Information Technology for Economic and Clinical Health (HITECH) Act, to protect the privacy and security of protected health information, namely the HIPAA Privacy, Security and Breach Notification Rules (the HIPAA Rules).

During the COVID–19 national emergency, which also constitutes a nationwide public health emergency, covered health care providers subject to the HIPAA Rules may seek to communicate with patients, and provide telehealth services, through remote communications technologies.

Some of these technologies, and the manner in which they are used by HIPAA covered health care providers, may not fully comply with the requirements of the HIPAA Rules. OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID–19 nationwide public health emergency.

A covered health care provider that wants to use audio or video communication technology to provide telehealth to patients during the COVID–19 nationwide public health emergency can use any non-public facing remote communication product that is available to communicate with patients. OCR is exercising its enforcement discretion to not impose penalties for noncompliance with the HIPAA Rules in connection with the good faith provision of telehealth using such non-public facing audio or video communication products during the COVID–19 nationwide public health emergency. This exercise of discretion applies to telehealth provided for any reason, regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID–19.

For example, a covered health care provider in the exercise of their professional judgement may request to examine a patient exhibiting COVID–19 symptoms, using a video chat application connecting the provider's or patient's phone or desktop computer in order to assess a greater number of patients while limiting the risk of infection of other persons who would be exposed from an in-person consultation. Likewise, a covered health care provider may provide similar telehealth services in the exercise of their professional judgment to assess or treat any other medical condition, even if not related to COVID–19, such as a sprained ankle, dental consultation or psychological evaluation, or other conditions.

Under this Notification, covered health care providers may use popular applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Zoom, or Skype, to provide telehealth without risk that OCR might seek to impose a penalty for noncompliance with the HIPAA Rules related to the good faith provision of telehealth during the COVID–19 nationwide public health emergency. Providers are encouraged to notify patients that these third-party applications potentially introduce privacy risks, and providers should enable all available encryption and privacy modes when using such applications.

Under this notification, however, Facebook Live, Twitch, TikTok, and similar video communication applications are public facing, and should not be used in the provision of telehealth by covered health care providers.

Covered health care providers that seek additional privacy protections for telehealth while using video communication products should provide such services through technology vendors that are HIPAA compliant and will enter into HIPAA business associate agreements (BAAs) in connection with the provision of their video communication products. The list below includes some vendors that represent that they provide HIPAA-compliant video communication products and that they will enter into a HIPAA BAA.

- Skype for Business I Microsoft Teams
- Updox
- VSee
- Zoom for Healthcare
- Doxy.me
- Google G Suite Hangouts Meet
- Cisco Webex Meetings I Webex Teams
- Amazon Chime
- GoToMeeting
- Spruce Health Care Messenger

OCR has not reviewed the BAAs offered by these vendors, and this list does not constitute an endorsement, certification, or recommendation of specific technology, software, applications, or products. There may be other technology vendors that offer HIPAA-compliant video communication products that will enter into a HIPAA BAA with a covered entity. Further, OCR does not endorse any of the applications that allow for video chats listed above.

Under this noticfication, however, OCR will not impose penalties against covered health care providers for the lack of a BAA with video communication vendors or any other noncompliance with the HIPAA Rules that relates to the good faith provision of telehealth services during the COVID–19 nationwide public health emergency.

III. Collection of Information Requirements

This notice of enforcement discretion creates no legal obligations and no legal rights. Because this notice imposes no information collection requirements, it need not be reviewed by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 2, 2020.

Roger T. Severino,

Director, Office for Civil Rights Department of Health and Human Services.

[FR Doc. 2020–08416 Filed 4–20–20; 8:45 am]

BILLING CODE 4153–01–P

and comment for this guidance is impracticable, and there is good cause to issue this guidance without prior public comment and without a delayed effective date. 5 U.S.C. 553(b)(3)(B) & (d)(3).

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Humanities

45 CFR Part 1168

RIN 3136–AA39

Implementing the Federal Civil Penalties Adjustment Act Improvements Act of 2015

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Interim final rule; request for comments.

SUMMARY: The National Endowment for the Humanities (NEH) is adjusting the civil monetary penalties it imposes for violations of NEH's New Restrictions on Lobbying regulation, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act), requires such adjustments to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect.

DATES: *Effective date:* This interim final rule is effective on April 21, 2020. Comments must be submitted on or

before May 21, 2020. *Applicability date:* The adjusted penalty amounts will apply to penalties assessed on or after January 15, 2020, if the associated violations occurred after November 2, 2015.

ADDRESSES: You may send comments by email to *gencounsel@neh.gov.*

Instructions: Include ''RIN 3136–AA39'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Deputy General Counsel, Office of the General Counsel, National Endowment for the Humanities, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *gencounsel@neh.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

For each regulation that imposes a civil monetary penalty, the 2015 Act requires agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' inflation adjustment through an interim final rulemaking; and (2) make subsequent annual adjustments for inflation.

The Inflation Adjustment Act defines ''civil monetary penalty'' as a penalty, fine, or other sanction that is (1) for a specific monetary amount provided by Federal law, or has a maximum amount provided by Federal law; (2) assessed or enforced by an agency pursuant to Federal law; and (3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

The formula for the amount of a civil monetary penalty inflation adjustment is prescribed by law—as explained in Office of Management and Budget (OMB) Memorandum M–16–06 (February 24, 2016)—and is based on the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) published by the U.S. Department of Labor for the month of October preceding the date of the adjustment, relative to the October CPI–U in the year of the previous adjustment. Additionally, the 2015 Act eliminated the ten-percent cap on adjustments imposed by the Debt Collection Improvement Act of 1996. Instead, the 2015 Act imposes a cap on the amount of the adjustment, such that the amount of increase may not exceed 150 percent of the pre-adjustment penalty amount. Therefore, the total penalty amount resulting from adjustments under the 2015 Act may not exceed 250 percent of the pre-adjustment penalty amount.

NEH has only one regulation with civil monetary penalty provisions which requires adjustment under the 2015 Act: Its New Restrictions on Lobbying (45 CFR 1168).

2. Adjustments to Civil Monetary Penalties in NEH's New Restrictions on Lobbying Regulation

This interim final rule incorporates the initial ''catch up'' adjustment and the annual adjustment for 2020, and applies those adjustments cumulatively to the civil monetary penalties in 45 CFR 1168.400. The calculations for these adjustments are in accordance with the OMB memoranda providing guidance on implementing the initial ''catch up'' adjustment [1] and the 2020 adjustment [2] under the 2015 Act.

A. Initial ''Catch-Up'' Adjustment for Inflation

NEH determined the first ''catch up'' adjustment by calculating the percent change between the CPI–U for October of the last year in which Congress adjusted the penalties (not including any adjustment made pursuant to the Inflation Adjustment Act before November 2, 2015), and the CPI–U for October 2015, and then rounding to the nearest dollar.

Congress set the penalty amounts found in 31 U.S.C. 1352(c) in 1989, and has not adjusted them since. At that time, the range of civil penalties was a minimum of $10,000 and a maximum of $100,000. Between October 1989 and October 2015, the CPI–U increased by 189.361 percent.

Therefore, the post-adjustment minimum penalty under NEH's New Restrictions on Lobbying regulation is $10,000 × 1.89361 percent = $18,936.10, which rounds to $18,936. The post-adjustment maximum penalty under NEH's New Restrictions on Lobbying regulation is $100,000 × 1.89361 = $189,361. These post-adjustment penalties are less than 250 percent of the pre-adjustment penalties, so they do not implicate the post-adjustment amount limitation in the 2015 Act. Thus, the penalty range under NEH's New Restrictions on Lobbying regulation, for the purposes of the initial ''catch up'' adjustment, is a minimum of $18,936 and a maximum of $189,361.

B. 2020 Adjustment for Inflation

This interim final rule also incorporates the required subsequent annual adjustment for 2020. NEH determined the 2020 adjustment by calculating the percent increase between the CPI–U for the month of October preceding the date of the adjustment (October 2019) and the CPI–U for the October one year prior to the October immediately preceding the date of the adjustment (October 2018).

For 2019, the penalty range for violations under NEH's New Restrictions on Lobbying regulation was a minimum of $20,134 and a maximum of $201,340.[3] Between October 2018 and October 2019, the CPI–U increased by 101.764 percent.

Therefore, the new, post-adjustment minimum penalty for 2020 under NEH's New Restrictions on Lobbying regulation is $20,134 × 1.01764 = $20,489.16, which rounds to $20,489. The new, post-adjustment maximum penalty for 2020 under NEH's New Restrictions on Lobbying regulation is $201,340 × 1.01764 = $204,891.64, which rounds to $204,892. These post-adjustment penalties are less than 250 percent of the pre-adjustment penalties, so they do not implicate the post-adjustment amount limitation in the 2015 Act. Thus, the range of penalties under NEH's New Restrictions on Lobbying regulation, for the purposes of the 2020 annual adjustment, is a minimum of $20,489 and a maximum of $204,892.

[1] OMB Memorandum M–16–06 (February 24, 2016).

[2] OMB Memorandum M–20–05 (December 16, 2019).

[3] Table 1 details the annual adjustments to New Restrictions on Lobbying Civil Monetary Penalties for years 2016–2020.

TABLE 1—ANNUAL ADJUSTMENTS TO NEW RESTRICTIONS ON LOBBYING CIVIL MONETARY PENALTIES
[2016–2020]

Year	Baseline penalty range	Applicable multiplier based on percent increase in CPI–U	New baseline penalty range
2016	$10,000–$100,000	1.89361	$18,936–$189,361
2017	$18,936–$189,361	[4] 1.01636	$19,246–$192,459
2018	$19,246–$192,459	[5] 1.02041	$19,639–$196,387
2019	$19,639–$196,387	[6] 1.02522	$20,134–$201,340
2020	$20,134–$201,340	1.01764	$20,489–$204,892

[4] OMB Memorandum M–17–11 (December 16, 2016).
[5] OMB Memorandum M–18–03 (December 15, 2017).
[6] OMB Memorandum M–19–04 (December 14, 2018).

3. Subsequent Annual Adjustments

The 2015 Act requires agencies to make annual adjustments to civil penalty amounts no later than January 15 of each year following the initial adjustment. NEH will calculate the subsequent annual adjustments using the same method as the annual adjustment previously described herein. If the CPI–U does not increase, then the civil penalties remain the same. Therefore, if NEH adjusts penalties in January 2021, NEH will determine the adjustment by calculating the percent change between the CPI–U for October 2020 (the October immediately preceding the date of adjustment) and October 2019 (the October one year prior to October 2020).

NEH will publish a Notice in the **Federal Register** containing the amounts of these annual inflation adjustments no later than January 15 of each year.

4. Compliance

Administrative Procedure Act of 1946

NEH finds good cause to issue this interim final rule without prior notice and comment. The 2015 Act requires agencies to adjust their civil monetary penalties according to a statutory formula, and NEH does not have any discretion when determining the amount of its adjustments; it merely performs ministerial computations to determine those amounts. As such, prior notice and comment is unnecessary because NEH would be unable to change the substance of this rule in response to suggestions from commenters. NEH is accepting public comments up to thirty (30) days after publication of this interim final rule, and may address any comments received when it publishes a final rule adopting this interim final rule.

Executive Order 12866, Regulatory Planning and Review, and Executive Order 13563, Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to OMB for review.

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications. It will 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.

Executive Order 12988, Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988. Specifically, this interim final rule is written in clear language designed to help reduce litigation.

Executive Order 13175, Indian Tribal Governments

Under the criteria in Executive Order 13175, NEH evaluated this interim final rule and determined that it will not have any potential effects on Federally recognized Indian Tribes.

Executive Order 12630, Takings

Under the criteria in Executive Order 12630, this rulemaking does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980

This rulemaking will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995

This rulemaking does not impose an information collection burden under the Paperwork Reduction Act. This action contains no provisions constituting a collection of information pursuant to the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year.

National Environmental Policy Act of 1969

This interim final rule will not have a significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996

This interim final rule will not be a major rule as defined in section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This interim final rule will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

E-Government Act of 2002

All information about NEH required to be published in the **Federal Register**

may be accessed at *www.neh.gov.* The website *https://www.regulations.gov* contains electronic dockets for NEH's rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010

To ensure this final rule was written in plain and clear language so that it can be used and understood by the public, NEH modeled the language of this final rule on the Federal Plain Language Guidelines.

Lists of Subjects in 45 CFR 1168

Administrative practice and procedure, Lobbying, Penalties.

For the reasons stated in the preamble, the National Endowment for the Humanities amends 45 CFR part 1168 as follows:

PART 1168—NEW RESTRICTIONS ON LOBBYING

■ 1. The authority citation for part 1168 is revised to read as follows:

Authority: 20 U.S.C. 959(a)(1); 28 U.S.C. 2461 note; 31 U.S.C. 1352.

■ 2. Amend § 1168.400:
■ a. By removing ''$10,000'' and adding in its place ''$20,489'' and by removing ''$100,000'' and adding in its place ''$204,892'', respectively, each place they appear in paragraphs (a), (b), and (e); and
■ b. By adding paragraph (g).

The addition reads as follows:

§ 1168.400 Penalties.

* * * * *

(g) The penalty amounts listed under paragraphs (a), (b), and (e) of this section shall be adjusted annually for inflation. NEH will publish a document in the **Federal Register** containing the new penalty amounts no later than January 15 of each year.

■ 3. Amend appendix A to part 1168:
■ a. By removing ''$10,000'' and adding in its place ''$20,489'' and by removing ''$100,000'' and adding in its place ''$204,892'', respectively, each place they appear; and
■ b. By adding a section entitled ''Annual Adjustments for Inflation'' at the end.

The addition reads as follows:

Appendix A to Part 1168—Certification Regarding Lobbying

* * * * *

Annual Adjustments for Inflation

The penalty amounts listed in this appendix will be adjusted annually for inflation. NEH will publish a document in the **Federal Register** containing the new penalty amounts no later than January 15 of each year.

Dated: April 8, 2020.

Caitlin Cater,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2020–07761 Filed 4–20–20; 8:45 am]

BILLING CODE 7536–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 20–58; FCC 20–15; FRS 16594]

Closure of FCC Lockbox 979088 Used To Collect Payment of Forfeiture Penalties Imposed by the Commission

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) adopts an Order that closes Lockbox 979088 and modifies the relevant rule provisions to require electronic payment of forfeiture penalties imposed by the Commission.

DATES: Effective May 21, 2020.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Office of Managing Director at (202) 418–2653 or Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 20–15, MD Docket No. 20–58, adopted on February 26, 2020 and released on February 28, 2020, which is the subject of this rulemaking. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *https://www.fcc.gov/document/closure-commission-lockbox-used-collect-forfeiture-payments.*

I. Administrative Matters

A. Final Regulatory Flexibility Analysis

1. Section 603 of the Regulatory Flexibility Act, as amended, requires a regulatory flexibility analysis in notice and comment rulemaking proceedings. See 5 U.S.C. 603(a). As we are adopting these rules without notice and comment, no regulatory flexibility analysis is required.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission will not send a copy of the Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not ''substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

II. Introduction

4. In the Order, we reduce expenditures by the Commission and modernize procedures by modifying § 1.80(h) of our rules, 47 CFR 1.80(h), which sets forth the method for parties to remit forfeiture penalties imposed by the Commission. The rule amendment reflects the closure of the P.O. Box [1] used to collect forfeiture payments. We discontinue the option of manual fee payments and instead require the use of an electronic payment for forfeiture penalties.

5. The Commission has begun to reduce its reliance on P.O. Boxes for the collection of fees, instead encouraging the use of electronic payment systems for all application and regulatory fees and closing certain lockboxes. We find that electronic payment of forfeiture penalties imposed by the Commission reduces the agency's expenditures (including eliminating the annual fee for the bank's services) and the cost of manually processing each transaction, with little or no inconvenience to the Commission's regulatees, applicants, and the public.

6. As part of this effort, we are now closing P.O. Box 979088 and modifying the relevant rule provision that requires payment of forfeiture penalties via the closed P.O. Box. The rule change is contained in the Appendix of the Order. We make this change without notice and comment because it is a rule of agency organization, procedure, or practice exempt from the general notice-

[1] A P.O. Box used for the collection of fees is referred to as a ''lockbox'' in our rules and other Commission documents. The FCC collects application processing fees using a series of P.O. Boxes located at U.S. Bank in St. Louis, Missouri. *See* 47 CFR 1.1101–1.1109 (setting forth the fee schedule for each type of application remittable to the Commission along with the correct lockbox).