or feed resulting from the use of a pesticide chemical when EPA authorizes an emergency exemption or a crisis exemption. EPA will consider establishing such a tolerance only if an applicant under FIFRA section 18 either has requested an emergency exemption, or has stated its intention to declare a crisis exemption under FIFRA section 18 for a use that may result, directly or indirectly, in pesticide chemical residues in food or feed.

§ 176.7 Information needed to establish a tolerance.

(a) EPA will establish a time-limited tolerance only if EPA can determine that the tolerance is safe, that is, there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. EPA will base its determination upon data submitted by the applicant and other readily available data. If, taking into account the limited duration and emergency nature of a section 18 application, the available data are not adequate to support a reasonable certainty of no harm determination, EPA will not establish a tolerance.

(b) Data and other relevant information to support the establishment of a time-limited tolerance may be submitted by the applicant, or by any other person, in support of the time-limited tolerance. The applicant may also cite relevant data previously submitted to the Agency.

§ 176.9 Publication of a tolerance.

(a) If EPA concludes that the tolerance will be safe, it may issue a regulation establishing the tolerance and publish a notice to that effect in the **Federal Register**.

(b) A tolerance under this part may be established without prior public notification of a proposed tolerance or comment period.

§ 176.11 Duration of a tolerance.

(a) Tolerances under this part become effective upon publication in the **Federal Register**, unless otherwise specified by the Administrator.

(b) Tolerances will automatically expire and be revoked, without further action by EPA, at the time set out in the **Federal Register** notice estabishing the tolerance.

(c) The Administrator may revoke a tolerance at any time if the Administrator determines that the tolerance is no longer safe.

§ 176.13 Modification of a time-limited tolerance.

If additional emergency or crisis exemptions are authorized that would extend use beyond the date of expiration or revocation of a time-limited tolerance, EPA may modify the time-limited tolerance by extending its duration. EPA will use the same criteria and procedures for modification as for establishing tolerances under this part.

§ 176.15 Effect of a tolerance.

The establishment of a tolerance under this part does not alter the requirement that any State, U.S. Territory, or Federal Agency comply with procedures established in part 166 of this chapter for emergency exemptions of FIFRA.

[FR Doc. 99–14070 Filed 6–2–99; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Parts 5 and 51c

RIN 0906–AA44

Designation of Medically Underserved Populations and Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration, DHHS.

ACTION: Proposed rules; status.

SUMMARY: The Health Resources and Services Administration (HRSA) is announcing its intention to issue a second Notice of Proposed Rulemaking (NPRM) on Designation of Medically Underserved Populations (MUPs) and Health Professional Shortage Areas (HPSAs) following a period of evaluation of comments received, analysis of alternative approaches, and impact testing. This will involve a new 60-day public comment period for the revised proposal.

FOR FURTHER INFORMATION CONTACT: Richard Lee, 301–594–4280.

SUPPLEMENTARY INFORMATION: Proposed rules for designation of MUPs and HPSAs were published on September 1, 1998 (63 FR 46538). The original comment period was extended for an additional 60 days (until January 4, 1999) (63 FR 58679, November 2, 1998), and over 800 comments on the proposed rules were received. Given the large volume of thoughtful comments and the high level of concern that has been voiced about the potential impact of the proposal as published, HRSA believes it is imperative to conduct further analyses before proceeding. This will include a thorough, updated analysis of the impact of the proposal as published, applied to current data for all counties and currently designated MUPs and HPSAs, followed by testing of a number of possible revisions to the proposal, based on HRSA's analysis of the comments received. HRSA also plans to have one or more independent outside organizations verify its impact testing. A new NPRM will then be published for public comment, with a goal of publishing the revised proposal by the end of 1999. The decision to publish another NPRM with its associated public comment period means that new final regulations likely will not be implemented prior to the fall of 2000.

(Authority: 42 U.S.C. 254c and 42 U.S.C. 254e).

Dated: March 12, 1999.

Claude Earl Fox,

Administrator, Health Resources and Services Administration.

Approved: May 25, 1999.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

[FR Doc. 99–13951 Filed 6–2–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[OST Docket No. OST–99–5742; Notice 99–4]

RIN 2105–AC78

Drug and Alcohol Testing Procedures

AGENCY: Office of the Secretary, DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This advance notice solicits public comments on a proposed procedure that organizations certifying substance abuse professionals (SAPs) could use to have members included in the Department of Transportation's substance abuse professional (SAP) definition. The Department proposes to require such organizations to obtain a National Commission for Certifying Agencies (NCCA) accreditation as a prerequisite for having the DOT review their petitions for inclusion of their members as SAPs in the Department's drug and alcohol testing program.

DATES: Comments should be submitted on or before August 2, 1999. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Written comments should be sent to Docket Clerk, Att: Docket No. OST–99–5742, Department of Transportation, 400 7th Street, SW., Room PL401, Washington DC 20590.

For the convenience of persons wishing to review the docket, it is requested that comments be sent in triplicate. Persons wishing their comments to be acknowledged should enclose a stamped, self-addressed postcard with their comment. The docket clerk will date stamp the postcard and return it to the sender. Comments may be reviewed at the above address from 9:00 a.m. through 5:30 p.m. Monday through Friday.

Commenters may also submit their comments electronically. Instructions for electronic submission may be found at the following web address: http://dmses.dot.gov/submit/. The public may also review docketed comments electronically. The following web address provides instructions and access to the DOT electronic docket: http://dms.dot.gov/search/.

FOR FURTHER INFORMATION CONTACT: Jim L. Swart, Policy Advisor, Office of Drug and Alcohol Policy and Compliance, Room 5405, (202) 366–3784; 400 7th Street, SW., Washington DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The Omnibus Transportation Employees Testing Act of 1991 required that an opportunity for treatment be made available to covered employees. To implement this requirement in its alcohol and drug testing rules issued in February 1994, the Department of Transportation (DOT) established the role of ''substance abuse professional'' (SAP). The DOT rules require an employer to advise a covered employee who engages in conduct prohibited under these rules of the resources available for evaluation and treatment of substance abuse problems. Employers wishing to return an employee to safety-sensitive duties following a rule violation must first ensure that the employee has been evaluated by a SAP.

The SAP plays a pivotal role in the evaluation, referral, and treatment process of a safety sensitive employee who has violated the DOT regulations. The SAP is charged with the responsibility for making a face-to-face initial assessment and evaluation to determine what assistance, if any, is needed to address the employee's substance abuse problem. If assistance is needed, the SAP is responsible for referring the employee to the appropriate education or treatment program.

The SAP is also charged with conducting a face-to-face follow-up evaluation to determine if the employee has demonstrated successful compliance with the initial assessment and treatment recommendations. In addition, the SAP is responsible for providing the employer with a follow-up drug and/or alcohol testing plan for the employee. Based on these responsibilities, a SAP plays a major role within the testing program in managing the therapeutic decisions when the regulations are violated.

Individuals who are currently qualified to act as a SAP in the DOT drug and alcohol testing program are defined in 49 CFR 40.3 as follows:

> Substance abuse professional. A licensed physician (Medical Doctor or Doctor of Osteopathy); or a licensed or certified psychologist, social worker, or employee assistance professional; or an addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

This proposed policy focuses on considerations related to the certification of addiction counselors to act as a SAP. The National Association of Alcoholism and Drug Abuse Counselors (NAADAC) was named in the February 1994 regulations as the only organization that could certify an addiction counselor to act as a SAP. Subsequent to those rules being published, the International Certification Reciprocity Consortium (ICRC) formally requested to have their certified counselors included in the SAP definition. The review of that petition was performed by the DOT Office of Drug and Alcohol Policy and Compliance (ODAPC).

Since a major objective of the certification process in this program is the protection of the public by ensuring that only competent professionals are permitted to serve as SAPs, the review was conducted in considerable depth. It involved numerous interviews with the principals of ICRC, their technical consultants, and the acquisition of materials that thoroughly documented their certification process. It also involved interviews with the principals of NAADAC and their associated technical professionals. The review process mapped out by the Department has twelve established evaluation standards that are provided to all certification agencies seeking inclusion in the SAP definition. The review includes a detailed assessment of test development and testing processes and an examination of the data derived from the application of their certification test over time. Following this review, the Department added the ICRC certified counselors to the SAP definition on July 17, 1996. However, the review and approval process was seen as being overly long and costly.

Subsequent to the inclusion of ICRC counselors into the SAP definition, other organizations petitioned to have their certified counselors included. This development, along with the anticipation that more organizations would petition for inclusion, caused concern that the broad regulatory oversight function at ODAPC would be disrupted. The experience involving ICRC as well as the subsequent petitioners has shown that not only is the process too protracted and costly but that the ODAPC could not effectively and efficiently examine more than one petitioning organization at a time. Provisions for the conduct of a review and approval process in ODAPC were not included in the initial promulgation of the regulations. Therefore, it was determined that a more efficient solution to the review process should be sought. We believe it is desirable that the process should enable the Department to continue portion of the review process while turning over the review's more costly, time-consuming, and technical expertise-driven elements to another entity.

We believe that an effective framework can be found in the standards used by the National Commission for Certifying Agencies (NCCA). The NCCA was created in 1989 by the National Organization for Competency Assurance (NOCA) as a commission to establish national voluntary standards and recognize compliance with these standards by agencies certifying individuals in a wide range of professions and occupations. The NCCA replaced the National Commission for Health Certifying Agencies (NCHCA), which was established in 1977 to develop criteria and standards for health certifying agencies.

The federal government played a lead role in bringing the NCHCA into being as a voluntary national organization that would serve as a platform for the development of standards of excellence in private certification. The NCCA accredits certification entities that are national in scope using standards developed originally by NCHCA in early 1978 with seed money provided by the U.S. Department of Health and Human Services under the sponsorship of then-Secretary Joseph Califano. NCCA standards were subsequently validated through research conducted by national task forces in 1980, 1981, and 1982. The standards have been updated through a

careful review process, and NCCA has been active in accrediting a variety of certification programs. The NCCA continues the mission and expands the commission's sphere of influence to include a wider range of professions and occupations.

The NOCA is a membership organization open to a variety of organizations that are interested in competency assurance issues. Membership in NOCA does not require or involve any review of certification activity. It should also be noted that NOCA membership does not involve any recognition or a discipline or profession or their certification arrangements. The NCCA is the accreditation body of NOCA. A certifying organization can be accredited by NCCA if it demonstrates compliance with applicable accreditation standards. Only those organizations that achieve NCCA accreditation recognition are allowed to display the NOCA logo on their promotional literature.

NCCA standards for accreditations are standards for voluntary certification organizations. The standards have been developed after years of research and implementation into the operation of certification organizations. They are nationally recognized principles utilized by a variety of certification organizations for certification programs in diverse professions and occupations. Accreditation by the Commission indicates that the certification organization has been evaluated by the Commission and found to meet or exceed all of its established standards.

NCCA accreditation standards are the only national and voluntary standards for certification agencies. The organizationally relevant aspects of the standards are widely respected as the most rigorous and objective benchmark by which certifying entities can gauge the quality and defensibility of their activities. The NCCA psychometric standards are consistent with the requirements set forth by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education, as well as those requirements established by the U.S. Equal Employment Opportunity Commission.

As a voluntary, non-profit commission, NCCA is made up of elected and appointed representatives from certifying agencies and other individuals with expertise pertinent to its activity, including a public member and two psychometricians. The accreditation process includes an intensive review of certification entity documents and examination material (i.e., validation studies, reports, and etc.) used in the agency's certification activity. Once achieved, accreditation is maintained through an annual reporting cycle and reapplication every five years. In addition to its accreditation activity, NCCA has published documents such as Guidelines for Non-Written Examinations to inform certifying entities more completely about quality certification.

In addition to the specific standards which all certification programs must meet in order to be accredited by NCAA, certain eligibility requirements must be met before a certification program can apply for review by NCCA. The program must be non-governmental (unless the certification is for government employees); national in scope; operated by a not-for-profit agency; and must have administered at least two national examinations. The Commission document, ''Standards for Accreditation of National Certification Organizations'' can be obtained by writing to the following address: National Commission for Certifying Agencies, 1200 19th Street, NW., Suite 300, Washington DC 20036–2422. This document outlines NCCA certification standards.

All applicants undergo a thorough evaluation of written materials submitted describing the structure of the agency and the process used to measure competency. The Commission is interested in many aspects of the applicant's certification program but it does not evaluate the examination's content and no on-site visits are scheduled as part of the review.

The Commission reviews applications for accreditation at any one of its meetings which are usually held three times during the year. When a certification agency is accredited by the NCAA, the organization is placed on an accreditation list and the agency is permitted to include the NCCA logo on its brochures and printed material.

Organizations seeking SAP accreditation with the Department through the NCCA mechanism would have to pay certain fees. All organizations with Commission accreditation must pay an annual accreditation fee of $3000. The $3000 accreditation fee also includes membership in the National Organization for Competency Assurance. Prior to seeking Commission accreditation, all organizations must either pay a $500 non-refundable application fee or be members of NOCA.

Based on experience and the foregoing information about NCCA, DOT seeks comments on requiring NCCA certification as a requisite for addiction counselor certification organizations wishing to have their certified counselors included in the SAP definition. DOT is proposing that the NCCA have the role as the accreditation organization because it has extensive experience in applying the only standards which are relevant in this circumstance.

Moreover, this proposal is pursued because the NCCA has evolved from the organization that developed the standards. It will be recalled that the predecessor organization—NCHCA—was established with help from the federal government to address circumstances such as this. The NCCA is presently fulfilling that role and, as a result, is uniquely qualified to support the Department's process of evaluating certifying organizations wishing to have their certified counselors included in the SAP definition.

The Department asks comment on the following regulatory text language that would implement this proposal.

Certification organizations wishing to have their certified drug and alcohol addiction counselors included in this part's definition of substance abuse professional (SAP, (see 49 CFR § 40.3) must obtain the National Commission for Certifying Agencies (NCCA) accreditation as a prerequisite for having the DOT review their petitions for inclusion into the SAP definition.

Because they have completed a stringent DOT review process, we do not contemplate that the two organizations (i.e., NAADAC and ICRC) whose certified addiction counselors are presently included in Part 40 would be affected by this requirement. We seek comment on whether this approach is appropriate or whether the two organizations should have to go through the NCCA process immediately, or within a few years. However, those organizations currently being reviewed by ODAPC would be required under this proposal to obtain NCCA accreditation. Reviews for those organizations currently in the review process will be placed ''on hold'' pending their NCCA accreditation.

The Department is currently preparing a comprehensive revision of 49 CFR part 40, its drug and alcohol testing procedures rule. We intend that the proposed rule to revise all of part 40 will address the subject matter of this ANPRM. After we review the comments on the ANPRM, we intend to incorporate the results of our review into the larger part 40 rulemaking project.

Regulatory Analyses and Notices

This advance notice of proposed rulemaking does not propose a significant rule for purposes of

Executive Order 12866 or the Department's regulatory policies and procedures. In terms of the Regulatory Flexibility Act, our preliminary conclusion is that the action on which the ANPRM seeks comment would not have a significant economic impact on a substantial number of small entities. This is because the entities that the proposal would affect are nationwide certifying organizations that are not small entities. The members of these organizations are primarily individuals, rather than entities. Because the proposal would make ODAPC's consideration of SAP certification organizations speedier and more efficient, many of the effects of the proposal would likely be positive. In any event, the Department requests comments on any small entity impacts the proposal might have.

There are no Federalism impacts sufficient to warrant a Federalism assessment. If the Department decides to include this item in the forthcoming overall part 40 NPRM, it may be viewed as involving an information collection requirement under the Paperwork Reduction Act (PRA). If so, consideration of any information collection burdens for this provision will be included in the PRA documentation for the part 40 NPRM. The authority for this ANPRM is the same as for the part 40 rulemaking in general (i.e., 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45101, *et seq.*).

List of Subjects in 49 CFR Part 40

Drug testing, alcohol testing, reporting and recordkeeping requirements, safety, transportation.

Issued this 10th day of May 1999, at Washington, D.C.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 99–14080 Filed 6–2–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–98–3783]

RIN 2137–AB38

Qualification of Pipeline Personnel

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

ACTION: Notice of availability of draft environmental assessment.

SUMMARY: This proposed rule would require pipeline operators to develop and maintain a written qualification program for individuals performing covered tasks on pipeline facilities. The intent of the rule is to ensure a qualified workforce and reduce the probability and consequences of incidents caused by human error. A draft environmental assessment of this proposed rule is available in the docket.

DATES: Interested persons may submit written comments on the Draft Environmental Assessment until July 6, 1999.

ADDRESSES: Send comments in duplicate to Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001. Identify the docket and notice number stated in the heading of this notice. Persons should send the original plus one (1) copy. Comments may be filed electronically by e-mail at ops.comments@rspa.dot.gov. All comments and docketed material will be available for inspection and copying at the Dockets Facility between 8:30 a.m. and 5 p.m. each business day. Comments can also be reviewed over the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Marvin Fell at (202)366–6205 or by e-mail at marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION: Although no regulatory program is capable of completely eliminating human error, the objective of this proposed rule is to reduce the risk of accidents on pipeline facilities attributable to human error. In a notice of proposed rulemaking (NPRM) published October 27, 1998 (63 FR 57269), RSPA proposed to require pipeline operators to develop and maintain a written qualification program for individuals performing covered tasks. This proposed rule for qualification of individuals is intended to provide additional levels of safety. The proposed rule would require operators of pipelines to develop a qualification program to evaluate an individual's ability to perform covered tasks and to recognize and react to abnormal operating conditions that may occur while performing covered tasks.

We have analyzed the proposed rule for purposes of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). The proposed rule should not significantly impact the environment. It should provide some improvement to the environment by reducing the probability and consequences of incidents on pipelines caused by human error. Therefore, we have determined that the proposed rule would not significantly affect the quality of the human environment. A draft environmental assessment document is available for review in the docket.

Issued in Washington, DC, on May 26, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 99–14079 Filed 6–2–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 990304061–9150–02; I.D. 051099A]

RIN 0648–AL63

Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustaceans Fisheries; Bank-Specific Harvest Guidelines

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a rule that would divide the Northwestern Hawaiian Islands (NWHI) lobster fishery into four fishing grounds and allow the Southwest Regional Administrator, NMFS (Regional Administrator) to allocate the annual NWHI harvest guideline among these grounds for the 1999 season and beyond. The four lobster fishing grounds would be: Necker Island, Maro Reef, Gardner Pinnacles, and the remaining NWHI lobster fishing grounds combined. Also, the proposed rule would allow lobster vessels carrying a NMFS-certified vessel monitoring system (VMS) unit to be within the boundary of a fishing grounds immediately after it is closed, provided the vessels are making steady progress to an open fishing grounds or back to port. This rule is intended to protect the lobster resources at each fishing ground, to provide better data on stocks, and to conserve the resource.

DATES: Written comments must be received on or before June 18, 1999.

ADDRESSES: Written comments should be sent to the Regional Administrator, 2570 Dole Street, Honolulu, Hawaii 96822 (attn: Al Katekaru). Copies of the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) (revised May 1999) and environmental assessment are available