

| State and county | Location | Dates and names of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community number |
|--|-----------------------|--|---|--------------------------------|------------------|
| Texas: Tarrant (Case No.: 04-06-383P) (FEMA Docket No. P-7634). | City of Bedford | January 29, 2004, February 5, 2004, The Star Telegram. | The Honorable John Williams, Mayor, City of Bedford, 1813 Reliance Parkway, Bedford, TX 76021. | May 6, 2004 | 480585 |
| Texas: Dallas (Case No.: 03-06-699P) (FEMA Docket No. P-7634). | City of Carrollton | January 14, 2004, January 21, 2004, The Carrollton Leader. | The Honorable Mark Stokes, Mayor, City of Carrollton, 1945 East Jackson Road, Carrollton, TX 75006. | April 21, 2004 | 480167 |
| Texas: Collin (Case No.: 03-06-677P) (FEMA Docket No. P-7634). | Unincorporated Areas. | February 11, 2004, February 18, 2004, Plano Star Courier. | The Honorable Ron Harris, Collin County Judge, 210 S. McDonald Street, Suite 626, McKinney, TX 75069. | May 19, 2004 | 480130 |
| Texas: Hidalgo (Case No.: 03-06-1004P). (FEMA Docket No. P-7634). | City of Edinburg .. | January 9, 2004, January 16, 2004, Edinburg Daily Review. | The Honorable Richard H. Garcia, Mayor, City of Edinburg, P.O. Box 1079, Edinburg, TX 78540-1079. | December 16, 2003 .. | 480338 |
| Texas: Tarrant (Case No.: 03-06-1206P). (FEMA Docket No. P-7628). | City of Fort Worth | August 22, 2003, August 29, 2003, The Star Telegram. | The Honorable Michael Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102-6311. | November 28, 2003 .. | 480596 |
| Texas: Williamson (Case No.: 03-06-695P) (FEMA Docket No. P-7628). | City of Georgetown. | August 20, 2003, August 27, 2003, Williamson County Sun. | The Honorable Gary Nelson, Mayor, City of Georgetown, P.O. Box 409, Georgetown, TX 78627. | November 26, 2003 .. | 480668 |
| Texas: Dallas (Case No.: 03-06-700P) (FEMA Docket No. P-7634). | City of Mesquite .. | January 7, 2004, January 14, 2004, The Mesquite News. | The Honorable Mike Anderson, Mayor, City of Mesquite, P.O. Box 850137, Mesquite, TX 75185. | April 14, 2004 | 485490 |
| Texas: Midland (Case No.: 03-06-2541P). (FEMA Docket No. P-7632). | City of Midland | November 12, 2003, November 19, 2003, Midland Reporter-Telegram. | The Honorable Michael J. Canon, Mayor, City of Midland, 300 North Loraine, Midland, TX 79701. | October 21, 2003 | 480477 |
| Texas: Collin (Case No.: 03-06-685P) (FEMA Docket No. P-7634). | City of Plano | January 7, 2004, January 14, 2004, Plano Star Courier. | The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, TX 75086-0358. | December 16, 2003 .. | 480140 |
| Texas: Bell (Case No.: 02-06-2439P). (FEMA Docket No. P-7634). | City of Temple | January 6, 2004, January 13, 2004, Temple Daily Telegram. | The Honorable Bill Jones, III, Mayor, City of Temple, 2 North Main Street, Temple, TX 76501. | April 13, 2004 | 480034 |
| Texas: Williamson (Case No.: 03-06-695P) (FEMA Docket No. P-7628). | Unincorporated Areas. | August 20, 2003, August 27, 2003, Williamson County Sun. | The Honorable John C. Doerfler, Judge, Williamson County, 710 Main Street, Suite 201, Georgetown, TX 78616. | November 26, 2003 .. | 481079 |
| Texas: Collin (Case No.: 03-06-677P) (FEMA Docket No. P-7634). | City of Wylie | February 11, 2004, February 18, 2004, The Wylie News. | The Honorable John Mondy, Mayor, City of Wylie, 2000 State Highway 78 North, Wylie, TX 75098. | May 19, 2004 | 480759 |

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: July 28, 2004.

David I. Maurstad,

*Acting Director, Mitigation Division,
Emergency Preparedness and Response
Directorate.*

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**FEDERAL COMMUNICATIONS
COMMISSION**

47 CFR Part 1

[FCC 04-139]

**Inflation Adjustment of Maximum
Forfeiture Penalties**

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: This document increases the maximum monetary forfeiture penalties available to the Commission under its rules governing monetary forfeiture proceedings to account for inflation. The inflationary adjustment is necessary to implement the Debt Collection Improvement Act of 1996, which requires Federal agencies to adjust "civil monetary penalties provided by

law" at least once every four years. The increase covers the period between June of the year the particular forfeiture amount was last set or adjusted and June 2003. The increase in the Consumer Price Index for the relevant period was applied to each maximum penalty, and then rounded using the statutorily defined rules to adjust each maximum monetary forfeiture penalty accordingly. The base forfeiture amounts in the Commission's rules remain unchanged by this rule revision.

DATES: Effective September 7, 2004.

FOR FURTHER INFORMATION CONTACT: Kathryn Berthot, Enforcement Bureau, Spectrum Enforcement Division, (202) 418-7454.

SUPPLEMENTARY INFORMATION: This is a summary of the Order by the Commission, FCC 04-139, adopted on June 14, 2004, and released on June 18, 2004. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC 20554 and also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., at 1-800-378-3160, CY-B402, 445 12th Street, SW., Washington, DC 20554.

This Order amends § 1.80(b) of the Commission's rules, 47 CFR 1.80(b), to increase the maximum penalties established in that section to account for inflation since the last adjustment to these penalties. The adjustment procedure is set forth in detail in § 1.80(b)(5) of the Commission's rules. That section implements the Debt Collection Improvement Act of 1996, 28 U.S.C. 2461, which requires Federal agencies to adjust maximum statutory civil monetary penalties at least once every four years.

This Order adjusts the maximum penalties to account for the increase in the Consumer Price Index (CPI) between June of the year the forfeiture amount was last set or adjusted,¹ and June 2003.

¹ Under the rounding rules set forth in section 1.80(b)(5)(ii), the inflation adjustment for a statutory forfeiture amount must reach a specific threshold before the forfeiture amount may be increased. Thus, different CPIs may be used to calculate the inflation factors for different statutory forfeitures, depending on when a particular forfeiture was last increased. The June 1999 CPI is used to calculate the inflation factors for the statutory forfeiture amounts in sections 202(c) (the amount for each violation, not the per day amount for continuing violations), 203(e) (the amount for each violation, not the per day amount for continuing violations), 220(d), 503(b)(2)(A) (the maximum amount for continuing violations, not the amount for a single violation or single day of a violation), 503(b)(2)(B), and 503(b)(2)(C) (the maximum amount for continuing violations, not the amount for a single violation or single day of a violation). The June 1995 CPI is used to calculate the inflation factors

The increases were then rounded using the statutorily prescribed rules to produce the adjusted penalties. The Order also makes editorial amendments and corrections to § 1.80(b) of the Commission's rules.

The amendment of § 1.80(b) simply implements the requirements of the Debt Collection Improvement Act of 1986, 28 U.S.C. 2461, as incorporated in § 1.80(b)(5) of the Commission's rules, as well as updates and clarifies the rule to reflect the statute more precisely without substantively changing it. Moreover, since Congress has mandated these periodic rule changes and the Commission has no discretion but to make them, we find that, for good cause, compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b)(B).

Since a notice of proposed rulemaking is not required, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

The actions taken in this Order have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose no new or modified reporting and recordkeeping requirements or burdens on the public.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

Federal Communications Commission.

William F. Caton,
Deputy Secretary.

Rule Changes

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

for the statutory forfeiture amounts in sections 202(d) (the per day amount for continuing violations), 203(e) (the per day amount for continuing violations), 205(b), 364(a), 364(b), 386(a), 386(b), 503(b)(2)(A) (the amount for a single violation or single day of a violation), 503(b)(2)(C) (the amount for a single violation or single day of a violation), 507(a), and 507(b). The June 1992 CPI is used to calculate the inflation factor for the section 634 forfeiture amount, and the June 1989 CPI is used to calculate the inflation factors for the statutory forfeiture amounts in sections 214(d) and 219(b). Finally, the first inflation adjustment for each statutory forfeiture may not exceed 10 percent of the statutory maximum amount. See 47 CFR 1.80(b)(5), Note to paragraph (b)(5). This is the first inflation adjustment for the statutory forfeiture amounts in sections 364(b), 386(b) and 634 because this is the first time that the inflation adjustment for these forfeitures reached the specific threshold set forth in the rounding rules. Accordingly, the inflation adjustment for the forfeiture amounts in sections 364(b), 386(b) and 634 is limited to 10 percent.

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i) and (j), 155, 225, 303(r), and 309.

■ 2. Section 1.80 is amended by:

■ a. Revising paragraphs (b)(1) through (b)(4);

■ b. Revising the introductory text of the note to paragraph (b)(4);

■ c. Revising section III of the note to paragraph (b)(4);

■ d. Revising paragraphs (b)(5) introductory text and (b)(5)(iii).

The revisions read as follows:

§ 1.80 Forfeiture proceedings.

* * * * *

(b) *Limits on the amount of forfeiture assessed.* (1) If the violator is a broadcast station licensee or permittee, a cable television operator, or an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument of authorization issued by the Commission, except as otherwise noted in this paragraph, the forfeiture penalty under this section shall not exceed \$32,500 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$325,000 for any single act or failure to act described in paragraph (a) of this section. There is no limit on forfeiture assessments for EEO violations by cable operators that occur after notification by the Commission of a potential violation. See section 634(f)(2) of the Communications Act.

(2) If the violator is a common carrier subject to the provisions of the Communications Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed \$130,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,325,000 for any single act or failure to act described in paragraph (a) of this section.

(3) In any case not covered in paragraphs (b)(1) or (b)(2) of this section, the amount of any forfeiture penalty determined under this section shall not exceed \$11,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$97,500 for

any single act or failure to act described in paragraph (a) of this section.

(4) *Factors considered in determining the amount of the forfeiture penalty.* In determining the amount of the forfeiture penalty, the Commission or its designee will take into account the nature, circumstances, extent and gravity of the violations and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

Note to paragraph (b)(4):

Guidelines for Assessing Forfeitures

The Commission and its staff may use these guidelines in particular cases. The Commission and its staff retain the discretion to issue a higher or lower forfeiture than

provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute. The forfeiture ceiling per violation or per day for a continuing violation stated in section 503 of the Communications Act and the Commission's rules are described in § 1.80(b)(5)(iii). These statutory maxima became effective September 7, 2004. Forfeitures issued under other sections of the Act are dealt with separately in section III of this note.

* * * * *

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

Unlike section 503 of the Act, which establishes maximum forfeiture amounts, other sections of the Act, with

one exception, state prescribed amounts of forfeitures for violations of the relevant section. These amounts are then subject to mitigation or remission under section 504 of the Act. The one exception is section 223 of the Act, which provides a maximum forfeiture per day. For convenience, the Commission will treat this amount as if it were a prescribed base amount, subject to downward adjustments. The following amounts are adjusted for inflation pursuant to the Debt Collection Improvement Act of 1996 (DCIA), 28 U.S.C. 2461. These non-section 503 forfeitures may be adjusted downward using the "Downward Adjustment Criteria" shown for section 503 forfeitures in section II of this note.

| Violation | Statutory amount (\$) |
|---|------------------------|
| Sec. 202(c) Common Carrier Discrimination | \$8,600 430/day. |
| Sec. 203(e) Common Carrier Tariffs | 8,600 430/day. |
| Sec. 205(b) Common Carrier Prescriptions | 18,200. |
| Sec. 214(d) Common Carrier Line Extensions | 1,320/day. |
| Sec. 219(b) Common Carrier Reports | 1,320. |
| Sec. 220(d) Common Carrier Records & Accounts | 8,600/day. |
| Sec. 364(a) Forfeitures (Ships) | 6,500 (owner). |
| Sec. 364(b) Forfeitures (Ships) | 1,100 (vessel master). |
| Sec. 386(a) Forfeitures (Ships) | 6,500/day (owner). |
| Sec. 386(b) Forfeitures (Ships) | 1,100 (vessel master). |
| Sec. 634 Cable EEO | 550/day. |

(5) *Inflation adjustments to the maximum forfeiture amount.* (i) Pursuant to the Debt Collection Improvement Act of 1996, Public Law 104-134 (110 Stat. 1321-358), 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 at least once every four years using the method specified in the statute. This is to be done by determining the 'cost-of-living adjustment', which is the percentage (if any) by which the CPI for June of the preceding year exceeds the CPI for June of the year the forfeiture amount was last set or adjusted. The inflation adjustment is determined by multiplying the cost-of-living adjustment by the statutory maximum amount. Round off this result using the rules in paragraph (b)(5)(ii) of this section. Add the rounded result to the statutory maximum forfeiture penalty amount. The sum is the statutory maximum amount, adjusted for inflation.

* * * * *

(iii) The application of the inflation adjustments required by the DCIA, 28 U.S.C. 2461, results in the following

adjusted statutory maximum forfeitures authorized by the Communications Act:

| U.S. Code citation | Maximum penalty after DCIA adjustment (\$) |
|------------------------------|--|
| 47 U.S.C. 202(c) | \$8,600 430 |
| 47 U.S.C. 203(e) | 8,600 430 |
| 47 U.S.C. 205(b) | 18,200 |
| 47 U.S.C. 214(d) | 1,320 |
| 47 U.S.C. 219(b) | 1,320 |
| 47 U.S.C. 220(d) | 8,600 |
| 47 U.S.C. 362(a) | 6,500 |
| 47 U.S.C. 362(b) | 1,100 |
| 47 U.S.C. 386(a) | 6,500 |
| 47 U.S.C. 386(b) | 1,100 |
| 47 U.S.C. 503(b)(2)(A) | 32,500 |
| 47 U.S.C. 503(b)(2)(B) | 325,000 |
| 47 U.S.C. 503(b)(2)(C) | 130,000 |
| 47 U.S.C. 507(a) | 1,325,000 |
| 47 U.S.C. 507(b) | 11,000 |
| 47 U.S.C. 554 | 97,500 |
| | 650 |
| | 10 |
| | 550 |

* * * * *

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BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 25

[IB Docket No. 02-34; FCC 04-92]

Space Station Licensing Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission seeks to extend mandatory electronic filing to all satellite and earth station applications. The Commission also plans to implement two measures that allow space station operators to make certain changes to their systems without prior regulatory approval. First, we allow direct broadcast satellite (DBS) licensees and Digital Audio Radio Service (DARS) satellite licensees to use a streamlined procedure when relocating satellites for fleet management purposes. Second, we allow Non-Geostationary Satellite Orbit (NGSO) system operators to activate in-orbit spares without prior authorization from the Commission, provided that the activation does not cause the operator to exceed the total number of space stations that the licensee was authorized