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**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

**[DA 16-1453]**

Annual Adjustment of Civil Monetary Penalties to Reflect Inflation

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Inflation Adjustment Act) requires the Federal Communications Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Celia Lewis, Enforcement Bureau, 202-418-7456, or Gregory Haledjian, Enforcement Bureau, 202-418-7440.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order, DA 16-1453, adopted and released on December 30, 2016. The document is available for download at

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2016/db1230/DA-16-](http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db1230/DA-16-)

1453A1.pdf. The complete text of this document is also available for inspection and

copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554.

On November 2, 2015, President Obama signed into law the Bipartisan Budget Act of 2015, which included, as Section 701 thereto, the 2015 Inflation Adjustment Act, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), to improve the effectiveness of civil monetary penalties and maintain their deterrent effect. Under the act, agencies are required to make annual inflationary adjustments by January 15 each year, beginning in 2017. The adjustments are calculated pursuant to Office of Management and Budget (OMB) guidance. OMB issued guidance on December 16, 2016, and this Order follows that guidance. We therefore update the civil monetary penalties set forth in the Commission's rules, to reflect an annual inflation adjustment that derives from OMB's cost-of-living multiplier of 1.01636. The cost-of-living adjustment is "the percentage (if any)" by which the "(A) Consumer Price Index for the month of October preceding the date of the adjustment, exceeds (B) the Consumer Price Index for the month of October 1 year before the month of October referred to in subparagraph (A)."

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

The Enforcement Bureau will coordinate with the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center to report this Order to

Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

FEDERAL COMMUNICATIONS COMMISSION.

Lisa S. Gelb,  
Chief of Staff, Enforcement Bureau.

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

**PART 1--PRACTICE AND PROCEDURE**

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

Authority: 15 U.S.C. 79 *et seq.*, 47 U.S.C. 151, 154(i) and (j), 155, 157, 160, 201, 225, 227, 303, 309, 301, 332, 1403, 1404, 1451, 1452, and 1455.

2. Section 1.80 is amended by revising the table in Section III of the note to paragraph (b)(8) and revising paragraph (b)(9) to read as follows:

**§ 1.80 Forfeiture proceedings.**

\* \* \* \* \*

(b) \* \* \*

(8) \* \* \*

Note to paragraph (b)(8) \* \* \*

Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment

Factors

\* \* \* \* \*

<b>Violation</b>	<b>Statutory amount</b>
	(\$)
Sec. 202(c) Common Carrier Discrimination .....	\$11,548, \$577/day.
Sec. 203(e) Common Carrier Tariffs .....	\$11,548, \$577/day.
Sec. 205(b) Common Carrier Prescriptions .....	\$23,095.
Sec. 214(d) Common Carrier Line Extensions .....	\$2,309/day.

Sec. 219(b) Common Carrier Reports .....	\$2,309/day.
Sec. 220(d) Common Carrier Records & Accounts	\$11,548/day.
Sec. 223(b) Dial-a-Porn .....	\$119,668/day.
Sec. 227(e) Caller Identification .....	\$11,052/violation. \$33,156/day for each day of continuing violation, up to \$1,105,241 for any single act or failure to act.
Sec. 364(a) Forfeitures (Ships) .....	\$9,623/day (owner).
Sec. 364(b) Forfeitures (Ships) .....	\$1,925 (vessel master).
Sec. 386(a) Forfeitures (Ships) .....	\$9,623/day (owner).
Sec. 386(b) Forfeitures (Ships) .....	\$1,925 (vessel master).
Sec. 634 Cable EEO .....	\$853/day.

(9) Inflation adjustments to the maximum forfeiture amount. (i) Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114-74 (129 Stat. 599-600), which amends the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, Public Law 101-410 (104 Stat. 890; 28 U.S.C. 2461 note), the statutory maximum amount of a forfeiture penalty assessed under this section shall be adjusted annually for inflation by order published no later than January 15 each year. Annual inflation adjustments will be based on the percentage (if any) by which the CPI-U for October preceding the date of the adjustment exceeds the prior year's CPI-U for October. The Office of Management and Budget (OMB) will issue adjustment rate guidance no later than December 15 each year to adjust for inflation in the CPI-U as of the most recent October.

(ii) The application of the annual inflation adjustment required by the foregoing Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 results in the following

adjusted statutory maximum forfeitures authorized by the Communications Act:

<b>U.S. Code citation</b>	<b>Maximum Penalty after 2017 Inflation Adjustment</b>
47 U.S.C. 202(c) .....	\$11,548
	\$577
47 U.S.C. 203(e) .....	\$11,548
	\$577
47 U.S.C. 205(b) .....	\$23,095
47 U.S.C. 214(d) .....	\$2,309
47 U.S.C. 219(b) .....	\$2,309
47 U.S.C. 220(d) .....	\$11,548
47 U.S.C. 223(b) .....	\$119,668
47 U.S.C. 227(e) .....	\$11,052
	\$33,156
	\$1,105,241
47 U.S.C. 362(a) .....	\$9,623
47 U.S.C. 362(b) .....	\$1,925
47 U.S.C. 386(a) .....	\$9,623
47 U.S.C. 386(b) .....	\$1,925
47 U.S.C. 503(b)(2)(A) .....	\$48,114
	\$481,147
47 U.S.C. 503(b)(2)(B) .....	\$192,459
	\$1,924,589

47 U.S.C. 503(b)(2)(C) .....	\$389,305
	\$3,593,585
47 U.S.C. 503(b)(2)(D) .....	\$19,246
	\$144,344
47 U.S.C. 503(b)(2)(F) .....	\$110,524
	\$1,105,241
47 U.S.C. 507(a) .....	\$1,906
47 U.S.C. 507(b) .....	\$279
47 U.S.C. 554 .....	\$853

\* \* \* \* \*

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