feed efficiency and increased egg production.

The data submitted in support of this hybrid ANADA satisfy the requirements of section 512(b)(1) and (b)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(b)(1) and (b)(2)) and the regulations in 21 CFR part 514. The hybrid ANADA has been defined in the Center's Seventh Generic Animal Drug Policy letter dated March 20, 1991. The hybrid ANADA relies on the approval of a listed (pioneer) animal drug and contains additional data needed to support the change in the generic product. The hybrid ANADA is thus relying on the approval of the listed animal drug to the extent that such reliance is allowed under section 512(n) of the act, to establish the safety and effectiveness of the underlying animal drug. An application that relies in part on the approval of a listed animal drug for this purpose is considered an application described in section 512(b)(2) of the act.

ALPHARMA, Inc.'s, hybrid ANADA 200–223 for bacitracin zinc is approved as a generic copy of Hoffmann-LaRoche's NADA 46–920. The hybrid ANADA is approved as of August 20, 1997, and the regulations are amended in 21 CFR 558.78 by revising paragraph (a)(1) to indicate additional approvals and in paragraph (d)(1) by removing the footnote to the table to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.78 is amended by revising paragraph (a), and in paragraph (d)(1) by removing the footnote to the table to read as follows:

§ 558.78 Bacitracin zinc.

(a) *Approvals.* To sponsors listed in § 510.600(c) of this chapter for use as in paragraph (d) of this section as follows:

(1) To 046573: 50 grams per pound as in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), (d)(1)(iv), and (d)(2) of this section.

(2) To 000004: 10, 25, 40, and 50 grams per pound as in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(v), (d)(1)(vi), (d)(2), and (d)(3) of this section.

(3) To 000010: 5 and 50 grams per pound as in paragraph (d)(1)(i) of this section.

* * * * *

Dated: September 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–28015 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules Governing Debt-Collection Procedures for Administrative Offset and Federal Income Tax Refund Offset

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97–365) amended the Federal Claims Collection Act of 1966 to authorize the federal government to employ various debt collection techniques commonly available to the private sector, including administrative offset and Federal income tax refund offset. In 1992 the Congress passed and the President signed into law the Cash Management Improvement Act Amendments of 1992 which requires federal agencies to participate in the Internal Revenue Service (IRS) income tax refund offset program for the collection of delinquent debts by offset from a federal income tax refund that may be due the delinquent debtor. This final rule establishes the procedures which the Board will follow in utilizing the debt collection procedures authorized by the above legislation.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570. Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97–365) amended the Federal Claims Collection Act of 1966 to authorize the Federal Government to employ various debt collection techniques commonly available to the private sector, including administrative offset and Federal income tax refund offset. In 1992 the Congress passed and the President signed into law the Cash Management Improvement Act Amendments of 1992 which requires federal agencies to participate in the Internal Revenue Service (IRS) income tax refund offset program in which federal agencies refer delinquent debt to the IRS for collection by offset from a federal income tax refund that may be due the delinquent debtor. On July 24, 1996, the National Labor Relations Board (Board) implemented interim regulations, set forth as new Subparts U (administrative offset), and V (Federal income tax refund offset), to part 102 of the Board's Rules and Regulations, Series 8, (published at 61 FR 38371 and 61 FR 38373, respectively), to enable the Board to utilize these debt collection procedures that have proven to be cost effective mechanisms for collection of delinquent debt.

These final rules establish the current interim rules as the means by which the Board will pursue debt collection permitted under the above statutes, with one minor change involving the clarification of a phrase appearing in § 102.160 of Subpart U, as discussed below.

When the Board published the interim rules on July 24, 1996, it determined that, because these rules merely implement a definite statutory scheme and its concomitant regulations, and relate to Agency procedure and practice, public comment on the rules was unnecessary. Nevertheless, the Board undertook to consider any public comments submitted to it on or before September 29, 1996, before issuing any final rules. The Board did receive comments from one organization which raised questions falling broadly within two categories: (1) Whether the regulations were needed, and (2) whether the application of the regulations was appropriate. We consider these comments seriatim.

Questions Regarding the Need for the Regulations

The organization questioned why these procedures are necessary and being implemented now, and why they single out federal contractors. In brief, the regulations regarding administrative offset procedures implement a statutory scheme that specifically addresses collections of delinquent debt from federal contractors, a decision made in the enabling legislation, not by the Board in these regulations. Moreover, while these procedures doubtless could have been implemented earlier, that is no reason not to implement them now that the Board has become aware of their utility. As Justice Frankfurter once observed in a different context: ''Wisdom too often never comes, and so one ought not to reject it merely because it comes late.'' *Henslee* v. *Union Planters Bank*, 335 U.S. 595, 600 (1949) (dissenting opinion).

The organization questioned whether the Board would be required to follow the provisions of Executive Order 12866 before implementing these regulations, specifically, the principles of regulation set forth in Section 1(b) of that Executive Order. However, independent regulatory agencies are specifically excluded from coverage of Section 1. Further, even assuming the NLRB is covered by Section 1, these regulations are consistent with the regulatory principles set forth in that section since they implement a statutory scheme already found desirable by Congress.

The organization inquired whether the Board had given any consideration to how the new regulations will benefit the Board. As noted in the Supplementary Information section accompanying publication of the interim rules, 61 FR 38368, the Board is entitled to utilize these offset provisions because debts owed pursuant to Board orders are in fact debts owed to the United States, the Board being the public agent chosen by Congress to vindicate the public policies embodied in the National Labor Relations Act.

Finally, the organization expressed the opinion that, before these regulations could be put into effect, the Federal Acquisition Regulations and Defense Acquisition Regulations should be amended. However, amending these regulations is not something within the purview of the Board and, therefore, no reason not to proceed with appropriate debt collection methods that have been entrusted to the Board.

Questions Regarding the Application of the Regulations

The organization notes that the regulations provide that the Agency ''may give due consideration to the debtor's financial condition * * *,'' § 102.160(c), and questions whether this consideration should be mandated. Specifically, the organization proposes that, at a minimum, the regulations mandate consideration of a debtor's financial condition, mandate that the negative impact on the debtor be minimized, and require notification to the debtor to solicit information on its financial viability if offset should occur.

In fact, the regulations already provide that the Agency ''shall send written notice to the debtor,'' § 102.161(b), and that this notice shall notify the debtor of the ''opportunity to enter into a written agreement with the Agency to repay the debt.'' § 102.161(b)(7). Moreover, the ''Agency shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the Agency * * *.'' § 102.163(a).

These mandatory provisions provide more than ample opportunity for the debtor to raise, and the Agency to consider, the debtor's financial condition, as well as the impact of any administrative offset, prior to initiating an administrative offset. Providing further mandates with respect to the Agency's obligation to consider the debtor's financial condition could mire the Agency in disputes with the debtor over whether a particular repayment plan is adequate, thereby risking nonfulfillment of the Agency's responsibility to vindicate the policies embodied in the National Labor Relations Act.

The organization questioned whether the regulations should address more specifically when administrative offset will be used. However, the head of the Agency already is required by 31 U.S.C. 3711 to attempt to collect delinquent claims, and our regulations specifically provide that ''Administrative offset shall be considered by the Agency only after attempting to collect a claim under 31 U.S.C. 3711(a).'' § 102.160(d). Finally, a claim ''will not be referred for tax refund offset where administrative offset potential is found to exist.'' § 102.173(c).

The organization argues that the regulations should specifically mandate consideration of the effect of administrative offset on any third-party contractors whose work depends on performance by the debtor. We are not aware of any requirement that the Agency take this factor into consideration. However, as a matter of sound practice, if such information is presented to the Board it will, as with any relevent information, be duly considered.

The organization objects to the provision in § 102.164(c) that allows the Agency to ''effect an administrative offset * * * prior to the completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the Agency's ability to collect the debt.'' Specifically, the organization proposes that the rules should specify the circumstances in which this procedure is permitted and require identification of alternative sources of funds which should be pursued before due process procedures are suspended. We conclude that it would be impossible to enumerate all of the circumstances in which this procedure might be triggered. However, by way of example, it could be triggered if a debtor were winding down its business, was coming to the last payment on its last contract, and if the Agency did not prevent those funds from being disbursed, it might never be able to collect the debt. Even in such situations, however, the debtor is not without recourse. For, this is akin to seeking a protective order, a proceeding in which the debtor will have recourse to administrative or judicial review. Thus, although funds might be temporarily frozen, the debtor ultimately will receive full due process before the funds are finally taken.

Finally, the organization questioned whether the Regulatory Flexibility Act requires an impact analysis or a flexibility analysis. However, for the reasons set forth in the publication of the interim rules, and again below, we are persuaded that the Regulatory Flexibility Act does not apply here.

Notwithstanding all of the foregoing, the Board has determined that one minor change in the regulations is appropriate to clarify the meaning of a phrase appearing in § 102.160 of Subpart U. Thus, in § 102.160(c), the phrase ''an available source of funds'' is changed to read ''another readily available source of funds.'' In all other respects, the final rules that the Board now publishes are the same as the interim rules presently outstanding.

Executive Order 12866

As noted above, the regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, these rules would not be classified as ''significant rules'' under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of $100 million or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Regulatory Flexibility Act

Because no notice of proposed rule-making is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely set forth procedures to be followed by the Agency in attempting to collect outstanding debts.

Paperwork Reduction Act

These rules are not subject to Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since they do not contain any new information collection requirements.

Small Business Regulatory Enforcement Fairness Act

Because these rules relate to Agency procedure and practice and merely implement a definitive statutory scheme and the requirements contained in regulations promulgated by the Department of Justice, the General Accounting Office, the Internal Revenue Service, and the Treasury Department, the Board has determined that the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801) do not apply.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

To enable the Agency to collect delinquent debts by way of administrative offset and Federal income tax refund offset, the Board amends 29 CFR part 102 as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Subparts U and V to part 102 are revised to read as follows:

Subpart U—Debt-Collection Procedures by Administrative Offset

Sec.

§ 102.156 Administrative offset; purpose and scope.

The regulations in this subpart specify the Agency procedures that will be followed to implement the administrative offset procedures set forth in the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3716.

§ 102.157 Definitions.

(a) The term *administrative offset* means the withholding of money payable by the United States to, or held by the United States on behalf of, a person to satisfy a debt owed the United States by that person.

(b) The term *debtor* is any person against whom the Board has a claim.

(c) The term *person* does not include any agency of the United States, or any state or local government.

(d) The terms *claim* and *debt* are synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate Agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

(e) A debt is considered *delinquent* if it has not been paid by the date specified in the Agency's initial demand letter (§ 102.161), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the Agency.

§ 102.158 Agency requests for administrative offsets and cooperation with other Federal agencies.

Unless otherwise prohibited by law, the Agency may request that monies due and payable to a debtor by another Federal agency be administratively offset in order to collect debts owed the Agency by the debtor. In requesting an administrative offset, the Agency will provide the other Federal agency holding funds of the debtor with written certification stating:

(a) That the debtor owes the Board a debt (including the amount of debt); and

(b) That the Agency has complied with the applicable Federal Claims Collection Standards, including any hearing or review.

§ 102.159 Exclusions.

(a) (1) The Agency is not authorized by the Debt Collection Act of 1982 (31 U.S.C. 3716) to use administrative offset with respect to:

(i) Debts owed by any State or local government;

(ii) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or

(iii) When a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.

(2) No claim that has been outstanding for more than 10 years after the Board's right to collect the debt first accrued may be collected by means of administrative offset, unless facts material to the right to collect the debt were not known and could not reasonably have been known by the official of the Agency who was charged with the responsibility to discover and collect such debts until within 10 years of the initiation of the collection action. A determination of when the debt first accrued should be made according to existing laws regarding the accrual of debts, such as under 28 U.S.C. 2415. Unless otherwise provided by contract or law, debts or payments owed the Board which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority, pursuant to this paragraph or Board regulations established pursuant to such other statutory authority.

(b) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

§ 102.160 Agency responsibilities.

(a) The Agency shall provide appropriate written or other guidance to

Agency officials in carrying out this subpart, including the issuance of guidelines and instructions, which may be deemed appropriate. The Agency shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this subpart.

(b) Before collecting a claim by means of administrative offset, the Agency must ensure that administrative offset is feasible, allowable and appropriate, and must notify the debtor of the Agency's policies for collecting a claim by means of administrative offset.

(c) Whether collection by administrative offset is feasible is a determination to be made by the Agency on a case-by-case basis, in the exercise of sound discretion. The Agency shall consider not only whether administrative offset can be accomplished, both practically and legally, but also whether administrative offset will further and protect the best interests of the United States Government. In appropriate circumstances, the Agency may give due consideration to the debtor's financial condition, and it is not expected that administrative offset will be used in every available instance, particularly where there is another readily available source of funds. The Agency may also consider whether administrative offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated.

(d) Administrative offset shall be considered by the Agency only after attempting to collect a claim under 31 U.S.C. 3711(a).

§ 102.161 Notification.

(a) The Agency shall send a written demand to the debtor in terms which inform the debtor of the consequences of failure to cooperate. In the demand letter, the Agency shall provide the name of an Agency employee who can provide a full explanation of the claim. When the Agency deems it appropriate to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions.

(b) In accordance with guidelines established by the Agency, the Agency official responsible for collection of the debt shall send written notice to the debtor, informing such debtor as appropriate:

(1) Of the nature and amount of the Board's claim;

(2) Of the date by which payment is to be made (which normally should be not more than 30 days from the date that the initial notification was mailed or hand delivered);

(3) Of the Agency's intention to collect by administrative offset and of the debtor's rights in conjunction with such an offset;

(4) That the Agency intends to collect, as appropriate, interest, penalties, administrative costs and attorneys fees;

(5) Of the rights of such debtor to a full explanation of the claim, of the opportunity to inspect and copy Agency records with respect to the claim and to dispute any information in the Agency's records concerning the claim;

(6) Of the debtor's right to administrative appeal or review within the Agency concerning the Agency's claim and how such review shall be obtained;

(7) Of the debtor's opportunity to enter into a written agreement with the Agency to repay the debt; and

(8) Of the date on which, or after which, an administrative offset will begin.

§ 102.162 Examination and copying of records related to the claim; opportunity for full explanation of the claim.

Following receipt of the demand letter specified in § 102.161, and in conformity with Agency guidelines governing such requests, the debtor may request to examine and copy publicly available records pertaining to the debt, and may request a full explanation of the Agency's claim.

§ 102.163 Opportunity for repayment.

(a) The Agency shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the Agency and is in a written form signed by such debtor. The Agency may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

(b) The Agency has discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of administrative offset.

§ 102.164 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the Agency of the determination concerning the existence or amount of the debt as set forth in the notice. In cases where the amount of the debt has been fully liquidated, the review is limited to ensuring that the liquidated amount is correctly represented in the notice.

(b) The debtor seeking review shall make the request in writing to the Agency, not more than 15 days from the date the demand letter was received by the debtor. The request for review shall state the basis for challenging the determination. If the debtor alleges that the Agency's information relating to the debt is not accurate, timely, relevant or complete, the debtor shall provide information or documentation to support this allegation.

(c) The Agency may effect an administrative offset against a payment to be made to a debtor prior to the completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the Agency's ability to collect the debt; for example, if the time before the payment is to be made would not reasonably permit the completion of due process procedures. Administrative offset effected prior to completion of due process procedures must be promptly followed by the completion of those procedures. Amounts recovered by administrative offset, but later found not owed to the Agency, will be promptly refunded.

(d) Upon completion of the review, the Agency's reviewing official shall transmit to the debtor the Agency's decision. If appropriate, this decision shall inform the debtor of the scheduled date on or after which administrative offset will begin. The decision shall also, if appropriate, indicate any changes in information to the extent such information differs from that provided in the initial notification to the debtor under 102.161.

(e) Nothing in this subpart shall preclude the Agency from sua sponte reviewing the obligation of the debtor, including a reconsideration of the Agency's determination concerning the debt, and the accuracy, timeliness, relevance, and completeness of the information on which the debt is based.

§ 102.165 Cost shifting.

Costs incurred by the Agency in connection with referral of debts for administrative offset will be added to the debt and thus increase the amount of the offset. Such costs may include administrative costs and attorneys fees.

§ 102.166 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the Agency from utilizing any other administrative or legal remedy which may be available.

§ 102.167 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided for under some other statutory or regulatory authority, the Agency is not required to

duplicate those efforts before effecting administrative offset.

Subpart V—Debt Collection Procedures by Federal Income Tax Refund Offset

§ 102.168 Federal income tax refund offset; purpose and scope.

The regulations in this subpart specify the Agency procedures that will be followed in order to implement the federal income tax refund offset procedures set forth in 26 U.S.C. 6402(d) of the Internal Revenue Code (Code), 31 U.S.C. 3720A, and 301.6402–6 of the Treasury Regulations on Procedure and Administration (26 CFR 301.6402–6). This statute and the implementing regulations of the Internal Revenue Service (IRS) at 26 CFR 301.6402–6 authorize the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States. The regulations apply to past-due legally enforceable debts owed to the Agency by individuals and business entities. The regulations are not intended to limit or restrict debtor access to any judicial remedies to which he or she may otherwise be entitled.

§ 102.169 Definitions.

(a) *Tax refund offset* refers to the IRS income tax refund offset program operated under authority of 31 U.S.C. 3720A.

(b) *Past-due legally enforceable debt* is a delinquent debt administratively determined to be valid, whereon no more than 10 years have lapsed since the date of delinquency (unless reduced to judgment), and which is not discharged under a bankruptcy proceeding or subject to an automatic stay under 11 U.S.C. 362.

(c) *Individual* refers to a taxpayer identified by a social security number (SSN).

(d) *Business entity* refers to an entity identified by an employer identification number (EIN).

(e) *Taxpayer mailing address* refers to the debtor's current mailing address as obtained from IRS.

(f) *Memorandum of understanding* refers to the agreement between the Agency and IRS outlining the duties and responsibilities of the respective parties for participation in the tax refund offset program.

§ 102.170 Agency referral to IRS for tax referral effect; Agency responsibilities.

(a) As authorized and required by law, the Agency may refer past-due legally enforceable debts to the Internal Revenue Service (IRS) for collection by offset from any overpayment of income tax that may otherwise be due to be refunded to the taxpayer. By the date and in the manner prescribed by the IRS, the Agency may refer for tax refund offset past-due legally enforceable debts. Such referrals shall include the following information:

(1) Whether the debtor is an individual or a business entity;

(2) The name and taxpayer identification number (SSN or EIN) of the debtor who is responsible for the debt;

(3) The amount of the debt;

(4) A designation that the Agency is referring the debt and (as appropriate) Agency account identifiers.

(b) The Agency will ensure the confidentiality of taxpayer information as required by IRS in its Tax Information Security Guidelines.

(c) As necessary, the Agency will submit updated information at the times and in the manner prescribed by IRS to reflect changes in the status of debts or debtors referred for tax refund offset.

(d) Amounts erroneously offset will be refunded by the Agency or IRS in accordance with the Memorandum of Understanding.

§ 102.171 Cost shifting.

Costs incurred by the Agency in connection with referral of debts for tax refund offset will be added to the debt and thus increase the amount of the offset. Such costs may include administrative costs and attorneys fees.

§ 102.172 Minimum referral amount.

The minimum amount of a debt otherwise eligible for Agency referral to the IRS is $25 for individual debtors and $100 for business debtors. The amount referred may include the principal portion of the debt, as well as any accrued interest, penalties, administrative cost charges, and attorney fees.

§ 102.173 Relation to other collection efforts.

(a) Tax refund offset is intended to be an administrative collection remedy to be utilized consistent with IRS requirements for participation in the program, and the costs and benefits of pursuing alternative remedies when the tax refund offset program is readily available. To the extent practical, the requirements of the program will be met by merging IRS requirements into the Agency's overall requirements for delinquent debt collection.

(b) As appropriate, debts of an individual debtor of $100 or more will be reported to a consumer or commercial credit reporting agency before referral for tax refund offset.

(c) Debts owed by individuals will be screened for administrative offset potential using the most current information reasonably available to the Agency, and will not be referred for tax refund offset where administrative offset potential is found to exist.

§ 102.174 Debtor notification.

(a) The Agency shall send appropriate written demand to the debtor in terms which inform the debtor of the consequences of failure to repay debts or claims owed the Board.

(b) Before the Agency refers a debt to IRS for tax refund offset, it will make a reasonable attempt to notify the debtor that:

(1) The debt is past-due;

(2) Unless the debt is repaid or a satisfactory repayment agreement is established within 60 days thereafter, the debt will be referred to IRS for offset from any overpayment of tax remaining after taxpayer liabilities of greater priority have been satisfied; and

(3) The debtor will have a minimum of 60 days from the date of notification to present evidence that all or part of the debt is not past due or legally enforceable, and the Agency will consider this evidence in a review of its determination that the debt is past due and legally enforceable. The debtor will be advised where and to whom evidence is to be submitted.

(c) The Agency will make a reasonable attempt to notify the debtor by using the most recent address information available to the Agency or obtained from the IRS, unless written notification to the Agency is received from the debtor stating that notices from the Agency are to be sent to a different address.

(d) The notification required by paragraph (b) of this section and sent to the address specified in paragraph (c) of this section may, at the option of the Agency, be incorporated into demand letters required by paragraph (a) of this section.

§ 102.175 Agency review of the obligation.

(a) The Agency official responsible for collection of the debt will consider any evidence submitted by the debtor as a result of the notification required by § 102.174 and notify the debtor of the

result. If appropriate, the debtor will also be advised where and to whom to request a review of any unresolved dispute.

(b) The debtor will be granted 30 days from the date of the notification required by paragraph (a) of this section to request a review of the determination of the Agency official responsible for collection of the debt on any unresolved dispute. The debtor will be advised of the result.

§ 102.176 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided under some other statutory or regulatory authority, including administrative offset procedures set forth in Subpart U, the Agency is not required to duplicate those efforts before referring a debt for tax refund offset.

By Direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 97–28092 Filed 10–22–97; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110 and 165

[CGD 05–97–076]

RIN 2115–AA98

Delaware River Safety Zone and Anchorage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Army Corps of Engineers has begun dredging parts of the Delaware River including the Marcus Hook Range Ship Channel. Because of the dredging operations, temporary additional requirements will be imposed in Marcus Hook Anchorage (Anchorage 7), the Deepwater Point Anchorage (Anchorage 6), and the Mantua Creek Anchorage (Anchorage 9). The Coast Guard is also establishing a temporary moving safety zone around the dredge vessel *Essex* that will be working in the Marcus Hook Range Ship Channel adjacent to Anchorage 7.

EFFECTIVE DATES: Paragraph (b)(11) in 33 CFR 110.157 is effective from October 2, 1997 until 6 a.m. on December 20, 1997. Section 165.T05–076 is effective from October 2, 1997 until 6 a.m. on December 20, 1997.

FOR FURTHER INFORMATION CONTACT: LT S.A. Budka, Project Officer, U.S. Coast Guard Captain of the Port, 1 Washington Ave., Philadelphia, PA 19147–4395, Phone: (215) 271–4889.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553(b)(3) and 5 U.S.C. 553(d), a Notice of Proposed Rule Making (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The Coast Guard was informed by U.S. Army Corps of Engineers, Philadelphia District on September 26, 1997 that dredging operations would commence on October 2, 1997. Publishing a NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to protect mariners from potential hazards associated with the dredging operations in the Marcus Hook Range Ship Channel and to modify the anchorage regulations to facilitate vessel traffic.

Background and Purpose

The U.S. Army Corps of Engineers (ACOE) notified the Coast Guard that it needed to conduct dredging operations on the Delaware River, in the vicinity of the Marcus Hook Range Ship Channel. The dredging is needed to maintain the project depth of the channel. Similar dredging was conducted in 1995 and 1996. This period of dredging began October 2, 1997 and is anticipated to end on December 20, 1997.

To reduce the hazards associated with dredging the channel, vessel traffic that would normally transit through the Marcus Hook Range Ship Channel will be diverted through part of Anchorage 7, reducing available anchorage space by approximately one half. Vessels will continue to be allowed to anchor in available parts of Anchorage 7 during the dredging operations; however, permission to anchor must be obtained from the Captain of the Port, who will identify those parts of Anchorage 7 that are expected to be available.

For the protection of mariners transiting in the vicinity of dredging operations, the Coast Guard is also establishing a moving safety zone around the dredging vessel *Essex*. The safety zone will ensure that mariners remain a safe distance from the dredging equipment that could potentially be dangerous.

Discussion of the Regulation

Section 110.157(b)(2) allows vessels to anchor for up to 48 hours in the anchorages listed in 110.157(a), which includes Anchorage 7. However, because of the limited anchorage space available in Anchorage 7, the Coast Guard is adding a temporary paragraph 33 CFR 110.157(b)(11) to provide additional requirements and restrictions on vessels utilizing Anchorage 7. During the effective period, vessels desiring to use Marcus Hook Anchorage (Anchorage 7) must obtain permission from the Captain of the Port, Philadelphia at least 24 hours in advance. The Captain of the Port will permit only one vessel at a time to anchor in Anchorage 7 and will grant permission on a ''first come, first serve'' basis. A vessel will be directed to a location within Anchorage 7 where it may anchor, and will not be permitted to remain in Anchorage 7 for more than 12 hours.

The Coast Guard expects that vessels normally permitted to anchor in Anchorage 7 will use Anchorage 6 off Deepwater Point or Anchorage 9 near the entrance to Mantua Creek, because they are the closest anchorages to Anchorage 7. To control access to Anchorage 7, the Coast Guard is requiring a vessel desiring to anchor in Anchorage 7 obtain advance permission from the Captain of the Port. To control access to Anchorages 6 and 9, the Coast Guard is requiring any vessel 700 feet or greater in length obtain advance permission from the Captain of the Port before anchoring. The Coast Guard is also concerned that the holding ground in Anchorages 6 and 9 is not as good as in Anchorage 7. Therefore, a vessel 700 to 750 feet in length is required to have one tug standing alongside while at anchor, and a vessel of over 750 feet in length must have two tugs standing alongside. The tug(s) must have sufficient horsepower to prevent a vessel from swinging into the channel if necessary.

The Coast Guard is also establishing a moving safety zone within a 150 yard radius of the dredging operations being conducted in the Marcus Hook Range Ship Channel in the vicinity of Anchorage 7 by the dredge vessel *Essex*. The safety zone will protect mariners transiting the area from the potential hazards associated with dredging operations. Vessels transiting the Marcus Hook Range Ship Channel are required to divert from the main ship channel through Anchorage 7, and must operate at the minimum safe speed necessary to maintain steerage and reduce wake. No vessel may enter the safety zone unless it receives permission from the Captain of the Port.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that