

Issued on December 18, 1996.

Ricardo Martinez,

Administrator.

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Federal Transit Administration

49 CFR Parts 653 and 654

Prevention of Prohibited Drug Use in Transit Operations; Prevention of Alcohol Misuse in Transit Operations

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of random drug and alcohol testing rate.

SUMMARY: This notice announces the random testing rate for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION: Contact Judy Meade, Director of the Office of Safety and Security (202) 366-2896 (telephone) and (202) 366-7951 (fax). Electronic access to this and other documents concerning FTA's drug and alcohol testing rules may be obtained through FTA's Transit Safety and Security Bulletin Board at 1-800-231-2061 or through the FTA World Wide Web home page at <http://www.fta.bts.gov>; both services are available seven days a week.

SUPPLEMENTARY INFORMATION: The Federal Transit Administration (FTA) required large transit employers to begin drug and alcohol testing "safety-sensitive" employees on January 1, 1995, and to report, annually by March 15 of each year beginning in 1996, the number of "safety-sensitive" employees who had a verified positive for the use of prohibited drugs, and the number of safety-sensitive employees who tested positive for the misuse of alcohol. Large employers are required to annually submit other data, not relevant here, in the same report; these data are available from the FTA as discussed below. Small employers started testing their "safety-sensitive" employees on January 1, 1996 and will begin to report the same information as the large employees beginning on March 15, 1997.

The rules established a random testing rate for prohibited drugs and the misuse of alcohol; specifically, the rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of its total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. The rules provide

that the drug random testing rate will be lowered to 25 percent if the "positive rate" for the entire transit industry is less than one percent for two consecutive years. Once lowered, it may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year. ("Positive rate" means the number of positive results for random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653, divided by the total number of random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653.)

Likewise, the alcohol rule provides that the random rate will be lowered to 10 percent if the "violation rate" for the entire transit industry is less than .5 percent for two consecutive years. It will remain at 25 percent if the "violation rate" is equal to or greater than .5 percent but less than one percent, and it will be raised to 50 percent if the "violation rate" is one percent or greater for any one year. ("Violation rate" means the number of covered employees found during random tests given under part 654 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by part 654, divided by the total reported number of employees in the industry given random alcohol tests under part 654 plus the total reported number of employees in the industry who refuse a random test required by part 654.)

FTA has received and analyzed the 1995 data from large transit employers. The "positive rate" for random drug tests was 1.7 percent and the "violation rate" for random alcohol tests was 0.24 percent; therefore, for 1997, transit employers will continue to be required to conduct random drug tests at a rate equivalent to at least 50 percent of the total number of its "safety-sensitive" employees for prohibited drugs and at least 25 percent for the misuse of alcohol.

FTA will be publishing in December a detailed report on the 1995 data collected from large employers. This report may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW, Room 9301, Washington, DC 20590, (202) 366-2896.

Issued: December 20, 1996.

Gordon J. Linton,

Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960918264-6350-02; I.D. 091296A]

RIN 0648-A161

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Sweep-up Adjustments

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 43 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI), Amendment 43 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA), and a regulatory amendment to the halibut individual fishing quota (IFQ) regulations. This action is necessary to increase the consolidation ("sweep-up") levels for small quota share (QS) blocks for Pacific halibut and sablefish managed under the IFQ program. This action is intended to maintain consistency with the objectives of the IFQ program (i.e., prevent excessive consolidation of QS, maintain diversity of the fishing fleet, and allow new entrants into the fishery), while increasing the program's flexibility by allowing a moderately greater amount of QS to be "swept-up" into larger amounts that can be fished more economically.

EFFECTIVE DATE: December 20, 1996.

ADDRESSES: Copies of the final rule and the environmental assessment/regulatory impact review (EA/RIR) for this action may be obtained from: Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background Information

The U.S. groundfish fisheries of the GOA and the BSAI in the exclusive economic zone are managed by NMFS pursuant to the FMPs for groundfish in the respective management areas. The FMPs were prepared by the North Pacific Fishery Management Council (Council) pursuant to the Magnuson-Stevens