**§ 201–20.305 [Corrected]**

6. On page 61282, in the third column, in § 201–20.305, paragraph (a)(7) is corrected by removing the correspondence symbol ''(KMA)'' and replacing it with the correspondence symbol ''(KAA)''.

**§ 201–21.403 [Corrected]**

7. On page 61283, in the first column, in § 201–20.403, paragraph (a)(2)(iii), is corrected by removing the correspondence symbol ''(KMA)'' and replacing it with the correspondence symbol ''(KAA)''.

**§ 201–21.603 [Corrected]**

8. On page 61283, in the first column, in § 201–20.603, paragraphs (d)(1) and (d)(3) are corrected by removing the correspondence symbol ''(KMR)'' and replacing it with the correspondence symbol ''(KAR)''.

**§ 201–21.604 [Corrected]**

9. On page 61283, in the first column, in § 201–20.604(a) is corrected by removing the correspondence symbol ''(KMA)'' and replacing it with the correspondence symbol ''(KAA)''.

**§ 201–23.003 [Corrected]**

10. On page 61283, in the first column, in § 201–23.003, paragraph (a) and (c) are corrected by removing the correspondence symbol ''(KMA)'' and replacing it with the correspondence symbol ''(KAA)''.

**§ 201–39.001 [Corrected]**

11. On page 61283, in the first column, in § 201–39.001(b) is corrected by removing the correspondence symbol ''(KMR)'' and replacing it with the correspondence symbol ''KML'' and replacing it with ''KAL''.

**§ 201–39.101–6 [Corrected]**

2. On page 61283, in the third column, in § 201–101–6, paragraph (b) is corrected by removing the correspondence symbol ''(KMR)''and replacing it with the correspondence symbol ''(KAR)''.

**§ 201–39.104–1. [Corrected]**

13. On page 61283, in the third column, the section numbering ''201–37.104–1'' should be corrected to read ''§ 201–39.104–1'' and paragraph (b)(3) is corrected by removing the correspondence symbol ''(KMR)'' and replacing it with the correspondence symbol ''(KAR)''.

**§ 201–39.3304–1 [Corrected]**

14. On page 61284, in the first column, in § 201–39.3304–1 is corrected by removing the correspondence symbol ''(KMA)'' and replacing it with the correspondence symbol ''(KAA)''.

Dated: December 23, 1994.

**Margaret Truntich,**

*Director, Regulations Analysis Division.*

[FR Doc. 95–361 Filed 1–5–95; 8:45 am]

BILLING CODE 6820–25–M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Public Land Order 7108

**[CA–050–7123–00–6251; CACA 7618]**

## Partial Revocation of Secretarial Order Dated April 20, 1922; California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a Secretarial Order dated April 20, 1922, insofar as it affects 43.92 acres of public lands withdrawn for the Bureau of Land Management's Powersite Classification No. 29. The land is no longer needed for this purpose, and the revocation is necessary to permit disposal of the land through land exchange under Section 206 of the Federal Land Policy and Management Act of 1976. This action will open the land to surface entry unless closed by overlapping withdrawals or temporary segregations of record. The land has been and remains open to mineral leasing and to mining under the provisions of the Mining Claims Rights Restoration Act of 1955.

**EFFECTIVE DATE:** February 6, 1995.

**FOR FURTHER INFORMATION CONTACT:** Duane Marti, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916–978–4820.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated April 20, 1922, which withdrew public lands for Powersite Classification No. 29, is hereby revoked insofar as it affects the following described land:

**Mount Diablo Meridian**

T. 32 N., R. 8 W.,
Sec. 32, lot 3 (formerly described as SW¼SE¼).
The area described contains 43.92 acres in Trinity County.

2. At 10 a.m. on February 6, 1995, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 6, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: December 23, 1994.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

[FR Doc. 95–281 Filed 1–5–95; 8:45 am]

BILLING CODE 4310–40–P

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## 49 CFR Part 382

**[FHWA Docket Nos. MC–116, MC–92–19, MC–92–23]**

**RIN 2125–AA79, 2125–AC85, 2125–ADO6**

## Controlled Substance and Alcohol Use and Testing

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** On February 15, 1994, the Federal Highway Administration published final alcohol testing rules. Larger employers were scheduled to begin testing under these rules on January 1, 1995. In response to a number of petitions from the motor carrier industry, FHWA is briefly postponing this implementation date with respect to pre-employment testing only until May 1, 1995, to assist the motor carrier industry to comply effectively with the rule's provisions.

**DATES:** This amendment is effective December 31, 1994.

**FOR FURTHER INFORMATION CONTACT:** David Miller, Office of Motor Carrier Standards (202–366–1790), or David Sett, Office of the Chief Counsel (202–366–0834), Federal Highway Administration, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal legal holidays.

**SUPPLEMENTARY INFORMATION:** On February 15, 1994, FHWA, along with other Department of Transportation (DOT) operating administrations, published final alcohol testing regulations. These rules implemented the Omnibus Transportation Employee Testing Act of 1991. The FHWA rules (49 CFR part 382) require motor carriers to conduct pre-employment, post-accident, reasonable suspicion, and random alcohol testing of covered drivers, and also provide for return-to-

duty and follow-up testing for drivers who have tested at a level of .04 or above and whom their employers wish to return to the performance of safety-sensitive functions.

The FHWA rules also require that employers conduct these tests using the procedures of 49 CFR part 40. Part 40 requires that the use of evidential breath testing devices (EBTs) for alcohol testing. When it published part 40 in February 1994, the Department noted that the National Highway Traffic Safety Administration (NHTSA) would issue model specifications for non-evidential alcohol screening devices. Any such devices that NHTSA approved under these specifications could be used in place of EBTs for the screening tests required by part 40 (but not for the confirmation tests, which would still have to be conducted on EBTs). As the Department noted in its February publication, the Department would have to amend part 40 to establish procedures for the use of non-evidential alcohol screening devices before NHTSA-approved devices could actually be used by employers for DOT-mandated alcohol testing.

On December 2, 1994, NHTSA published a list of five non-evidential alcohol screening devices that met its model specifications. However, the Department has not yet published an amendment to part 40 providing procedures for the use of these devices, with the result that employers who are scheduled to begin testing on January 1, 1995, will not immediately be able to begin using non-evidential devices.

FHWA has received 12 petitions from motor carrier industry groups requesting postponement of the January 1, 1995, implementation date for alcohol testing. Among other reasons, the petitions suggested that it would be beneficial for the motor carrier industry to be able to postpone the beginning of alcohol testing until non-evidential screening devices could actually be used. Copies of these documents have been placed in the docket for this rulemaking.

FHWA is mindful that the motor carrier industry is, by a substantial margin, the largest industry covered by DOT alcohol testing rules. Approximately 7.1 million drivers, and over 500,000 motor carriers, are affected by these rules. The number of employers and the number of employees affected by the FHWA alcohol testing rule is far higher than the combined numbers of employers and employees in other covered transportation industries. The industry is also widely dispersed geographically, and the mobile and fluid nature of motor carrier operations creates complex implementation problems for employers.

The turnover rate for drivers in the industry is very high, approaching 100 percent per year in some segments. This places a particularly heavy responsibility on employers with respect to meeting the statutory requirement for pre-employment testing. All these factors suggest that it is particularly important to provide employers in this industry with additional flexibility before requiring random and pre-employment testing to begin.

We recognize the important safety benefits that will be derived from these rules but believe that it is reasonable to briefly delay them for the motor carrier industry because the rule will be more effectively implemented. This action is reasonable because, in addition to the complex problems caused by the size of the industry, there are other provisions in the FHWA rule that provide for additional safety checks of new employees. The provisions of 49 CFR 382.413, which require employers to obtain information about previous alcohol and controlled substance tests, can help employers, early in an employment relationship, to discover information about potential problems that new employees may have. Finally, there are already several existing rules that prohibit any alcohol use by drivers of commercial motor vehicles. These rules are enforced by Federal, state, and local officials who conducted over 1.9 million roadside safety inspections in 1993.

For these reasons, FHWA believes that postponing the implementation date for this kind of testing until non-evidential screening devices are fully authorized for use in the program is sensible. FHWA expects the postponement to be a short one. The Department will issue a notice of proposed rulemaking (NPRM) on non-evidential screening device procedures in the very near future, which, we anticipate, will have a 30-day comment period. The Department will review comments quickly and prepare a final rule, the effective date of which should be no later than May 1, 1995. In any case, pre-employment testing must begin by May 1, 1995, regardless of the effective date of this procedural rule. Should the procedural rule be published before April 1, 1995, the Department intends to amend part 382 to establish an implementation date for pre-employment testing that is 30 days from the publication date of the procedural rule.

Large employers must begin all kinds of alcohol tests except pre-employment, and are authorized to begin pre-employment tests, under part 382 on January 1, 1995. Employers who begin pre-employment testing on or after January 1 can do so with the confidence that the authority of Federal law stands behind them.

Reasonsable suspicion and post-accident tests are particularly crucial kinds of tests for a safety-oriented program like this one. However, the overall number of such tests is expected to be small. Consequently, all larger carriers will remain responsible for conducting these types of tests beginning January 1, 1995, using existing Part 40 procedures. In addition, it is very important for safety that a driver who has tested ''positive'' for alcohol not return to performance of safety-sensitive functions until he or she has passed a return-to-duty alcohol test and been made subject to follow-up tests. After January 1, 1995, employers who wish to return a driver to duty after a ''positive'' test must ensure that these tests are conducted, using existing Part 40 procedures.

While random testing implementation will continue to begin on January 1, 1995, this does not necessarily mean that employers must actually conduct random tests on that date. Random tests must be reasonably spread throughout the year. Employers must conduct a sufficient number of tests during the year to meet the 25 percent random testing rate requirement. Employers who wished to use non-evidential screening devices for most of their random tests have the flexibility to schedule their random tests so that most were conducted after the first few months of the year, when it is likely that procedures for their use will be in place. We would caution employers that this could not be an explicit, stated company policy, however. The intent of random testing under the rule is that employees never know when they might be tested. Employers cannot tell employees that no testing will be conducted during a certain time period. Random tests are also a more significant part of a deterrence and detection-based program than pre-employment tests, in any case. Consequently, it is not necessary or prudent to postpone random testing.

It should be emphasized that none of these points apply to smaller employers, who will begin conducting all types of tests, as scheduled, on January 1, 1996. Nor does anything in this rule change the January 1, 1995, implementation date for controlled substances testing under 49 CFR part 382.

### Rulemaking Analyses and Notices

This rule is not subject to review under Executive Order 12866. It is significant within the meaning of the Department's Regulatory Policies and Procedures, since it affects an important Departmental safety initiative and is of substantial public interest. It is anticipated that this postponement will create some savings for the motor carrier industry, resulting, from the absence of the pre-employment testing requirements of the rule during the first four months of 1995. A portion of the anticipated annual benefits of the rule will also be forgone, however.

FHWA has determined that this rule does not have a significant economic impact on a substantial number of small entities, for purposes of the Regulatory Flexibility Act. In addition to the reason cited above, FHWA makes this determination because small entities, for purposes of Part 382, are those motor carriers with fewer than 50 covered drivers who are not scheduled to begin alcohol testing until January 1, 1996, in any case. There is not a sufficient Federalism impact to warrant preparation of a Federalism assessment under Executive Order 12612.

FHWA is making this rule final without first issuing a notice of proposed rulemaking. The rule is also being made effective before 30 days from the date of its publication. FHWA is taking these steps on the basis that notice and comment are impracticable, unnecessary, and contrary to the public interest, and that there is good cause for making the rule effective immediately. The rationale for this finding is as follows: all requirements of 49 CFR part 382 would have to be implemented by larger motor carriers on January 1, 1995, absent this action. Carriers would be in noncompliance with part 382 in any interval between that date and the date that this amendment takes effect. This amendment could not have its intended impact unless it is put into effect before January 1. Moreover, this amendment is one that relieves a restriction.

### List of Subjects in 49 CFR Part 382

Alcohol testing, Controlled substances testing, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

Issued this 30th day of December, 1994, at Washington, DC.

**Rodney E. Slater,**

*Federal Highway Administrator.*

For the reasons stated in the preamble, 49 CFR part 382 is amended as follows:

1. The authority citation is revised to read as follows:

**Authority:** 49 U.S.C. 31136, 31302 et seq., and 31502; 49 CFR 1.48.

2. 49 CFR § 382.115(a) is revised to read as follows:

**§ 382.115 Starting date for testing programs.**

(a) *Large employers.* (1) Except as otherwise provided in this paragraph, each employer with fifty or more drivers on March 17, 1994, shall implement the requirements of this part beginning on January 1, 1995.

(2) Large employers may begin implementing the requirements of § 382.301 of this part with respect to alcohol testing on January 1, 1995, but are not required to do so until May 1, 1995.

* * * * *

[FR Doc. 95–342 Filed 1–5–95; 8:45 am]

BILLING CODE 4910–22–M

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 630

**[Docket No. 931078–4286; I.D. 122294E]**

## Atlantic Swordfish Fishery; Pilot Study Landing Requirements

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

**ACTION:** Announcement of a change in off-loading requirements.

**SUMMARY:** NMFS announces that volunteer participants selected by NMFS to participate in the swordfish pilot program are not required to observe the off-loading time requirement when carrying an observer. The observer will be collecting statistical data that would otherwise be collected by dockside samplers within the off-loading time requirement. Therefore, NMFS has determined that the off-loading requirements of the regulations are unnecessary during 1995.

**EFFECTIVE DATE:** January 1, 1995 through December 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Rod Dalton, 813-893-3721, or Ron Rinaldo, 301-713-2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish fishery is managed under the Fishery Management Plan (FMP) for Atlantic Swordfish and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Regulations issued under authority of the ATCA carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas.

Section 630.51(b)(6) of the regulations requires that off- loading of vessels participating in the donation program begin between the hours of 8 a.m. and 6 p.m. local time. The Assistant Administrator for Fisheries, NOAA, (AA) is authorized under § 630.51(b)(7) to adjust these requirements. NMFS is providing observers for all pilot program trips in 1995. Therefore, the AA, in consultation with the industry and the NMFS Office of Enforcement, waives § 630.51 (b)(6), the off-loading time requirements for vessels carrying NMFS observers for 1995.

### Classification

This rule is exempt from review under E.O. 12866.

Dated: December 30, 1994.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 95–351 Filed 1–5–95; 8:45 am]

BILLING CODE 3510–22–F