or other regulatory review. The calculated annual inflation adjustments are based on the percentage change between the Consumer Price Index for all Urban Consumers (CPI–U) for the October preceding the date of the adjustment, and the prior year’s October CPI–U. Consistent with guidance in OMB Memorandum M–21–10, the BLM divided the October 2020 CPI–U by the October 2019 CPI–U to calculate the
multiplier. In this case, October 2020 CPI–U (260.388)/October 2019 CPI–U (257.346) = 1.01182. OMB Memorandum M–21–10 confirms that this is the proper multiplier. (OMB Memorandum M–21–10 at 1 and n.4.)

The 2015 Act requires the BLM to adjust the civil penalty amounts in 43 CFR 3163.2 and 43 CFR 9239.5–3(f)(1). To accomplish this, the BLM multiplied the current penalty amounts in 43 CFR 3163.2(b)(1) and (2), (d), (e), and (f) by the multiplier set forth in OMB Memorandum M–21–10 (1.01182) to obtain the adjusted penalty amounts. The 2015 Act requires that the resulting amounts be rounded to the nearest $1.00 at the end of the calculation process.

This year’s adjustments include 43 CFR 9239.5–3(f)(1), which provides for a penalty of not more than $1,000 for each day of violation for willfully conducting coal exploration for commercial purposes without an exploration license. This provision meets the criteria for annual adjustments under the 2015 Act but was inadvertently omitted in previous adjustments. Consistent with OMB Memorandum M–16–06 (February 24, 2016), the adjusted penalty amount was calculated by applying the initial “catch-up” adjustment based on the percent change between the CPI–U for 1977, the year the current penalty amount was established by regulation, and the October 2015 CPI–U, giving a catch-up adjustment multiplier of 3.86101 for 2016. After applying the initial catch-up adjustment multiplier, that amount was multiplied by 1.09481 to reflect the combined annual inflation adjustments for 2017 to 2021, giving an adjusted penalty of $4,227.00.

The adjusted penalty amounts will take effect immediately upon publication of this rule. Pursuant to the 2015 Act, the adjusted civil penalty amounts apply to civil penalties assessed after the date the increase takes effect, even if the associated violation predates such increase. This final rule adjusts the following civil penalties:

<table>
<thead>
<tr>
<th>CFR citation</th>
<th>Description of the penalty</th>
<th>Current penalty</th>
<th>Adjusted penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>43 CFR 3163.2(b)(1)</td>
<td>Failure to comply</td>
<td>$1,115</td>
<td>$1,128</td>
</tr>
<tr>
<td>43 CFR 3163.2(b)(2)</td>
<td>If corrective action is not taken</td>
<td>11,160</td>
<td>11,292</td>
</tr>
<tr>
<td>43 CFR 3163.2(d)</td>
<td>If transporter fails to permit inspection for documentation</td>
<td>1,115</td>
<td>1,128</td>
</tr>
<tr>
<td>43 CFR 3163.2(e)</td>
<td>Failure to permit inspection, failure to notify</td>
<td>22,320</td>
<td>22,584</td>
</tr>
<tr>
<td>43 CFR 3163.2(f)</td>
<td>False or inaccurate documents; unlawful transfer or purchase</td>
<td>55,800</td>
<td>56,460</td>
</tr>
<tr>
<td>43 CFR 9239.5–3(f)(1)</td>
<td>Coal exploration for commercial purposes without an exploration license</td>
<td>1,000</td>
<td>4,227</td>
</tr>
</tbody>
</table>

III. Procedural Requirements

A. Administrative Procedure Act

In accordance with the 2015 Act, agencies must adjust civil monetary penalties “notwithstanding Section 553 of the Administrative Procedure Act” (sec. 4(b)(2), 2015 Act). The BLM is promulgating this 2021 inflation adjustment for civil penalties as a final rule pursuant to the provisions of the 2015 Act and OMB guidance. A proposed rule is not required because the 2015 Act expressly exempts the annual inflation adjustments from the notice and comment requirements of the Administrative Procedure Act. In addition, since the 2015 Act does not give the BLM any discretion to vary the amount of the annual inflation adjustment for any given penalty to reflect any views or suggestions provided by commenters, it would serve no purpose to provide an opportunity for public comment on this rule.

B. 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 OMB will review all significant rules. OIRA has determined that this rule is not significant. (See OMB Memorandum M–21–10 at 3.)

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability and to reduce uncertainty and to use the best, 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 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 the 2015 Act.

C. 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 2015 Act expressly exempts these annual inflation adjustments from the requirement to publish a proposed rule for notice and comment (see sec. 4(b)(2), 2015 Act). Because the final rule in this case does not include publication of a proposed rule, the RFA does not apply to this final rule.

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) 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; and

(c) Will 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.

This rule will potentially affect individuals and companies who conduct operations on oil and gas leases or who explore for coal for commercial purposes without an exploration license on Federal or Indian lands. The BLM believes that the vast majority of potentially affected entities will be small businesses as defined by the Small Business Administration. However, the BLM does not believe the rule will pose a significant economic impact on the oil and gas or coal industries, including any small entities, as any lessor or trespasser can avoid being assessed civil penalties by operating in compliance with BLM rules and regulations.
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. Therefore, 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 takings implications under E.O. 12630. Therefore, a takings implication assessment is not required.

G. 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. Therefore, 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 E.O. 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 OMB 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

A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because, as a regulation of an administrative nature, the rule is covered by a categorical exclusion (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 E.O. 13211. Therefore, a Statement of Energy Effects is not required.

List of Subjects

43 CFR Part 3160
Administrative practice and procedure, Government contracts, Indians-lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 9230
Penalties, Public lands.

For the reasons given in the preamble, the BLM amends chapter II of title 43 of the Code of Federal Regulations as follows:

PART 3160—ONSHORE OIL AND GAS OPERATIONS

§ 3160.2 [Amended]

1. The authority citation for part 3160 continues to read as follows:


Subpart 3163—Noncompliance, Assessments, and Penalties

§ 3163.3 [Amended]

2. In § 3163.2:

a. In paragraph (b)(1), remove “$1,115” and add in its place “$1,128”.

b. In paragraph (b)(2), remove “$11,160” and add in its place “$11,292”.

c. In paragraph (d), remove “$1,115” and add in its place “$1,128”.

d. In paragraph (e) introductory text, remove “$22,320” and add in its place “$22,584”.

e. In paragraph (f) introductory text, remove “$55,800” and add in its place “$56,460”.

PART 9230—TRESPASS

3. The authority citation for part 9230 is revised to read as follows:


Subpart 9239—Kinds of Trespass

§ 9239.5–3 [Amended]

4. In § 9239.5–3(f)(1), remove “$1,000” and add in its place “$4,227”.

Lauren Daniel-Davis, Principal Deputy Assistant Secretary, Land and Minerals Management.

[F.R. Doc. 2021–12053 Filed 6–8–21; 8:45 am]

BILLING CODE 4310–64–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–56; RM–11811; DA 21–595; FR ID 28830]

Television Broadcasting Services

Jonesboro, Arkansas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On February 12, 2021, the Media Bureau, Video Division (Bureau) issued a Notice of Proposed Rulemaking in response to a petition for rulemaking filed by Gray Television Licensee, LLC (Gray), the licensee of KAIT, channel 8 (ABC), Jonesboro, Arkansas, requesting the substitution of channel 27 for channel 8 at Jonesboro.


FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or JoyceBernstein@fcc.gov.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 86 FR 17110 on April 1, 2021. Gray filed comments in support of the petition reaffirming its commitment to apply for channel 20. No other comments were filed. Gray states that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, and that the reception of VHF signals requires larger antennas relative to UHF channels. Moreover, many viewers are unable to receive KAIT’s signal. Gray further states that while there is small terrain limited predicted loss area, the viewers will continue to be well served by at least five other stations and receive ABC