

**§ 405.1136 [Corrected]**

■ 29. In § 405.1136, paragraph (d)(1), in the first sentence, the words “is filed” are removed.

**III. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. However, we can waive this procedure if we find good cause for doing so, and incorporate a statement of this finding and the reasons for it into the rule. A finding that a notice and comment period is impracticable, unnecessary, or contrary to the public interest constitutes good cause for waiving this procedure. We also can waive the 30-day delay in effective date under the Administrative Procedure Act (5 U.S.C. 553(d)) when there is good cause to do so and we publish in the rule an explanation of our good cause.

Many of the corrections included in this rule are corrections of typographical errors and editorial mistakes. For example, the word “mirror” has been corrected to “minor” in § 405.980(a)(3). The rest of the corrections are made to correct inadvertent omissions and clarify inconsistencies in the preamble and regulation text. At § 405.1046(d), for example, consistent with the provision at § 405.1014(b)(2), which states that the proper filing location for ALJ hearing requests is the entity specified in the QIC’s reconsideration, the regulation text has been revised to reflect the proper filing location for ALJ hearing requests.

We believe that it is unnecessary to seek public comment on the correction of typographical and editorial errors. Further, it is in the public’s interest to correct inadvertent omissions and clarify apparent inconsistencies in the preamble and regulation text. These revisions help ensure that the rules governing the Medicare administrative appeals process are more understandable and less ambiguous and protect the rights of all parties to pursue Medicare claims appeals under these procedures. Therefore, we find that undertaking notice and comment rulemaking to incorporate these corrections into the interim final rule is unnecessary and contrary to the public interest.

For the same reasons, we believe that delaying the effective date of these corrections beyond July 1, 2005 would be contrary to the public interest. As a matter of good public policy, the regulations governing the Medicare claims appeals process should be as accurate and clear as possible. Thus, it

would be contrary to the public interest to delay implementation of these corrections to provide for a 30-day delay in effective date. Therefore, we also find good cause to waive the 30-day delay in effective date.

(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: June 27, 2005.

**Ann Agnew,**

*Executive Secretary to the Department.*

[FR Doc. 05–12982 Filed 6–28–05; 12:44 pm]

**BILLING CODE 4120–01–P**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 64**

**[CG Docket No. 02–278, FCC 05–132]**

**Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** In this document, the Commission delays until January 9, 2006, the effective date of the rule requiring the sender of a facsimile advertisement to obtain the recipient’s express permission in writing.

**DATES:** The effective date of the rule amending 47 CFR Part 64, § 64.1200(a)(3)(i) published at 68 FR 44144, July 25, 2003, is delayed until January 9, 2006.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Erica H. McMahon at 202–418–2512, Consumer & Governmental Affairs Bureau, Federal Communications Commission.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Order* in CG Docket No. 02–278, FCC 05–132, adopted on June 27, 2005 and released on June 27, 2005. The full text of this document is available at the Commission’s Web site <http://www.fcc.gov> on the Electronic Comment Filing System and for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257,

445 12th Street, SW., Washington, DC 20554. The complete text of the decision may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc. (BCPA), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at its Web site:

<http://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 email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). The *Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

**Synopsis**

On July 3, 2003, the Commission revised the unsolicited facsimile advertising requirements under the Telephone Consumer Protection Act of 1991 (TCPA). On August 18, 2003, the Commission issued an *Order on Reconsideration* (68 FR 50978, August 25, 2003) that delayed until January 1, 2005, the effective date of these amended requirements. On September 15, 2004, the Commission adopted an *Order* (69 FR 62816, October 28, 2004) further extending the stay of the effective date of the requirements through June 30, 2005. On April 15, 2005, the Fax Ban Coalition (Coalition) filed a petition urging the Commission to further delay the effective date of the revised rules governing unsolicited facsimile advertisements through December 31, 2005. The Coalition maintains that a further delay is warranted to avoid irreparable injury to the members of the Coalition and negative impact on the economy. The Coalition also argues that delay is important while Congress considers legislation to amend the TCPA and the Commission considers petitions for reconsideration and requests for clarification.

We now further delay, until January 9, 2006, the effective date of the determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements, as well as the amended unsolicited facsimile provisions at 47 CFR 64.1200(a)(3)(i). Section 64.1200(a)(3)(i), as amended, requires the sender of a facsimile advertisement to first obtain from the recipient a signed, written statement that includes the facsimile number to which any

advertisements may be sent and clearly indicates the recipient's consent to receive such facsimile advertisements from the sender. In light of the on-going developments in Congress and pending resolution of the petitions for reconsideration and clarification of the Commission's facsimile advertising rules, we believe the public interest would best be served by delaying the effective date of the written consent requirement. This delay will provide the Commission requisite time to address the petitions for reconsideration filed on these issues. For these same reasons, until January 9, 2006, the 18-month limitation on the duration of the established business relationship based on purchases and transactions and the three-month limitation on applications and inquiries will not apply to the transmission of facsimile advertisements.

#### Ordering Clauses

Pursuant to Sections 1–4, 227, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 227, and 303(r), the *Order* in CG Docket No. 02–278 is adopted and that the *Report and Order*, FCC 03–153, is modified as set forth herein.

The Fax Ban Coalition's Petition for Further Extension of Stay is granted to the extent discussed herein.

The effective date for: (1) The Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given their express permission to receive unsolicited facsimile advertisements; (2) the 18-month and three month limitations on the duration of the established business relationship as applied to the sending of facsimile advertisements as described above; and (3) the requirement that the sender of a facsimile advertisement first obtain the recipient's express permission in writing, as codified at 47 CFR 64.1200(a)(3)(i), IS January 9, 2006, and that the *Order* is effective upon publication in the **Federal Register**.

The Commission will not send a copy of the *Order* pursuant to Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the adopted rules are rules of particular applicability.

#### List of Subjects in 47 CFR Part 64

Telephone.

Federal Communications Commission.

**Marlene H. Dortch**,  
Secretary.

[FR Doc. 05–13025 Filed 6–29–05; 8:45 am]

BILLING CODE 6712–01–P

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### 48 CFR Part 9904

#### Capitalization of Tangible Assets; Correction

**AGENCY:** Cost Accounting Standards Board; Office of Federal Procurement Policy, OMB.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains technical corrections to the Illustrations in CAS 9904.404, "Capitalization of Tangible Assets." An amendment to this Standard was published on February 13, 1996 (61 FR 5520). However, while the contractor's minimum cost criteria for capitalization was increased from \$1,500 to \$5,000 in the body of the Standard, this change was not reflected in the Illustrations part of the Standard. This technical correction brings the figures in the relevant Illustrations into line with the \$5,000 minimum cost criteria for capitalization currently incorporated in the body of the Standard.

**DATES:** This rule is effective June 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Rein Abel, Director of Research Cost Accounting Standards Board (telephone 202–395–3254).

**SUPPLEMENTARY INFORMATION:** When the Standard was amended in February 1996 (61 FR 5520) only the fundamental requirement at 9904–40 (b)(1) was changed to reflect the increase in the capitalization criteria from \$1,500 to \$5,000. However, corresponding changes were not made to the Illustrations in the Standard. This document makes the necessary technical corrections to Illustrations at 9904–60.

#### List of Subjects in 48 CFR 9904

Government procurement, Cost accounting standards.

■ Accordingly, for the reasons set forth above, it is proposed to correct 48 CFR part 9904 as follows:

#### PART 9904—COST ACCOUNTING STANDARDS

■ 1. Authority. The authority citation for part 9904 continues to read as follows:

**Authority:** Public Law 100–679 Stat. 4056, 41 U.S.C. 422.

#### 9904.404–60 [Corrected]

■ 2. In 9904.404–60 (a) (1), first sentence, remove "\$2,000" and insert "\$6,000" in

its place; and in the second sentence remove "\$1,500" and insert "\$5,000" in its place; and in paragraph (a) (1) (i) revise the first sentence to read as follows: "Contractor acquires a tangible capital asset with a life of 18 months at a cost of \$6,500."

**David H. Safavian**,

Chair, Cost Accounting Standards Board.

[FR Doc. 05–12857 Filed 6–29–05; 8:45 am]

BILLING CODE 3110–01–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA–05–21400]

RIN 2127–AI47

#### Federal Motor Vehicle Safety Standards; Hydraulic and Electric Brake Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This document amends the Federal motor vehicle safety standard on hydraulic and electric brake systems to extend the current minimum performance requirements and associated test procedures for parking brake systems to all multipurpose passenger vehicles (MPVs), buses and trucks with gross vehicle weight ratings (GVWR) greater than 10,000 pounds (4,536 kilograms) equipped with hydraulic or electric brake systems. Currently, the only vehicles with GVWRs greater than 10,000 pounds to which the standard's parking brake requirements apply are school buses. The agency concludes that it is in the interest of safety to require all MPVs, buses and trucks with GVWRs over 10,000 pounds to have parking brakes that meet the performance requirements currently applicable to heavy school buses.

**DATES:** This final rule takes effect June 30, 2006, except for the revision of the heading of 49 CFR 571.135, which takes effect June 30, 2005. The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of June 30, 2006.

Any petitions for reconsideration of today's final rule must be received by NHTSA not later than August 15, 2005.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number for