

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 62

[Docket ID FEMA-2009-0009]

RIN 1660-AA64

Technical Amendment; Federal Emergency Management Agency's Claims Appeals

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: By this final rule, the Federal Emergency Management Agency (FEMA) is making an address change in FEMA's National Flood Insurance Program Claims Appeals regulations.

DATES: This final rule is effective October 30, 2009.

ADDRESSES: A copy of this rule is available electronically on the Federal eRulemaking Portal at <http://www.regulations.gov>. To the far right of that page is a heading entitled "Keyword." Type "FEMA-2009-0009" under the "Keyword" heading. The next screen will provide the "Search Results." Scroll down until you see the tabs: "View By Relevance" and "View By Docket." Select one of the tabs to review the docket. The rule is also available for inspection at the Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472-3100.

FOR FURTHER INFORMATION CONTACT: Edward L. Connor, Acting Federal Insurance Administrator, DHS/FEMA, 1800 South Bell Street, Arlington, VA 20598-3010, (202) 646-3429 (Phone), (202) 646-7970 (facsimile), or Edward.Connor@dhs.gov.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

The National Flood Insurance Program Claims Appeals Process is in 44 CFR 62.20. Under 44 CFR 62.20(e)(1), National Flood Insurance Program (NFIP) policyholders currently must submit written appeals of decisions to: Federal Emergency Management Agency, Federal Insurance Administrator, Mitigation Division, 500 C Street, SW., Washington, DC 20472. FEMA has instituted a new mail service that resulted in a change to the address where NFIP policyholders should submit written claims appeals. Under this rule, NFIP policyholders must submit written claims appeals to: DHS/

FEMA, Mitigation Directorate, Federal Insurance Administrator, 1800 South Bell Street, Arlington, VA 20598-MS3010. This final rule revises 44 CFR 62.20(e)(1) to reflect the new address. During the transition, any claims appeals received by FEMA at its Washington, DC address, will be forwarded to the Arlington, VA address.

Regulatory Analysis

Administrative Procedure Act

FEMA did not publish a notice of proposed rulemaking (NPRM) for this regulation. FEMA finds that this rule is exempt from the Administrative Procedure Act's (5 U.S.C. 553(b)) notice and comment rulemaking requirements because it is purely procedural in nature. This rule merely updates FEMA's regulations to reflect a change in the mailing address. These changes do not confer any substantive rights, benefits or obligations; therefore this rule will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), FEMA finds that, for the same reasons, this rule is effective immediately upon publication in the **Federal Register**.

Executive Order 12866, Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), accordingly FEMA has not submitted it to the Office of Management and Budget (OMB) for review. As this rule involves a non-substantive change, FEMA expects that it will not impose any costs on the public.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires that special consideration be given to the effects of proposed regulations on small entities. This rule does not require a Notice of Proposed Rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

As required by the Paperwork Reduction Act of 1995 (PRA) Public Law 104-13 (44 U.S.C. 3501 *et seq.*), as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Although this regulatory change will not result in a new collection of information affected by the PRA, the collection of information for the National Flood Insurance Program Claims Appeal Process is approved

under OMB Number, 1660-0095. The 30-day notice published on October 23, 2009 at 74 FR 54838. The Expiration Date for 1660-0095 is January 31, 2010.

Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. FEMA has analyzed this rule under that Order and determined that it does not have implications for federalism.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (the Act), Public Law 104-4, 109 Stat. 48 (March 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Therefore, this rule is not an unfunded Federal mandate under the Act.

Executive Order 12630, Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, Mar. 18, 1988).

Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, Feb. 16, 1994), FEMA has undertaken to incorporate environmental justice into its policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level.

No action that FEMA can anticipate under this rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population.

Accordingly, the requirements of Executive Order 12898 do not apply to this rule.

Executive Order 12988, Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, Feb. 7, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

National Environmental Policy Act

This rule makes administrative technical changes to FEMA's regulations to reflect changes in agency organization and authorities. It is not a major agency action, nor will it affect the quality of the environment. This final rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act of 1969, Public Law 91-190, 83 Stat. 852 (January 1, 1970)(42 U.S.C. 4321 *et seq.*), as amended.

Congressional Review of Agency Rulemaking

FEMA has sent this final rule to the Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act (Act), Public Law 104-121, 110 Stat. 873 (March 29, 1996)(5 U.S.C. 804). The rule is not a "major rule" within the meaning of that Act and will not result in an annual effect on the economy of \$100,000,000 or more. Moreover, it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. FEMA does not expect that it will have "significant adverse effects" on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

List of Subjects in 44 CFR Part 62

Claims, Flood insurance, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, FEMA amends 44 CFR chapter I as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

■ 2. In § 62.20 revise the second sentence of paragraph (e)(1) to read as follows:

§ 62.20 Claims appeals.

* * * * *

(e) * * *

(1) * * * The appeal should be sent to: DHS/FEMA, Mitigation Directorate, Federal Insurance Administrator, 1800 South Bell Street, Arlington, VA 20598-MS3010;

* * * * *

Dated: October 26, 2009.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9-26191 Filed 10-29-09; 8:45 am]

BILLING CODE 9110-11-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 160

RIN 0991-AB55

HIPAA Administrative Simplification: Enforcement

AGENCY: Office of the Secretary, HHS.

ACTION: Interim final rule; request for comments

SUMMARY: The Secretary of the Department of Health and Human Services (HHS) adopts this interim final rule to conform the enforcement regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the effective statutory revisions made pursuant to the Health Information Technology for Economic and Clinical Health Act (the HITECH Act), which was enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA). More specifically, this interim final rule amends HIPAA's enforcement

regulations, as they relate to the imposition of civil money penalties, to incorporate the HITECH Act's categories of violations, tiered ranges of civil money penalty amounts, and revised limitations on the Secretary's authority to impose civil money penalties for established violations of HIPAA's Administrative Simplification rules (HIPAA rules). This interim final rule does not make amendments with respect to those enforcement provisions of the HITECH Act that are not yet effective under the applicable statutory provisions. Such amendments will be subject to forthcoming rulemaking(s).

DATES: *Effective Date:* This interim final rule is effective November 30, 2009.

Comment Date: Comments on this interim final rule will be considered if received at the appropriate address, as provided below, no later than December 29, 2009.

ADDRESSES: Please submit comments to any one of the addresses specified below:

- *Federal eRulemaking Portal:* You may submit electronic comments at <http://www.regulations.gov>.
- *Regular, Express, or Overnight Mail:* You may mail written comments to the following address only: U.S. Department of Health and Human Services, Office for Civil Rights, Attention: HIPAA Enforcement Rule IFR (RIN 0991-AB55), Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue, SW., Washington, DC 20201.
- *Hand Delivery or Courier:* If you prefer, you may deliver (by hand or courier) your written comments to the following address only: Office for Civil Rights, Attention: HIPAA Enforcement Rule IFR (RIN 0991-AB55), Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT:

Andra Wicks, 202-205-2292.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Instructions for Submission of Public Comments

Please follow these instructions when submitting public comments. Please use only one of these methods.

- *Federal eRulemaking Portal:* Follow the instructions for submitting electronic comments at <http://www.regulations.gov>. Attachments will be accepted in Microsoft Word, WordPerfect, or Excel format, though Microsoft Word format is preferred.
- *Regular, Express, or Overnight Mail:* Submit one original and two copies of mailed, written comments. Please allow