

§ 160.506

(ii) Registered or certified mail addressed to the natural person at his or her last known dwelling place or to the entity at its last known principal place of business.

(3) A verified return by the natural person serving the subpoena setting forth the manner of service or, in the case of service by registered or certified mail, the signed return post office receipt, constitutes proof of service.

(4) Witnesses are entitled to the same fees and mileage as witnesses in the district courts of the United States (28 U.S.C. 1821 and 1825). Fees need not be paid at the time the subpoena is served.

(5) A subpoena under this section is enforceable through the District Court of the United States for the district where the subpoenaed natural person resides or is found or where the entity transacts business.

(b) Investigational inquiries are non-public investigational proceedings conducted by the Secretary.

(1) Testimony at investigational inquiries will be taken under oath or affirmation.

(2) Attendance of non-witnesses is discretionary with the Secretary, except that a witness is entitled to be accompanied, represented, and advised by an attorney.

(3) The proceedings will be recorded and transcribed. The witness is entitled to a copy of the transcript, upon payment of prescribed costs, except that, for good cause, the witness may be limited to inspection of the official transcript of his or her testimony.

§ 160.506 Basis for penalty.

The Secretary shall impose a penalty on a person who is a covered entity and who the Secretary determines in accordance with this subpart has violated a provision of—

(a) 42 U.S.C. 1320d-1320d-8, as amended;

(b) Section 264 of Pub. L. 104-191 (42 U.S.C. 1320d-2(note)); or (c) Parts 160, 162 or 164 of this subchapter.

§ 160.508 Amount of penalty.

The penalty imposed under § 160.506 must be in accordance with 42 U.S.C.

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1320d-5 and the applicable provisions of this part.

§ 160.510 Authority to settle.

Nothing in this subpart limits the authority of the Secretary to settle any issue or case or to compromise any penalty.

§ 160.512 [Reserved]

§ 160.514 Notice of proposed determination.

(a) If a penalty is proposed in accordance with this part, the Secretary must deliver, or send by certified mail with return receipt requested, to the respondent written notice of the Secretary's intent to impose a penalty. This notice of proposed determination must include—

(1) Reference to the statutory basis for the penalty;

(2) A description of the findings of fact regarding the act(s) or omission(s) with respect to which the penalty is proposed;

(3) The reason(s) why the act(s) or omission(s) subject(s) the respondent to a penalty;

(4) The amount of the proposed penalty;

(5) Instructions for responding to the notice, including a statement of the respondent's right to a hearing, a statement that failure to request a hearing within 60 days permits the imposition of the proposed penalty without the right to a hearing under § 160.554 or a right of appeal under § 160.568, and the address to which the hearing request must be sent.

(b) The respondent may request a hearing before an ALJ on the proposed penalty by filing a request therefor in accordance with § 160.526 of this subpart.

§ 160.516 Failure to request a hearing.

If the respondent does not request a hearing within the time prescribed by § 160.526, the Secretary must impose the proposed penalty or any less severe penalty permitted by 42 U.S.C. 1320d-5. The Secretary must notify the respondent by certified mail, return receipt requested, of any penalty that has been imposed and of the means by which the respondent may satisfy the penalty.