



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

December 19, 2024

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*
Acting General Counsel

Neven F. Stipanovic *NFS*
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SUBJECT: REG 2024-10 (Civil Monetary Penalties Inflation Adjustment 2025)

Attached is a proposed draft of the subject final rules. As explained below, we request that this draft be placed on a 24-hour tally vote ending on December 23, 2024, at 4:00 pm.

According to the extended voting deadlines the Commission adopted in December 2024, “any items that in the ordinary course would have a voting deadline after Wednesday, December 18, 2024, and on or before Thursday, January 2, 2025, the voting deadline will be extended to 4:00 pm on Wednesday, January 8, 2025.” Because this matter requires Commission’s consideration before January 8, 2025, we ask that the Commission suspend the extended voting deadlines in this instance.¹

¹ Although the Commission excepted certain matters from the extended voting deadlines, none of the exceptions apply here.

1 **FEDERAL ELECTION COMMISSION**

2 **11 CFR Part 111**

3 **[NOTICE 2024-XX]**

4 **Civil Monetary Penalties Annual Inflation Adjustments**

5 **AGENCY:** Federal Election Commission.

6 **ACTION:** Final rules.

7 **SUMMARY:** As required by the Federal Civil Penalties Inflation Adjustment Act of 1990, the
8 Federal Election Commission is adjusting for inflation the civil monetary penalties established
9 under the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the
10 Presidential Primary Matching Payment Account Act. The civil monetary penalties being
11 adjusted are those negotiated by the Commission or imposed by a court for certain statutory
12 violations, and those imposed by the Commission for late filing of or failure to file certain
13 reports required by the Federal Election Campaign Act. The adjusted civil monetary penalties
14 are calculated according to a statutory formula and the adjusted amounts will apply to penalties
15 assessed after the effective date of these rules.

16 **DATES:** The final rules are effective on [INSERT DATE OF PUBLICATION IN THE
17 *FEDERAL REGISTER*].

18 **FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Knop, Assistant General
19 Counsel, Mr. Joseph P. Wenzinger, Attorney, or Ms. Terrell D. Stansbury, Paralegal, Office of
20 General Counsel, (202) 694-1650 or (800) 424-9530.

1 **SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act
2 of 1990 (the “Inflation Adjustment Act”),¹ as amended by the Federal Civil Penalties Inflation
3 Adjustment Act Improvements Act of 2015 (the “2015 Act”),² requires federal agencies,
4 including the Commission, to adjust for inflation the civil monetary penalties within their
5 jurisdiction according to prescribed formulas. A civil monetary penalty is “any penalty, fine, or
6 other sanction” that (1) “is for a specific monetary amount” or “has a maximum amount” under
7 federal law; and (2) that a federal agency assesses or enforces “pursuant to an administrative
8 proceeding or a civil action” in federal court.³ Under the Federal Election Campaign Act, 52
9 U.S.C. 30101-45 (“FECA”), the Commission may seek and assess civil monetary penalties for
10 violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001-13, and the
11 Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031-42.

12 The Inflation Adjustment Act requires federal agencies to adjust their civil penalties
13 annually, and the adjustments must take effect no later than January 15 of every year.⁴ Pursuant
14 to guidance issued by the Office of Management and Budget,⁵ the Commission is now adjusting
15 its civil monetary penalties for 2025.⁶

¹ Pub. L. 101-410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), *amended by* Debt Collection Improvement Act of 1996, Pub. L. 104-134, § 31001(s)(1), 110 Stat. 1321, 1321-373; Federal Reports Elimination Act of 1998, Pub. L. 105-362, § 1301, 112 Stat. 3280.

² Pub. L. 114-74, § 701, 129 Stat. 584, 599.

³ Inflation Adjustment Act § 3(2).

⁴ Inflation Adjustment Act § 4(a).

⁵ *See* Inflation Adjustment Act § 7(a) (requiring OMB to “issue guidance to agencies on implementing the inflation adjustments required under this Act”); *see also* Memorandum from Shalanda D. Young, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, M-25-02, Dec. 17, 2024, <https://www.whitehouse.gov/wp-content/uploads/2024/12/M-25-02.pdf> (“OMB Memorandum”).

⁶ Inflation Adjustment Act § 5.

1 The Commission must adjust for inflation its civil monetary penalties “notwithstanding
2 Section 553” of the Administrative Procedures Act (“APA”).⁷ Thus, the APA’s notice-and-
3 comment and delayed effective date requirements in 5 U.S.C. 553(b)-(d) do not apply because
4 Congress has specifically exempted agencies from these requirements.⁸

5 Furthermore, because the inflation adjustments made through these final rules are
6 required by Congress and involve no Commission discretion or policy judgments, these rules do
7 not need to be submitted to the Speaker of the United States House of Representatives or the
8 President of the United States Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.*
9 Moreover, because the APA’s notice-and-comment procedures do not apply to these final rules,
10 the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or
11 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for
12 congressional review under FECA. *See* 5 U.S.C. 30111(d)(1), (4) (providing for congressional
13 review when Commission “prescribe[s]” a “rule of law”).

14 The new penalty amounts will apply to civil monetary penalties that are assessed after the
15 date the increase takes effect, even if the associated violation predated the increase.⁹

16 **Explanation and Justification**

17 The Inflation Adjustment Act requires the Commission to annually adjust its civil
18 monetary penalties for inflation by applying a cost-of-living-adjustment (“COLA”) ratio.¹⁰ The

⁷ Inflation Adjustment Act § 4(b)(2).

⁸ *See, e.g., Asiana Airlines v. FAA*, 134 F.3d 393, 396-99 (D.C. Cir. 1998) (finding APA “notice and comment” requirement not applicable where Congress clearly expressed intent to depart from normal APA procedures).

⁹ Inflation Adjustment Act § 6.

¹⁰ The COLA ratio must be applied to the most recent civil monetary penalties. Inflation Adjustment Act, § 4(a); *see also* OMB Memorandum at 2.

1 COLA ratio is the percentage that the Consumer Price Index (“CPI”)¹¹ “for the month of October
2 preceding the date of the adjustment” exceeds the CPI for October of the previous year.¹² To
3 calculate the adjusted penalty, the Commission must increase the most recent civil monetary
4 penalty amount by the COLA ratio.¹³ According to the Office of Management and Budget, the
5 COLA ratio for 2025 is 0.02598, or 2.598%; thus, to calculate the new penalties, the
6 Commission must multiply the most recent civil monetary penalties in force by 1.02598.¹⁴

7 The Commission assesses two types of civil monetary penalties that must be adjusted for
8 inflation. First are penalties that are either negotiated by the Commission or imposed by a court
9 for violations of FECA, the Presidential Election Campaign Fund Act, or the Presidential
10 Primary Matching Payment Account Act. These civil monetary penalties are set forth at 11 CFR
11 111.24. Second are the civil monetary penalties assessed through the Commission’s
12 Administrative Fines Program for late filing or non-filing of certain reports required by FECA.
13 *See* 52 U.S.C. 30109(a)(4)(C) (authorizing Administrative Fines Program), 30104(a) (requiring
14 political committee treasurers to report receipts and disbursements within certain time periods).
15 The penalty schedules for these civil monetary penalties are set out at 11 CFR 111.43 and
16 111.44.

17 1. 11 CFR 111.24 – Civil Penalties

18 FECA establishes the civil monetary penalties for violations of FECA and the other
19 statutes within the Commission’s jurisdiction. *See* 52 U.S.C. 30109(a)(5), (6), (12).

¹¹ The Inflation Adjustment Act, § 3, uses the CPI “for all-urban consumers published by the Department of Labor.”

¹² Inflation Adjustment Act, § 5(b)(1).

¹³ Inflation Adjustment Act, § 5(a), (b)(1).

¹⁴ OMB Memorandum at 1.

1 Commission regulations in 11 CFR 111.24 provide the current inflation-adjusted amount for
 2 each such civil monetary penalty. To calculate the adjusted civil monetary penalty, the
 3 Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure
 4 to the nearest dollar.

5 The actual adjustment to each civil monetary penalty is shown in the chart below.

6

Section	Most Recent Civil Penalty	COLA	New Civil Penalty
11 CFR 111.24(a)(1)	\$24,255	1.02598	\$24,885
11 CFR 111.24(a)(2)(i)	\$51,744	1.02598	\$53,088
11 CFR 111.24(a)(2)(ii)	\$84,852	1.02598	\$87,056
11 CFR 111.24(b)	\$7,256	1.02598	\$7,445
11 CFR 111.24(b)	\$18,139	1.02598	\$18,610

7

8 2. 11 CFR 111.43, 111.44 — Administrative Fines

9 FECA authorizes the Commission to assess civil monetary penalties for violations of the
 10 reporting requirements of 52 U.S.C. 30104(a) according to the penalty schedules “established
 11 and published by the Commission.” 52 U.S.C. 30109(a)(4)(C)(i). The Commission has
 12 established two penalty schedules: The penalty schedule in 11 CFR 111.43(a) applies to reports
 13 that are not election sensitive, and the penalty schedule in 11 CFR 111.43(b) applies to reports
 14 that are election sensitive.¹⁵ Each penalty schedule contains two columns of penalties, one for

¹⁵ Election sensitive reports are certain reports due shortly before an election. See 11 CFR 111.43(d)(1).

1 late-filed reports and one for non-filed reports, with penalties based on the level of financial
2 activity in the report and, if late-filed, its lateness.¹⁶ In addition, 11 CFR 111.43(c) establishes a
3 civil monetary penalty for situations in which a committee fails to file a report and the
4 Commission cannot calculate the relevant level of activity. Finally, 11 CFR 111.44 establishes a
5 civil monetary penalty for failure to file timely reports of contributions received less than 20
6 days, but more than 48 hours, before an election. *See* 52 U.S.C. 30104(a)(6).

7 To determine the adjusted civil monetary penalty amount for each level of activity, the
8 Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure
9 to the nearest dollar. The new civil monetary penalties are shown in the schedules in the rule
10 text, below.

11 **List of Subjects**

12 11 CFR Part 111

13 Administrative practice and procedures, Elections, Law enforcement, Penalties.

¹⁶ A report is considered to be “not filed” if it is never filed or is filed more than a certain number of days after its due date. *See* 11 CFR 111.43(e).

1 For the reasons set out in the preamble, the Federal Election Commission amends
2 subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

3 **PART 111 – COMPLIANCE PROCEDURE (52 U.S.C. 30109, 30107(a))**

4 1. The authority citation for part 111 continues to read as follows:

5 Authority: 52 U.S.C. 30102(i), 30109, 30107(a), 30111(a)(8); 28 U.S.C. 2461 nt.

6 **§ 111.24 [Amended]**

7 2. Section 111.24 is amended as follows:

8 In the table below, for each section indicated in the left column, remove the number
9 indicated in the middle column, and add in its place the number indicated in the right column.

10 Section	Remove	Add
11 111.24(a)(1)	\$24,255	\$24,885
12 111.24(a)(2)(i)	\$51,744	\$53,088
13 111.24(a)(2)(ii)	\$84,852	\$87,056
14 111.24(b)	\$7,256	\$7,445
15 111.24(b)	\$18,139	\$18,610

16 3. Section 111.43 is amended by revising paragraphs (a), (b), and (c) to read as follows:

17 **§ 111.43 What are the schedules of penalties?**

18 (a) The civil money penalty for all reports that are filed late or not filed, except
19 election sensitive reports and pre-election reports under 11 CFR 104.5, shall be
20 calculated in accordance with the following schedule of penalties:

21

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1 - 4,999.99 ^a	[\$43 + (\$6 x Number of days late)] x [1 + (.25 x Number of previous violations)].	\$426 x [1 + (.25 x Number of previous violations)]
\$5,000 - 9,999.99	[\$85 + (\$6 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$512 x [1 + (.25 x Number of previous violations)]
\$10,000 - 24,999.99	[\$183 + (\$6 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$854 x [1 + (.25 x Number of previous violations)]
\$25,000 - 49,999.99	[\$362 + (\$34 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$1536 x [1 + (.25 x Number of previous violations)]
\$50,000 - 74,999.99	[\$546 + (\$136 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$4898 x [1 + (.25 x Number of previous violations)]
\$75,000 - 99,999.99	[\$724 + (\$183 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$6349 x [1 + (.25 x Number of previous violations)]
\$100,000 - 149,999.99	[\$1087 + (\$227 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$8165 x [1 + (.25 x Number of previous violations)]

\$150,000 - 199,999.99	$[\$1454 + (\$271 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$9978 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000 - 249,999.99	$[\$1813 + (\$316 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$11,792 \times [1 + (.25 \times \text{Number of previous violations})]$
\$250,000 - 349,999.99	$[\$2722 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$14,514 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000 - 449,999.99	$[\$3629 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$16,327 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000 - 549,999.99	$[\$4536 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$17,234 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000 - 649,999.99	$[\$5441 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$18,142 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000 - 749,999.99	$[\$6349 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$19,049 \times [1 + (.25 \times \text{Number of previous violations})]$

\$750,000 - 849,999.99	[\$7256 + (\$362 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$19,955 x [1 + (.25 x Number of previous violations)]
\$850,000 - 949,999.99	[\$8165 + (\$362 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$20,862 x [1 + (.25 x Number of previous violations)]
\$950,000 or over	[\$9072 + (\$362 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$21,769 x [1 + (.25 x Number of previous violations)]

1 ^{a/}The civil money penalty for a respondent who does not have any previous violations will not
 2 exceed the level of activity in the report.

3 (b) The civil money penalty for election sensitive reports that are filed late or not
 4 filed shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1 - \$4,999.99 ^a	[\$85 + (\$15 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$854 x [1 + (.25 x Number of previous violations)]
\$5,000 - \$9,999.99	[\$171 + (\$15 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$1023 x [1 + (.25 x Number of previous violations)]

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\$10,000 - 24,999.99	$[\$255 + (\$15 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$1536 \times [1 + (.25 \times \text{Number of previous violations})]$
\$25,000 - 49,999.99	$[\$546 + (\$43 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$2388 \times [1 + (.25 \times \text{Number of previous violations})]$
\$50,000 - 74,999.99	$[\$817 + (\$136 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$5441 \times [1 + (.25 \times \text{Number of previous violations})]$
\$75,000 - 99,999.99	$[\$1087 + (\$183 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$7256 \times [1 + (.25 \times \text{Number of previous violations})]$
\$100,000 - 149,999.99	$[\$1633 + (\$227 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$9072 \times [1 + (.25 \times \text{Number of previous violations})]$
\$150,000 - 199,999.99	$[\$2178 + (\$271 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$10,885 \times [1 + (.25 \times \text{Number of previous violations})]$
\$200,000 - 249,999.99	$[\$2722 + (\$316 \times \text{Number of days late})] \times [1 + (.25 \times \text{Number of previous violations})]$	$\$13,606 \times [1 + (.25 \times \text{Number of previous violations})]$

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\$250,000 - 349,999.99	$[\$4081 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$16,327 \times [1 + (.25 \times \text{Number of previous violations})]$
\$350,000 - 449,999.99	$[\$5441 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$18,142 \times [1 + (.25 \times \text{Number of previous violations})]$
\$450,000 - 549,999.99	$[\$6803 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$19,955 \times [1 + (.25 \times \text{Number of previous violations})]$
\$550,000 - 649,999.99	$[\$8165 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$21,769 \times [1 + (.25 \times \text{Number of previous violations})]$
\$650,000 - 749,999.99	$[\$9524 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$23,585 \times [1 + (.25 \times \text{Number of previous violations})]$
\$750,000 - 849,999.99	$[\$10,885 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$25,399 \times [1 + (.25 \times \text{Number of previous violations})]$
\$850,000 - 949,999.99	$[\$12,245 + (\$362 \times \text{Number of days late}) \times [1 + (.25 \times \text{Number of previous violations})]]$	$\$27,212 \times [1 + (.25 \times \text{Number of previous violations})]$

\$950,000 or over	[\$13,606 + (\$362 x Number of days late)] x [1 + (.25 x Number of previous violations)]	\$29,027 x [1 + (.25 x Number of previous violations)]
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1 ^{a/}The civil money penalty for a respondent who does not have any previous violations will not
2 exceed the level of activity in the report.

3 (c) If the respondent fails to file a required report and the Commission cannot
4 calculate the level of activity under paragraph (d) of this section, then the civil
5 money penalty shall be \$9,978.

6 * * * * *

7 **§ 111.44 [Amended]**

8 4. Amend paragraph (a)(1) of § 111.44 to remove “\$178” and add, in its place, “\$183”.

9 Dated: December 2024.

10 On behalf of the Commission,

11
12 **Sean J. Cooksey,**

13 *Chair,*

14 *Federal Election Commission.*

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16 BILLING CODE: 6715-01-P
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