

subject to sections 202 or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532 and 1535). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate as described in sections 203 and 204 of the UMRA (2 U.S.C. 1533 and 1534).

This action is further not classified as a “rule” under Chapter 8 of the Small Business Regulatory Enforcement Fairness Act of 1996, because it pertains to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

#### C. Paperwork Reduction Act

This rule does not contain a collection of information requirements subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### D. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999). This rule does not have federalism implications as outlined in E.O. 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### E. Executive Order 13175, Indian Tribal Governments

The Department has reviewed this rule under the terms of Executive Order 13175 (65 FR 67249, November 6, 2000) and determined it does not have “tribal implications.” The rule does not have “substantial direct effects 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.” As a result, no Tribal summary impact statement has been prepared.

#### F. Executive Order 12866 and Executive Order 13771

This rule has been drafted and reviewed in accordance with Executive Order 12866. The rule is not a “significant regulatory action” as defined by section 3(f) of the order. Accordingly, there is no requirement for an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866. In addition, this rule is not an E.O. 13771 regulatory

action because this rule is not significant under E.O. 12866.

#### List of Subjects in 20 CFR Part 802

Administrative practice and procedure, Black lung benefits, Longshore and harbor workers, Workers’ compensation.

For the reasons set forth above, the Department of Labor amends 20 CFR part 802 as follows:

#### PART 802—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 802 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 30 U.S.C. 901 *et seq.*; 33 U.S.C. 901 *et seq.*; Reorganization Plan No. 6 of 1950, 15 FR 3174; Secretary of Labor’s Order 03–2006, 71 FR 4219, January 25, 2006.

■ 2. Section 802.204 is revised to read as follows:

#### § 802.204 Place for filing notice of appeal and correspondence.

Any notice of appeal or other correspondence filed by mail shall be sent to the U.S. Department of Labor, Benefits Review Board, ATTN: Office of the Clerk of the Appellate Boards (OCAB), 200 Constitution Ave. NW, Washington, DC 20210–0001. Notices of appeal or other correspondence may be otherwise presented to the Clerk. A copy of the notice of appeal shall be served on the deputy commissioner who filed the decision or order being appealed and on all other parties by the party who files a notice of appeal. Proof of service of the notice of appeal on the deputy commissioner and other parties shall be included with the notice of appeal.

Signed at Washington, DC, this 15th day of February, 2018.

**R. Alexander Acosta,**

*Secretary, Department of Labor.*

[FR Doc. 2018–03783 Filed 2–23–18; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 57

[TD 9830]

RIN 1545–BM52

#### Health Insurance Providers Fee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations that provide rules for the definition of a covered entity for purposes of the fee imposed by section 9010 of the Patient Protection and Affordable Care Act, as amended. The final regulations supersede and adopt the text of temporary regulations that provide rules for the definition of a covered entity. The final regulations affect persons engaged in the business of providing health insurance for United States health risks.

**DATES:** *Effective Date:* The final regulations are effective February 22, 2018.

**FOR FURTHER INFORMATION CONTACT:** Rachel S. Smith at (202) 317–6855 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 9010 of the Patient Protection and Affordable Care Act (PPACA), Public Law 111–148 (124 Stat. 119 (2010)), as amended by section 10905 of PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act or ACA) imposes an annual fee on covered entities that provide health insurance for United States health risks. All references in this preamble to section 9010 are references to section 9010 of the ACA. Section 9010 did not amend the Internal Revenue Code (Code) but contains cross-references to specified Code sections. Unless otherwise indicated, all other references to subtitles, chapters, subchapters, and sections in this preamble are references to subtitles, chapters, subchapters, and sections in the Code and related regulations. All references to “fee” in this preamble are references to the fee imposed by section 9010.

On November 27, 2013, the Department of the Treasury (Treasury Department) and the IRS published final regulations (TD 9643) relating to the health insurance providers fee in the **Federal Register** (78 FR 71476). On February 26, 2015, the Treasury Department and the IRS published temporary regulations (TD 9711) relating to the health insurance providers fee in the **Federal Register** (80 FR 10333). A notice of proposed rulemaking (REG–143416–14) cross-referencing the temporary regulations was published in the **Federal Register** in the same issue (80 FR 10435). The temporary regulations provided further guidance on the definition of a covered entity for the 2015 fee year and subsequent fee years.

The Treasury Department and the IRS received two written comments with respect to the notice of proposed rulemaking. No public hearing was requested or held. After considering the public written comments, the final regulations adopt the proposed regulations without change and the temporary regulations are removed.

#### Explanation of Provisions

The temporary regulations provided that, for the 2015 fee year and each subsequent fee year, an entity qualified for an exclusion under section 9010(c)(2) if it qualified for an exclusion either for the entire data year ending on the prior December 31st or for the entire fee year beginning on January 1st. The temporary regulations also generally imposed a consistency requirement that bound an entity to its original selection of either the data year or the fee year (its test year) to determine whether it qualified for an exclusion under section 9010(c)(2) for the 2015 fee year and each subsequent fee year. Next, the temporary regulations imposed a special rule for any entity that uses the fee year as its test year. Finally, the temporary regulations provided that a controlled group must report net premiums written only for each person who is a controlled group member at the end of the day on December 31st of the data year and that would qualify as a covered entity in the fee year if it were a single-person covered entity (that is, not a member of a controlled group).

The Treasury Department and the IRS received two written comments in response to the proposed and temporary regulations. Both commenters agreed with the approach described in the proposed and temporary regulations. One commenter suggested that the final rules add three additional requirements. First, the commenter suggested that entities seeking to claim the non-profit exemption described in section 9010(c)(2)(C) and § 57.2(b)(2)(iii) of the Health Insurance Providers Fee Regulations be required to file a Form 8963, "Report of Health Insurance Provider Information," or similar report indicating its exempt status for either the data year or the fee year. Second, the commenter suggested that such entities claiming exempt status for the fee year should also file a year-end statement certifying that they maintained their exempt status through the end of the fee year. The Treasury Department and the IRS received similar comments prior to issuing the final regulations. The preamble to TD 9643 (78 FR 71476) explains that the Treasury Department and the IRS declined to adopt commenters' suggestions to require an

entity qualifying for an exclusion to report its net premiums written because section 9010(g)(1) applies only to covered entities. Furthermore, imposing additional filing requirements for only certain entities is contrary to Executive Order 13789, which directs the Treasury Department to reduce tax regulatory burdens. Imposing additional filing requirements for only certain entities is also contrary to Executive Order 13765, which directs the executive branch to minimize the regulatory burden of the ACA specifically. Therefore, we decline to adopt the commenter's suggestions.

Third, the commenter suggested that any entities that fail to remain exempted for the full duration of the fee year should be subject to a fee assessment at the end of the year. The final regulations do not adopt this suggestion. Section 57.6(c) of the Health Insurance Providers Fee Regulations provides that the IRS will not alter fee calculations on the basis of information provided after the end of the error correction period. Section 9010(g)(2) and § 57.3(b)(1) of the Health Insurance Providers Fee Regulations impose a penalty on covered entities that fail to timely submit Form 8963 without reasonable cause. It is possible that if an entity fails to remain exempted for the full duration of the fee year, such entity will be subject to a penalty provided for by the existing statutory and regulatory framework. An additional fee assessment for such entities is not necessary.

#### Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. Because the final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the temporary regulations that preceded the final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of these final regulations is Rachel S. Smith, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

#### List of Subjects in 26 CFR Part 57

Health insurance, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 57 is amended as follows:

#### PART 57—HEALTH INSURANCE PROVIDERS FEE

■ **Paragraph 1.** The authority citation for part 57 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805; sec. 9010, Pub. L. 111-148 (124 Stat. 119 (2010)). \* \* \*

■ **Par. 2.** Section 57.2 is amended by revising paragraphs (b)(3) and (c)(3)(ii) as follows:

#### § 57.2 Explanation of terms.

\* \* \* \* \*

(b) \* \* \*

(3) *Application of exclusions*—(i) *Test year.* An entity qualifies for an exclusion described in paragraphs (b)(2)(i) through (iv) of this section if it so qualifies in its test year. The term *test year* means either the entire data year or the entire fee year.

(ii) *Consistency rule.* For purposes of paragraph (b)(3)(i) of this section, an entity must use the same test year as it used in its first fee year beginning after December 31, 2014, and in each subsequent fee year. Thus, for example, if an entity used the 2014 data year as its test year for the 2015 fee year, that entity must use the data year as its test year for each subsequent fee year.

(iii) *Special rule for fee year as test year.* For purposes of paragraph (b)(3) of this section, any entity that uses the fee year as its test year but ultimately does not qualify for an exclusion described in paragraphs (b)(2)(i) through (iv) of this section for that entire fee year must use the data year as its test year for each subsequent fee year.

\* \* \*

(c) \* \* \*

(3) \* \* \*

(ii) A person is treated as being a member of the controlled group if it is a member of the group at the end of the day on December 31st of the data year. However, a person's net premiums written are included in net premiums written for the controlled group only if the person would qualify as a covered entity in the fee year if the person were not a member of the controlled group.

\* \* \* \* \*

#### § 57.2T [Removed]

■ **Par. 3.** Section 57.2T is removed.

■ **Par. 4.** Section 57.10 is amended by revising paragraph (b) to read as follows:

**§ 57.10 Effective/applicability date.**

\* \* \* \* \*

(b) *Paragraphs (b)(3) and (c)(3)(ii) of § 57.2.* Paragraphs (b)(3) and (c)(3)(ii) of § 57.2 apply on February 22, 2018.

**§ 57.10T [Removed]**

■ **Par. 5.** Section 57.10T is removed.

**Kirsten Wielobob,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 15, 2018.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2018–03884 Filed 2–22–18; 11:15 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 136 and 142**

[Docket No. USCG–2017–1060]

RIN 1625–AC43

**Harmonization of Fire Protection Equipment Standards for Towing Vessels**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Coast Guard is issuing an interim final rule to apply changes made by the 2016 final rule, *Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment*, to inspected towing vessels. Applying these updated fire protection requirements to inspected towing vessels will align regulations for inspected towing vessels with other commercial vessel regulations.

**DATES:** This interim final rule is effective March 28, 2018. Comments and related material must be submitted to the online docket via <http://www.regulations.gov> on or before March 28, 2018. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on March 28, 2018.

**ADDRESSES:** You may submit comments identified by docket number USCG–2017–1060 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the

**SUPPLEMENTARY INFORMATION** section of

this document for further instructions on submitting comments.

*Viewing material proposed for incorporation by reference.* Make arrangements to view this material by contacting the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For information about this document, call or email LT Alexandra Miller, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard; telephone 202–372–1356, email [Alexandra.S.Miller@uscg.mil](mailto:Alexandra.S.Miller@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

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**I. Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
*Fire Protection rule Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment* final rule, 81 FR 48220, July 22, 2016  
 FR Federal Register  
 IFR Interim final rule  
 NFPA 10 National Fire Protection Association Standard for Portable Fire Extinguishers, 2010 edition  
 OMB Office of Management and Budget  
 RA Regulatory Analysis  
 § Section symbol  
 Subchapter M 46 CFR subchapter M—Towing Vessels  
 U.S.C. United States Code

**II. Basis and Purpose, and Regulatory History**

This interim final rule harmonizes fire protection requirements regarding portable and semi-portable fire extinguishers on inspected towing vessels with the requirements for other commercial vessels in Title 46 of the Code of Federal Regulations (CFR), including uninspected towing vessels. The Coast Guard may regulate fire protection equipment on inspected towing vessels under statutory authority

found in 46 U.S.C. 3301 and 3306, which was delegated by the Secretary of Homeland Security to the Coast Guard in DHS Delegation Number 0170.1(II)(92).

The Coast Guard issues this rule without prior notice and opportunity for public comment. Section 553(b)(B) of the Administrative Procedure Act provides an exception from notice and comment requirements when an agency finds that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” In accordance with 5 U.S.C. 553(b)(B), the Coast Guard finds that notice and comment are unnecessary because this rule would not require a substantive change of fire protection equipment on towing vessels, and would align with regulatory requirements already met by all existing towing vessels. This rule will revise 46 CFR subchapter M to require inspected towing vessels to meet fire protection equipment requirements that already apply to other commercial vessels, including uninspected towing vessels. The Coast Guard updated these standards in its 2016 *Fire Protection* rule. At the time the Coast Guard updated the fire protection equipment requirements for other commercial vessels, there were no towing vessels inspected under subchapter M: The Coast Guard established subchapter M in a June 2016 rule that published one month prior to the *Fire Protection* rule, and, as a practical matter, did not place requirements on any towing vessel until July 2017 or later.<sup>1</sup> Because of the timing of subchapter M requirements, at this time uninspected towing vessels are subject to the more modern *Fire Protection* rule provisions. This rule corrects the anomalous situation whereby a towing vessel transitioning from uninspected to inspected status would be required to comply with the previous standards instead of the updated *Fire Protection* rule. Moreover, all existing marine fire extinguishers already meet the requirements of this interim final rule, and the number of extinguishers required on a vessel will not change. Because this rule will not require any existing vessel to change its equipment or practices, the Coast Guard finds good cause to forgo notice and opportunity to comment.

<sup>1</sup> The *Inspection of Towing Vessels* final rule published on June 20, 2016 (81 FR 40003). It gave existing towing vessels 2 years or more to comply with the rule, and defined “new towing vessel” such that no vessel would be subject to new vessel requirements until at least July 20, 2017. See discussion at 81 FR 40061.