

The revisions and additions read as follows:

**§ 268.44 Variance from a treatment standard.**

(o) \* \* \*

\* \* \* \* \*

TABLE-WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.40

Facility name <sup>1</sup> and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/L)	Notes
* Guardian Industries Corp., Jefferson Hills, PA <sup>6 11</sup> .	* D010	* Standards under § 268.40.	* Selenium .....	* NA	* NA	* 39.4 mg/L TCLP .....	* NA.
Owens Brockway Glass Container Company, Vernon CA <sup>6 7</sup> .	D010	Standards under § 268.40.	Selenium .....	NA	NA	51 mg/L TCLP .....	NA.
St. Gobain Containers, El Monte, CA <sup>5 7</sup> .	D010	Standards under § 268.40.	Selenium .....	NA	NA	25 mg/L TCLP .....	NA.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

Note: NA means Not Applicable.

<sup>1</sup> A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7.

<sup>5</sup> Alternative D010 selenium standard only applies to dry scrubber solid from glass manufacturing wastes.

<sup>6</sup> Alternative D010 selenium standard only applies to electrostatic precipitator dust generated during glass manufacturing operations.

<sup>7</sup> D010 wastes generated by these two facilities must be treated by Chemical Waste Management, Inc. at their Kettleman Hills facility in Kettleman City, California.

<sup>11</sup> D010 wastes generated by this facility must be treated by Heritage Environmental Services, LLC. at their treatment facility in Indianapolis, Indiana.

[FR Doc. 04-2821 Filed 2-10-04; 8:45 am]  
BILLING CODE 6560-50-U

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Part 12**

[USCG-2003-14500]

RIN 1625-AA81

**Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Document (MMDs); Correction**

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; correction.

**SUMMARY:** On January 6, 2004, the Coast Guard published an interim rule in the *Federal Register* implementing regulations for the validation of Merchant Mariner's vital information and issuance of Coast Guard Merchant Mariner's Documents (MMDs). This notice contains a correction to that rule.

**DATE:** Effective on February 11, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Commander Dave Dolloff, Project Manager, National Maritime Center (NMC), Coast Guard, telephone 202-493-1021.

**SUPPLEMENTARY INFORMATION:** The Coast Guard published an interim rule in the

*Federal Register* of January 6, 2004, (69 FR 526) concerning Merchant Mariners Documents. An essential paragraph was inadvertently omitted from the "Background and Purpose" section. The omitted paragraph is needed to further clarify the Coast Guard's intentions governing the validation of merchant mariners' vital information and issuance of Merchant Mariner's Documents. This correction adds that paragraph.

In interim rule FR Doc. 03-32318, published January 6, 2004, (69 FR 526) make the following correction. On page 528, in the first column, following the paragraph ending in the word "appeal," add the following paragraph:

The Department of Homeland Security (DHS), under the authority of the Aviation and Transportation Security Act and the Maritime Transportation Security Act of 2002, is developing a program that can be used to control access to secure areas in vessels, facilities, and ports. This program includes a system-wide transportation worker identification card which is currently under development. DHS is developing this program through the Transportation Security Administration (TSA), the Coast Guard, and other Federal agencies, including others within DHS.

The Coast Guard will work with TSA to ensure that the regulations for obtaining Merchant Mariner Documents are consistent with this initiative to minimize future impacts on mariners.

Dated: January 30, 2004.

**T.H. Gilmour,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 04-2992 Filed 2-10-04; 8:45 am]

BILLING CODE 4910-15-U

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Part 16**

[USCG-2003-16414]

RIN 1625-AA80

**Chemical Testing**

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is revising its chemical drug testing regulations to conform with the Department of Transportation's (DOT) final rule concerning Drug and Alcohol Management Information System Reporting published in the *Federal Register* on July 25, 2003. The DOT rule consolidated the 21 different Management Information System (MIS) forms into one single-page form for use by all DOT agencies and the Coast Guard. This conforming amendment

will change the Coast Guard regulations to conform to DOT's final rule.

**DATES:** This final rule is effective March 12, 2004.

**ADDRESSES:** Documents mentioned in this rule are available to the public and are part of dockets USCG-2003-16414 and OST-2002-13435. Both are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday except Federal holidays. You may also find this document on the Internet at <http://dms.dot.gov>. The MIS form in Appendix H of 49 CFR part 40 may be downloaded from the U.S. Coast Guard Marine Safety, Security, and Environmental Protection Web site at <http://www.uscg.mil/hq/g-m/moa/dapip.htm>. This form will also be available from any Marine Safety Office.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Mr. Robert C. Schoening, Coast Guard, at 202-267-1430, by fax at 202-267-1416, or by e-mail at [Rschoening@comdt.uscg.mil](mailto:Rschoening@comdt.uscg.mil). If you have questions on the DOT final rule published on July 25, 2003, contact Mr. Jim Swart, Drug and Alcohol Policy Advisor (S-1), Office of Drug and Alcohol Policy and Compliance, at 202-366-3784, by fax at 202-366-3897 or by e-mail at [Jim.Swart@ost.dot.gov](mailto:Jim.Swart@ost.dot.gov). If you have questions on viewing material in the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone (202) 366-0271.

**SUPPLEMENTARY INFORMATION:**

**Viewing Comments and Documents**

To view comments as well as documents mentioned in this rule as available in the docket, go to <http://dms.dot.gov> at anytime and conduct a simple search using the docket number. You may also visit the Docket Management Facility in Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**Privacy Act**

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR

19477), or you may visit <http://dms.dot.gov>.

**Background**

On July 25, 2003, the Department of Transportation (DOT) published a final rule entitled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Drug and Alcohol Management Information System Reporting" in the **Federal Register** (68 FR 43946). This rule changed the annual Management Information System (MIS) submission format for employee drug and alcohol testing data for all DOT agencies and the Coast Guard through the use of a common (MIS) data collection form. The Coast Guard must conform to the DOT final rule and use the new DOT form to avoid duplication, conflict, or confusion with the DOT regulatory requirements. Therefore, the Coast Guard is amending its drug testing regulations in 46 CFR part 16 to conform to 49 CFR part 40.

The DOT rule reduced the number of data elements on the MIS reporting form to be submitted annually by individual marine employers. Employers will no longer have to submit:

1. The number of persons denied a position for a positive drug test;
2. The number of employees returned to duty following a drug violation;
3. Employee drug and alcohol training data;
4. Supervisor drug and alcohol training data;
5. Post-accident alcohol testing data; and
6. Reasonable cause alcohol testing data.

The DOT has stated that its agencies and the Coast Guard could continue to provide direction to their respective regulated employers regarding how, when, and where to report MIS data. This conforming rule is designed to correspond to the DOT MIS reporting regulations now contained in 49 CFR part 40. It requires the use of the new DOT MIS form for annual reporting. It also revises and clarifies the definition for "positive rate" in 46 CFR 16.105 to eliminate any confusion that reporting employers had regarding the types of tests to include in this calculation.

**Discussion of Changes**

The Coast Guard is amending its chemical drug testing regulations in 46 CFR part 16 to conform to the DOT's final rule revising 49 CFR part 40 drug testing reporting procedures.

**Management Information System Requirements**

In § 16.500(b), we are changing form number CG-5573 to OMB form 2105-

0529 issued October 28, 2003, and providing information on obtaining the new form.

The provisions of 49 CFR part 40 regarding alcohol testing and reporting of alcohol tests do not apply to the Coast Guard or to marine employers. Only the drug testing provisions of 49 CFR part 40 apply to the Coast Guard and marine employers. Therefore, alcohol testing information is not required or permitted to be submitted on the new form. Marine employers are required to submit alcohol testing information in accordance with 46 CFR part 4.

We are removing §§ 16.500 (a)(1) through (a)(10) because the drug testing information to be submitted is now specified in Appendix H to 49 CFR part 40.

**Submission of Electronic Information**

Employers desiring to report MIS data electronically on the Internet can do so at <http://www.uscg.mil/hq/g-m/moa/dapip.htm>. Submitters must obtain a password from Mr. Robert C. Schoening, listed under **FOR FURTHER INFORMATION CONTACT**, for electronic submission.

The MIS form in Appendix H of 49 CFR part 40 may be downloaded from the U.S. Coast Guard Marine Safety, Security, and Environmental Protection Web site at <http://www.uscg.mil/hq/g-m/moa/dapip.htm>. The form will also be available from any Marine Safety Office.

**Regulatory Evaluation**

This conforming amendment is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this conforming amendment to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The basis for the DOT rule was to "streamline" the (MIS) reporting requirements for all five agencies and the Coast Guard through the use of one reporting form, thereby eliminating the need for each agency to publish a separate NPRM.

The DOT issued a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 30, 2002 (67 FR 61306), proposing the use of a new MIS form as well as a simplified explanation for form submission and completion.

The majority of public comments and suggestions were in favor of the new rule. The final DOT rule mandating the use of the new MIS form was published in the **Federal Register** on July 25, 2003 (68 FR 43946).

#### Assistance for Small Entities

Under section 213(a) of the Small Business Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this conforming amendment so that they can better evaluate its effects on them. If the amendment would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, contact Mr. Robert Schoening, Coast Guard, telephone (202) 267-1430.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This conforming amendment calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

The DOT's final rule contained information collection requirements that were submitted, as required by the Paperwork Reduction Act of 1995, (the PRA, 44 U.S.C. 3507(d)), to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review. Therefore, the DOT agencies and the Coast Guard will remove PRA requirements for the MIS form from their next PRA submission packages. In addition, the DOT will place its entire PRA package for the MIS form on the Internet when that submission is approved by OMB.

As stated in the DOT's final MIS rule, according to OMB's regulations implementing the PRA (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor, and a person need not respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for the DOT MIS form is 2105-0529, dated October 28, 2003.

#### Federalism

A rule has implications under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this conforming amendment under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. This conforming amendment would not result in such an expenditure.

#### Taking of Private Property

This conforming amendment will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This conforming amendment meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this conforming amendment under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This amendment is not economically significant and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This amendment does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this amendment under Executive Order 13211, Actions

Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. This rule changes the reporting requirements for submission of employee drug and alcohol testing. It is procedural in nature and therefore is categorically excluded, under figure 2-1, paragraph (34)(a), of the Instruction from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 46 CFR Part 16

Drug testing, Marine safety, Penalties, Reporting and recordkeeping requirements, Safety, Transportation.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 16 as follows:

#### PART 16—CHEMICAL TESTING

■ 1. Revise the authority citation for part 16 to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 16.105, remove the definition for "positive rate" and add, in alphabetical order, the new definition for "positive rate for random drug testing" to read as follows:

#### § 16.105 Definitions of terms used in this part.

\* \* \* \* \*

*Positive rate for random drug testing* means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug test results (*i.e.*,

positives, negatives, and refusals) under this part.

\* \* \* \* \*

■ 3. In § 16.500, revise paragraphs (a), (b)(1), and (b)(2); and remove paragraph (d) to read as follows:

**§ 16.500 Management Information System requirements.**

(a) *Data collection.* (1) All marine employers must submit drug testing program data required by 49 CFR 40.26 and Appendix H to 49 CFR part 40.

(2) The provisions in 49 CFR part 40 for alcohol testing do not apply to the Coast Guard or to marine employers, and alcohol testing data is not required or permitted to be submitted by this section.

(b) \* \* \*

(1) By March 15 of the year following the collection of the data in paragraph (a) of this section, marine employers must submit the data on the form titled U.S. Department of Transportation Drug and Alcohol Testing MIS Data Collection Form (OMB Number: 2105-0529) by mail to Commandant (G-MOA), 2100 Second Street, SW, Washington, DC 20593-0001 or by Internet at <http://www.uscg.mil/hq/g-m/moa/dapip.htm>.

(2) The DOT Drug and Alcohol Testing MIS form can be downloaded and printed from <http://www.uscg.mil/hq/g-m/moa/dapip.htm> or may be obtained from any Marine Safety Office.

\* \* \* \* \*

**Appendix B [Removed]**

■ 4. Remove Appendix B.

Dated: January 29, 2004.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine, Safety, Security and Environmental Protection.*

[FR Doc. 04-2993 Filed 2-10-04; 8:45 am]

**BILLING CODE 4910-15-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 20 and 25**

**[CC Docket No. 94-102, IB Docket No. 99-67; FCC 03-290]**

**Scope of Enhanced 911 Requirements**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission revises the scope of its enhanced 911 rules to clarify which technologies and services will be required to be capable of transmitting

enhanced 911 information to public safety answering points (PSAP). As many citizens, elected representatives, and public safety personnel recognize, 911 service is critical to our Nation's ability to respond to a host of crises and this document enhances the Nation's ability to do so.

**DATES:** Effective April 12, 2004, with the exception of new rule § 25.284 which will become effective February 11, 2005.

**FOR FURTHER INFORMATION CONTACT:** Greg Guice, Policy Division, Wireless Telecommunications Bureau, at (202) 418-0095, or David Siehl, Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310, or Arthur Lechtman, Satellite Division, International Bureau, at (202) 418-1465, or Marcy Greene, Competition Policy Division, Wireline Competition Bureau, at (202) 418-2410.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Report and Order* adopted on November 13, 2003, and released on December 1, 2003. The full text of the *Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

**I. Overview**

1. In the Report and Order, the Commission addresses the obligation of mobile satellite services, telematics services, multi-line telephone systems, resold and pre-paid service, and disposable phones to provide enhanced 911 (E911) capabilities. Its analysis includes a discussion of the four criteria set out in the E911 Scope Further Notice of Proposed Rulemaking, 68 FR 3214 (January 23, 2003), released on December 20, 2002, and its understanding of whether the particular service meets those criteria as informed by the substantial record developed in the course of the proceeding. In addition, the Commission bases its determination on other criteria that may mitigate its need to impose a requirement on a particular service.

2. Mobile satellite service (MSS) carriers that provide interconnected two-way voice service must establish call centers for the purpose of answering 911 emergency calls and forwarding these calls to an appropriate PSAP. In addition, the Commission directs the

rechartered Network Reliability and Interoperability Council to study a number of issues pertaining to MSS enhanced 911 deployment.

3. Telematics providers that offer a commercial wireless service may have E911 obligations and need to work with the underlying licensees to ensure that E911 requirements are met. Those providers that do not offer such services, while they do not have an obligation, should continue their efforts with industry and public safety stakeholders to implement advanced telematics safety capabilities.

4. Although the Commission will not adopt federal rules at this time requiring multi-line telephone systems (MLTS) operators to implement E911, it expects that states will act expeditiously on this topic. The Order also references the Model Legislation filed in the record by public safety organizations as a valuable guide. The Commission also issues a *Second Further Notice of Proposed Rulemaking* to continue its consideration of this issue, and to ensure that it is in a position to take appropriate action should states fail to do so or should it otherwise be warranted. Additionally, the Commission will issue a public notice in a year to examine states' progress on implementing E911 in this area.

5. Resold and pre-paid mobile wireless service providers have an independent obligation to comply with our 911 rules to the extent that the underlying licensee has deployed the technology necessary to deliver enhanced 911 service.

6. The Commission finds it is unnecessary to place a separate obligation on manufacturers of disposable phones or personal data assistants that contain a voice service component because the obligation for ensuring access to enhanced 911 service is with the wireless service provider, and they are responsible for ensuring that the devices used with their service satisfy their 911 obligations.

7. Automated maritime telecommunications systems (AMTS) are not required to comply with the Commission's rules because their service fails to meet the four criteria.

8. The Commission believes that these decisions represent a balanced approach, which takes into consideration the expectations of consumers, the need to strengthen Americans' ability to access public safety in times of crisis, and the needs of entities offering these services to be able to compete in a competitive marketplace.