

(d) Elevation of insured residential structures in accordance with 44 CFR 60.3.

(e) Elevation or dry floodproofing of insured non-residential structures in accordance with 44 CFR 60.3.

(f) Other activities that bring an insured structure into compliance with the floodplain management requirements at 44 CFR 60.3.

(g) Minor physical flood mitigation projects that reduce localized flooding problems and do not duplicate the flood prevention activities of other Federal agencies.

(h) Beach nourishment activities.

#### § 78.13 Grant administration.

(a) FEMA may contribute up to 75 percent of the total eligible costs of each grant. At least 25 percent of the total eligible costs will be provided from a nonfederal source. Of this amount, not more than one half will be provided from in-kind contributions. Allowable costs will be governed by OMB Circular A-87 and 44 CFR part 13.

(b) The grantee must submit performance and financial reports to FEMA and must ensure that all subgrantees are aware of their responsibilities under 44 CFR parts 13 and 14.

(c) FEMA will recapture any funds provided to a State or a community under FMA and deposit the amounts in the National Flood Mitigation Fund if the applicant has not provided the appropriate matching funds, the approved project has not been completed within the timeframes specified in the grant agreement, or the completed project does not meet the criteria specified in the regulations in this part.

#### § 78.14 Alternative procedures.

For the purposes of this part, alternative procedures are available which allow the community to coordinate directly with FEMA in implementing the program. These alternative procedures are available in the following circumstances. Native American tribes or authorized tribal organizations may submit plans and applications to the State POC or directly to the FEMA Regional Director. If a Governor chooses not to identify a POC to coordinate the FMA, communities may also submit plans and applications to the FEMA Regional Director.

Dated: March 13, 1997.

James L. Witt,  
Director.

[FR Doc. 97-6910 Filed 3-19-97; 8:45 am]

BILLING CODE 6718-04-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 93-165; RM-8247]

### Radio Broadcasting Services; Athens, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration; application for review.

**SUMMARY:** This document dismisses an Application for Review filed by David A. Ringer directed to an earlier *Memorandum Opinion and Order* which denied a petition for reconsideration in the proceeding relating to the establishment of a filing window for the filing of applications for authorization to operate on Channel 240A in Athens, Ohio. See 60 FR 53878, published October 18, 1995. With this action, the proceeding is terminated.

**EFFECTIVE DATE:** April 22, 1997.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418-2177.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order* in MM Docket No. 93-165, adopted February 26, 1997, and released March 7, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-6423 Filed 3-19-97; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 219

[Docket No. RSOR-6; Notice No. 44]

RIN 2130-AA81

### Random Alcohol and Drug Testing: Determination of 1997 Minimum Testing Rate

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

**SUMMARY:** Using data from Management Information System annual reports, FRA has determined that the rail industry random drug testing positive rate for 1995 was .93 percent. Since the industry-wide random drug positive rate continues to be below 1.0 percent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 1997 through December 31, 1997 will remain at 25 percent of covered railroad employees.

Since random alcohol testing was not fully implemented until January 1, 1996, FRA has insufficient data to adjust the minimum testing rate. Therefore, the minimum random alcohol testing rate will remain at the current 25 percent of covered railroad employees for the period January 1, 1997 through December 31, 1997.

**DATES:** The minimum annual random drug and alcohol testing rate is 25 percent of covered railroad employees for the period January 1, 1997, through December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Operating Practices Division, Federal Railroad Administration, 400 7th Street, SW., Room 8314, Washington, DC 20590, (Telephone: (202) 632-3378).

#### SUPPLEMENTARY INFORMATION:

Administrator's Determination of 1997 Random Drug Testing Rate

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random alcohol and drug testing rates according to the rail industry's overall violation rate, which is determined using annual railroad alcohol and drug program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a Federal Register notice each year, announcing the minimum random alcohol and drug

testing rates for the following year. (See 49 CFR 219.602 and 219.608.)

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. (For both alcohol and drugs, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates). FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year.

In 1994, FRA set the 1995 minimum random drug testing rate at 25 percent because 1992 and 1993 industry drug testing data indicated a random drug positive rate below 1.0 percent. In this notice, FRA announces the minimum random drug testing rate will continue to be 25 percent of covered railroad employees for the period January 1, 1997 through December 31, 1997, since the industry random positive rate for 1995 is below 1.0 percent.

FRA implemented a parallel performance-based system for random alcohol testing. Under this system, FRA may lower the minimum random alcohol testing rate to 10 percent whenever the industry-wide violation rate is less than .05 percent for two calendar years while testing at a higher rate. FRA will raise the rate to 50 percent if the industry-wide violation rate is 1.0 percent or higher in any subsequent calendar year. If the industry-wide violation rate is less than 1.0 percent but greater than .05 percent, the rate will remain at 25 percent.

Random alcohol testing was fully implemented at a 25 percent minimum testing rate on January 1, 1996. Since FRA does not yet have two years of data for the entire rail industry, the current random alcohol testing rate will remain at 25 percent of covered railroad employees for the period January 1, 1997 through December 31, 1997.

Issued in Washington, DC on March 13 1997.

Donald M. Itzkoff,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. 97-6831 Filed 3-19-97; 8:45 am]

BILLING CODE 4910-06-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 630

[I.D. 012197D]

#### Atlantic Swordfish Fishery; Quota adjustment; Closure

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

**ACTION:** Quota adjustment; closure; bycatch limit adjustment.

**SUMMARY:** NMFS is reducing the directed fishery quota for the second semiannual swordfish season (December 1, 1996, to May 31, 1997), due to updated estimates of dead discards in 1995 and 1996. The directed fishery quota is reduced from 1,064.4 metric tons (mt) dressed weight to 749.7 mt. Based upon landings to date in the second semiannual season and historical landings, NMFS estimates that this adjusted fishery landings quota will be reached on or before April 12, 1997. Therefore, NMFS closes the directed fishery effective at 12 noon on April 12, 1997.

**EFFECTIVE DATES:** The reduction is effective March 14, 1997 through May 31, 1997. The closure is effective at 12 noon on April 12, 1997, through May 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Lent or James Chambers, 301-713-2347.

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

The regulations governing the Atlantic swordfish fisheries at 50 CFR 630.24 provide for a specified annual quota to be landed by the directed fishery. The annual quota is divided into two semiannual quotas for each of the 6-month periods, June 1 through November 1, and December 1 through May 31 (61 FR 27304, May 31, 1996). NMFS is required, under § 630.25(a)(1), to monitor the catch and landings

statistics and, on the basis of these statistics, to project a date when the catch will equal the quota, and to publish a Federal Register document announcing the closure.

Under § 630.25(b), NMFS is authorized to set aside, during the June 1 through November 30 semi-annual period, swordfish not exceeding 21,500 lb (9,752 kg), dressed weight, for the harpoon segment of the fishery if NMFS determines that the harpoon and longline quota in this semi-annual period will be harvested before the harpoon segment of the fishery has had an opportunity to harvest the set-aside amount (61 FR 34746, July 3, 1996). No set-aside is currently authorized for the December 1 through May 31 semi-annual period. Therefore, this closure is effective for the entire directed swordfish fishery and affects all gear categories.

NMFS is authorized, under § 630.25(c)(2), to adjust the longline bycatch allowance of 15 swordfish per trip during a closure of the directed fishery. The bycatch limit of 15 swordfish was reduced to 6 swordfish during the 1995 closure (60 FR 58245, November 27, 1995). However, while this bycatch allowance of 6 fish was effective for a period of less than one month, it still did not prevent the quota from being exceeded. Accordingly, based on the length of the directed fishery closure (April 12 through May 31, 1997) and the remaining available bycatch quota, NMFS believes it is necessary to further reduce the bycatch allowance to 5 swordfish per trip.

#### 1996 Quota Adjustment

Estimates of longline swordfish dead discards were included in the calculation of the U.S. quota for landings by longline operators. The 1995 final quota rule (60 FR 46775, September 8, 1995) allocated 2,676 mt to the directed swordfish longline fishery, of which 8.4 percent (226 mt) was projected to be discarded dead, yielding a total landings quota of 2,450 mt for the 1995 fishing year. Final 1995 figures indicate that, in fact, swordfish longline dead discards (394.3 mt) accounted for 14.7 percent of the total catch by weight. Thus, actual longline dead discards exceeded the original projection by 168.3 mt. The directed swordfish longline fishery landings quota for the second 1996 semiannual season (December 1, 1996, to May 31, 1997) is reduced by 168.3 mt to correct for this difference. The 1996 fishing year landings quota for the longline fishery must also be adjusted to account for the higher dead discard rate that actually occurred in the 1995 fishing year.