

settled under this part only after consultation with the Department of Justice when, in the opinion of the General Counsel of CSB, or his or her designee:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and CSB is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised or settled under 28 U.S.C. 2672 and this part only after consultation with the Department of Justice when CSB is informed or is otherwise aware that the United States or an employee, agent or contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

#### **§ 1620.8 Referral to Department of Justice.**

When Department of Justice approval or consultation is required, or the advice of the Department of Justice is otherwise to be requested, under this regulation, the written referral or request will be transmitted to the Department of Justice by the General Counsel of CSB, or his or her designee.

#### **§ 1620.9 Final denial of claim.**

Final denial of an administrative claim must be in writing and sent to the claimant, his or her agent, attorney, or other legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial. However, it must include a statement that, if the claimant is dissatisfied with the CSB action, he or she may file suit in an appropriate United States District Court not later than 6 months after the date of mailing of the notifications, along with the admonition that failure to file within this 6 month timeframe could result in the suit being time-barred by the controlling statute of limitations. In the event that a claimant does not hear from the CSB after 6 months have passed from the date that the claim was presented, a claimant should consider the claim denied and, if desired, should proceed with filing a civil action in the appropriate U.S. District Court.

#### **§ 1620.10 Action on approved claim.**

(a) Payment of a claim approved under this part is contingent on

claimant's execution of a Standard Form 95 (Claim for Damage, Injury or Death); a claims settlement agreement; and a Standard Form 1145 (Voucher for Payment), as well as any other forms as may be required. When a claimant is represented by an attorney, the Voucher for Payment will designate both the claimant and his or her attorney as payees, and the check will be delivered to the attorney, whose address is to appear on the Voucher for payment.

(b) Acceptance by the claimant, his or her agent, attorney, or legal representative, of an award, compromise or settlement made under 28 U.S.C. 2672 or 28 U.S.C. 2677 is final and conclusive on the claimant, his or her agent, attorney, or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and constitutes a complete release of any and all claims against the United States and against any employee of the Federal Government whose act(s) or omission(s) gave rise to the claim, by reason of the same subject matter. To that end, as noted above, the claimant, as well as any agent, attorney or other legal representative that represented the claimant during any phase of the process (if applicable) must execute a settlement agreement with the CSB prior to payment of any funds.

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Office of the Secretary**

#### **45 CFR Part 160**

[CMS-0010-IFC]

RIN 0938-AM63

#### **Civil Money Penalties: Procedures for Investigations, Imposition of Penalties, and Hearings—Extension of Expiration Date**

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Final rule.

**SUMMARY:** An interim final rule establishing procedures for the imposition, by the Secretary of Health and Human Services, of civil money penalties on entities that violate standards adopted by the Secretary under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) was published on April 17, 2003. The interim final rule expires on September 16, 2004. This regulatory action extends the expiration date one

year to avoid the disruption of ongoing enforcement actions while HHS proceeds with rulemaking to develop a more comprehensive enforcement rule.

**DATES:** Effective September 15, 2004, the expiration date of 45 CFR part 160, subpart E is extended from September 16, 2004, to September 16, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Karen Shaw, (202) 205-0154.

**SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On April 17, 2003, the Secretary of Health and Human Services published an interim final rule with request for comments. 68 FR 18895. The interim final rule adopted rules of procedure for the imposition by the Department of Health and Human Services (HHS) of civil money penalties on entities that violate standards and requirements adopted by HHS under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. These rules are codified at 45 CFR part 160, subpart E (subpart E).

As corrected at 68 FR 22453 (April 28, 2003), subpart E expires on September 16, 2004. HHS intends to propose in the near future a rule to establish complete procedural and substantive provisions for the enforcement of the HIPAA rules through the imposition of civil money penalties. The final rule that will result from this forthcoming rulemaking will supersede subpart E. However, as additional time is needed to complete the rulemaking, HHS has decided to extend the expiration date of subpart E from September 16, 2004 to September 16, 2005.

#### **II. Comments on Subpart E**

The April 17, 2003 interim final rule requested comment, and HHS received 19 public comments during the public comment period. We will describe and respond to those comments in the preamble to the forthcoming proposed rule.

#### **III. Procedural Requirements**

##### *A. Determination To Issue Final Rule Extending Expiration Date Without Notice and Comment, To Be Effective in Less Than 30 Days*

As noted, HHS expects to propose a rule to amend subpart E in the near future. However, this forthcoming rulemaking will not be completed by September 16, 2004, when the interim final rule that adopted subpart E is scheduled to expire. The resulting hiatus in the procedures for civil money penalty enforcement actions could

create confusion for both the public and HHS with respect to enforcement during this period. Thus, HHS hereby extends the expiration date of subpart E by one year. This action is being taken under HHS's authority at 42 U.S.C. 1302(a) and 1320d-6.

Notwithstanding this extension, HHS fully expects to issue the final rule that will result from the forthcoming rulemaking as soon as possible rather than at or near the new September 16, 2005 expiration date. However, a one-year extension should provide HHS with a period sufficient to avoid another extension, should unexpected circumstances delay the regulatory development process.

The Administrative Procedure Act generally requires agencies to provide advance notice and an opportunity to comment on agency rulemakings. However, there are certain exceptions to this requirement. As the preamble to the April 17, 2003 interim final rule explained, subpart E sets out—

the procedures for provision by the agency of the statutorily required notice and hearing and procedures for issuing administrative subpoenas. Such provisions are exempted from the requirement for notice-and-comment rulemaking under the "rules of agency \* \* \* procedure, or practice" exemption at 5 U.S.C. 553(b)(3)(A).

68 FR 18897. Since this regulatory action does no more than extend the effectiveness of a rule that itself was not required to be issued through notice-and-comment rulemaking, the extension of the rule likewise comes within the exemption of 5 U.S.C. 553(b)(3)(A). Accordingly, we do not request comment on the extension.

We have also determined that good cause exists to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d)(3). Since subpart E is already in effect, no useful purpose would be served in delaying the effective date of this action, as those entities who are subject to subpart E are already on notice of its terms. Making this extension effective on less than 30 days notice accordingly will not impose a burden upon anyone. In addition, to the extent that a delayed effective date occasioned a hiatus in the effectiveness of subpart E, it could cause the confusion that the extension seeks to avoid. Accordingly, we find good cause under 5 U.S.C. 553(d)(3) for not delaying the effective date of this action.

#### *B. Review Under Procedural Statutes and Executive Orders*

We have reviewed this final rule under the following statutes and executive orders governing rulemaking

procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; Executive Order 12866 (Regulatory Planning and Review), as amended by Executive Order 13258; and Executive Order 13132 (Federalism). Since this rule merely extends the expiration date of subpart E, the information in the compliance statements that we published on April 17, 2003 with the existing rule continues to apply.

#### **List of Subjects in 45 CFR Part 160**

Administrative practice and procedure, Computer technology, Electronic transactions, Employer benefit plan, Health, Health care, Health facilities, Health insurance, Health records, Hospitals, Investigations, Medicaid, Medical research, Medicare, Penalties, Privacy, Reporting and record keeping requirements, Security.

Dated: August 6, 2004.

**Tommy G. Thompson,**  
*Secretary.*

[FR Doc. 04-20842 Filed 9-13-04; 10:15 am]

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#### **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, announcement of effective date.

**SUMMARY:** The Commission adopted rule revisions to extend mandatory electronic filing to all satellite and earth station applications. Certain rules contained new or modified information requirements and were published in the **Federal Register** on August 6, 2004. This document announces the effective date of these published rules. 47 CFR 25.110, 25.114, 25.115, 25.116, 25.117, 25.118(a), 25.130, 25.131, 25.154.

**DATES:** The revisions to §§ 25.110, 25.114, 25.115, 25.116, 25.117, 25.118(a), 25.130, 25.131, and 25.154, published at 69 FR 47790, August 6, 2004, became effective August 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Steven Spaeth, Satellite Division, International Bureau, at (202) 418-1539.

**SUPPLEMENTARY INFORMATION:** On August 24, 2004, the Office of Management and Budget (OMB) approved the information collection requirement contained in §§ 25.110, 25.114, 25.115, 25.116, 25.117, 25.118(a), 25.130, 25.131, and 25.154, pursuant to OMB Control No. 3060-0678.

Accordingly, the information collection requirement contained in these rules became effective on August 24, 2004.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

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**BILLING CODE 6712-01-P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

##### **47 CFR Parts 22 and 24**

[WT Docket No. 01-108; DA 04-2590]

##### **Year 2000 Biennial Regulatory Review—Amendment of Part 22 of the Commission's Rules To Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register** of April 1, 2004, a document relating to the resolution of Petitions for Reconsideration filed in the Commission's part 22 Cellular Biennial Regulatory Review proceeding in WT Docket No. 01-108, which incorrectly indicated that a new or modified information collection exists that requires approval by the Office of Management and Budget ("OMB"), and contained an incorrect DATES section. The effective date for the document (69 FR 17063) is corrected to read: **DATES:** Effective June 1, 2004. This document corrects the **DATES** section of the April 1, 2004 document.

**DATES:** Effective June 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Linda C. Chang, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th St., Washington, DC 20554, (202) 418-0620.

**SUPPLEMENTARY INFORMATION:** The FCC published a document in the **Federal Register** of April 1, 2004, (69 FR 17063) relating to the resolution of petitions for reconsiderations filed in the Commission's Part 22 Cellular Biennial