

2. On November 20, 2002, the Commission released a *Third Notice of Proposed Rule Making*, MM Docket No. 98–204, FCC 02–303, 67 FR 77373 (December 17, 2002) (*Third NPRM*) requesting comments on the appropriate treatment of part-time employees under the Commission's Equal Employment Opportunity rules. Deadlines for comments and reply comments were December 20, 2002, and January 6, 2003, respectively. Notice of the new rulemaking proceeding was not, however, published in the **Federal Register** until December 17, 2002. In order to ensure that all parties have adequate notice of the rulemaking, the Bureau is extending these deadlines until January 16, 2003, for comments and February 3, 2003, for reply comments.

3. *Accordingly, it is Ordered* that the date for filing comments and reply comments in this proceeding is *Extended* to January 16, 2003, and February 3, 2003, respectively.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 303(r), and §§ 0.204(b), 0.283 and 1.46 of the Commission's rules, 47 CFR 0.204(b), 0.283 and 1.46.

Federal Communications Commission.

**Deborah E. Klein,**

*Chief of Staff, Media Bureau.*

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 199

[Docket RSPA–97–2995; Notice 10]

#### Pipeline Drug Testing; Random Testing Rate

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of minimum annual percentage rate for random drug testing.

**SUMMARY:** Each year pipeline operators randomly select employees to test for prohibited drugs. The number of selections may not be less than the minimum annual percentage rate we determine, either 50 percent or 25 percent of covered employees, based on the industry's positive rate of random tests. In accordance with applicable standards, we have determined that the positive rate of random drug tests reported by operators this year for

testing done in calendar year 2001 is less than 1.0 percent. (*See SUPPLEMENTARY INFORMATION.*)

Therefore, in calendar year 2003, the minimum annual percentage rate for random drug testing is 25 percent of covered employees.

**DATES:** Effective January 1, 2003, through December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** L.M. Furrow by phone at 202–366–4559, by fax at 202–366–4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, or by e-mail at [buck.furrow@rspa.dot.gov](mailto:buck.furrow@rspa.dot.gov).

**SUPPLEMENTARY INFORMATION:** Operators of gas, hazardous liquid, and carbon dioxide pipelines and operators of liquefied natural gas facilities must annually submit Management Information System (MIS) reports of drug testing done in the previous calendar year (49 CFR 199.119(a)). One of the uses of this information is to calculate the minimum annual percentage rate at which operators must randomly select covered employees for drug testing during the next calendar year (49 CFR 199.105(c)(2)). If the minimum annual percentage rate for random drug testing is 50 percent, we may lower the rate to 25 percent if we determine that the positive rate reported for random tests for two consecutive calendar years is less than 1.0 percent (49 CFR 199.105(c)(3)). If the minimum annual percentage rate is 25 percent, we will increase the rate to 50 percent if we determine that the positive rate reported for random tests for any calendar year is equal to or greater than 1.0 percent (49 CFR 199.105(c)(4)). Part 199 defines “positive rate” as “the number of positive results for random drug tests \* \* \* plus the number of refusals of random tests \* \* \*, divided by the total number of random drug tests \* \* \* plus the number of refusals of random tests. \* \* \*”

Through calendar year 1996, the minimum annual percentage rate for random drug testing in the pipeline industry was 50 percent of covered employees. Based on MIS reports of random testing done in 1994 and 1995, we lowered the minimum rate from 50 to 25 percent for calendar year 1997 (61 FR 60206; November 27, 1996). The minimum rate remained at 25 percent in calendar years 1998 (62 FR 59297; Nov. 3, 1997); 1999 (63 FR 58324; Oct. 30, 1998); 2000 (64 FR 66788; Nov. 30, 1999); 2001 (65 FR 81409; Dec. 26, 2000); and 2002 (67 FR 2611; Jan. 18, 2002).

Using the MIS reports received this year for drug testing done in calendar

year 2001, we calculated the positive rate of random testing to be 0.6 percent. Since the positive rate continues to be less than 1.0 percent, we are announcing that the minimum annual percentage rate for random drug testing is 25 percent of covered employees for the period January 1, 2003, through December 31, 2003.

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

Issued in Washington, DC, on December 17, 2002.

**Stacey L. Gerard,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 02–32269 Filed 12–23–02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[Docket 020626160–2309–03; I.D. 061902C]

RIN 0648–AQ13

#### Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** NMFS is issuing an interim final rule to prohibit fishing with drift gillnets in the California/Oregon (CA/OR) thresher shark/swordfish drift gillnet fishery in U.S. waters off southern California, south of Point Conception (34°27' N.) and west to the 120°W., from August 15 through August 31, and January 1 through January 31, when the Assistant Administrator for Fisheries publishes a notice that El Nino conditions are present. NMFS has determined that the incidental take of loggerhead sea turtles by this fishery correlates to the area and season being fished during these oceanographic conditions. Time and area closures will result in a reduction in the take of loggerhead turtles by the fishery and are necessary to avoid the likelihood of the CA/OR drift gillnet fishery jeopardizing the continued existence of the loggerhead population.

**DATES:** This interim final rule is effective January 23, 2003. Comments on this interim final rule must be postmarked or transmitted by facsimile by 5 p.m., Pacific Standard Time, on