

§ 506.4 Cost of living adjustments of civil monetary penalties.

(a) The inflation adjustment under § 506.3 will initially be determined by increasing the maximum civil monetary penalty for each civil monetary penalty by the initial cost-of-living adjustment. The inflation adjustment will subsequently be determined by increasing the maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this section shall be rounded to the nearest multiple of \$1.

(b) *Inflation adjustment.* For purposes of paragraph (a) of this section, the term

‘cost-of-living adjustment’ means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of October preceding the adjustment exceeds the Consumer Price Index for the month of October 1 year before the month of October preceding the adjustment.

(c) *Initial adjustment.* For purposes of paragraph (a) of this section, the term ‘initial cost-of-living-adjustment’ means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of October, 2015 exceeds the Consumer

Price Index for the month of October of the calendar year during which the amount of such civil monetary penalty was established or adjusted under a provision of law of civil monetary penalty. The initial cost-of-living adjustment may not exceed 150 percent of such penalty on November 2, 2015, the date of the enactment of the Federal Civil Penalties Inflation Act Adjustment Improvements Act of 2015.

(d) *Inflation adjustment.* Maximum Civil Monetary Penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code Citation	Civil monetary penalty description	Maximum penalty amount prior to August 1, 2016	New adjusted maximum penalty amount as of August 1, 2016
46 U.S.C. 42304	Adverse impact on U.S. carriers by foreign shipping practices.	1,600,000	1,978,690
46 U.S.C. 41107(a)	Knowing and Willful violation/Shipping Act of 1984, or Commission regulation or order.	45,000	56,467
46 U.S.C. 41107(b)	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful.	9,000	11,293
46 U.S.C. 41108(b)	Operating in foreign commerce after tariff suspension	80,000	112,934
46 U.S.C. 42104	Failure to provide required reports, etc./Merchant Marine Act of 1920.	9,000	8,908
46 U.S.C. 42106	Adverse shipping conditions/Merchant Marine Act of 1920.	1,600,000	1,781,560
46 U.S.C. 42108	Operating after tariff or service contract suspension/ Merchant Marine Act of 1920.	80,000	89,078
46 U.S.C. 44102	Failure to establish financial responsibility for non-performance of transportation.	9,000	22,500
46 U.S.C. 44103	Failure to establish financial responsibility for death or injury.	300	750
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act/makes false claim	9,000	22,500
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement.	300	750
		9,000	10,781
		9,000	10,781

■ 5. Revise § 506.5 to read as follows:

§ 506.5 Application of increase to violations.

Any adjustment in a civil monetary penalty under this part shall apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the adjustment takes effect.

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 1**

[DA 16-644]

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 for inflation.

DATES: This rule is effective August 1, 2016.

FOR FURTHER INFORMATION CONTACT:

Donna Cyrus, Enforcement Bureau, 202-418-7325.

SUPPLEMENTARY INFORMATION: On June 9, 2016, the Enforcement Bureau of the Federal Communications Commission adopted and released an order on delegated authority, DA 16-644, which adjusts the Commission’s forfeiture penalties for inflation. On November 2, 2015, the President 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, federal agencies, including the Federal Communications Commission, must issue an interim final rulemaking and publish interim final rules by July 1, 2016, which will take effect by August 1, 2016. According to the 2015 Inflation Adjustment Act, the initial inflation adjustment will be the

percentage by which the Consumer Price Index (CPI) for the month of October 2015 exceeds the CPI for the month of October of the calendar year during which the civil monetary penalty “was established or adjusted under a provision of law other than this Act.” The 2015 Inflation Adjustment Act requires the Director of the Office of Management and Budget (OMB) to issue, guidance to agencies on implementing the Act. OMB issued that guidance on February 24, 2016, and this Order follows that guidance. Pursuant to the 2015 Inflation Adjustment Act, we update the civil monetary penalties set forth in the Communications Act of 1934, as amended (Communications Act or Act), to reflect an “inflation adjustment” that derives from the “cost-of-living adjustment.” The cost-of-living adjustment reflects the total inflation that has taken place in the years since the penalties were last set or adjusted by statute or rule.

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public

Law 104–13. In addition, therefore, 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 Commission will not send a copy of this Order per the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the rules are amended only to account for inflation and do not substantially affect the rights or obligations of non-agency parties.

List of Subjects

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 part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

Subpart A—General Rules of Practice and Procedure

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 *et seq.*, 47 U.S.C. 151, 154(i) and (j), 155, 157, 225, 227, 303(r), and 309.

■ 2. Section 1.80 is amended by revising the table following paragraph (b)(8) “Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors” and revising paragraph (b)(9) to read as follows:

§ 1.80 Forfeiture proceedings.

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

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Violation	Statutory amount (\$)
Sec. 202(c) Common Carrier Discrimination	\$11,362, \$568/day.
Sec. 203(e) Common Carrier Tariffs	11,362, 568/day.
Sec. 205(b) Common Carrier Prescriptions	22,723.
Sec. 214(d) Common Carrier Line Extensions	2,272/day.
Sec. 219(b) Common Carrier Reports	2,272/day.
Sec. 220(d) Common Carrier Records & Accounts	11,362/day.
Sec. 223(b) Dial-a-Porn	117,742.
Sec. 227(e) Caller Identification	10,874/violation. 32,622/day for each day of continuing violation, up to 1,087,450 for any single act or failure to act.
Sec. 364(a) Forfeitures (Ships)	9,468/day (owner).
Sec. 364(b) Forfeitures (Ships)	1,894 (vessel master).
Sec. 386(a) Forfeitures (Ships)	9,468/day (owner).
Sec. 386(b) Forfeitures (Ships)	1,894 (vessel master).
Sec. 634 Cable EEO	839.

(9) *Inflation adjustments to the maximum forfeiture amount.*

(i) Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Inflation Adjustment Act), 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 for inflation with an initial “catch-up” adjustment through an interim final rulemaking and interim final rules published by July 1, 2016, to take effect by August 1, 2016. Subsequent annual adjustments shall be

published by January 15 each year. Catch-up adjustments will be based on the ‘cost-of-living adjustment’ (CPI), which is the percentage (if any) by which the CPI for October in the year of the previous adjustment exceeds the CPI for October 2015. Annual inflation adjustments will be based on the percentage (if any) by which the CPI for October preceding the date of the adjustment exceeds the prior year’s CPI for October. The Office of Management and Budget has provided “Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year” (Table A) to determine the civil monetary penalty catch-up adjustment multiplier by calendar year. The Catch-up adjustment is determined by

(A) Identifying from Table A, column A the latest year the penalty level or penalty range was established or last adjusted by statute or regulation (other than pursuant to the Inflation Adjustment Act), and from column B, identifying the corresponding multiplier to adjust the penalty level or range for inflation;

(B) Multiplying the corresponding amount from column B by the amount of the maximum penalty level or the range of minimum and maximum penalties as most recently established or adjusted by statute or regulation (other than pursuant to the Inflation Adjustment Act before November 2, 2015);

(C) Rounding to the nearest dollar; and

(D) Comparing the new amount or range of the penalty with the amount or range in the prior year to ensure the maximum increase is not more than 150 percent of the most recent levels.

(ii) The application of the inflation adjustments required by the 2015 Inflation Adjustment Act, 28 U.S.C. 2461 note, results in the following adjusted statutory maximum forfeitures authorized by the Communications Act:

U.S. Code citation	Maximum penalty after 2015 inflation adjustment act adjustment (\$)
47 U.S.C. 202(c)	\$11,362,568
47 U.S.C. 203(e)	11,362,568
47 U.S.C. 205(b)	22,723
47 U.S.C. 214(d)	2,272
47 U.S.C. 219(b)	2,272
47 U.S.C. 220(d)	11,362
47 U.S.C. 223(b)	117,742
47 U.S.C. 227(e)	10,874,32,622
	1,087,450
47 U.S.C. 362(a)	9,468
47 U.S.C. 362(b)	1,894
47 U.S.C. 386(a)	9,468
47 U.S.C. 386(b)	1,894
47 U.S.C. 503(b)(2)(A)	47,340
	473,402
47 U.S.C. 503(b)(2)(B)	189,361
	1,893,610
47 U.S.C. 503(b)(2)(C)	383,038
	3,535,740
47 U.S.C. 503(b)(2)(D)	18,936
	142,021
	108,745
47 U.S.C. 503(b)(2)(F)	1,087,450
	1,875
47 U.S.C. 507(a)	
47 U.S.C. 507(b)	275
47 U.S.C. 554	839
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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 202

[Docket DARS-2016-0008]

RIN 0750-AI89

Defense Federal Acquisition Regulation Supplement: Deletion of Supplemental Coverage for the Definition of “Simplified Acquisition Threshold” (DFARS Case 2016-D007)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete the supplemental coverage for the definition “simplified acquisition threshold.” Federal Acquisition Regulation (FAR) final rule 2015-020 added to the FAR the simplified acquisition threshold for contracts to be awarded and performed, or purchases to be made, outside the United States in support of a humanitarian or peacekeeping operation.

DATES: Effective June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Defense Acquisition Regulations System, Attn: Ms. Julie Hammond, OUSD (AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, telephone 571-372-6174.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to delete the supplemental definition for “simplified acquisition threshold” with regard to humanitarian or peacekeeping operations at DFARS part 202. This supplemental definition was included in DFARS when there was no existing coverage in the FAR. The simplified acquisition threshold for humanitarian or peacekeeping operations has been added to the FAR under final rule 2015-020. There is no need to duplicate the definition in the DFARS; therefore, this rule removes the supplemental definition at DFARS part 202.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

41 U.S.C. 1707, Publication of Proposed Regulations, is the statute that applies to the publication of the Federal Acquisition Regulation (FAR).

Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the DFARS change to remove a definition that is being elevated to the FAR will not have any cost or administrative impact on contractors or offerors.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30.

IV. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This case does not add any new provisions or clauses or impact any existing provisions or clauses.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the