

VI. Regulatory Impact Statement

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980 Pub. L. 96-354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more annually). This interim final rule is not a major rule. It does not have any cost or savings impact as it merely recertifies the existing 59 OPOs and does not introduce any new requirements.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$25 million or less annually. For purposes of the RFA, all OPOs are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in anyone year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. This rule will not have an effect on the governments mentioned, nor does it have associated private sector costs. This rule does not have any cost or savings impact as it extends the time period for payments under existing agreements and does not introduce any new requirements.

According to section 1138 of the Social Security Act, an OPO must be certified or recertified by the Secretary as meeting the standards to be a qualified OPO, must meet performance-related standards prescribed by the Secretary, and must be designated by the Secretary as an OPO in order to receive reimbursement under title XVIII or title XIX. Because section 273(b)(1)(D)(i) would terminate certifications after January 1, 2002, we are issuing this interim final rule to permit all 59 OPOs to continue to function, procure organs and obtain appropriate reimbursement.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. As stated previously, this rule does not have a substantial effect on State or local governments.

B. Conclusion

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 486

Health professionals, Medicare, Organ procurement, X-rays.

PART 486—CONDITIONS OF COVERAGE OF SPECIALIZED SERVICES FURNISHED BY SUPPLIERS

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services is amending 42 CFR chapter IV as set forth below:

1. The authority citation for part 486 continues to read as follows:

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart G—Conditions of Coverage: Organ Procurement Organizations

2. Section 486.301 is amended by adding paragraph (b)(4) to read as follows:

§ 486.301 Basis and scope.

* * * * *

(b) * * *
(4) The requirements for an OPO to be recertified for the performance data cycle from January 1, 2002 through December 31, 2005.

3. Section 486.309 is added to read as follows:

§ 486.309 Recertification from January 1, 2002 through December 31, 2005.

An OPO will be considered to be recertified for the period of January 1, 2002 through December 31, 2005 if an entity meets, or has met, the standards to be a qualified OPO within a four year period ending December 31, 2001 and has an agreement with the Secretary that was scheduled to terminate on July 31, 2002. Agreements based on this recertification will end on July 31, 2006.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 7, 2001.

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

Approved: December 14, 2001.

Tommy G. Thompson,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 43, and 63

[DA 01-2825]

Removal of References to Sections in the Commission's Rules That No Longer Exist

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission amends references to sections that have been removed from the Commission's rules and amends a section heading.

DATES: Effective December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Telecommunications Division, International Bureau, at (202) 418-1499.

SUPPLEMENTARY INFORMATION: We have removed references to sections in the

Commission's rules. Specifically, we amend § 43.61 to remove the reference to former § 64.1002. We amend § 63.24 to remove the reference to paragraph (c) because there is no paragraph (c) in § 63.24. We revise the heading for § 63.52. Finally, we remove § 1.813. The requirements referenced in § 1.813 are no longer necessary.

List of Subjects

47 CFR Parts 1 and 43

Reporting and recordkeeping requirements.

47 CFR Part 63

Communications common carriers.

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 43, and 63 as follows:

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), 154(j), 155, 225, 303(r), 309 and 325(e).

§ 1.813 [Removed]

2. Remove § 1.813.

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

3. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104-104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

4. Section 43.61 is amended by revising paragraph (a)(1) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

(a) * * *

(1) The information contained in the reports shall include actual traffic and revenue data for each and every service provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States.

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PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

5. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201-205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, and 571, unless otherwise noted.

6. Section 63.24 is amended by revising paragraph (b) to read as follows:

§ 63.24 Pro forma assignments and transfers of control.

* * * * *

(b) A *pro forma* assignment or transfer of control of an authorization to provide international telecommunications service is not subject to the requirements of § 63.18. A *pro forma* assignee or a carrier that is the subject of a *pro forma* transfer of control is not required to seek prior Commission approval for the transaction. A *pro forma* assignee must notify the Commission no later than 30 days after the assignment is consummated. The notification may be in the form of a letter (in duplicate to the Secretary), and it must contain a certification that the assignment was *pro forma* as defined in paragraph (a) of this section and, together with all previous *pro forma* transactions, does not result in a change of the carrier's ultimate control. A single letter may be filed for an assignment of more than one authorization if each authorization is identified by the file number under which it was granted.

7. Section 63.52 is amended by revising the section heading to read as follows:

§ 63.52 Copies required; fees; and filing periods for domestic authorizations.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96-45; FCC 01-350]

Federal-State Joint Board on Universal Service; Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling

AGENCY: Federal Communications Commission.

ACTION: Final rule; waiver request granted.

SUMMARY: In this document, the Commission grants the State of Alaska (Alaska) a limited waiver, which requires applicants to certify that the services requested will be used solely for educational purposes, subject to the conditions discussed below. The Commission finds that good cause exists to allow members of rural remote communities in Alaska, where there is no local or toll-free dial-up Internet access, to use excess service obtained through the universal service mechanism for schools and libraries when not in use by the schools and libraries for educational purposes.

DATES: Effective January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Katherine Tofigh, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-1553.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 96-45 adopted on November 29, 2001 and released on December 3, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. In this Order, the Commission grants the State of Alaska (Alaska) a limited waiver of § 54.504(b)(2)(ii) of the Commission's rules, which requires applicants to certify that the services requested will be used solely for educational purposes, subject to the conditions discussed below. The Commission finds that good cause exists to allow members of rural remote communities in Alaska, where there is no local or toll-free dial-up Internet access, to use excess service obtained through the universal service mechanism for schools and libraries when not in use by the schools and libraries for educational purposes.