



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 19-1325; FRS 16392]

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 (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 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: The rule is effective **[INSERT DATE UPON PUBLICATION IN THE FEDERAL REGISTER]**. The civil monetary penalties are applicable beginning January 15, 2020.

FOR FURTHER INFORMATION CONTACT: Lisa S. Gelb, Deputy Chief, Enforcement Bureau, 202-418-2019.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, DA 19-1325, adopted and released on December 27, 2019. The document is available for download at <https://www.fcc.gov/document/2019-annual-adjustment-civil-monetary-penalties-reflect-inflation>. 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.

The Bipartisan Budget Act of 2015 included, as Section 701 thereto, the 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 Inflation Adjustment 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, 2019, and this Order follows that guidance. The Commission therefore updates the civil monetary penalties for 2020, to reflect an annual inflation adjustment based on the percent change between each published October's Consumer Price Index for all Urban Consumers (CPI-U); in this case, $\text{October 2019 CPI-U (257.346)} / \text{October 2018 CPI-U (252.885)} = 1.01764$. The Commission multiplies 1.01764 by the most recent penalty amount and then rounds the result to the nearest dollar.

Paperwork Reduction Act

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).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 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 Gelb,
Deputy Chief, 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 continues to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

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

§1.80 Forfeiture proceedings.

- * * * * *
- (b) * * *
- (8) * * *

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

Violation	Statutory Amount After 2020 Annual Inflation Adjustment
Sec. 202(c) Common Carrier Discrimination	\$12,294, \$615/day
Sec. 203(e) Common Carrier Tariffs	\$12,294, \$615/day
Sec. 205(b) Common Carrier Prescriptions	\$24,586
Sec. 214(d) Common Carrier Line Extensions	\$2,458/day
Sec. 219(b) Common Carrier Reports	\$2,458/day

Sec. 220(d) Common Carrier Records & Accounts	\$12,294/day
Sec. 223(b) Dial-a-Porn	\$127,398/day
Sec. 227(e) Caller Identification	\$11,766/violation
	\$35,298/day for each day of continuing violation, up to \$1,176,638 for any single act or failure to act
Sec. 364(a) Forfeitures (Ships)	\$10,245/day (owner)
Sec. 364(b) Forfeitures (Ships)	\$2,050 (vessel master)
Sec. 386(a) Forfeitures (Ships)	\$10,245/day (owner)
Sec. 386(b) Forfeitures (Ships)	\$2,050 (vessel master)
Sec. 634 Cable EEO	\$908/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 Consumer Price Index for all Urban Consumers (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:

Table 1 to Paragraph (b)(9)(ii)

U.S. Code citation	Maximum Penalty after 2020 Annual Inflation Adjustment
47 U.S.C. 202(c)	\$12,294
	\$615
47 U.S.C. 203(e)	\$12,294
	\$615
47 U.S.C. 205(b)	\$24,586
47 U.S.C. 214(d)	\$2,458
47 U.S.C. 219(b)	\$2,458
47 U.S.C. 220(d)	\$12,294
47 U.S.C. 223(b)	\$127,398
47 U.S.C. 227(e)	\$11,766
	\$35,298
	\$1,176,638
47 U.S.C. 362(a)	\$10,245
47 U.S.C. 362(b)	\$2,050
47 U.S.C. 386(a)	\$10,245
47 U.S.C. 386(b)	\$2,050
47 U.S.C. 503(b)(2)(A)	\$51,222
	\$512,228
47 U.S.C. 503(b)(2)(B)	\$204,892
	\$2,048,915
47 U.S.C. 503(b)(2)(C)	\$414,454

	\$3,825,726
47 U.S.C. 503(b)(2)(D)	\$20,489
	\$153,669
47 U.S.C. 503(b)(2)(F)	\$117,664
	\$1,176,638
47 U.S.C. 507(a)	\$2,029
47 U.S.C. 507(b)	\$297
47 U.S.C. 554	\$908

* * * * *

[FR Doc. 2020-00459 Filed: 1/14/2020 8:45 am; Publication Date: 1/15/2020]