



NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Humanities

45 CFR Part 1168

RIN 3136-AA39

Implementing the Federal Civil Penalties Adjustment Act Improvements Act of 2015

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Final rule.

SUMMARY: The National Endowment for the Humanities (NEH) is adopting as final, without change, its interim final rule that adjusted the civil monetary penalties NEH may impose for violations of its New Restrictions on Lobbying regulation, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act).

DATES: *Effective date:* This final rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. *Applicability date:* The adjusted penalty amounts will apply to penalties assessed on or after January 15, 2020 if the associated violations occurred after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Deputy General Counsel, Office of the General Counsel, National Endowment for the Humanities, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; gencounsel@neh.gov.

SUPPLEMENTARY INFORMATION:

Background

On April 21, 2020, NEH published in the *Federal Register* an interim final rule to adjust the civil penalties found in its New Restrictions on Lobbying regulation (45 CFR part 1168) pursuant to the 2015 Act. (*See* 85 FR 22025).

For each regulation that imposes a civil monetary penalty, the 2015 Act requires agencies to: (1) adjust the level of civil monetary penalties with an initial “catch-up” inflation adjustment through an interim final rulemaking; and (2) make subsequent annual adjustments for inflation. The formula for the amount of a civil monetary penalty inflation adjustment is prescribed by law, as explained in Office of Management and Budget (OMB) Memorandum M-16-06 (February 24, 2016).

NEH’s interim final rule, which implemented the initial “catch-up” inflation adjustment and the 2020 inflation adjustment, took effect on April 21, 2020. NEH notified the public that it would accept comments on the interim final rule for thirty (30) days after publication, until May 21, 2020. By that date, NEH did not receive any comments. Therefore, NEH is adopting the interim final rule as final, without change.

Executive Order 12866, Regulatory Planning and Review, and Executive Order 13563, Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to OMB for review. NEH conducted the required assessment under Executive Orders 12866 and 13563 for the interim final rule and this rule finalizes that regulation without change.

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications. It will not have substantial direct effects 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.

Executive Order 12988, Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988. Specifically, this rule is written in clear language designed to help reduce litigation.

Executive Order 13175, Indian Tribal Governments

Under the criteria in Executive Order 13175, NEH evaluated this rule and determined that it will not have any potential effects on federally recognized Indian Tribes.

Executive Order 12630, Takings

Under the criteria in Executive Order 12630, this rulemaking does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980

This rulemaking will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995

This rulemaking does not impose an information collection burden under the Paperwork Reduction Act. This action contains no provisions constituting a collection of information pursuant to the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year.

National Environmental Policy Act of 1969

This rulemaking will not have a significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996

This rulemaking will not be a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more, a major increase in costs or prices, significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

E-Government Act of 2002

All information about NEH required to be published in the *Federal Register* may be accessed at www.neh.gov. The website <https://www.regulations.gov> contains electronic dockets for NEH's rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010

To ensure this final rule was written in plain and clear language so that it can be used and understood by the public, NEH modeled the language of this rule on the Federal Plain Language Guidelines.

List of Subjects in 45 CFR Part 1168

Administrative practice and procedure, Lobbying, Penalties.

PART 1168 – NEW RESTRICTIONS ON LOBBYING

Accordingly, NEH adopts the interim final rule amending 45 CFR part 1168, which was published at 85 FR 22025 on April 21, 2020, as final without change.

Dated: May 22, 2020.

Caitlin Cater,

Attorney-Advisor, National Endowment for the Humanities.

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