

5. Section 180.1071 is revised to read as follows:

**§ 180.1071 Egg solids (whole); time-limited exemption from the requirement of a tolerance.**

A time-limited tolerance exemption expiring May 24, 2005, is established for residues of whole egg solids (of at least feed grade quality) when used as an animal repellent in or on almonds and applied to the growing crop in accordance with good agricultural practices.

**§ 180.1164 [Removed]**

6. Section 180.1164 is removed.

**§ 180.1194 [Removed]**

7. Section 180.1194 is removed.

[FR Doc. 02-12973 Filed 5-23-02; 8:45 am]

BILLING CODE 6560-50-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**42 CFR Chapter I**

**Centers for Medicare & Medicaid Services**

**42 CFR Chapters IV and V**

[CMS-3088-FC]

RIN 0938-AL38

**Office of Inspector General—Health Care; Medicare and Medicaid Programs; Peer Review Organizations: Name and Other Changes—Technical Amendments**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule with comment period.

**SUMMARY:** In accordance with the Secretary's announcement of his quality initiative, this technical regulation revises all references to "peer review organization" and "PRO" in chapters I, IV, and V of title 42 of the Code of Federal Regulations. This regulation also makes conforming changes to the general definitions section.

**DATES:** *Effective date:* May 24, 2002.

*Comment date:* Comments will be considered if we receive them no later than 5 p.m. on July 23, 2002, at the appropriate address, as provided below.

**ADDRESSES:** In commenting, please refer to file code CMS-3088-FC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services,

Department of Health and Human Services, Attention: CMS-3088-FC, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received timely in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-16-03, 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for commenters wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the SUPPLEMENTARY INFORMATION section.

**FOR FURTHER INFORMATION CONTACT:** Valerie Mattison-Brown, (410) 786-5958.

**SUPPLEMENTARY INFORMATION:**

**Inspection of Public Comments**

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850, Monday through Friday from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, call (410) 786-9994.

**I. Background**

Currently, the Social Security Act uses the term "utilization and quality control peer review organizations" to describe those entities which contract with CMS for the performance of the functions prescribed by title XI of the Social Security Act. The CMS regulations at 42 CFR 400.200, currently define a "peer review organization as an organization that has a contract with CMS, under part B of title XI of the Social Security Act, to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare beneficiaries."

In November 2001, the Secretary of the Department of Health and Human Services (HHS) launched a quality initiative to provide Medicare and Medicaid beneficiaries and their families with easy to understand, comparative information for selecting quality sources of healthcare such as nursing homes and hospitals. The peer review organizations will be instrumental in promoting this initiative. In accordance with the Secretary's quality initiative to provide Medicare and Medicaid beneficiaries and their families with user friendly quality information, we are changing the name of peer review organizations to quality improvement organizations to better reflect their responsibilities. The definition and function of these organizations will remain the same. Therefore, we are revising all references to "peer review organization" and "PRO" in chapters I, IV, and V of title 42 of the Code of Federal Regulations (CFR).

**II. Provisions of the Final Rule with Comment Period**

In 42 CFR chapters I, IV, and V we are revising all references to—

- "Peer review organization" to read "quality improvement organization";
- "Peer review organizations" to read "quality improvement organizations";
- "PRO" to read "QIO";
- "PRO's" to read "QIO's"; and
- "PROs" to read "QIOs".

In addition, we are making the following conforming changes in § 400.200 (General definitions):

- Removing the definition of "peer review organization";
- Removing the definition of "PRO";
- Adding the definition of "quality improvement organization"; and
- Adding the definition of "QIO".

**III. Response to Comments**

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and times specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

**IV. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule such as this take effect. We note that such a notice is not required when

applied to rules of agency organization, procedure, or practice. As this rule merely reflects the nomenclature change of an organization that contracts with the agency, no notice is required. We can also waive this procedure if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and its reasons in the rule issued. We believe it is unnecessary to undertake notice and comment rulemaking as the changes made by this regulation are technical in nature and update certain existing regulations without substantive change. There is also no impact on program costs. Therefore, for good cause, we waive prior notice and comment procedures. As indicated previously, we are, however, providing a 60-day comment period for public comment.

#### V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

#### VI. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Orders 12866 and 13132. We have also examined the impacts of this notice according to the criteria set forth in the Unfunded Mandate Reform Act of 1995 (Public Law 104-4), the Regulatory Flexibility Act (RFA) (Public Law 96-354), and section 1102(b) of the Social Security Act.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of \$100 million or more annually (major rules). We have reviewed this rule and have determined that it is not a major rule. Therefore, we are not required to perform an assessment of the costs and benefits. We have also determined that it does not otherwise constitute significant regulatory action.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA,

small entities include small businesses, nonprofit organizations, and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$5 million to \$25 million or less annually (see 65 FR 69432). Individuals and States are not included in the definition of a small entity. We generally prepare a regulatory flexibility analysis that is consistent with the RFA unless we certify that a rule will not have a significant impact on a substantial number of small entities. We have not prepared an analysis for the RFA because we have determined, and certify, that this final rule with comment period would have no significant economic impact on small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102 (b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We have not prepared an analysis for section 1102(b) of the Act because we have determined that this final rule with comment period would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandate Reform Act of 1995 also requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million or more. We have determined that this final rule with comment period would not result in such an expenditure.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

#### List of Subjects in 42 CFR Part 400

Grant programs-health, Health facilities, Health maintenance organizations (HMOs), Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapters I, IV, and V to read as follows:

1. In 42 CFR chapters I, IV, and V revise all references to "Peer review organization" to read "Quality improvement organization"; revise all references to "Peer review organizations" to read "Quality improvement organizations"; revise all references to "PRO" to read "QIO"; revise all references to "PRO's" to read "QIO's"; and revise all references to "PROs" to read "QIOs".

2. The authority citation for part 400 continues to read as follows:

**Authority:** Secs 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

3. In § 400.200, remove the definitions of "Peer review organization" and "PRO" and add the definitions of "QIO" and "Quality improvement organization" in alphabetical order to read as follows:

#### § 400.200 General definitions.

\* \* \* \* \*

*QIO* stands for quality improvement organization.

\* \* \* \* \*

*Quality improvement organization* means an organization that has a contract with CMS, under part B of title XI of the Act, to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare beneficiaries, formerly known as a peer review organization.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 12, 2002.

**Thomas A. Scully,**  
*Administrator, Centers for Medicare and Medicaid Services.*

Approved: April 5, 2002.

**Tommy G. Thompson,**  
*Secretary.*

[FR Doc. 02-12242 Filed 5-23-02; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 011218304-1304-01; I.D. 051702C]

**Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin by Vessels Using Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2002 bycatch allowance of red king crab specified for the trawl yellowfin sole fishery category in Zone 1.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), May 21, 2002, until 2400 hrs, A.l.t., December 31, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 red king crab bycatch allowance specified for Zone 1 of the BSAI trawl yellowfin sole fishery category, which is defined at § 679.21(e)(3)(iv)(B)(1), is 16,664 animals (67 FR 956, January 8, 2002).

In accordance with § 679.21(e)(7)(ii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2002 bycatch allowance of red king crab specified for the trawl yellowfin sole fishery in Zone 1 of the BSAI has been reached. Consequently, the Regional Administrator is closing directed fishing for yellowfin sole by vessels using trawl gear in Zone 1 of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

**Classification**

This action responds to the best available information recently obtained

from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the red king crab bycatch allowance for the trawl yellowfin sole fishery category in Zone 1 of the BSAI constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the red king crab bycatch allowance for the trawl yellowfin sole fishery category in Zone 1 of the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 21, 2002.

**Virginia M. Fay,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 02-13118 Filed 5-21-02; 3:41 pm]

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