

List of Subjects in 47 CFR Part 87

Aviation communications,
Equipment.

Federal Communications Commission.

Katura Jackson,

*Federal Register Liaison Officer, Office of the
Secretary.*

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 87 as follows:

PART 87—AVIATION SERVICES

- 1. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

- 2. Section 87.147 is amended by revising paragraph (b) to read as follows:

§ 87.147 Authorization of equipment.

* * * * *

(b) ELTs manufactured after October 1, 1988, must meet the output power characteristics contained in § 87.141(i). A report of the measurements must be submitted with each application for certification. ELTs that meet the output power characteristics of the section must have a permanent label prominently displayed on the outer casing state, “Meets FCC Rule for improved satellite detection.” This label, however, must not be placed on the equipment without authorization to do so by the Commission. Application for such authorization may be made either by submission of a new application for certification accompanied by the required fee and all information and test data required by parts 2 and 87 of this chapter or, for ELTs approved prior to October 1, 1988, a letter requesting such authorization, including appropriate test data and a showing that all units produced under the original equipment authorization comply with the requirements of this paragraph without change to the original circuitry.

* * * * *

- 3. Effective January 11, 2019, the stay of § 87.195 is lifted and the section is revised to read as follows:

§ 87.195 121.5 MHz ELTs.

ELTs that operate only on frequency 121.5 MHz will no longer be certified. The manufacture, importation, and sale of ELTs that operate only on frequency 121.5 MHz is prohibited beginning July 10, 2019. Existing ELTs that operate

only on frequency 121.5 MHz must be operated as certified.

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DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****49 CFR Part 655****Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations**

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of calendar year 2019 random drug and alcohol testing rates.

SUMMARY: The Federal Transit Administration (FTA) is increasing the minimum random drug testing rate from 25 percent to 50 percent in calendar year 2019 for employers subject to the FTA’s drug and alcohol rule. The minimum random alcohol testing rate will remain at 10 percent for calendar year 2019.

DATES: Effective: January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager for the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–2010 or email: Iyon.Rosario@dot.gov).

SUPPLEMENTARY INFORMATION: On January 1, 1995, the FTA required large transit employers to begin drug and alcohol testing of employees performing safety-sensitive functions, and submit annual reports by March 15 of each year beginning in 1996. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers starting on March 15, 1997. The rule initially required employers to conduct random drug tests for prohibited drug use at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees and for misuse of alcohol at a rate of at least 25 percent of their total number of safety-sensitive employees.

The FTA updated the testing rules on August 1, 2001, and maintained a minimum random testing rate for prohibited drugs at 50 percent and the misuse of alcohol at 10 percent. However, pursuant to 49 CFR 655.45(c) and (d), both random testing rates could be adjusted based on industry-reported violations that have been verified over two preceding consecutive calendar years. Accordingly, the FTA in 2007

reduced the minimum random drug testing rate from 50 percent to 25 percent, where it has remained since then.

Pursuant to 49 CFR 655.45(c), the FTA will increase the minimum random drug testing rate from 25 percent back to 50 percent if the industry-reported data for any one calendar year indicates that the positive rate equals or exceeds one percent (positive rate means the number of verified positive results for random drug tests conducted under 49 CFR 655.45 plus the number of refusals of random tests, divided by the total number of random drug test results (*i.e.*, positive, negative, and refusals)). Likewise, the minimum alcohol random rate will be increased from 10 percent to 25 percent should the reported data indicates that the violation rate is equal to or greater than 0.5 percent, but less than one percent for any one year (violation rate means the number of covered employees found during random tests administered under 49 CFR 655.45 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a required random test, divided by the total reported number of random alcohol tests). Furthermore, if the minimum random alcohol rate is 25 percent, and if the validated violation rate is equal to or greater than one percent for any one calendar year, then the minimum random alcohol rate will be increased to 50 percent.

Pursuant to 49 CFR 655.45(b), the FTA’s decision to increase or decrease the minimum annual percentage rates for random drug and alcohol testing is based, in part, on the reported verified positive drug rate and alcohol violation rate for the entire public transportation industry. The information used for this determination is drawn from the Drug and Alcohol Management Information System (MIS) reports required by 49 CFR 655.72. In determining the reliability of the data, the FTA considers the quality and completeness of the reported data, or may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry’s verified drug positive rate and alcohol violation rates.

For calendar year 2019, the FTA has determined that the minimum random drug testing rate for covered employees will increase from 25 percent to 50 percent based on a verified positive rate that exceeded 1.0 percent for random drug test data for calendar year 2017. The random drug testing positive rate for 2017 was 1.06 percent. Further, for calendar year 2019, the FTA has determined that the random alcohol testing rate for covered employees will

remain at 10 percent because the violation rate was lower than 0.5 percent for calendar years 2016 and 2017. The random alcohol violation rates were 0.14 percent for 2016 and 0.16 percent for 2017.

Detailed reports on the FTA drug and alcohol testing data collected from transit employers may be obtained from the FTA's Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-2010 or at <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Publications/Default.aspx>.

K. Jane Williams,

Acting Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XG661

Snapper-Grouper Fishery of the South Atlantic; 2018 Recreational Accountability Measure and Closure for South Atlantic Red Grouper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the red grouper recreational sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2018 fishing year through this temporary rule. NMFS estimates recreational landings of red grouper in 2018 have exceeded the recreational annual catch limit (ACL). Therefore, NMFS closes the red grouper recreational sector in the South Atlantic EEZ at 12:01 a.m., local time, on December 12, 2018 for the remainder of the 2018 fishing year. This closure is necessary to protect the red grouper resource.

DATES: This rule is effective 12:01 a.m., local time, December 12, 2018, until 12:01 a.m., local time, January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727-824-5305, email: frank.helies@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes red grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On July 26, 2018, as a result of the determination that red grouper was undergoing overfishing, NMFS published the final rule for Abbreviated Framework 1 to the FMP in the **Federal Register** (83 FR 35435). In part, that final rule decreased the recreational ACL for red grouper in the South Atlantic to end overfishing of the stock and set the recreational ACL for the 2018 fishing year at 77,840 lb (35,308 kg), whole weight, as described at § 622.193(d)(2)(ii). In accordance with regulations at 50 CFR 622.193(d)(2)(i) for the recreational sector, if recreational landings of red grouper are projected to reach the recreational ACL, the Assistant Administrator for NOAA Fisheries (AA) will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. Recent landings data from the NMFS Southeast Fisheries Science Center indicate that the red grouper recreational ACL for 2018 has been exceeded. Therefore, this temporary rule implements the AM to close the red grouper recreational sector of the snapper-grouper fishery for the remainder of the 2018 fishing year. As a result, the recreational sector for red grouper in the South Atlantic EEZ will be closed effective 12:01 a.m., local time December 12, 2018 through December 31, 2018.

NMFS notes that while the 2019 fishing year begins on January 1, as described at § 622.183(b)(1), the commercial and recreational harvest of red grouper is prohibited annually from January through April of each year. Therefore, the recreational sector for red grouper will reopen on May 1, 2019, the

beginning of the recreational fishing season. The recreational ACL for 2019 is 84,000 lb (38,102 kg), whole weight, as described at § 622.193(d)(2)(ii).

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic red grouper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(d)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The AA finds that the need to immediately implement this action to close the recreational sector for red grouper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the AMs implementing the recreational closure have already been subject to notice and comment. All that remains is to notify the public of the recreational closure for red grouper for the remainder of the 2018 fishing year. Prior notice and opportunity for comment are contrary to the public interest because of the need to immediately implement this action to protect the red grouper resource. Time required for notice and public comment would allow for continued recreational harvest and further exceedance of the recreational ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: December 7, 2018.

Karen H. Abrams,

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

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