

TABLE 1.—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county	Notes ^(a)
*	*	*	*

^(a) A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (if scored, HRS score need not be ≤ 28.50).
C = Sites on Construction Completion list.
S = State top priority (included among the 100 top priority sites regardless of score).
P = Sites with partial deletion(s).

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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, 2005. This regulatory action extends the expiration date to March 16, 2006 to avoid the disruption of ongoing enforcement actions while HHS completes with rulemaking to develop a more comprehensive enforcement rule.

DATES: Effective September 14, 2005, the expiration date of 45 CFR part 160, subpart E is extended from September 16, 2005, to March 16, 2006.

FOR FURTHER INFORMATION CONTACT: Carol Conrad, (202) 690-1840.

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), Pub. L. 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 was scheduled to expire on September 16, 2004. On September 15, 2004, HHS published a final rule extending the expiration date for one year, to September 16, 2005. 69 FR 55515. The final rule extended the original expiration date to avoid disruption of ongoing enforcement actions while HHS undertook a rulemaking to propose complete procedural and substantive provisions for the enforcement of the HIPAA rules through the imposition of civil money penalties, which would supersede subpart E.

On April 18, 2005, HHS published a notice of proposed rulemaking proposing this complete set of enforcement provisions. 70 FR 20224. The public comment period on the proposed rules closed on June 17, 2005. HHS is currently considering the public comments received, but will not be able to issue the final rule by September 16, 2005. Thus, in order to preserve the status quo with respect to enforcement during the pendency of the rulemaking, HHS is extending the expiration date of subpart E for an additional six months, to March 16, 2006.

II. 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 has proposed a rule to supersede subpart E. However, this rulemaking will not be completed by September 16, 2005, 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 to March 16, 2006. 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 pending rulemaking as soon as possible. However, the six-month 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 B 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: September 7, 2005.

Michael O. Leavitt,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98-67 and CG Docket No. 03-123; FCC 05-141]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Clarification.

SUMMARY: In this document, the Commission concludes that *two-line* captioned telephone service is a type of telecommunications relay service (TRS) eligible for compensation from the Interstate TRS Fund. The Commission also approves the National Exchange Carrier Association, Inc. (NECA), the Interstate TRS Fund Administrator, proposed allocation methodology for determining the number of *inbound two-line* captioned telephone minutes

that should be compensated from the Interstate TRS Fund. Also in this document, the Commission seeks approval from the Office of Management and Budget (OMB) for any Paperwork Reduction Act (PRA) burdens contained in this document that will modify OMB Control No. 3060-1053 to have TRS providers offering *two-line* captioned telephone service along with TRS providers offering *one-line* captioned telephone service file annual reports with the Commission.

DATES: Effective October 14, 2005. Written comments on the PRA modified information collection requirements must be submitted by the general public, Office of Management and Budget (OMB), and other interested parties on or before November 14, 2005.

ADDRESSES: You may submit PRA comments identified by [CG Docket No. 03-123 and/or OMB Control Number 3060-1053], by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *E-mail:* Parties who choose to file by e-mail should submit their comments to Leslie Smith at Leslie.Smith@fcc.gov and to Kristy L. LaLonde at Kristy.L.LaLonde@omb.eop.gov. Please include the docket number and/or OMB Control number in the subject line of the message.

- *Mail:* Parties who choose to file by paper should submit their comments to Leslie Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone (202) 418-0539 or TTY: (202) 418-0432.

FOR FURTHER INFORMATION CONTACT:

Thomas Chandler, Consumer & Governmental Affairs Bureau at (202) 418-1475 (voice), (202) 418-0597 (TTY), or e-mail Thomas.Chandler@fcc.gov. For additional information concerning the PRA information collection requirements contained in the document, contact Leslie Smith at (202) 418-0217, or via the Internet at Leslie.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: This *Order* contains modified information collection requirements subject to the PRA of 1995, Public Law 104-13. These will be submitted to OMB for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection(s) contained in this proceeding. This is a summary of the Commission's *Order*, adopted July 14, 2005, released July 19, 2005. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The full text of the *Order* and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Order* and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI at their Web site: www.bcpweb.com or call 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *Order* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

Paperwork Reduction Act

The *Order* contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in the *Order* as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Public and agency comments are due November 14, 2005. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees." In this present document, the Commission has assessed the effects