

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. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 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.

I. 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.

J. National Environmental Policy Act

A detailed statement under the National Environmental Policy Act of 1969 (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 Executive Order 13211. Therefore, a Statement of Energy Effects is not required.

L. Administrative Procedure Act

The BLM is promulgating this rule as a final rule because the Act expressly directs us to do so. In accordance with the Act, agencies must adjust civil monetary penalties notwithstanding Section 553 of the Administrative Procedure Act (APA) (see § 4(b)(2) of the Act). This means that the notice and opportunity to comment procedures of the APA do not apply and are not required for agencies to issue regulations implementing the annual adjustment. In addition, since the 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.

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.

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

■ 1. The authority citation for part 3160 is revised to read as follows:

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; 43 U.S.C. 1732(b), 1733, 1740; and Sec. 107, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

Subpart 3163—Noncompliance, Assessments, and Penalties

§ 3163.2 [Amended]

■ 2. In § 3163.2:

■ a. In paragraph (a), remove “\$1,031” and add in its place “\$1,048”.

■ b. In paragraph (b), remove “\$10,314” and add in its place “\$10,483”.

■ c. In paragraph (d), remove “\$1,031” and add in its place “\$1,048”.

■ d. In paragraph (e) introductory text, remove “\$20,628” and add in its place “\$20,965”.

■ e. In paragraph (f) introductory text, remove “\$51,570” and add in its place “\$52,414”.

■ f. In paragraph (g)(1), remove “\$1,031” each place that it occurs and add in its place “\$1,048”; remove “\$10,314” and add in its place “\$10,483”; remove “\$2,063” and add in its place “\$2,097”; remove “\$20,628” each place that it occurs and add in its place “\$20,965”; remove “\$51,570” and add in its place “\$52,414”.

■ g. In paragraph (g)(2)(iii), remove “\$103” and add in its place “\$105”; remove “\$1,031” and add in its place “\$1,048”; remove “\$206” and add in its place “\$209”; remove “\$2,063” and add in its place “\$2,097”.

Dated: January 10, 2017.

Amanda C. Leiter,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 2017–00727 Filed 1–18–17; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 11

[Docket No. FWS–HQ–LE–2017–0001; FF09L00200–FX–LE18110900000]

RIN 1018–BB97

Civil Penalties; 2017 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 2017 inflation adjustment multiplier provided in the OMB guidance.

DATES: This rule is effective January 19, 2017.

ADDRESSES: This rule may be found on the internet at www.regulations.gov in Docket No. FWS–HQ–LE–2017–0001. The previous rulemaking action related to this rule and described below in **SUPPLEMENTARY INFORMATION** may be found at www.regulations.gov in Docket No. FWS–HQ–LE–2016–0045.

FOR FURTHER INFORMATION CONTACT: Paul Beiriger, 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, Pub. L. 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). The current rule adjusts the civil monetary penalty amounts that were listed in the June 28, 2016, interim rule and subsequently codified in 50 CFR 11.33 by using the inflation multiplier provided to all Federal agencies by OMB (see below).

OMB issued a memorandum, M–17–11, entitled “Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,” which provides the cost-of-living adjustment multiplier for 2017: 1.01636. Therefore, we multiplied each penalty in the table published in the interim rule on June 28, 2016 (81 FR 41862), by

1.01636 to obtain the 2017 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.*); and
Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, and 13563.

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, Pub. L. 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. Accordingly, it would serve no purpose to provide an opportunity for public comment prior to publication of this rule. Since this update to the June 28, 2016, interim rule (81 FR 41862) is merely ministerial, we find that pre-publication notice and public comment with respect to the revisions set forth in this rule is unnecessary. We also believe that we have good cause under 5 U.S.C. 553(d) to make this rule effective upon publication to meet the statutory deadline imposed by the Inflation Adjustment Act.

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	\$10,055
(b) Bald and Golden Eagle Protection Act.	16 U.S.C. 668(b)	Any violation	12,705
(c) Endangered Species Act of 1973	16 U.S.C. 1540(a)(1)	(1) Knowing violation of section 1538 ...	50,276
		(2) Other knowing violation	24,132
		(3) Any other violation	1,270
(d) Lacey Act Amendments of 1981	16 U.S.C. 3373(a)	(1) Violations referred to in 16 U.S.C. 3373(a)(1).	25,409

Law	Citation	Type of violation	Maximum civil monetary penalty
(e) Marine Mammal Protection Act of 1972.	16 U.S.C. 1375	(2) Violations referred to in 16 U.S.C. 3373(a)(2). Any violation	635 25,409
(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. (2) Any other violation	16,169 8,084
(g) Rhinoceros and Tiger Conservation Act of 1998.	16 U.S.C. 5305a(b)(2)	Any violation	17,688
(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. (2) Violation of section 4910(a)(3)	42,618 20,456
		(3) Any other violation	853

Dated: January 10, 2017.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 150211138-7024-02]

RIN 0648-XD771

Endangered and Threatened Wildlife and Plants; Final Rule To List Two Guitarfishes as Threatened Under the Endangered Species Act

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

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final rule to list two foreign marine guitarfish species under the Endangered Species Act (ESA). We considered comments submitted on the proposed listing rule and have determined that the blackchin guitarfish (*Rhinobatos cemiculus*) and common guitarfish (*Rhinobatos rhinobatos*) warrant listing as threatened species. We will not designate critical habitat for either of these species because the geographical areas occupied by these species are entirely outside U.S. jurisdiction, and we have not identified any unoccupied areas within U.S. jurisdiction that are currently essential to the conservation of either of these species.

DATES: This final rule is effective February 21, 2017.

ADDRESSES: Chief, Endangered Species Division, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Brendan Newell or Marta Nammack NMFS, Office of Protected Resources (OPR), (301) 427-8403.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species or subpopulations as threatened or endangered under the ESA. This petition included species from many different taxonomic groups, and we prepared our 90-day findings in batches by taxonomic group. We found that the petitioned actions may be warranted for 24 of the species and 3 of the subpopulations and announced the initiation of status reviews for each of the 24 species and 3 subpopulations (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). On September 19, 2016, we published a proposed rule to list the blackchin guitarfish (*Rhinobatos cemiculus*) and the common guitarfish (*Rhinobatos rhinobatos*) as threatened species (81 FR 64094). We requested public comment on information in the draft status review and proposed rule, and the comment period was open through November 18, 2016. This final rule provides a discussion of the information we received during the public comment period and our final determination on the petition to list the blackchin guitarfish and the common guitarfish under the ESA. The status of the findings and relevant **Federal Register** notices for the other 22 species and 3 subpopulations can be found on our Web site at www.nmfs.noaa.gov/pr/species/petition81.htm.

Listing Species Under the Endangered Species Act

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we consider first whether a group of organisms constitutes a “species” under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a “species” to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.”

Section 3 of the ESA defines an endangered species as “any species which is in danger of extinction throughout all or a significant portion of its range” and a threatened species as one “which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” We interpret an “endangered species” to be one that is presently in danger of extinction. A “threatened species,” on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

When we consider whether a species might qualify as threatened under the ESA, we must consider the meaning of the term “foreseeable future.” It is appropriate to interpret “foreseeable future” as the horizon over which predictions about the conservation status of the species can be reasonably relied upon. The foreseeable future