related to fentanyl by one or more of the following modifications:
(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;
(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;
(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or
(E) Replacement of the N-propionyl group by another acyl group.

This definition includes, but is not limited to, the following substances:
(A) [Reserved]
(B) [Reserved]

Dated: February 1, 2018.
Robert W. Patterson,
Acting Administrator.

SUPPLEMENTARY INFORMATION:
I. Background
II. Calculation of Annual Adjustments
III. Procedural Requirements
A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)
B. Regulatory Flexibility Act
C. Small Business Regulatory Enforcement Fairness Act
D. Unfunded Mandates Reform Act
E. Takings (E.O. 13044)
F. Federalism (E.O. 13132)
G. Civil Justice Reform (E.O. 12988)
H. Consultation With Indian Tribes (E.O. 13175)
I. Paperwork Reduction Act
J. National Environmental Policy Act
K. Effects on the Energy Supply (E.O. 13211)
L. Clarity of This Regulation
M. Administrative Procedure Act

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) (“the Act”). The 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.

The Office of Management and Budget (OMB) issued guidance to Federal agencies on calculating the catch-up adjustment. See February 24, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: Implementation of the Penalty Inflation Adjustments for 2016, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (M–16–03). The guidance states that the cost-of-living adjustment multiplier for 2016, based on the Consumer Price Index (CPI–U) for the month of January 2016, is 1.02041. (The annual inflation adjustments are based on the percent change between the October CPI–U for the year of the previous adjustment and the October 2015 CPI–U.)

The Bureau issued an interim final rule providing for calculated catch-up adjustments on June 30, 2016 (81 FR 42478) with an effective date of August 1, 2016, and requesting comments post-promulgation. The Bureau issued a final rule affirming the catch-up adjustments set forth in the interim final rule on December 2, 2016 (81 FR 86953). The Bureau then issued a final rule making the next scheduled annual inflation adjustment for 2017 on January 23, 2017 (82 FR 7649).

II. Calculation of 2018 Annual Adjustments
OMB recently issued guidance to assist Federal agencies in implementing the annual adjustments required by the Act which agencies must complete by January 15, 2018. See December 15, 2017, Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, Office of Management and Budget, re: Implementation of the Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (M–18–03). The guidance states that 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. (The annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year’s October CPI–U. For 2017, OMB explains, October 2017 CPI–U (246.663)/October 2016 CPI–U (241.729) = 1.02041.) The guidance instructs agencies to complete the 2018 annual adjustment by multiplying each applicable penalty by the multiplier, 1.02041, and rounding to the nearest dollar. Further, agencies should apply the multiplier to the most recent penalty amount that includes the initial catch-up adjustment required by the Act.

The annual adjustment applies to all civil monetary penalties with a dollar amount that are subject to the Act. This final rule adjusts the following civil monetary penalties contained in the Bureau’s regulations for 2018 by multiplying 1.02041 (i.e., the cost-of-living adjustment multiplier for 2018) by each penalty amount as updated by the adjustment made in 2017:

DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
[189A2100DD/AAKC001030/A0A501010.9999002536]
25 CFR Parts 140, 141, 211, 213, 225, 226, 227, 243, and 249
RIN 1076–AF40
Civil Penalties Inflation Adjustments; Annual Adjustments
AGENCY: Bureau of Indian Affairs, Interior.
ACTION: Final rule.
SUMMARY: This rule provides for annual adjustments to the level of civil monetary penalties contained in Bureau of Indian Affairs (Bureau) regulations to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance.
DATES: This rule is effective on February 6, 2018.
FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs; telephone (202) 273–4680, elizabeth.appel@bia.gov.
Consistent with the Act, the adjusted penalty levels for 2018 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2018 will apply to penalties assessed after that date including, if consistent with agency policy, assessments associated with violations that occurred on or after November 2, 2015 (the date of the Act). The Act does not, however, change previously assessed penalties that the Bureau is collecting or has collected. Nor does the Act change an agency’s existing statutory authorities to adjust penalties.

### III. Procedural Requirements

#### A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

### B. Regulatory Flexibility Act

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order 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.

E.O. 13771 of January 30, 2017, directs Federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. E.O. 13771, however, applies only to significant regulatory actions, as defined in Section 3(f) of E.O. 12866. OIRA has determined that agency regulations exclusively implementing the annual adjustment are not significant regulatory actions under E.O. 12866, provided they are consistent with OMB Memorandum M–18–03 (See OMB Memorandum M–18–03 at 3). Therefore, E.O. 13771 does not apply to this final rule.

#### B. Regulatory Flexibility Act

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 adjustments for inflation.

### C. 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) Does 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.
(c) Does 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.

D. 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. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required.

E. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 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.

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.

1. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget 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

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. 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)(j). 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. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)[B]), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:
(a) Be logically organized;
(b) Use the active voice to address readers directly;
(c) Use common, everyday words and clear language rather than jargon;
(d) Be divided into short sections and sentences; and
(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

M. Administrative Procedure Act

The Act requires agencies to publish annual inflation adjustments by no later than January 15, 2018, notwithstanding section 533 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the 2018 annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the Federal Register.

Section 533(b) of the Administrative Procedure Act (APA) 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. Under section 533(b), the Bureau finds that there is good cause to promulgate this rule without first providing for public comment. It would not be possible to meet the deadlines imposed by the Act if we were to first publish a proposed rule, allow the public sufficient time to submit comments, analyze the comments, and publish a final rule. Also, the Bureau is promulgating this final rule to implement the statutory directive in the Act, which requires agencies to publish a final rule and to update the civil penalty amounts by applying a specified formula. The Bureau 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 on this rule prior to promulgation. Thus, providing for notice and public comment is impracticable and unnecessary.

Furthermore, the Bureau finds under section 533(d)(3) of the APA that good cause exists to make this final rule effective immediately upon publication in the Federal Register. In the Act, Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the Federal Register by January 15, 2018,
1. The authority citation for part 140 continues to read as follows:


§ 140.3 [Amended]

2. In § 140.3, remove “$1,270” and add in its place “$1,296”.

PART 141—BUSINESS PRACTICES ON THE NAVAJO, HOPI AND ZUNI RESERVATIONS

3. The authority citation for part 141 continues to read as follows:


§ 141.50 [Amended]

4. In § 141.50, remove “$1,270” and add in its place “$1,296”.

PART 211—LEASING OF TRIBAL LANDS FOR MINERAL DEVELOPMENT

5. The authority citation for part 211 continues to read as follows:

   Authority: Sec. 4, Act of May 11, 1938 (52 Stat. 347); Act of August 1, 1956 (70 Stat. 744); 25 U.S.C. 396a-g; 25 U.S.C. 2 and 9; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 211.55 [Amended]

6. In § 211.55(a), remove “$1,527” and add in its place “$1,558”.

PART 213—LEASING OF RESTRICTED LANDS FOR MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

7. The authority citation for part 213 continues to read as follows:


§ 213.37 [Amended]

8. In § 213.37, remove “$1,270” and add in its place “$1,296”.

PART 225—OIL AND GAS, GEOTHERMAL AND SOLID MINERALS AGREEMENTS

9. The authority citation for part 225 continues to read as follows:


§ 225.37 [Amended]

10. In § 225.37(a), remove “$1,617” and add in its place “$1,650”.

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

11. The authority citation for part 226 continues to read as follows:


§ 226.42 [Amended]

12. In § 226.42, remove “$906” and add in its place “$924”.

§ 226.43 [Amended]

13. In § 226.43:

   a. Remove “$90” each time it appears and add in each place “$92” wherever it appears in this section.
   b. In paragraph (e), remove “$181” and add in its place “$185”.
   c. In paragraph (f), remove “$362” and add in its place “$369”.
   d. In paragraph (g), remove “$906” and add in its place “$924”.

PART 227—LEASING OF CERTAIN LANDS IN WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

14. The authority citation for part 227 continues to read as follows:

   Authority: Sec. 1, 39 Stat. 519; and Sec. 701, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

§ 227.24 [Amended]

15. In § 227.24, remove “$1,270” and add in its place “$1,296”.

PART 243—REINDEER IN ALASKA

16. The authority citation for part 243 continues to read as follows:


§ 243.8 [Amended]

17. In § 243.8(a) introductory text, remove “$5,989” and add in its place “$6,111”.

PART 249—OFF-RESERVATION TREATY FISHING

18. The authority citation for part 249 continues to read as follows:


§ 249.6 [Amended]

19. In § 249.6(b), remove “$1,270” and add in its place “$1,296”.

   Dated: January 24, 2018.

John Tahsuda,
Principal Deputy Assistant Secretary—Indian Affairs, Exercising the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2018–02200 Filed 2–5–18; 8:45 am]
BILLING CODE 4337–15–P