Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Airplane Certification Office, FAA, ATTN: Nick Wilson, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–1505, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6476; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(k) You must use Boeing Alert Service Bulletin 737–30A1059, dated September 10, 2007; or Boeing Service Bulletin 737–30A1057, Revision 1, dated October 31, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; telephone 206–544–9990; fax 206–765–5682; e-mail DDCS@boeing.com; Internet https://www.myboeinglearning.com.

(3) You may review copies of the service information incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on November 10, 2008.

Ali Bahrami,
Manager, Transport Airplane Directorate,
Airplane Certification Service.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9428]

Section 1367 Regarding Open Account Debt

Correction

In rule document E8–24926 beginning on page 62199 in the issue of Monday, October 20, 2008, make the following correction:

§1.1367–2 [Corrected]

On page 62203, in the first column, in the sixth full paragraph, in the fourth line, in §1.1367–2(e), “Example 7” should read “Example 7”.

[FR Doc. Z8–24926 Filed 11–24–08; 8:45 am] BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2007–HA–0010; RIN 0720–AB09]

TRICARE Program; Overpayments Recovery

AGENCY: Office of the Secretary, DoD.
ACTION: Final rule.

SUMMARY: This rule amends the CHAMPUS and TRICARE program
regulation that governs the recoupment of erroneous payments. Specifically, the rule implements changes required by
the Debt Collection Improvement Act (DCIA) of 1996 and the revised Federal Claims Collection Standards (FCCS).
This final rule is necessary to comply with the DCIA of 1996 and the revised
FCCS.
DATES: Effective Date: This rule is
effective December 26, 2008.
FOR FURTHER INFORMATION CONTACT: Gail
L. Jones, Medical Benefits and
Reimbursement Systems, TRICARE
Management Activity, telephone (303)
676–3401.
SUPPLEMENTARY INFORMATION:
Background and Purpose
On December 23, 1985, the Office of
the Secretary of Defense published a
final rule in the Federal Register (50 FR
52315), clarifying specific procedures and
criteria in the assertion, collection or compromise of federal claims and the
suspension or termination of collection
action on such claims arising under the
operation of the Civilian Health and
Medical Program of the Uniformed
Services (CHAMPUS). Section 199.11,
“Overpayments Recovery,” addresses
claims in favor of the United States
arising under the Federal Claims
Collection Act (recoupment claims).
On April 26, 1996, the Debt Collection
Act of 1982, as amended by the Debt
Collection Improvement Act, Public
Law 104–134 (110 Stat. 1321–358 et
seq.) was enacted into law (as part of the
 Omnibus Consolidated Rescissions and
Appropriations Act of 1996) mainly to
increase the collection of non-tax debts
owed to the Federal Government. This
law centralized the administrative
collection of most delinquent non-tax
debt at Department of the Treasury
(Treasury) Financial Management
Service, to increase the efficiency of
collection efforts. Government
departments and agencies are now
required to refer debts to Treasury for
centralized administrative offset under
the Treasury Offset Program (TOP), and
transfer debts to Treasury for collection
on the agencies’ behalf—a process
known as cross servicing.
This final rule implements statutory
provisions of the DCIA of 1996 and the
revised FCCS, which were jointly issued
by Treasury and the Department of
Justice (DOJ). The effect of this final rule
would avoid the expense of court
proceedings for both the government and
the debtor, as well as reduce
administrative handling, provide greater
flexibility in recovery efforts, and
promote timely settlements of
outstanding federal claims.
Public Comments
On December 20, 2007 (72 FR 72307),
the Office of the Secretary of Defense
provided the public the opportunity to
comment on implementing changes
required by the DCIA of 1996 and the
revised FCCS. Throughout the 60-day
comment period, which closed on
February 19, 2008, the Department of
Defense (DoD) did not receive any
public comments. Therefore, within this
final rule, the DoD set forth the
proposed provisions contained in the
December 20, 2007, proposed rule. The
proposed rule is adopted without
change, as a final rule.
Section-By-Section Analysis
• Paragraph (a) provides that it
applies to the TRICARE program and
CHAMPUS.
• Paragraph (b)(1) adds the DCIA and
the revised FCCS, 31 CFR parts 900–
904, as authority for collection, as well
as Treasury regulations, found at 31 CFR
part 285, subpart A, implementing the
DCIA and related statutes governing the
offset of Federal salaries (5 U.S.C. 5514,
5 CFR part 550, subpart K),
administrative offset (31 U.S.C. 3716),
administrative offsets of tax refunds (31
U.S.C. 3720A) and regulations
implementing the offset of military pay
under Title 37 U.S.C. 1007(c). The
reference to waiver of collection
authority to assert, settle, compromise,
suspend, or terminate claims arising
under the Federal Claims Collection
Act to the Director, TMA.
• Paragraph (c) reflects that the
Director, TRICARE Management
Activity (TMA), or a designee, is
responsible for ensuring that timely
collection action is pursued. The Office
of CHAMPUS (OCHAMPUS) has
been disestablished. The functions of
OCHAMPUS are now being performed
by the TMA. The current regulation
reflects that agency authority to
compromise, suspend, or terminate
collection action was limited to claims
that did not exceed $20,000. The rule
increases this amount to $100,000 at
paragraph (g), the amount authorized by
• Paragraph (e) delegates the
authority to assert, settle, compromise
or to suspend or terminate collection on
claims arising under the Federal Claims
Collection Act to the Director, TMA.
• Paragraph (f)(1) adds a provision
that recoupment procedures may be
modified or adapted to conform to
network agreements and that the
recoupment provisions of the rule apply
if recoupment under the network
agreements is not successful.
• Paragraph (f)(3) requires the
TRICARE contractor to first attempt to
recover an erroneous payment from
another health insurance plan through
the contractor’s coordination of benefits
procedures. If the overpayment cannot
be recovered from the other plan, or if
the other plan has made payment, the
erroneous payment will be recovered
from the party that received the
erroneous payment from TRICARE.
• Paragraph (f)(6)(iii) specifies that
a minimum of one demand letter is
required and states that the specific
content, timing and number of demand
letters may be tailored to the type and
amount of debt and the debtor’s
response, if any.
• Paragraph (f)(6)(ii) of the current
regulation states that normally a total of
three progressively stronger written
demands for payment be made to a
debtor at approximately 30-day intervals
and that the demands for payment will
be made by CHAMPUS fiscal
intermediary and OCHAMPUS. This
final rule amends this language to
reflect that normally the TRICARE
contractor will initiate initial collection
action to effect recoupment.
• Paragraph (f)(6)(iv) states that the
initial or subsequent demand letter(s)
may notify debtors of the mandatory
requirement to report delinquent debts
to credit reporting agencies and to refer
delinquent debts to collection agencies,
the TOP for collection by administrative
offset from Federal tax refunds and
other amounts payable by the
Government, offset from state payments
as well as the requirement that
delinquent debts be transferred to
Treasury for collection. It also provides
that letters may include TMA policies
for referring delinquent debts to the
DOJ.
• Paragraph (f)(6)(v) deleted language
found at Paragraph (f)(6)(iii) of the
current regulation, which stated that
offset under the provisions of 31 U.S.C.
3716 was not to be used with respect to
debts owed by any state or local
government. The collection of debts
owed by state and local governments
through administrative offset is no
longer prohibited.
• Paragraph (f)(6)(v)(A) requires
eligible non-tax debts delinquent over
180 days be referred to Treasury for
centralized administrative offset, unless
otherwise exempted from referral. Debts
that were formerly referred directly to
the Internal Revenue Service for Tax
Refund Offset will be referred for
centralized administrative offset. It also
provides that salary offsets under 5
U.S.C. 5514 that were formerly effected
through referral to an employee’s paying
agency, pursuant to Paragraph (f)(6)(vi)
of 32 CFR 199.11 will be effected through referral for centralized administrative offset.

• Paragraph (f)(6)(vi) implements a mandatory requirement of the DCIA that eligible non-tax debts delinquent over 180 days be transferred to Treasury or a Treasury-Designated Collection Center for collection through cross-servicing, unless otherwise exempted from referral.

• Paragraph (f)(6)(ix) increases the minimum amount of installment payment that may be accepted to $75.00 per month unless the debtor demonstrates financial hardship. Paragraph (f)(6)(iv) of the current regulation provides that the minimum amount is $50.00.

• Paragraph (f)(6)(xi) requires TMA to use government-wide collection contracts to obtain debt collection services through private contractors as provided in 31 CFR 901.5(b). The current regulation provides for TMA to contract for such services.

• Paragraph (f)(6)(xii) specifies that Treasury will report debts transferred to it for collection to credit reporting agencies on behalf of TMA.

• Paragraph (g)(1) authorizes the Director, TMA to compromise, suspend or terminate collection action of debts that do not exceed $100,000 (exclusive of interest, penalties and administrative costs) or less, or such other amount as the Attorney General shall authorize, as provided in 31 CFR 902.1(a). Paragraph (b) of the current regulation limits this authority to $20,000. Paragraph (g)(3) of the current regulation has been deleted, because the legislation authorizing the waiver has expired.

• Paragraph (h) increases the threshold for referral of cases to the DOJ from $600 to $2,500 or such other amount as the Attorney General shall prescribe, as provided in 31 CFR 904.4(a).

Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review”

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. It has been certified that this final rule is not an economically significant rule; however, it is a regulatory action which has been reviewed by the Office of Management and Budget as required under the provision of E.O. 12866.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.


It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule, although not economically significant under E.O. 12866, has been designated as significant and has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866. This final rule sets forth changes to conform to the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321, 1358), as implemented by the Federal Claims Collection Standards, joint regulations issued by the Department of the Treasury and the Department of Justice, 31 CFR parts 900–904.


It has been certified that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, Federalism

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;
(2) The relationship between the National Government and the States; or
(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, and Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

§ 199.11 Overpayments recovery.

(a) General. Actions to recover overpayments arise when the government has a right to recover money, funds or property from any person, partnership, association, corporation, governmental body or other legal entity, foreign or domestic, except another Federal agency, because of an erroneous payment of benefits under both CHAMPUS and the TRICARE program under § 199.17 of this part. The term “Civilian Health and Medical Program of the Uniformed Services” (CHAMPUS) is defined in 10 U.S.C. 1072(4), and referred to under § 199.17 as the basic CHAMPUS program, otherwise known as TRICARE Standard. The term “TRICARE program” is defined in 10 U.S.C. 1072(7) and is referred to under § 199.17 as the triple-option benefit of TRICARE Prime, TRICARE Extra, and TRICARE Standard. It is the purpose of this section to prescribe procedures for investigation, determination, assertion, collection, compromise, waiver and termination of claims in favor of the United States for erroneous benefit payments arising out of the administration of CHAMPUS and the TRICARE program. For the purpose of this section, references herein to TRICARE beneficiaries, claims, benefits, payments, or appeals shall include CHAMPUS beneficiaries, claims, benefits, payments, or appeals. A claim against several joint debtors arising from a single incident or transaction is considered one claim. The Director, TRICARE Management Activity (TMA), or a designee, may pursue collection against all joint debtors and is not required to allocate the burden of payment between debtors.

(b) Authority. (1) Federal statutory authority. The Federal Claims Collection Act, 31 U.S.C. 3701, et seq., as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996 (DCIA), provides the basic authority under which claims may be asserted pursuant to this section. The DCIA is implemented by the Federal Claims Collection Standards, joint regulations issued by the Department of the Treasury (Treasury) and the Department of Justice (DOJ) (31 CFR Parts 900–904), that prescribe government-wide standards for administrative collection, offset, compromise, suspension, or termination of agency collection action, disclosure of debt information to credit reporting agencies, referral of debts to private collection for resolution, and referral to the Department of Justice for litigation to
collect debts owed the Federal government. The regulations under this part are also issued under Treasury regulations implementing the DCIA (31 CFR part 285) and related statutes and regulations governing the offset of Federal salaries (5 U.S.C. 5514; 5 CFR part 550, subpart K), administrative offset (31 U.S.C. 3716; 31 CFR part 285, subpart A); administrative offset of tax refunds (31 U.S.C. 3720A) and offset of military pay (37 U.S.C. 1007(c); Volume 7A, Chapter 50 and Volume 7B, Chapter 28 of the Department of Defense Financial Management Regulation, DOD 7000.14–R 1 (DoDFMR)).

(2) Other authority. Federal claims may arise under authorities other than the federal statutes, referenced above. These include, but are not limited to:

(i) State worker’s compensation laws.
(ii) State hospital lien laws.
(iii) State no-fault automobile statutes.
(iv) Contract rights under terms of insurance policies.

(c) Policy. The Director, TMA, or a designee, shall aggressively collect all debts arising out of its activities. Claims arising out of any incident, which has or probably will generate a claim in favor of the government, will not be compromised, except as otherwise provided in this section, nor will any person not authorized to take final action on the government’s claim, compromise or terminate collection action. Title 28 U.S.C. 2415–2416 establishes a statute of limitation applicable to the government where previously neither limitations nor latches were available as a defense. Claims falling within the provisions of this statute will be referred to the Department of Justice without attempting administrative collection action, if such action cannot be accomplished in sufficient time to preclude the running of the statute of limitations.

(d) Appealability. This section describes the procedures to be followed in the recovery and collection of federal claims in favor of the United States arising from the operation of TRICARE. Actions taken under this section are not initial determinations for the purpose of the appeal procedures of § 199.10 of this part. However, the proper exercise of the right to appeal benefit or provider status determinations under the procedures set forth in § 199.10 of this part may affect the processing of federal claims arising under this section. Those appeal procedures afford a TRICARE beneficiary or participating provider an opportunity for administrative appellate review in cases in which benefits have been denied and in which there is an appealable issue. For example, a TRICARE contractor may erroneously make payment for services, which are excluded as TRICARE benefits because they are determined to be not medically necessary. In that event, the contractor will initiate recoupment action, and at the same time, the contractor will offer an administrative appeal as provided in § 199.10 of this part on the medical necessity issue raised by the adverse benefit determination. The recoupment action and the administrative appeal are separate actions. However, in an appropriate case, the pendency of the appeal may provide a basis for the suspension of collection in the recoupment case. If an appeal were resolved entirely in favor of the appealing party, it would provide a basis for the termination of collection action in the recoupment case.

(e) Delegation. Subject to the limitations imposed by law or contained in this section, the authority to assert, settle, and compromise or to suspend or terminate collection action arising on claims under the Federal Claims Collection Act has been delegated to the Director, TMA, or a designee.

(f) Recoupment of erroneous payments. (1) Erroneous payments are expenditures of government funds, which are not authorized by law or this part. Examples which are sometimes encountered in the administration of TRICARE include mathematical errors, payment for care provided to an ineligible person, payment for care which is not an authorized benefit, payment for duplicate claims, incorrect application of the deductible or copayment or payment for services which were not medically necessary. Claims in favor of the government arising as the result of the filing of false TRICARE claims or other fraud fall under the cognizance of the Department of Justice. Consequently, procedures in this section apply to such claims only when specifically authorized or directed by the Department of Justice. (See 31 CFR 900.3.) Due to the nature of contractual agreements between network providers and TRICARE prime contractors, recoupment procedures may be modified or adapted to conform to network agreements. The provisions of § 199.11 shall apply if recoupment under the network agreements is not successful.

(2) Scope. (i) General. Paragraph (f) of this section and the paragraphs following contain requirements and procedures for the assertion, collection, or compromise of, and the suspension or termination of collection action on claims for erroneous payments against a sponsor, patient, beneficiary, provider, physician or other supplier of products or services under TRICARE.

(ii) Debtor defined. As used herein, “debtor” means a sponsor, beneficiary, provider, physician, other supplier of services or supplies, or any other person who for any reason has been erroneously paid under TRICARE. It includes an individual, partnership, corporation, professional corporation or association, estate, trust or any other legal entity.

(iii) Delinquency defined. A debt is “delinquent” if it has not been paid by the date specified in the initial written demand for payment (that is, the initial written notification) or other applicable contractual agreement, unless other satisfactory payment arrangements have been made by the date specified in the initial written demand for payment. A debt is considered delinquent if at any time after entering into a repayment agreement, the debtor fails to satisfy any obligations under that agreement.

(3) Other health insurance claims. Claims arising from erroneous TRICARE payments in situations where the beneficiary has entitlement to an insurance, medical service, health and medical plan, including any plan offered by a third party payer as defined in 10 U.S.C. 1095(h)(1) or other government program, except in the case of a plan administered under Title XIX of the Social Security Act (42 U.S.C. 1396, et seq.), through employment, by law, through membership in an organization, or as a student, or through the purchase of a private insurance or health plan, shall be recouped following the procedures in paragraph (f) of this section. If the other plan has not made payment to the beneficiary or provider, the contractor shall first attempt to recover the overpayment from the other plan through the contractor’s coordination of benefits procedures. If the overpayment cannot be recovered from the other plan, or if the other plan has made payment, the overpayment will be recovered from the party that received the erroneous payment from TRICARE.

(4) Claim denials due to clarification or change. In those instances where claim review results in the denial of benefits previously provided, but now denied due to a change, clarification or interpretation of the public law or this part, no recoupment action need be taken to recover funds expended prior to the effective date of such change, clarification or interpretation.

(5) Good faith payment. The Department of Defense, through the Defense Enrollment Eligibility Reporting...
refund or notices of intent to offset shall
section. All requests to debtors for
actions in accordance with the
General Counsel, TMA, for further
cases will be referred to the Office of
efforts of the TRICARE contractor to
any other TRICARE payment(s)
demands) for refund or an offset against
contracts and will include a demand (or
actions will be in accordance with the
initial action to effect recoupment. Such
discovered, the TRICARE contractor
. When an erroneous payment is
(f) of this section.

(f) Recoupment procedures. (i) Initial
. When an erroneous payment is
discovered, the TRICARE contractor
normally will be required to take the
initial action to effect recoupment. Such
actions will be in accordance with the
provisions of this part and the TRICARE
contracts and will include a demand (or
demands) for refund or an offset against
any other TRICARE payment(s)
becoming due the debtor. When the
efforts of the TRICARE contractor to
effect recoupment are not successful
within a reasonable time, recoupment
cases will be referred to the Office of
General Counsel, TMA, for further
action in accordance with the
provisions of paragraph (f) of this
section. All requests to debtors for
refund or notices of intent to offset shall
be in writing.

(ii) Demand for payment. Written
demand(s) for payment shall inform the
debtor of the following:
(A) The basis for and amount of the
debt and the consequences of failing to
cooperate to resolve the debt;
(B) The right to inspect and copy
TRICARE records pertaining to the debt;
(C) the opportunity to request an
administrative review by the TRICARE
contractor; and that such a request must
be received by the TRICARE contractor
within 90 days from the date of the
initial demand letter;
(D) That payment of the debt is due
within 30 days from the date of the
initial demand notification;
(E) That interest will be assessed on
the debt at the Treasury Current Value of
Funds rate, pursuant to 31 U.S.C.
3717, and will begin to accrue on the
date of the initial demand letter; and
that interest will be waived on the debt,
or any portion thereof, which is paid
within 30 days from the date of the
initial demand notification letter;
(F) That administrative costs and
penalties will be charged pursuant to 31
CFR 901.9;
(G) That collection by offset against
current or subsequent claims or other
amounts payable from the government
may be taken;
(H) The opportunity to enter into a
written agreement to repay the debt;
(I) the name, address, and phone
number of a contact person or office that
the debtor may contact regarding the
debt. (iii) A minimum of one demand
letter is required. However, the specific
content, timing and number of demand
letters may be tailored to the type and
amount of the debt, and the debtor’s
response, if any. Contractors’ demand
letters must be mailed, or hand-delivered
on the same date they are dated.
(iv) The initial or subsequent demand
letters may also inform the debtor of the
requirement to report delinquent debts
to credit reporting agencies and to
collection agencies, the requirement to
refer debts to the Treasury Offset
Program for offset from Federal income
tax refunds and other amounts payable
by the Government, offset from state
payments, the requirement to refer debts
to Treasury for collection and TRICARE
policies concerning the referral of
delinquent debts to the Department of
Justice for enforced collection action.
The initial or subsequent demand letter
may also inform the debtor of TRICARE
policies concerning waiver. When
necessary to protect the Government’s
interest (for example to prevent the
running of a statute of limitations),
written demand may be preceded by
other appropriate actions under this
regulation, including referral to the
Department of Justice for litigation.
There should be no undue delay in
responding to any communication
received from the debtor. Responses to
communications from debtors should be
made within 30 days of receipt;
whenever feasible. If prior to the
initiation of the demand process or at
any time during or after completion of
the demand process, the Director, TMA,
or a designee, determines to pursue or
is required to pursue offset, the
procedures applicable to administrative
offset, found at paragraph (f)(6)(v) of this
section, must be followed. If it appears
that initial collection efforts are not
productive or if immediate legal action
on the claim appears necessary, the
claim shall be referred promptly by the
contractor to the Office of General
Counsel, TMA.
(v) Collection by administrative offset.
Collections by offset will be undertaken
administratively in every instance when
feasible. Collections may be taken by
administrative offset under 31 U.S.C.
3716, the common law or other
applicable statutory authority. No
collection by offset may be undertaken
unless the debtor has been sent a
written demand for payment, including
the procedural safeguards described in
paragraph (f)(6)(ii) of this section, unless
the failure to take the offset would
substantially prejudice the
Government’s ability to collect the debt,
and the time before payment is to be
made does not reasonably permit the
time for sending written notice. Such
prior offset must be promptly followed
by sending a written notice and
affording the debtor the opportunity for
a review by the TRICARE contractor.
Examples of erroneous payments
include, but are not limited to, claims
submitted by individuals ineligible for
TRICARE benefits, claims submitted for
non-covered services or supplies, claims
for which payments by another
insurance or health plan reduce
TRICARE liability, and from claims
made from participating providers in
which payment was initially
erroneously made to the beneficiary.
The resolution of recoupment claims
rarely involves issues of credibility or
veracity and a review of the written
record is ordinarily an adequate means
to correct prior mistakes. For this
reason, the pre-offset oral hearing
requirements of the Federal Claims
Collection Standards, 31 CFR 901.3(e)
do not apply to the recoupment of
erroneous TRICARE payments.
However, in instances where an oral
hearing is not required, the debtor will
be afforded an administrative review if
the TRICARE contractor receives a
written request for an administrative
review within 90 days from the date of
the initial demand letter. The appeals
procedures described in § 199.10 of this
part, afford a TRICARE beneficiary or
participating provider an opportunity
for an administrative appellate review,
including under certain circumstances,
the right to an oral hearing before a
due debtors under 26 U.S.C. 6402, in accordance with 31 U.S.C. 3720A, shall be effected through referral for centralized administrative offset, after debtors have been afforded at least sixty (60) days notice required in paragraph (f)(6) of this section. Salary offsets shall be effected through referral for centralized administrative offset, after debtors have been afforded due process required by 5 U.S.C. 5514, in accordance with 31 CFR 285.7. Referrals for salary offset shall include certification that the debts are past due, legally enforceable debts and that TMA has complied with all due process requirements under 5 U.S.C. 5514 and applicable agency regulations. The Treasury, Financial Management Service (FMS) may waive the salary offset certification requirement set forth in 31 CFR 285.7, as a prerequisite to submitting the debt to FMS for offset from other payment types. If FMS waives the certification requirement, before an offset occurs, TMA will provide the employee with the notice and opportunity for a hearing as required by 5 U.S.C. 5514 and applicable regulations, and will certify to FMS that the requirements of 5 U.S.C. 5514 and applicable agency regulations have been met. TMA is not required to duplicate notice and administrative review or salary offset hearing opportunities before referring debts for centralized administrative offset when the debtor has been previously given them.

(B) Referral for non-centralized administrative offset. Unless otherwise prohibited by law, when centralized administrative offset is not available or appropriate, past due legally enforceable non-tax-delinquent debts that are eligible for referral may be collected through non-centralized administrative offset through a request directly to the payment-authorizing agency. Referrals shall include certification that the debts are past due and that the agency has complied with due process requirements under 31 U.S.C. 3716(a) or other applicable authority and applicable agency regulations concerning administrative offset. Generally, non-centralized administrative offsets will be made on an ad hoc case-by-case basis, in cooperation with the agency certifying or authorizing payments to the debtor.

(vi) Collection by transfer of debts to Treasury or a Treasury-designated debt collection center for collection through cross servicing. (A) The Director, TMA or a designee, is required to transfer legally enforceable non-tax debts that are delinquent 180 days or more to Treasury for collection through cross-

servicing (31 U.S.C. 3711(g); 31 CFR 285.12). Debits referred or transferred to Treasury or Treasury-designated debt collection centers shall be serviced, collected, or compromised, or the collection action will be suspended or terminated, in accordance with the statutory requirements and authorities applicable to the collection of such debts. Agencies operating Treasury-designated debt collection centers are authorized to charge a fee for services rendered regarding referred or transferred debts. This fee may be paid out of amounts collected and may be added to the debt as an administrative cost. Referrals will include certification that the debts transferred are valid, legally enforceable debts, that there are no legal bars to collection and that the agency has complied with all prerequisites to a particular collection action under the applicable laws, regulations or policies, unless the agency and Treasury agree that Treasury will do so on behalf of the agency.

(B) The requirement of paragraph (f)(1) of this section does not apply to any debt that:

1. Is in litigation or foreclosure.
2. Will be disposed of under an approved asset sale program.
3. Has been referred to a private collection contractor for a period of time acceptable to Treasury.
4. Will be collected under internal offset procedures within 3 years after the debt first became delinquent.
5. Is exempt from this requirement based on a determination by the Secretary of the Treasury that exemption for a certain class of debt is in the best interest of the United States.

(vii) Collection by salary offset. When a debtor is a member of the military service or a retired member and collection by offset against other TRICARE payments due the debtor cannot be accomplished, and there have been no positive responses to a demand for payment, the Director, TMA, or a designee, may refer the debt for offset from the debtor’s pay account pursuant to 37 U.S.C. 1007(c), as implemented by Volume 7A, Chapter 50 and Volume 7B, Chapter 28 of the DoDFMR. Collection from a Federal employee may be effected through salary offset under 5 U.S.C. 5514.

(A) For collections by salary offset the Director, TMA, or designee, will issue written notification, as required by 5 CFR 550.1104(d) at least 30 days before any offsets are taken. In addition, the notification will advise the employee that if he or she retires, resigns or his or her employment ends before the collection of the debt is completed, collection may be made from
The notice of the proposed offset will advise the debtor of his or her right to petition for a hearing. The petition for hearing must be signed by the debtor or his representative and must state whether he or she is contesting debt validity, debt amount and/or the terms of the proposed offset schedule. It must explain with reasonable specificity all the facts, evidence and witnesses, if any (in the case of an oral hearing and a summary of their anticipated testimony), which the debtor believes support his or her position, and include any supporting documentation. If contesting the terms of the proposed offset schedule, the debtor must provide financial information including a completed Department of Justice Financial Statement of Debtor form (OBD–500 or other form prescribed by DOJ), including specific details concerning income and expenses of the employee, his or her spouse and dependents for 1-year period preceding the debt notification and projected income and expenses for the proposed offset period and a statement of the reason why the debtor believes the salary offset schedule will impose extreme financial hardship. Upon receipt of the petition for hearing, the Director, TMA, or a designee, will complete reconsideration. If the Director, TMA, or a designee determines that the debt amount is not owed, that a less amount is owed, or that the terms of the employee’s proposed offset schedule are acceptable, it will advise the debtor and request that the employee accept the results of the reconsideration in lieu of a hearing. If the employee declines to accept the results of reconsideration in lieu of a hearing, the debtor will be afforded a hearing. Ordinarily, a petition for hearing and required submissions that are not timely filed, shall be accepted after expiration of the deadline provided in the notice of the proposed offset, only when the debtor can demonstrate to the Director, TMA, or a designee, that the timely filing of the request was not feasible due to extraordinary circumstances over which the appealing party had no practical control or because of failure to receive notice of the time limit (unless he or she was otherwise aware of it). Each request for an exception to the timely filing requirement will be considered on its own merits. The decision of the Director, TMA, or a designee, on a request for an exception to the timely filing requirement shall be final.

(B) Petition for hearing. The notice of the proposed offset shall impose a salary offset period and a statement of the estimated duration of the offset. The offset prevents the employee from meeting the debts necessarily incurred for the essential expenses of the employee, employee’s spouse and dependents. These essential expenses include costs incurred for food, housing, necessary public utilities, clothing, transportation and medical care. In determining whether the offset would prevent the employee from meeting the essential expenses identified above, the following shall be considered:

1. Income from all sources of the employee, the employee’s spouse, and dependents;
2. The extent to which assets of the employee, employee’s spouse and dependents are available to meet the offset and essential subsistence expenses;
3. Whether these essential subsistence expenses have been minimized to the greatest extent possible;
4. The extent to which the employee or the employee’s spouse can borrow money to meet the offset and other essential expenses; and
5. The extent to which the employee and the employee’s spouse and dependents have other exceptional expenses that should be taken into account and whether these expenses have been minimized.

(D) Form and content of hearings. The resolution of recoupment claims rarely involves issues of credibility or veracity and a review of the written record is ordinarily an adequate means to determine the validity or amount of the debt and/or the terms of a proposed offset schedule. The Director, TMA, or a designee, will determine whether an oral hearing is required. A debtor who has petitioned for a hearing, but who is not entitled to an oral hearing will be given an administrative hearing, based on the written documentation submitted by the debtor and the Director, TMA, or a designee. If the Director, TMA, or a designee, determines that the debtor should be afforded the opportunity for an oral hearing, the debtor may elect to have a hearing based on the written record in lieu of an oral hearing. The Director, TMA, or a designee, will provide the debtor (or his representative) notification of the time, date and location of the oral hearing to be held if the debtor has been afforded an oral hearing. Copies of records documenting the debt will be provided to the debtor or his representative (if they have not been previously provided), at least 3 calendar days prior to the date of the oral hearing. At oral hearings, the only evidence permitted, except oral testimony, will be that which was previously submitted as pre-hearing submissions. At oral hearings, the debtor may not raise any issues not previously raised with TMA. In the absence of good cause shown, a debtor who fails to appear at an oral hearing will be deemed to have waived the right to a hearing and salary offset may be initiated.

(E) Costs for attendance at oral hearings. Debtors and their witnesses will bear their own costs for attendance at oral hearings.

(F) Hearing official’s decision. The Hearing Official’s decision will be in writing and will identify the documentation reviewed. It will indicate the amount of debt that he or she determined is valid and shall state the amount of the offset and the estimated duration of the offset. The determination of a hearing official designated under this section is considered an official certification regarding the existence and amount of the debt and/or the terms of the proposed offset schedule for the purposes of executing salary offset under 5 U.S.C. 5514. The Hearing Official’s decision must be issued at the earliest practical date, but not later than 60 days from the date the petition for hearing is received by the Office of General Counsel, TMA, unless the debtor requests, and the Hearing Official grants a delay in the proceedings. If a hearing official determines that the debt may not be collected by salary offset, but the Director, TMA, or a designee, finds the debt is still valid, the Director, TMA or a designee, may seek collection through other means, including but not
limited to, offset from other payments due from the United States.

(viii) [Reserved]

(ix) Collection of installments. Debts, including interest, penalty and administrative costs shall be collected in one lump sum whenever possible. However, when the debtor is financially unable to pay the debt in one lump sum, the TRICARE contractor or the Director, TMA, or designee, may accept payment in installments. Debtors claiming that lump sum payment will create financial hardship may be required to complete a Department of Justice Financial Statement of Debtor form or provide other financial information that will permit TMA to verify such representations. TMA may also obtain credit reports to assess installment requests. Normally, debtors will make installment payments on a monthly basis. Installment payment shall bear a reasonable relationship to the size of the debt and the debtor’s ability to pay. Except when a debtor can demonstrate financial hardship or another reasonable cause exists, installment payments should be sufficient in size and frequency to liquidate the debt in 3 years or less. (31 CFR 901.8(b)).

Normally, installment payments of $75 or less will not be accepted unless the debtor demonstrates financial hardship. Any installment agreement with a debtor in which the total amount of deferred installments will exceed $750, should normally include an executed promissory agreement. Copies of installment agreements will be retained in the contractor file. TMA, Office of General Counsel’s files.

(x) Interest, penalties, and administrative costs. Title 31 U.S.C. 3717 and the Federal Claims Collection Standards, 31 CFR 901.9, require the assessment of interest, penalty and administrative costs on delinquent debts. Interest shall accrue from the date the initial debt notification is mailed to the debtor. The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury (the Treasury tax and loan account rate). The collection of interest on the debt or any portion of the debt, which is paid within 30 days after the date on which interest begins to accrue, shall be waived. The Director, TMA, or designee, may extend this 30-day period on a case-by-case basis, if it reasonably determines that such action is appropriate. The rate of interest as initially assessed shall remain fixed for the duration of the indebtedness; except that where the debtor has defaulted on a repayment and seeks to enter into a new agreement, a new interest rate may be set which reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest shall not be compounded; that is, interest shall not be charged on interest, penalties, or administrative costs required by this section. However, if a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement, shall be added to the principal under the new repayment agreement. The collection of interest, penalties and administrative costs may be waived in whole or in part as a part of the compromise of a debt as provided in paragraph (g) of this section. In addition, the Director, TMA, or designee may waive in whole or in part, the collection of interest, penalties, or administrative costs assessed herein if he or she determines that collection would be against equity and good conscience and not in the best interest of the United States. Some situations in which a waiver may be appropriate include:

(A) Waiver of interest consistent with 31 CFR 903.2(c)(2) in connection with a suspension of collection when a TRICARE appeal is pending under § 199.10 of this part where there is a substantial issue of fact in dispute.

(B) Waiver of interest where the original debt arose through no fault or lack of good faith on the part of the debtor and the collection of interest would impose a financial hardship or burden on the debtor. Some examples in which such a waiver would be appropriate include: A debt arising when a TRICARE beneficiary in good faith files and is paid for a claim for medical services or supplies, which are later determined not to be covered benefits, or a debt arising when a TRICARE beneficiary is overpaid as the result of a calculation error on the part of the TRICARE contractor or TMA.

(C) Waiver of interest where there has been an agreement to repay a debt in installments, there is no indication of fault or lack of good faith on the part of the debtor, and the amount of interest is so large in relation to the size of the installments that the debtor can reasonably afford to pay, that it is likely the debt will never be repaid in full. When a debt is paid in installments, the installment payments first will be applied to the payment of outstanding penalty and administrative cost charges, second, to accrued interest and then to principal. Administrative costs incurred as the result of a debt becoming delinquent (as defined in paragraph (f)(4)(iii)) shall be assessed against a debtor. These administrative costs represent the additional costs incurred in processing and handling the debt because it became delinquent. The calculation of administrative costs should be based upon cost analysis establishing an average of actual additional costs incurred in processing and handling claims against other debtors in similar stages of delinquency. A penalty charge, not exceeding six percent a year, shall be assessed on the amount due on a debt that is delinquent for more than 90 days. This charge, which need not be calculated until the 91st day of delinquency, shall accrue from the date that the debt became delinquent.

(xii) Reporting delinquent debts to credit reporting agencies. Delinquent consumer debts shall be reported to credit reporting agencies. Delinquent debts are debts which have not been paid or for which satisfactory payment arrangements are not made by the due date specified in the initial debt notification letter, or those for which the debtor has entered into a written payment agreement and installment payments are past due 30 days or longer. Such referrals shall comply with the Bankruptcy Code and the Privacy Act of 1974, 5 U.S.C. 552a, as amended. The provisions of the Privacy Act do not apply to credit bureaus (31 CFR 901.4(1)). There is no requirement to duplicate the notice and review opportunities before referring debts to credit bureaus. Debtors will be advised of the specific information to be transmitted (i.e., name, address, and taxpayer identification number, information about the debt), Procedures developed for such referrals must ensure that an accounting of the disclosures shall be kept which is available to the debtor; that the credit reporting agencies are provided with corrections and annotations of disagreements of the debtor; and that reasonable efforts are made to ensure that the information to be reported is accurate, complete, timely and relevant. When requested by a credit-reporting agency, verification of the information disclosed will be provided promptly. Once a claim has been reviewed and determined to be valid, a complete explanation of the claim will be given to the debtor. When the claim is overdue, the individual will be notified in writing that payment is overdue; that within not less than 60 days the disclosure of the claim shall be made to a consumer reporting agency unless
satisfactory payment arrangements are made, or unless the debtor requests an administrative review and demonstrates some basis on which the debt is legitimately disputed; and of the specific information to be disclosed to the consumer reporting agency. The information to be disclosed to the credit reporting agency will be limited to information necessary to establish the identity of the debtor, including name, address and taxpayer identification number; the amount, status and history of the claim; and the agency or program under which the claim arose.

Reasonable action will be taken to locate an individual for whom a current address is not available. The requirements of this section do not apply to commercial debts, although commercial debts shall be reported to commercial credit bureaus. Treasury will report debts transferred to it for collection to credit reporting agencies on behalf of the Director, TMA, or a designee.

(xii) Use and disclosure of mailing addresses. In attempting to locate a debtor in order to collect or compromise a debt under this section, the Director, TMA, or a designee, may send a written request to the Secretary of the Treasury, or a designee, for current address information from records of the Internal Revenue Service. TMA may disclose mailing addresses obtained under this authority to other agencies and to collection agencies for collection purposes.

(g) Compromise, suspension or termination of collection actions arising under the Federal Claims Collection Act. (1) Basic considerations. Federal claims against the debtor and in favor of the United States arising out of the administration of TRICARE may be compromised or collection action taken thereon may be suspended or terminated in compliance with the Federal Claims Collection Act, 31 U.S.C. 3711, as implemented by the Federal Claims Collection Standards, 31 CFR Parts 900–904. The provisions concerning compromise, suspension or termination of collection activity pursuant to 31 U.S.C. 3711 apply to debts, which do not exceed $100,000 or any higher amount authorized by the Attorney General, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds $100,000, or any higher amount authorized by the Attorney General, exclusive of interest, penalties and administrative costs, the authority to suspend or terminate rests solely with the DOJ.

(2) Authority. TRICARE contractors are not authorized to compromise or to suspend or terminate collection action on TRICARE claims. Only the Director, TMA, or designee or Uniformed Services claims officers acting under the provisions of their own regulations are so authorized.

(3) Basis for compromise. A compromise should be for an amount that bears a reasonable relation to the amount that can be recovered by enforced collection procedures, with regard to the exemptions available to the debtor and the time collection will take. A claim may be compromised hereunder if the government cannot collect the full amount if:

(i) The debtor or the estate of a debtor does not have the present or prospective ability to pay the full amount within a reasonable time;

(ii) The cost of collecting the claim does not justify enforced collection of the full amount;

(iii) The government is unable to enforce collection of the full amount within a reasonable time by enforced collection proceedings; or

(iv) There is significant doubt concerning the Government’s ability to prove its case in court for the full amount claimed; or

(v) The cost of collecting the claim does not justify enforced collection of the full amount.

(4) Basis for suspension. Collection action may be suspended for the following reasons:

(A) The applicable statute of limitations has been tolled or started running anew; or

(B) Future collections can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims with due regard to the 10-year limitation for administrative offset under 31 U.S.C. 3716(e)(1); or

(C) The debtor agrees to pay interest on the amount of the debt on which collection action will be temporarily suspended and such temporary suspension is likely to enhance the debtor's ability fully to pay the principal amount of the debt with interest at a later date.

(iv) Consideration may be given by the Director, TMA, or designee to suspend collection action pending action on a request for a review of the government’s claim against the debtor or pending an administrative review under § 199.10 of this part of any TRICARE claim or claims directly involved in the government’s claim against the debtor. Suspension under this paragraph will be made on a case-by-case basis as to whether:

(A) There is a reasonable possibility that the debt (in whole or in part) will be found not owing from the debtor;

(B) The government's interest would be protected if suspension were granted by reasonable assurance that the debt would be recovered if the debtor does not prevail; and

(C) Collection of the debt will cause undue hardship.

(5) Collection action may be terminated for one or more of the following reasons:

(i) TMA cannot collect or enforce collection of any substantial amount through its own efforts or the efforts of others, including consideration of the judicial remedies available to the government, the debtor’s future financial prospects, and the exemptions available to the debtor under state and federal law;

(ii) The debtor cannot be located, and either;

(iii) The costs of collection are anticipated to exceed the amount recoverable; or

(iv) It is determined that the debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations; or

(v) The debt cannot be substantiated; or

(vi) The debt against the debtor has been discharged in bankruptcy. Collection activity may be continued subject to the provisions of the Bankruptcy Code, such as collection of any payments provided under a plan of reorganization or in cases when TMA did not receive notice of the bankruptcy proceedings.

(6) In determining whether the debt should be compromised, suspended or terminated, the responsible TMA collection authority will consider the following factors:

(i) Age and health of the debtor;

(ii) Present and potential income;

(iii) Inheritance prospects; the possibility that assets have been concealed or improperly transferred by the debtor; and

(iv) The availability of assets or income...
which may be realized by enforced collection proceedings;
(ii) Applicability of exemptions available to a debtor under state or federal law;
(iii) Uncertainty as to the price which collateral or other property may bring at a forced sale;
(iv) The probability of proving the claim in court because of legal issues involved or because of a bona fide dispute of the facts; the probability of full recovery; the availability of necessary evidence and related pragmatic considerations. Debtors may be required to provide a completed Department of Justice Financial Statement of Debtor form (OBD–500 or such other form that DOJ shall prescribe) or other financial information that will permit TMA to verify debtors’ prescribed) or other financial information such other form that DOJ shall prescribe to enable it independently to verify debtors’ representations.

(7) Payment of compromised claims.
(i) Time and manner. Compromised claims are to be paid in one lump sum whenever possible. However, if installment payments of a compromised claim are necessary, a legally enforceable compromise agreement must be obtained. Payment of the amount that TMA has agreed to accept as a compromise in full settlement of a TRICARE claim must be made within the time and in the manner prescribed in the compromise agreement. Any such compromised amount is not settled until full payment of the compromised amount has been made within the time and manner prescribed. Compromise agreements must provide for the reinstatement of the prior indebtedness, less sums paid thereon, and acceleration of the balance due upon default in the payment of any installment.
(ii) Failure to pay the compromised amount. Failure of any debtor to make payment as provided in the compromise agreement will have the effect of reinstating the full amount of the original claim, less any amounts paid prior to default.
(iii) Effect of compromise, waiver, suspension or termination of collection action. Pursuant to the Internal Revenue Code, 26 U.S.C. 6050P, compromises and terminations of undisputed debts totaling $600 or more for the year will be reported to the Internal Revenue Service in the manner prescribed. Amounts, other than those discharged in bankruptcy, will be included in the debtor’s gross income for that year. Any action taken under paragraph (g) of this section regarding the compromise of a federal claim, or waiver or suspension or termination of collection action on a federal claim is not an initial determination for the purposes of the appeal procedures in § 199.10.

(h) Referrals for collection. (1) Prompt referral. Federal claims of $2,500, exclusive of interest, penalties and administrative costs, or such other amount as the Attorney General shall from time to time prescribe on which collection action has been taken under the provisions of this section which cannot be collected or compromised or on which collection action cannot be suspended or terminated as provided herein, will be promptly referred to the Department of Justice for litigation in accordance with 31 CFR part 904. Such referrals shall be made as early as possible consistent with aggressive collection action made by TRICARE contractors and TMA. Referral will be made with sufficient time to bring timely suit against the debtor. Referral shall be made by submission of a completed Claims Collection Litigation Report (CCLR), accompanied by a signed Certificate of Indebtedness. Claims of less than the minimum amount shall not be referred unless litigation to collect such smaller claims is important to ensure compliance with TRICARE’s policies or programs; the claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor’s property pursuant to 28 U.S.C. 3201 and returned to the referring office for enforcement; or the debtor has the clear ability to pay the claim and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under state and Federal law and judicial remedies available to the Government.

(2) Preservation of evidence. The Director, TMA, or a designee will take such action as is necessary to ensure that all files, records and exhibits on claims referred, hereunder, are properly preserved.

(i) Claims involving indication of fraud, filing of false claims or misrepresentation. Any case in which there is an indication of fraud, the filing of a false claim or misrepresentation on the part of the debtor or any party having an interest in the claim, shall be promptly referred to the Director, TMA, or designee. The Director, TMA, or a designee, will investigate and evaluate the case and either refer the case to an investigative law enforcement agency or return the claim for other appropriate administrative action, including collection action under this section. Payment on all TRICARE beneficiary or provider claims in which fraud, filing false claims or misrepresentation is suspected will be suspended until the Director, TMA, or designee, authorizes payment or denial of the claims. Collection action on all claims in which a suspicion of fraud, misrepresentation or filing false claims arises, will be suspended pending referral to the appropriate law enforcement agencies by the Director, TMA, or a designee. Only the Department of Justice has authority to compromise, suspend or terminate collection of such debts.

(ii) [Reserved]

November 18, 2008.

Patricia Toppings
OSD Federal Register Liaison Officer, Department of Defense.

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BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–1106]

Drawbridge Operation Regulation;
Cumberland River, Nashville, TN

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Louisville and Nashville (CSX) Railroad Drawbridge, across the Cumberland River, Mile 190.4, at Nashville, Tennessee. The deviation is necessary to retrofit the bridge with an upgraded rail lift system. This deviation allows the bridge to remain in a closed-to-navigation position for 10 hours each day for a four-day period.

DATES: This deviation is effective from 8 a.m. to 6 p.m., December 15–18, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–1106 and are available online at http://www.regulations.gov. They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis,