

Dated: April 3, 2019.

Thomas Luebke,
Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 11

[Docket No. FWS-HQ-LE-2018-0117;
FF09L00200-FX-LE1811090000]

RIN 1018-BD05

Civil Penalties; 2019 Inflation Adjustments for Civil Monetary Penalties

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is issuing this final rule, in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act) and Office of Management and Budget (OMB) guidance, to adjust for inflation the statutory civil monetary penalties that may be assessed for violations of Service-administered statutes and their implementing regulations. We are required to adjust civil monetary penalties annually for inflation according to a formula specified in the Inflation Adjustment Act. This rule replaces the previously issued amounts with the updated amounts after using the 2019 inflation adjustment multiplier provided in the OMB guidance.

DATES: This rule is effective April 16, 2019.

ADDRESSES: This rule may be found on the internet at <http://www.regulations.gov> in Docket No. FWS-HQ-LE-2018-0117. The previous rulemaking actions related to this rule and described below in **SUPPLEMENTARY INFORMATION** may be found at <http://www.regulations.gov> in Docket Nos. FWS-HQ-LE-2017-0097, FWS-HQ-LE-2017-0001, and FWS-HQ-LE-2016-0045.

FOR FURTHER INFORMATION CONTACT: Dan Coil, Special Agent in Charge, Branch of Investigations, U.S. Fish and Wildlife Service, Office of Law Enforcement, (703) 358-1949.

SUPPLEMENTARY INFORMATION:

Background

The regulations in title 50 of the Code of Federal Regulations at 50 CFR part 11

provide uniform rules and procedures for the assessment of civil penalties resulting from violations of certain laws and regulations enforced by the Service.

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) (Inflation Adjustment Act). The Inflation Adjustment Act requires Federal agencies to adjust the level of civil monetary penalties with an initial “catch-up” adjustment through rulemaking and then make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes.

Under section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Inflation Adjustment Act, Public Law 114-74, 129 Stat. 584 (2015), each Federal agency is required to issue regulations adjusting for inflation the statutory civil monetary penalties (civil penalties) that can be imposed under the laws administered by that agency. The Inflation Adjustment Act provided for an initial “catch-up adjustment” to take effect no later than August 1, 2016, followed by subsequent adjustments to be made no later than January 15 every year thereafter. This final rule adjusts the civil penalty amounts that may be imposed pursuant to each statutory provision beginning on the date specified above in **DATES**.

On June 28, 2016, the Service published in the **Federal Register** an interim rule that revised 50 CFR part 11 (81 FR 41862). We did not receive any comments on the interim rule during the public comment period provided. Therefore, the interim rule became effective on July 28, 2016, as specified in that rule. The Service subsequently published a final rule on December 23, 2016, adopting the interim rule as final (81 FR 94274). On February 12, 2018, the Service published a final rule updating the civil penalty amounts with the 2018 inflation multiplier (83 FR 5950). This final rule adjusts the civil monetary penalty amounts that were listed in the February 12, 2018, final rule and subsequently codified at 50 CFR 11.33 by using the 2019 inflation multiplier provided to all Federal agencies by OMB (see below).

OMB issued a memorandum, M-19-04, entitled “Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,” which provides the cost-of-living adjustment multiplier for 2019: 1.02522. Therefore, we multiplied each

penalty in the table published in the final rule on February 12, 2018 (83 FR 5950), by 1.02522 to obtain the 2019 annual adjustment. The new amounts are reflected in the table in the rule portion of this document and replace the current amounts in 50 CFR 11.33.

Required Determinations

In this final rule, we are affirming our required determinations made in the June 28, 2016, interim rule (81 FR 41862); for descriptions of our actions to ensure compliance with the following statutes and Executive Orders, see that rule:

National Environmental Policy Act (42 U.S.C. 4321 *et seq.*);

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

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2));

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*);

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

Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, and 13563; and

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs.

This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Administrative Procedure Act

As stated above, under section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Inflation Adjustment Act, Public Law 114-74, 129 Stat. 584 (2015), each Federal agency is required to issue regulations adjusting for inflation the statutory civil monetary penalties that can be imposed under the laws administered by that agency. The Inflation Adjustment Act provided for an initial “catch-up adjustment” to take effect no later than August 1, 2016, followed by subsequent adjustments to be made no later than January 15 every year thereafter. This final rule adjusts the civil penalty amounts that may be imposed pursuant to each statutory provision beginning on the effective date of this rule. To comply with the Inflation Adjustment Act, we are issuing these regulations as a final rule.

Section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) 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. The Service finds that providing for public comment before issuing this rule is unnecessary as this rulemaking is a nondiscretionary action. The Service is required to publish this rule in order to update the civil penalty amounts by the specified formula described above. The Service has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Since this update to the February 12, 2018, final rule (83 FR 5950) is merely ministerial, we find that pre-publication notice and public comment with respect to the revisions

set forth in this rule is unnecessary. The statutory deadline imposed by the Inflation Adjustment Act also gives us good cause under 5 U.S.C. 553(d) to make this rule effective upon publication.

List of Subjects in 50 CFR Part 11

Administrative practice and procedure, Exports, Fish, Imports, Penalties, Plants, Transportation, Wildlife.

Regulation Promulgation

For the reasons described above, we amend part 11, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below.

PART 11—CIVIL PROCEDURES

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 16 U.S.C. 470aa–470mm, 470aaa–470aaa-11, 668–668d, 1361–1384, 1401–1407, 1531–1544, 3371–3378, 4201–4245, 4901–4916, 5201–5207, 5301–5306; 18 U.S.C. 42–43; 25 U.S.C. 3001–3013; and Sec. 107, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

■ 2. Revise the table in § 11.33 to read as follows:

§ 11.33 Adjustments to penalties.

* * * * *

Law	Citation	Type of Violation	Maximum civil monetary penalty
(a) African Elephant Conservation Act	16 U.S.C. 4224(b)	Any violation	\$10,519
(b) Bald and Golden Eagle Protection Act.	16 U.S.C. 668(b)	Any violation	13,291
(c) Endangered Species Act of 1973	16 U.S.C. 1540(a)(1)	(1) Knowing violation of section 1538	52,596
		(2) Other knowing violation	25,246
		(3) Any other violation	1,329
(d) Lacey Act Amendments of 1981	16 U.S.C. 3373(a)	(1) Violations referred to in 16 U.S.C. 3373(a)(1).	26,582
		(2) Violations referred to in 16 U.S.C. 3373(a)(2).	664
(e) Marine Mammal Protection Act of 1972.	16 U.S.C. 1375	Any violation	26,582
(f) Recreational Hunting Safety Act of 1994.	16 U.S.C. 5202(b)	(1) Violation involving use of force or violence or threatened use of force or violence.	16,915
		(2) Any other violation	8,457
(g) Rhinoceros and Tiger Conservation Act of 1998.	16 U.S.C. 5305a(b)(2)	Any violation	18,504
(h) Wild Bird Conservation Act	16 U.S.C. 4912(a)(1)	(1) Violation of section 4910(a)(1), section 4910(a)(2), or any permit issued under section 4911.	44,585
		(2) Violation of section 4910(a)(3)	21,400
		(3) Any other violation	892

Dated: March 18, 2019.

Andrea Travnicek,
Principal Deputy Assistant Secretary, Fish and Wildlife and Parks, Exercising the Authority of the Assistant Secretary, Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XG971

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Witch Flounder Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Witch Flounder Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear through April 30, 2019. The closure is required because the common pool fishery is projected to have caught over 90 percent of its Trimester 3 quota for witch flounder. This closure is intended to prevent an overage of the common pool’s quota for this stock.

DATES: This action is effective April 12, 2019, through April 30, 2019.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, (978) 281–9232.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC