

**USPS MARKETING MAIL***ECR Letters—Barcoded*

saturation price—(including Plus One) high density or high density plus price—(including Plus One)

\* \* \* \* \*

**600 Basic Standards for All Mailing Services**

\* \* \* \* \*

**602 Addressing**

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[Add new section 11.0 to 602; to read as follows:]

**11.0 Commercial Plus One Mailpieces****11.1 General****11.1.1 Definition**

The commercial mail Plus One product is a bundled offering consisting of a host mailpiece and a Plus One card. Both the host mailpiece and the Plus One card must meet the applicable basic standards of a USPS Marketing mail saturation letter in 245.6.0, be entered at a destination sectional center facility (DSCF), and meet automation standards with a correct mailing address and intelligent mail barcode, (IMb). The Plus One mailpiece (card) must meet the following additional standards:

- Have at least a six-month relationship with the host mailer.
- Be addressed to the same delivery points as the host mailpiece.
- Be sorted and presented separately from the host piece.
- Must not exceed 6 inches long by 9.5 inches high.
- Must be at least 0.009 inches thick, card stock.
- Must have “Plus One” marking directly below Permit indicia.

**11.1.2 Mail Preparation**

Each Plus One mailing must be trayed and labeled according to 245.6.7. Palletized mailings must be prepared according to 705.8.10.3.

**11.1.3 Documentation**

When requested by USPS, Plus One mailpiece mailers must provide standardized documentation according to 203.3.0, to establish that the applicable distribution standards are met. Spoilage of host pieces may affect eligibility to mail Plus One pieces in the following manner:

- a. File must show that at least 90% of host pieces are saturation mail, the remainder may be high density or high density plus.
- b. The total number of Plus One pieces must be less than or equal to the number of host pieces.

**11.1.4 Extra Services**

Items mailed with Plus One mailpieces may not be combined with any extra service.

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**Notice 123 (Price List)**

[Revise prices as applicable.]

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**Ruth B. Stevenson,**

*Chief Counsel, Ethics and Legal Compliance.*

[FR Doc. 2022–00396 Filed 1–7–22; 11:15 am]

**BILLING CODE P**

**POSTAL SERVICE****39 CFR Parts 233 and 273****Inspection Service Authority; Civil Monetary Penalty Inflation Adjustment**

**AGENCY:** Postal Service™.

**ACTION:** Interim final rule.

**SUMMARY:** This document updates postal regulations by implementing inflation adjustments to civil monetary penalties that may be imposed under consumer protection and mailability provisions enforced by the Postal Service pursuant to the Deceptive Mail Prevention and Enforcement Act and the Postal Accountability and Enhancement Act, as well as the civil monetary penalty that may be imposed by the Postal Service for false claims and statements under the Program Fraud Civil Remedies Act. These adjustments are required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. This document includes the adjustments for 2022 for the statutory civil monetary penalties subject to the 2015 Act and all necessary updates authorized by the 2015 Act for regulatory civil monetary penalties.

**DATES:** Effective January 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** Louis DiRienzo, (202) 268–3028, [ljdierenzo@uspis.gov](mailto:ljdierenzo@uspis.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, 129 Stat. 584, amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Act), Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. Section 3 of the 1990 Act specifically includes the Postal Service in the definition of “agency” subject to its provisions.

Beginning in 2017, the 2015 Act requires the Postal Service to make an annual adjustment for inflation to civil penalties that meet the definition of “civil monetary penalty” under the 1990 Act. The Postal Service must make the annual adjustment for inflation and publish the adjustment in the **Federal Register** by January 15 of each year. The Postal Service has not completed the annual adjustments for the civil monetary penalty that may be imposed under the Program Fraud Civil Remedies Act. In order to satisfy the annual adjustment requirement, the Postal Service is making all annual adjustments at this time. Each penalty will be adjusted as instructed by the Office of Management and Budget (OMB) based on the Consumer Price Index (CPI–U) from the most recent October. OMB has furnished detailed instructions regarding the annual adjustment for 2022 in memorandum M–22–07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (December 15, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf>. This year, OMB has advised that an adjustment multiplier of 1.06222 will be used. The new penalty amount must be rounded to the nearest dollar.

The 2015 Act allows the interim final rule and annual inflation adjustments to be published without prior public notice or opportunity for public comment.

**Adjustments to Postal Service Civil Monetary Penalties**

Civil monetary penalties may be assessed for postal offenses under sections 106 and 108 of the Deceptive Mail Prevention and Enforcement Act, Public Law 106–168, 113 Stat. 1811, 1814 (*see*, 39 U.S.C. 3012(a), (c)(1), (d), and 3017 (g)(2), (h)(1)(A)); and section 1008 of the Postal Accountability and Enhancement Act, Public Law 109–435, 120 Stat. 3259–3261 (*see*, 39 U.S.C. 3018 (c)(1)(A)). The statutory civil monetary penalties subject to the 2015 Act and the amount of each penalty after implementation of the annual adjustment for inflation are as follows:

**39 U.S.C. 3012(a)—False Representations and Lottery Orders**

Under 39 U.S.C. 3005(a)(1)–(3), the Postal Service may issue administrative orders prohibiting persons from using the mail to obtain money through false representations or lotteries. Persons who evade, attempt to evade, or fail to comply with an order to stop such prohibited practices may be liable to the

United States for a civil penalty under 39 U.S.C. 3012(a). The regulations implemented pursuant to this section currently impose a \$74,825 penalty for each mailing less than 50,000 pieces, \$149,647 for each mailing of 50,000 to 100,000 pieces, and \$14,966 for each additional 10,000 pieces above 100,000 not to exceed \$2,992,956. The new penalties will be as follows: A \$79,481 penalty for each mailing less than 50,000 pieces, \$158,958 for each mailing of 50,000 to 100,000 pieces, and \$15,897 for each additional 10,000 pieces above 100,000 not to exceed \$3,179,178.

**39 U.S.C. 3012(c)(1)—False Representation and Lottery Penalties in Lieu of or as Part of an Order**

In lieu of or as part of an order issued under 39 U.S.C. 3005(a)(1)–(3), the Postal Service may assess a civil penalty. Currently, the amount of this penalty, set in the implementing regulations to 39 U.S.C. 3012(c)(1), is \$37,412 for each mailing that is less than 50,000 pieces, \$74,825 for each mailing of 50,000 to 100,000 pieces, and an additional \$7,482 for each additional 10,000 pieces above 100,000 not to exceed \$1,496,478. The new penalties will be \$39,740 for each mailing that is less than 50,000 pieces, \$79,481 for each mailing of 50,000 to 100,000 pieces, and an additional \$7,948 for each additional 10,000 pieces above 100,000 not to exceed \$1,589,589.

**39 U.S.C. 3012(d)—Misleading References to the United States Government; Sweepstakes and Deceptive Mailings**

Persons may be liable to the United States for a civil penalty under 39 U.S.C. 3012(d) for sending certain deceptive mail matter described in 39 U.S.C. 3001(h)–(k), including:

- Solicitations making false claims of Federal Government connection or approval;
- Certain solicitations for the purchase of a product or service that may be obtained without cost from the Federal Government;
- Solicitations containing improperly prepared “facsimile checks”; and
- Certain solicitations for “skill contests” and “sweepstakes” sent to individuals who, in accordance with 39 U.S.C. 3017(d), have requested that such materials not be mailed to them.

Currently, under the implementing regulations, this penalty is not to exceed \$14,966 for each mailing. The new penalty will be \$15,897.

**39 U.S.C. 3017(g)(2)—Commercial Use of Lists of Persons Electing Not To Receive Skill Contest or Sweepstakes Mailings**

Under 39 U.S.C. 3017(g)(2), the Postal Service may impose a civil penalty against a person who provides information for commercial use about individuals who, in accordance with 39 U.S.C. 3017(d), have elected not to receive certain sweepstakes and contest information. Currently, this civil penalty may not exceed \$2,992,956 per violation, pursuant to the implementing regulations. The new penalty may not exceed \$3,179,178 per violation.

**39 U.S.C. 3017(h)(1)(A)—Reckless Mailing of Skill Contest or Sweepstakes Matter**

Currently, under 39 U.S.C. 3017(h)(1)(A) and its implementing regulations, any promoter who recklessly mails nonmailable skill contest or sweepstakes matter may be liable to the United States in the amount of \$14,966 per violation for each mailing to an individual. The new penalty is \$15,897 per violation.

**39 U.S.C. 3018(c)(1)(A)—Hazardous Material**

Under 39 U.S.C. 3018(c)(1)(A), the Postal Service may impose a civil penalty payable into the Treasury of the United States on a person who knowingly mails nonmailable hazardous materials or fails to follow postal laws on mailing hazardous materials. Currently, this civil penalty is at least \$324, but not more than \$129,032 for each violation, pursuant to the implementing regulations. The new penalty is at least \$344, but not more than \$137,060 for each violation.

**Adjustments to Regulatory Postal Service Civil Monetary Penalties**

In October 1986, Congress enacted the Program Fraud Civil Remedies Act, 31 U.S.C. 3801–3812. The Program Fraud Civil Remedies Act established an administrative remedy against any person who makes, or causes to be made, a false claim or written statement to certain Federal agencies. The Act requires each covered agency to promulgate rules and regulations necessary to implement its provisions. The Postal Service’s implementing regulations are found in part 273 of title 39, Code of Federal Regulations. The Program Fraud Civil Remedies Act established a maximum penalty of \$5,000 for each violation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. 2461 note, required all Federal agencies to (1) adjust the penalty amount to 2016

inflation levels with an initial “catch-up” inflation adjustment; and (2) make subsequent annual adjustments for inflation. This rule incorporates the initial “catch-up” adjustment to 2016 inflation levels and the annual adjustments for 2017 through 2022, and applies those adjustments cumulatively to the civil monetary penalties that the Program Fraud Civil Remedies Act imposes. The adjustment factors are as follows: 2016—2.15628; 2017—1.01636; 2018—1.02041; 2019—1.02522; 2020—1.01764; 2021—1.01182; 2022—1.06222. After applying all adjustments, the new penalty amount is \$12,537.

**List of Subjects**

**39 CFR Part 233**

Administrative practice and procedure, Banks, Banking, Credit, Crime, Infants and children, Law enforcement, Penalties, Privacy, Seizures and forfeitures.

**39 CFR Part 273**

Administrative practice and procedure, Claims, Fraud, Penalties.

For the reasons set out in the preamble, the Postal Service amends 39 CFR parts 233 and 273 as follows:

**PART 233—INSPECTION SERVICE AUTHORITY**

- 1. The authority citation for part 233 continues to read as follows:

**Authority:** 39 U.S.C. 101, 102, 202, 204, 401, 402, 403, 404, 406, 410, 411, 1003, 3005(e)(1), 3012, 3017, 3018; 12 U.S.C. 3401–3422; 18 U.S.C. 981, 983, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–208, 110 Stat. 3009; Secs. 106 and 108, Pub. L. 106–168, 113 Stat. 1806 (39 U.S.C. 3012, 3017); Pub. L. 114–74, 129 Stat. 584.

**§ 233.12 [Amended]**

- 2. In § 233.12:

- a. In paragraph (a), remove “\$74,825” and add in its place “\$79,481”, remove “\$149,647” and add in its place “\$158,958”, remove “\$14,966” and add in its place “\$15,897”, and remove “\$2,992,956” and add in its place “\$3,179,178”.
- b. In paragraph (b), remove “\$37,412” and add in its place “\$39,740”, remove “\$74,825” and add in its place “\$79,481”, remove “\$7,482” and add in its place “\$7,948”, and remove “\$1,496,478” and add in its place “\$1,589,589”.
- c. In paragraph (c)(4), remove “\$14,966” and add in its place “\$15,897”.
- d. In paragraph (d), remove “\$2,992,956” and add in its place “\$3,179,178”.

- e. In paragraph (e), remove “\$14,966” and add in its place “\$15,897”.
- f. In paragraph (f), remove “\$324” and add in its place “\$344” and remove “\$129,032” and add in its place “\$137,060”.

## PART 273—ADMINISTRATION OF PROGRAM FRAUD CIVIL REMEDIES ACT

- 3. The authority citation for part 273 continues to read as follows:

**Authority:** 31 U.S.C. Chapter 38; 39 U.S.C. 401.

- 4. In § 273.3, in paragraph (a)(1)(iv), add a sentence to the end of the paragraph to read as follows:

### § 273.3 Liability for false claims and statements.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iv) \* \* \* As adjusted under Public Law 114–74, the penalty is \$12,537 per claim.

\* \* \* \* \*

Joshua Hofer,

*Attorney, Ethics & Legal Compliance.*

[FR Doc. 2022–00373 Filed 1–11–22; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 19

[FRL–5906.6–01–OECA]

### Civil Monetary Penalty Inflation Adjustment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of the maximum (and minimum) statutory civil monetary penalty amounts under the statutes the EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (“the 2015 Act”). The 2015 Act prescribes a formula for annually adjusting the statutory maximum (and minimum) amount of civil monetary penalties to reflect inflation, maintain the deterrent effect of statutory civil monetary penalties, and promote compliance with the law. The rule does not establish specific civil monetary penalty amounts the EPA may seek in particular cases, as

appropriate given the facts of particular cases and applicable agency penalty policies. The EPA’s civil penalty policies, which guide enforcement personnel on how to exercise the EPA’s discretion within statutory penalty authorities, take into account a number of fact-specific considerations, *e.g.*, the seriousness of the violation, the violator’s good faith efforts to comply, any economic benefit gained by the violator as a result of its noncompliance, and a violator’s ability to pay.

**DATES:** This final rule is effective January 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** David Smith-Watts, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564–4083; *smith-watts.david@epa.gov*.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Since 1996, Federal agencies have been required to issue regulations adjusting for inflation the statutory civil monetary penalties<sup>1</sup> that can be imposed under the laws administered by that agency. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (DCIA), required agencies to review their statutory civil monetary penalties every four years, and to adjust the statutory civil monetary penalty amounts for inflation if the increase met the DCIA’s adjustment methodology. In accordance with the DCIA, the EPA reviewed and, as appropriate, adjusted the civil monetary penalty levels under each of the statutes the agency implements in 1996 (61 FR 69360), 2004 (69 FR 7121), 2008 (73 FR 75340), and 2013 (78 FR 66643).

The 2015 Act<sup>2</sup> required each Federal agency to adjust the level of statutory civil monetary penalties under the laws implemented by that agency with an initial “catch-up” adjustment through an interim final rulemaking. The 2015

Act also required Federal agencies, beginning on January 15, 2017, to make subsequent annual adjustments for inflation. Section 4 of the 2015 Act requires each Federal agency to publish these adjustments by January 15 of each year. The purpose of the 2015 Act is to maintain the deterrent effect of civil monetary penalties by translating originally enacted statutory civil penalty amounts to today’s dollars and rounding statutory civil penalties to the nearest dollar.

As required by the 2015 Act, the EPA issued a catch-up rule on July 1, 2016, which was effective August 1, 2016 (81 FR 43091). The EPA has made five annual adjustments since then: On January 12, 2017, effective on January 15, 2017 (82 FR 3633); on January 10, 2018, effective on January 15, 2018 (83 FR 1190); on February 6, 2019, effective February 6, 2019 (84 FR 2056), and issued a subsequent correction on February 25, 2019 (84 FR 5955); on January 13, 2020, effective the same day (85 FR 1751); and on December 23, 2020, effective the same day (85 FR 83818). This rule implements the sixth annual adjustment mandated by the 2015 Act.

The 2015 Act provides a formula for calculating the adjustments. Each statutory maximum and minimum<sup>3</sup> civil monetary penalty, as currently adjusted, is multiplied by the cost-of-living adjustment multiplier, which is the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2021 exceeds the CPI-U for the month of October 2020.<sup>4</sup>

With this rule, the new statutory maximum and minimum penalty levels listed in the third column of Table 1 of 40 CFR 19.4 will apply to all civil monetary penalties assessed on or after January 12, 2022, for violations that occurred after November 2, 2015, the

<sup>3</sup> Under Section 3(2)(A) of the 2015 Act, “civil monetary penalty” means “a specific monetary amount as provided by Federal law”; or “has a maximum amount provided for by Federal law.” EPA-administered statutes generally refer to statutory maximum penalties, with the following exceptions: Section 311(b)(7)(D) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(D), refers to a minimum penalty of “not less than \$100,000 . . .”; Section 104B(d)(1) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1414b(d)(1), refers to an exact penalty of \$600 “[f]or each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992 . . .”; and Section 325(d)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(d)(1), refers to an exact civil penalty of \$25,000 for each frivolous trade secret claim.

<sup>4</sup> Current and historical CPI-U’s can be found on the Bureau of Labor Statistics’ website here: <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202110.pdf>.

<sup>1</sup> The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 28 U.S.C. 2461 note, defines “civil monetary penalty” as any penalty, fine, or other sanction that—(1)(i) is for a specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; and (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

<sup>2</sup> The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74) was signed into law on November 2, 2015, and further amended the Federal Civil Penalties Inflation Adjustment Act of 1990.