

**FOR FURTHER INFORMATION CONTACT:** Shannon Lipp, Attorney, (202) 418-7400 or Regina Brown, Attorney, (202) 418-7400, Wireline Competition Bureau, Telecommunications Access Policy Division.

**SUPPLEMENTARY INFORMATION:** This summary contains corrections to the dates section and the supplementary information section of a **Federal Register** summary, 68 FR 74492 (December 24, 2003). The full text of the Commission's Report and Order and Order on Reconsideration in WC Docket No. 02-6, FCC 03-288 released on December 24, 2003 is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554.

In rule FR Doc. 03-31683 published December 24, 2003 (68 FR 74492) make the following corrections.

1. On page 74492, in the third column, in the **DATES** section, remove "February 23, 2004" and add "January 23, 2004" in its place. Also in the **DATES** section, remove "§ 54.609(A)(3)(ii)" and add "§ 54.609(d)(2)" in its place.

2. On page 74502, in the first column, in paragraph 69, fourth line, remove "§ 54.609(A)(3)(ii)" and add "§ 54.609(d)(2)" in its place.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 04-1247 Filed 1-21-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 40

[Docket OST-2003-15245]

RIN 2105-AD36

#### Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Revision of Substance Abuse Professional Credential Requirement

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Department of Transportation's Office of Drug and Alcohol Policy and Compliance (ODAPC) is adding drug and alcohol abuse counselors certified by the National Board for Certified Counselors, Inc. and Affiliates (NBCC), specifically NBCC's Master Addictions Counselor (MAC), to those eligible to be substance abuse professionals (SAPs) under subpart O of 49 CFR part 40.

**DATES:** This rule is effective January 22, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jim L. Swart, Drug and Alcohol Policy Advisor at (202) 366-3784 (voice), (202) 366-3897 (fax), or at [jim.swart@ost.dot.gov](mailto:jim.swart@ost.dot.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:**

#### Background

The Omnibus Transportation Employee 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 the "substance abuse professional" (SAP). The Department's regulation—49 CFR part 40—requires an employer to provide a covered employee, who engages in conduct prohibited by DOT agency drug and alcohol regulations, a listing of qualified SAPs. In addition, the regulation requires the employee to be evaluated by a SAP and to demonstrate successful compliance with the SAP's evaluation recommendations for education and/or treatment prior to being considered for returning to any DOT safety-sensitive position.

The Department considers the SAP to be the "Gatekeeper" for the return-to-duty process. The SAP represents the major decision point an employer may have in choosing whether or not to place an employee back to safety-sensitive duties following a DOT regulation violation. The SAP is responsible for several duties important to the evaluation, referral, and treatment of employees who have engaged in prohibited drug and alcohol related conduct. The job a SAP accomplishes as "Gatekeeper" provides vital help to the employee, the employer, and to the traveling public.

In order to be permitted to act as a SAP in the DOT drug and alcohol testing program, in addition to meeting basic knowledge, training and examination, and continuing education requirements, a person must have one of the following credentials:

- (1) Licensed physician;
- (2) Licensed or certified social worker;
- (3) Licensed or certified psychologist;
- (4) Licensed or certified employee assistance professional; or
- (5) Drug and alcohol counselor certified by the National Association of Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC).

Part 40, at § 40.283, details how a certification organization wishing to obtain recognition for its members as SAPs can submit to the Department a written petition requesting a review of that petition. The Department stipulates that the organization must first obtain National Commission for Certifying Agencies (NCCA) accreditation through the National Organization for Competency Assurance (NOCA) and meet the requirements of appendix E to part 40. The petition must fully show proof of the organization's meeting these review prerequisites.

The National Board for Certified Counselors, Inc. and Affiliates, 3 Terrace Way, Suite D, Greensboro, NC 27403-3660, petitioned the DOT for inclusion of its MAC as one of the SAP credentials. Upon receipt of the petition, the DOT began a thorough review of the NBCC proposal, to include substantive information documentation and demonstration of the 12 items in appendix E to part 40. In addition, the Department obtained corroboration from appropriate sources that the information provided by NBCC was valid.

Relative to the criteria established by the Department for certifying organizations, the NBCC MAC credential was accredited by the NCCA certification and accreditation process and that accreditation is currently in good standing. The Department used its collaborative relationship with NOCA to ensure that the focus of the NBCC's MAC examination was on substance abuse, and we used that relationship to further ensure that NCCA's accreditation standards were met. In addition to meeting the NCCA accreditation standards, NBCC had to meet the part 40 requirements at appendix E. The NBCC MAC credential process met or exceeded all DOT requirements.

The results of our evaluation supports the conclusion that NBCC has rigorous standards in place and their MAC credential warrants inclusion as an appropriate SAP credential in the Department's drug and alcohol testing regulation. Their program requirements and certification process meet the rigorous requirements of NCCA accreditation. Their standards also satisfy the Department's equally rigorous requirements at appendix E to 49 CFR part 40. Therefore, after careful review of NBCC's petition, supporting documentation, and certification procedures, NBCC's certified MACs will be recognized as eligible to be SAPs.

#### Regulatory Analyses and Notices

This rule is not a significant rule for purposes of Executive Order 12866 or

the DOT's Regulatory Policies and Procedures. With respect to the Regulatory Flexibility Act, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. In fact, it will serve to increase the number of qualified SAPs available to employees and employers.

The Department is issuing this as a final rule without opportunity for notice and public comment. The Department determined that doing so would be impracticable, unnecessary, and contrary to the public interest because the parameters for the Department's decisions with regard to counselor certification groups have been long established in part 40 and have been amply commented upon previously. In addition, our review, verification, and corroboration process of NBCC's petition and documentation were very comprehensive and followed the review criteria in appendix E to part 40. Finally, an immediate increase in the number of those counselors eligible to become SAPs will be realized within the transportation industries near to part 40's SAP "qualification training" deadline, which was December 31, 2003.

For the same good cause and reasons stated in the above paragraph, the Department is issuing this final rule with an immediate effective date rather than one 30 days from date of publication.

#### List of Subjects in 49 CFR Part 40

Administrative practice and procedures, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

Dated: January 13, 2004.

**Norman Y. Mineta,**  
Secretary of Transportation.

■ For reasons set forth in the preamble, the Department of Transportation amends part 40 Title 49, Code of Federal Regulations, as follows:

#### PART 40—[AMENDED]

■ 1. The authority citation for 49 CFR part 40 continues to read as follows:

**Authority:** 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45102 *et seq.*

■ 2. Revise § 40.281(a)(5) to read as follows:

#### § 40.281 Who is qualified to act as a SAP?

(a) \* \* \*

(5) You are a drug and alcohol counselor certified by the National Association of Alcoholism and Drug

Abuse Counselors Certification Commission (NAADAC); or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC); or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC).

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[FR Doc. 04-1326 Filed 1-21-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AI16

#### Endangered and Threatened Wildlife and Plants; Endangered Status for the Rota Bridled White-Eye (*Zosterops rotensis*) From the Commonwealth of the Northern Mariana Islands

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, determine endangered status pursuant to the Endangered Species Act of 1973, as amended, for the Rota bridled white-eye (*Zosterops rotensis*), a bird. The Rota bridled white-eye is a recognized species of white-eye endemic to the island of Rota, Commonwealth of the Northern Mariana Islands. The Rota bridled white-eye was once widespread, possibly occupying forested habitat at all elevations. The total population of the Rota bridled white-eye was estimated at 1,167 individuals in 1996, representing a decline of 89 percent from the 1982 estimated population of 10,763 individuals. The Rota bridled white-eye has continued to decline: In 1999, the population estimate was approximately 1,092 individuals. The Rota bridled white-eye is currently found in four patches of mature wet forest at elevations above 200 meters (650 feet). The reasons for this species' decline are likely the degradation or loss of habitat due to development, agricultural activities, and naturally occurring events; avian disease; predation; and pesticides. This final rule implements the protection provisions of the Act.

**DATES:** This rule is effective February 23, 2004.

**ADDRESSES:** The administrative file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Fish and

Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, HI 96850.

To request copies of regulations on listed species, or for inquiries on prohibitions and permits, write or visit the Service's Portland Office, U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE., 11th Avenue, Portland, OR 97232-4181.

**FOR FURTHER INFORMATION CONTACT:** Gina Shultz, Assistant Field Supervisor, at the Pacific Islands Fish and Wildlife Office (*see ADDRESSES* section) (telephone (808) 792-9400; facsimile (808) 792-9580).

Endangered Species, Portland Office (*see ADDRESSES* section) (telephone (503) 231-2063; facsimile (503) 231-6243).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Rota bridled white-eye (*Zosterops rotensis*) is endemic to the island of Rota, U.S. Commonwealth of the Northern Mariana Islands (CNMI). The fourth largest island in the Mariana Archipelago, Rota is approximately 86 square kilometers (km<sup>2</sup>) (33 square miles (mi<sup>2</sup>)), and is composed of a series of uplifted coral limestone plateaus with a volcanic outcrop. The climate is tropical marine with high humidity and uniform temperatures throughout the year. Average daytime temperatures are approximately 12 degrees Celsius (80 degrees Fahrenheit), with approximately 200 centimeters (cm) (80 inches (in)) of rainfall annually and about 80 percent humidity. Rainfall averages 27 cm (10.6 in) per month during the wet season and 9.6 cm (3.8 in) per month during the dry season.

The Rota bridled white-eye is a small flocking bird in the Family *Zosteropidae*, Order *Passeriformes*. The name white-eye is derived from the ring of white feathers around each eye. The plumage is tinged with yellow, and the bill, legs, and feet are yellow-orange (Pratt *et al.* 1987). Wing, tail, and tarsal lengths taken from 21 adult birds captured by the Mariana Avian Rescue and Survey (MARS) Project averaged 5.6 cm (2.2 in), 3.8 cm (1.5 in), and 2.6 cm (1 in), respectively (Scott Derrickson, National Zoological Park, *in litt.* 1998). Average weights taken from birds captured for the MARS Project were 9.7 grams (0.3 ounces) for males and 9.2 grams (0.3 ounces) for females (S. Derrickson, *in litt.* 1998).

All of the bridled white-eyes in Micronesia, including the Rota bridled white-eye, were placed under one species, *Zosterops conspicillatus*, by Stresemann (1931). Later, the bridled