

in paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

(i) For storage tanks with an existing internal or external floating roof, complying with item 1.a. in Table 4 of this subpart, you must conduct your initial compliance demonstration the next time the storage tank is emptied and degassed, but not later than February 3, 2014.

(ii) For other storage tanks not specified in paragraph (c)(1)(i) of this

section, you must comply within 180 days after April 25, 2011.

\* \* \* \* \*

§ 63.2390 [Amended]

■ 5. Section 63.2390 is amended as follows:

■ a. In paragraph (e)(2) by removing the citation “§ 63.2348(a)(4)(v)” and adding in its place the citation “§ 63.2346(a)(4)(v)”.

■ b. In paragraph (e)(3) by removing the citation “§ 63.2348(a)(4)(vi)(B)” and adding in its place the citation “§ 63.2346(a)(4)(vi)(B)”.

■ c. In paragraph (e)(3)(ii) by removing the citation “§ 63.2348(a)(4)(vi)(B)” and adding in its place the citation “§ 63.2346(a)(4)(vi)(B)”.

■ 6. Table 10 to Subpart EEEE of Part 63 is amended by revising entry 6. to read as follows:

TABLE 10 TO SUBPART EEEE OF PART 63.—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

\* \* \* \* \*

For each . . .	For the following standard . . .	You must demonstrate continuous compliance by . . .
6. Storage tank at an existing, reconstructed, or new affected source meeting any of the tank capacity and vapor pressure criteria specified in Table 2 to this subpart, items 1 through 6.	<p>a. Route emissions to a fuel gas system or back to the process.</p> <p>b. Install and, during the filling of the storage tank with organic liquids, operate a vapor balancing system.</p>	<p>i. Continuing to meet the requirements specified in § 63.984(b).</p> <p>ii. Except for pressure relief devices, monitoring each potential source of vapor leakage in the system, including, but not limited to pumps, valves, and sampling connections, quarterly during the loading of a storage tank using the methods and procedures described in the rule requirements selected for the work practice standard for equipment leak components as specified in Table 4 to this subpart, item 4. An instrument reading of 500 ppmv defines a leak. Repair of leaks is performed according to the repair requirements specified in your selected equipment leak standards. For pressure relief devices, comply with § 63.2346(a)(4)(v). If no loading of a storage tank occurs during a quarter, then monitoring of the vapor balancing system is not required.</p>

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Part 1008

Office of Inspector General; Medicare and State Health Care Programs: Fraud and Abuse; Issuance of Advisory Opinions by the OIG

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule.

SUMMARY: OIG is adopting in final form, without change, an interim final rule published on March 26, 2008 (73 FR 15937). We received no comments to the interim final rule. The interim final rule revised the process for advisory opinion

requestors to submit payments for advisory opinion costs.

DATES: Effective Date: This final rule is effective as of July 17, 2008.

FOR FURTHER INFORMATION CONTACT: Meredith Melmed, Office of Counsel to the Inspector General, (202) 619-0335.

SUPPLEMENTARY INFORMATION:

I. Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-101, specifically required the Department of Health and Human Services (Department) to provide a formal guidance process to requesting individuals and entities regarding the application of the anti-kickback statute, the safe harbor provisions, and other OIG health care fraud and abuse sanctions. OIG published an interim final rule (62 FR 7350; February 19, 1997) establishing a new part 1008 in 42 CFR chapter V addressing various procedural issues

and aspects of the advisory opinion process. In response to public comments received on the interim final regulations, we published a final rule (63 FR 38311; July 16, 1998) revising and clarifying various aspects of the earlier rulemaking. The rulemaking established procedures for requesting an advisory opinion. Specifically, the rule provided information to the public regarding costs associated with preparing an opinion and procedures for submitting an initial deposit and final payment to OIG for such costs.

II. Interim Final Rule With Comment Period and Final Rule

On March 26, 2008, OIG published an interim final rule amending 42 CFR chapter V, subchapter B (73 FR 15937). The comment period ended on April 25, 2008 and no comments were received. Accordingly, OIG is adopting the interim final rule as a final rule with no modifications.

The interim final rule modified the procedures for submitting an advisory opinion request by deleting the requirements at § 1008.31(b) and 1008.36(b)(6) for an initial payment of \$250 for each advisory opinion request, and amending § 1008.31(b) to require that payment for an advisory opinion be made directly to the Treasury of the United States, as directed by OIG. In addition, we amended § 1008.43(d) to state that an advisory opinion will be issued following receipt by OIG of confirmation that payment in full has been remitted by the requesting party to the Department of Treasury, as directed by OIG. We also notified the public that, as of the effective date of the interim final rule, we no longer would accept checks or money orders from requesting parties and payments must be made directly to the United States Treasury through wire or other electronic funds transfer. We provided additional instructions to the public on our Web site ([www.oig.hhs.gov](http://www.oig.hhs.gov)) for paying fees owed for advisory opinions via wire or other electronic funds transfer.

### III. Regulatory Impact Statement

#### A. Administrative Procedure Act

The advisory opinion process is an established OIG program. This final rule is limited to modifying the processing of payments received for advisory opinion requests. It does not modify eligibility of a party to request an advisory opinion, nor does it modify the standards under which OIG will accept and/or analyze a request. OIG expects that this final rule will further the public's interest with minimal burden by confirming the interim final rule, which deleted the requirement for an initial payment of a deposit to be credited toward the final advisory opinion processing costs, and by requiring the use of electronic transfers of funds. This final rule will also provide greater efficiency in processing payments from requestors and will save staff time.

#### B. Regulatory Analysis

We have examined the impact of this final rule as required by Executive Order 12866, the Regulatory Flexibility Act (RFA) of 1980, the Unfunded Mandates Reform Act of 1995, and Executive Order 13132.

Executive Order 12866 and Regulatory Flexibility Act

As discussed above, these regulations were published as an interim final rule on March 26, 2008. Because no notice of proposed rulemaking was required, the provisions of the RFA do not apply. Further, this document does not meet

the criteria for a significant regulatory action as specified in Executive Order 12866.

#### Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditures in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation). We believe that this final rule will not impose any mandates on State, local, or tribal governments or the private sector that would result in an expenditure of \$100 million or more (adjusted for inflation) in any given year, and that a full analysis under the Unfunded Mandates Reform Act is not necessary.

#### Executive Order 13132

Executive Order 13132, Federalism, establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirements or costs on State and local governments, preempts State law, or otherwise has Federalism implications. In reviewing this final rule under the threshold criteria of Executive Order 13132, Federalism, we have determined that this final rule would not significantly limit the rights, roles, and responsibilities of State or local governments. We have determined, therefore, that a full analysis under Executive Order 13132 is not necessary.

#### C. Paperwork Reduction Act

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are required to solicit public comments, and receive final OMB approval, on any information collection requirements set forth in rulemaking. This final rule will not impose any information collection burden or affect information currently collected by OIG.

Accordingly, the interim final rule amending 42 CFR chapter V, subchapter B, which was published in the **Federal Register** at 73 FR 15937 on March 26, 2008, is adopted as a final rule without change.

Dated: July 3, 2008.

**Daniel R. Levinson**,  
*Inspector General.*

Approved: July 3, 2008.

**Michael O. Leavitt**,  
*Secretary.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 23

[FWS-R9-IA-2008-0003] [96000-1671-0000-P5]

RIN 1018-AV70

#### Revision of Regulations Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Import and Export of Sturgeon Caviar

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Direct final rule.

**SUMMARY:** We, the Fish and Wildlife Service (FWS), are amending certain provisions related to international trade in sturgeon caviar in the regulations that implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). We are reducing the quantity of caviar that may be imported or exported under the CITES personal effects exemption and amending the requirements for import of caviar from shared stocks subject to quotas. These changes are not controversial and will bring U.S. regulations in line with revisions adopted by consensus at the most recent meeting of the Conference of the Parties to CITES (June 2007). The revised regulations will help us more effectively promote species conservation, help us continue to fulfill our responsibilities under the Treaty, and help those affected by CITES to understand how to conduct lawful international trade in sturgeon caviar.

**DATES:** This rule is effective September 15, 2008 without further action, unless adverse comment is received or postmarked on or before August 18, 2008. If we receive adverse comment, then we will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018-AV70; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the