

falconry regulations of the States of Kansas, New Hampshire and Rhode Island meet or exceed the Federal standards.

On March 11, 1992, the Missouri Department of Conservation notified the Service that the cooperative Federal-State permit application program was no longer in effect. Effective March 10, 1994, the practice of falconry in Kansas, New Hampshire, and Rhode Island will be governed by provisions found in 50 CFR 21.28 and 21.29 and the asterisk following Missouri in 50 CFR 21.29(k) will be removed thereby removing Missouri from the cooperative Federal-State permit application program.

The notice requirements of 5 U.S.C. § 553(b) are not applicable because public comments were solicited by the Service in a proposed rule for falconry permit regulations published in the *Federal Register* on December 20, 1987, (52 CFR 48948) and on September 14, 1989, (54 FR 38142) the final rule was published in the *Federal Register*. Also, the Kansas, New Hampshire, and Rhode Island regulatory programs allowed for reasonable public input. On November 17, 1987, the Kansas Department of Wildlife and Parks Commission held public hearings that were attended by falconers and concerned wildlife conservation organizations. Similar provisions for public hearing or comments were provided in New Hampshire on December 24, 1987, and November 20, 1992, and in Rhode Island on August 27, 1992. The Proposed Rule, Migratory Bird Permits; Determination That Kansas Meets Federal Falconry Standards, was published in the *Federal Register* on November 14, 1990, (55 FR 47498). Public comments were solicited at that time and none were received. As the rules relating to New Hampshire and Rhode Island are similar to those enacted by Kansas; and because of similar public hearings held in the respective states, as well as no comments having been received regarding the Kansas falconry rules, the falconry regulations adopted by New Hampshire and Rhode Island are also being added to this final rule.

This rule relieves a restriction prohibiting Kansas, New Hampshire and Rhode Island from the practice of falconry; therefore, it is effective upon publication in accordance with 5 U.S.C. 553(d)(1).

Need for Rulemaking

The need for changes to Title 50 CFR Part 21, has arisen from the expressed needs of those States (Kansas, New Hampshire, and Rhode Island) that have instituted falconry programs for the

benefit of citizens interested in the sport of falconry and have constructed regulations that meet or exceed Federal requirements protecting migratory birds. Missouri has determined that its needs are best met by no longer participating in a cooperative Federal-State permit application program. However, Missouri remains a State in which falconry is practiced. The changes to 50 CFR 21.29 regulations are necessary to accommodate the needs of the States affected and those who wish to practice falconry in these States.

Required Determinations

This rule was not subject to the Office of Management and Budget review under Executive Order 12866. The Department of Interior has determined that this final rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). It has no potential takings implications for private property as defined in Executive Order 12630. The only effect of this rule will be to allow falconers in the States of Kansas, New Hampshire, and Rhode Island to apply for falconry permits. It is estimated that approximately 25 people or less would apply for falconry permits in each of these States. The removal of Missouri from the cooperative Federal-State permit application program does not affect the ability of individuals to either apply for or receive falconry permits in Missouri. Missouri Falconry regulations meet or exceed Federal falconry standards. Permits for falconry in Missouri will be issued separately by Federal and State authorities. This rule does not contain any information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.* These final changes in the regulations in 50 CFR part 21 are regulatory and enforcement actions that are covered by a categorical exclusion from National Environmental Policy Act procedures under 516 of the Department Manual.

Author

The primary author of this final rule is Marcia Cronan, Senior Special Agent, Division of Law Enforcement, U.S. Fish and Wildlife, Service, Washington, DC 20240.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation and Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, part 21, subchapter B, chapter I of title 50, Code of Federal Regulations, is amended as follows:

PART 21—MIGRATORY BIRD PERMITS

1. The authority citation for Part 21 continues to read as follows:

Authority: Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)).

§ 21.29 [Amended]

2. Amend § 21.29(k) by adding to the list of States in alphabetical order the names "Kansas" preceded by an asterisk, "New Hampshire" preceded by an asterisk, "Rhode Island" preceded by an asterisk and removing the asterisk preceding "Missouri."

Dated: February 28, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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50 CFR Part 85

RIN: 1018-AB95

Clean Vessel Act Pumpout Grant Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule provides the requirements for participation in the Clean Vessel Act Grant Program authorized by Section 5604 of the Clean Vessel Act of 1992. This rule provides for the uniform administration of this new grant program.

DATES: This rule becomes effective April 11, 1994.

Proposals will be accepted for FY 1995 funds (\$7.05 million) between the effective date and April 29, 1994. For FY 1996 and FY 1997, proposals will be due by May 1 of the year preceding that fiscal year (e.g., May 1, 1995 for FY 1996).

ADDRESSES: Copies may be obtained by mailing a request to the Division of Federal Aid, Fish and Wildlife Service, U.S. Department of the Interior, 1849 C Street, NW, MS 140 ARLSQ, Washington, DC 20240, or obtained from the Division of Federal Aid, Fish and Wildlife Service, U.S. Department of the Interior, room 140, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Columbus Brown, Chief, Division of Federal Aid, (703) 358-2156.

SUPPLEMENTARY INFORMATION:**Background**

Sewage discharged by recreational boaters is a substantial contributor to localized degradation of water quality in the United States. The discharge of untreated sewage by boaters is prohibited under Federal law in all areas within the navigable waters of the United States. Many boaters have Type III marine sanitation devices (holding tanks), or portable toilets for sewage. However, there is currently an inadequate number of pumpout stations and dump stations for boaters to dispose of their sewage. The purpose of the Act, therefore, is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout and dump stations to improve water quality.

Section 5604 of the Clean Vessel Act (Pub. L. 102-587, Subtitle F) authorizes the Director of the U.S. Fish and Wildlife Service (Director) to make grants to coastal States for conducting surveys of the status of existing facilities and need for additional facilities, and developing plans for the provision of facilities; and to all States for constructing/renovating pumpout and dump stations and for implementing associated education programs. Funds will be available on a competitive basis to ensure that grants address the highest national priorities. Amounts made available to the Service in a fiscal year are available for obligating to the States for two years. Funds obligated to the States by the Service are normally spent within the year that these funds are obligated, but are available until expended on that grant.

Summary of Comments and Recommendations

In the July 8, 1993, Interim Rule for the Clean Vessel Act Pumpout grant Program, all interested parties were requested to submit comments that might contribute to the development of a final rule for a 45 day period ending August 23, 1993. Appropriate State and Federal agencies, local governments, boaters and boating organizations, marina owners/operators, marine equipment manufacturers and retailers, conservation organizations, and other interested parties were contacted and requested to comment.

A total of 2 written comment letters on the guidelines were received by the Service from 2 marine equipment manufacturers. Both comment letters made suggestions to clarify and recommendations to modify some of the language and guidance. In addition, 1 letter opposed the direction of the Clean

Vessel Act to install pumpout and dump stations, recommending on-board treatment instead.

In addition to the comments received, ten changes were made. The first change is in the Summary, Other Dates, and in § 85.21(b): The next application period will end April 29, 1994, with \$7.05 million available. The second change is in the Background, second paragraph, last sentence: language was added to clarify that the funds available to the Service each year are available for obligation to the States for two years. If not obligated in that two-year period, the funds are turned over to the U.S. Coast Guard for boat safety. Once obligated to the States, however, the funds are normally spent in the year obligated, but are available until expended.

The third change is in the information collection requirements section, last two sentences: The collection of survey information has been approved by OMB, and the Service may now fund the State surveys. The fourth change is in § 85.20(b)(2), first sentence, and 85.20(c)(3): Floating restrooms have been added as eligible for federal aid funding. This addition makes these guidelines in agreement with the technical guidelines, in which the Oregon State Marine Board commented that these restrooms should be eligible because they meet the intent of the Act to reduce vessel sewage pollution, are used solely by boaters, and provide the only means to reasonably accommodate human waste from boaters using smaller recreational watercraft 12-18 ft that do not carry portable toilets or do not have holding tanks.

The fifth change is in § 85.22(d), Grant proposals, after innovative approaches: public/private partnerships, education, sensitive waters, and public access were added. The sixth change is in § 85.30 Grant selection criteria, at end of section: Points have been added to each of the criteria for both coastal and inland States. The seventh change is in Section 85.31 Grant selection, first sentence: Regional Offices have been deleted from the ranking panel and NOAA, EPA and USCG have been added, along with the Service's Washington office Division of Federal Aid personnel.

The eighth change is in § 85.31 Grant selection, second sentence: The date for the Director to make the selection has been changed to August 1, annually. The ninth change is in § 85.44, last sentence: the phrase, "for the useful life", was deleted, and the phrase, "as long as the facility is needed and it serves its intended purpose", was added. This better reflects how long

proceeds should be used for operation and maintenance. An additional sentence was also added, "Maximum fee shall be evaluated for inflation, etc., each year." This sentence was added because conditions may change through time which may require changes in the maximum fee that should be charged. The tenth change is in § 85.48, after (b): This guidance was added because some States have a question on how they should receive payment for funds expended under this grant program.

A total of 6 issues were identified by the commenters. The Service considered all suggestions and recommendations. This final guideline revises the proposed guidelines based on the issues raised by the commenters and makes other changes to clarify the requirements in the interim guidelines. Those comments adopted are included in the final guidelines in the appropriate sections. The following is a discussion of the issues raised by the commenters, the Service's responses to those issues, and a summary of changes made to the proposed guidelines.

Issue 1. Raritan Engineering Co., Inc.: Regarding the Clean Vessel Act: Low density of pumpout stations is not the problem. Pumpout stations have not been installed or used because they are messy, problematic and distasteful. The primary problems with marine sanitation today are: (1) Less than desirable compliance of existing legislation; (2) difficulty enforcing existing legislation; (3) the absence of systems appropriate for all types of boats, boaters, and boating; (4) unfair allowances for treated waste water discharge from municipal waste water plants while treated waste water from boating sources is restricted; and (5) the specter of additional no discharge zone approvals. The Clean Vessel Act attempts to solve the first problem. It will not be successful, however, because the cause has been misidentified. Additionally, it does not address problems 2 and 3, and will heighten problems 4 and 5. The Clean Vessel Act contains no provision to provide funds to improve or enhance on-board treatment of boat generated sewage, which is the future of marine sanitation. The Act should be amended to provide 50% of the Wallop-Breaux funds made available to be spent on the documentation of on-board treatment systems successes, and to fund research and development programs for improved on-board treatment systems to make them more feasible for the vast numbers of small recreational boats.

Response: The Clean Vessel Act addresses Type III marine sanitation devices, or holding tanks, only. Types I

and II, as discussed by the commenter, are not addressed in the current legislation. Suggestions made by the commenter would need additional legislation, as the Service is not authorized to make such changes.

Issue 2. Raritan Engineering Co., Inc.: Background, first sentence: The word "may be" does not correspond to the wording in the Act, which states that "Sewage discharged * * * is a substantial contributor * * *"

Response: The words "may be" have been deleted, and the word "is" has been substituted.

Issue 3. Raritan Engineering Co., Inc.: Subpart C, Part 85.30 Grant selection criteria, subpart (d): after pumpout and dump stations add "and treatment".

Response: As mentioned above in response to issue 1, treatment is not within the scope of the Act.

Issue 4. Raritan Engineering Co., Inc.: Subpart C, Part 85.30 Grant selection criteria: after (g), add "(h) Proposals for innovative ways to develop on-board treatment systems (Type I and/or II) that would be more appropriate for smaller boats (boats under 30')." "

Response: As mentioned above in response to issue 1, treatment is not within the scope of the Act.

Issue 5. Raritan Engineering Co., Inc.: Subpart C, Part 85.30 Grant selection criteria: after proposed (h) add "(i) Proposals to survey coastal boaters to establish the needs of smaller boaters such that on-board treatment systems may be developed to meet the needs more precisely."

Response: As mentioned above in response to issue 1, treatment is not within the scope of the Act.

Issue 6. Sealand Technology, Inc.: Section 85.44 Fee charges, first sentence: The maximum fee of \$5.00 may deter pumpout station installation for two reasons: waste disposal costs may warrant a higher fee, and a provision should be made for very large holding tanks (50 gallons plus).

Response: The Service agrees that there may be situations in which a higher fee may be needed, and a statement that higher fees should be justified has been added.

Environmental Effects

The effects on the physical, biological and sociological environment are too broad, speculative, and conjectural to be analyzed meaningfully. Therefore, the action is categorically excluded from any National Environmental Policy Act documentation pursuant to 516 DM 2.3 A(2). However, construction/renovation of pumpout and dump stations will require separate environmental consideration.

All actions that may be funded by this national grant program will comply with requirements of the National Environmental Policy Act (Appendix 1 of 516 Department Manual 6) prior to the funding. Compliance with the National Environmental Policy Act and other environmental laws related to the Endangered Species Act, Coastal Barriers Resources Act as amended by the Coastal Barrier Improvement Act, Coastal Zone Management Act, Executive Orders on Floodplains (E.O. 11988) and Wetlands (E.O. 11990), historic/cultural resources, prime and unique farmlands, and the Clean Water Act shall be completed before grant agreements are approved by the Fish and Wildlife Service.

Information Collection Requirements

The information collection requirements contained in this rule, except for surveys, are only those necessary to fulfill applicable requirements of 43 CFR Part 12, and have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The collection of survey information contained in this rule was approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.*, October 18, 1993, OMB No. 1018-0086, expiration date September 30, 1996. Burden is expected to be 176,665 responses and 30,033 reporting hours.

Statement of Effects

This rule was not subject to Office of Management and Budget review under E.O. 12866. The grant program does not involve "taking" as described in Executive Order 12630. The rule allows eligible States to make decisions regarding the development and submission of proposed grants for surveys, plans, construction/renovation and education. Therefore, it is consistent with Executive Order 12612 on Federalism. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The effects of these rules occur to agencies in the States, Puerto Rico, Guam, the Virgin Islands, American Samoa, the District of Columbia and the Northern Mariana Islands. These are not small entities under the Regulatory Flexibility Act. Some small entities, mainly marina operators, may be the recipients of grants.

Intergovernmental Review of Federal Programs

This Clean Vessel Act Grant Program is covered under Executive Order 12372 "Intergovernmental Review of Federal Programs" and 43 CFR part 9 "Intergovernmental Review of Department of the Interior Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

States and Territories that participate in the Executive Order process have established Single Points of Contact (SPOCs). Applicants should alert their SPOCs to the prospective applications and receive any necessary instructions to provide material as required by the SPOC. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the narrative. Applicants from States that choose to exempt the grants need take no action regarding E.O. 12372.

Author

The primary author of these rules is Robert D. Pacific, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 85

Grant program, Grant procedures, Program policy, Project selection criteria, Natural resources, Coastal waters, Pumpout station, Dump station, Recreational vessel, Coastal zone management, Information collection, Recordkeeping and reporting requirements.

Regulation Promulgation

For the reasons set out in the preamble, Subchapter F of Chapter I, Title 50 of the Code of Federal Regulations is amended by revising Part 85.

PART 85—CLEAN VESSEL ACT GRANT PROGRAM

Subpart A—General

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- 85.10 Purpose and scope.
 - 85.11 Definitions.
 - 85.12 Information collection, recordkeeping, and reporting requirements.

Subpart B—Application for Grants

- 85.20 Eligible activities.
- 85.21 Application procedures.
- 85.22 Grant proposals.

Subpart C—Grant Selection

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- 85.45 Public access to facilities and maintenance.
- 85.46 Survey and plan standards.
- 85.47 Program crediting.
- 85.48 Compliance with Federal laws, regulations, and policies.

Authority: Public Law 102-587, Subtitle F.

Subpart A—General**§ 85.10 Purpose and scope.**

The purpose of this Part is to establish requirements for state participation in the Clean Vessel Act Grant Program authorized by Section 5804 of the Clean Vessel Act (Public Law 102-587, Subtitle F).

§ 85.11 Definitions.

Terms used in this Part shall have the following meaning:

(a) *Clean Vessel Act or Act.* The Clean Vessel Act (Pub. L. 102-587, subtitle F).

(b) *Coastal State.* A State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands. The term excludes Alaska and American Samoa because these States have a ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in § 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), of less than one.

(c) *Coastal waters.* In the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes. In other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

(d) *Coastal zone.* Coastal zone has the same meaning that the term has in section 304(1) of the Coastal Zone Management Act of 1992 (16 U.S.C. 1453(1)). The coastal zone consists of coastal waters (including the lands therein and thereunder) and the adjacent shorelands, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to

the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands and protect coastal waters.

(e) *Construction.* Activities which produce new capital improvements and increase the value of usefulness of existing property.

(f) *Dump station.* A facility specifically designed to receive sewage from portable toilets carried on vessels. Dump stations do not include lavatories or restrooms.

(g) *Education/information.* The education/information program, as identified in the technical guidelines as published in the **Federal Register**, designed to make recreational boaters aware of the environmental pollution problem resulting from sewage discharges from vessels and inform them of the location of pumpout and dump stations.

(h) *Eligible applicant.* An agency of a State designated by the Governor.

(i) *Facility.* A pumpout station or dump station.

(j) *Grant.* An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee.

(k) *Inland State.* A State which is not a coastal State. The District of Columbia, American Samoa and Alaska are included as inland States (Rationale for Samoa and Alaska being inland States can be found in § 85.11(b) above).

(l) *Maintenance.* Those activities necessary for upkeep of a facility. These are activities that allow the facility to function and include routine recurring custodial maintenance such as housekeeping and minor repairs as well as the supplies, materials, and tools necessary to carry out the work. Also included is non-routine cyclical maintenance to keep facilities fully functional.

(m) *Operation.* Those activities necessary for the functioning of a facility to produce desired results. These are activities that make the facility work.

(n) *Plans.* Those plans identified in the technical guidelines as published in the **Federal Register**, for construction or renovation of pumpout and dump stations necessary to ensure that there are adequate and reasonably available stations to meet the needs of recreational vessels using the coastal waters of the State.

(o) *Pumpout station.* A facility that pumps or receives sewage from a type

III marine sanitation device (holding tank) installed on board vessels.

(p) *Recreational vessel.* Watercraft manufactured for operation, or operated, primarily for pleasure. This term includes any watercraft leased, rented, or chartered to another for the latter's pleasure.

(q) *Renovation.* Major rehabilitation of a facility to restore it to its original intended purpose.

(r) *Surveys.* Those surveys identified in the technical guidelines as published in the **Federal Register**. Surveys are designed to determine the number and location of all operational pumpout and dump stations at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone. Surveys also are designed to determine the number of recreational vessels in coastal waters with holding tanks or portable toilets, and the areas of coastal waters where those vessels congregate.

(s) *Type III marine sanitation device (holding tank).* Any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge sewage.

§ 85.12 Information collection, record keeping, and reporting requirements.

(a) The information collection requirements for this grant program, except for surveys, are those necessary to comply with 43 CFR 12 which include a narrative statement as identified in 85.22 Grant Proposals. The collection of survey information contained in this rule was approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.*, October 18, 1993, OMB No. 1018-0086, expiration date September 30, 1996.

(b) Record keeping requirements include the tracking of costs and accomplishments related to the grant as required by 43 CFR 12.60, monitoring and reporting program performance (43 CFR 12.80), and financial reporting (43 CFR 12.81).

(c) Reporting requirements include retention and access requirements as required by 43 CFR 12.82.

Subpart B—Application for Grants**§ 85.20 Eligible activities.**

(a) Eligible grant activities—coastal States:

(1) Eligible activities include identification in the coastal zone of all operational pumpout and dump stations, and surveys of recreational vessels in coastal waters with holding tanks or portable toilets, and the areas where those vessels congregate. Also eligible are costs of developing a list,

including chart coordinates, of all operational pumpout and dump stations in the coastal zone of the State, for submission to the Fish and Wildlife Service.

(2) Plans for construction and renovation of pumpout and dump stations in the coastal zone of the State necessary to ensure that these stations are adequate and reasonably available to meet the needs of recreational vessels using the coastal waters of the State. Completed State-funded plans may be submitted after the technical guidelines appear in the Federal Register.

(b) Eligible grant activities—all States:

(1) Eligible grant activities include education/information program to educate/inform recreational boaters about the environmental pollution problems resulting from sewage discharges from vessels and to inform them of the location of pumpout and dump stations.

(2) Eligible grant activities include the construction, renovation, operation and maintenance of pumpout and dump stations, including floating restrooms in the water, not connected to land or structures connected to the land, used solely by boaters. Eligible grant activities also include any activity necessary to hold and transport sewage to sewage treatment plants, such as holding tanks, piping, haulage costs, and any activity necessary to get sewage treatment plants to accept sewage, such as installing bleed-in facilities.

(c) Ineligible activities:

(1) Activities that do not provide public benefits.

(2) Enforcement activities.

(3) Construction/renovation of upland restroom facilities.

(4) Construction, renovation, operation and maintenance of on-site sewage treatment plants, such as package treatment plants and septic systems, and of municipal sewage treatment plants for primary and secondary treatment.

§ 85.21 Application procedures.

(a) Eligible applicants will submit their proposals to the appropriate Regional Office of the U.S. Fish and Wildlife Service.

Region 1 States Include—American Samoa, California, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington

Division of Federal Aid, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon 97232-4181, (503) 231-6128

Region 2 States Include—Arizona, New Mexico, Oklahoma, and Texas

Division of Federal Aid, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold

Avenue SW., Albuquerque, New Mexico 87103, (505) 766-2095

Region 3 States Include—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin

Division of Federal Aid, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, (612) 725-3596

Region 4 States Include—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands

Division of Federal Aid, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 324, Atlanta, Georgia 30345, (404) 679-4159

Region 5 States Include—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Division of Federal Aid, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035-9589, (413) 253-8501

Region 6 States Include—Colorado, Kansas, Montana, North Dakota, Nebraska, South Dakota, Utah, and Wyoming

Division of Federal Aid, U.S. Fish and Wildlife Service, 134 Federal Building, P.O. Box 25486, Denver, Colorado 80225 134 Union Boulevard, third floor, Lakewood, Colorado 80225, (303) 236-7392

Region 7 State Includes—Alaska

Division of Federal Aid, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, (907) 786-3435

(b) Proposals will be accepted for FY 1995 funds (\$7.05 million) between the effective date and April 29, 1994. For FY 1996 and FY 1997, proposals will be due by May 1 of the year preceding that fiscal year (e.g., May 1, 1995 for FY 1996).

§ 85.22 Grant proposals.

Grant proposals will consist of a narrative which identifies and describes the following:

(a) The need within the purposes of the Act (Coastal States with approved plans should indicate how the activities contained in the proposal implements the plan);

(b) Discrete objective(s) to be accomplished during a specified time period that address the need(s);

(c) Expected results or benefits from accomplishing the objectives, including the numbers of recreational vessels and people served;

(d) The approach to be used in meeting the objectives, including specific procedures, schedules, key personnel, cooperators, grant location, innovative approaches, public/private

partnerships, education, sensitive waters, public access, and estimated costs;

(e) Amount and source of matching funds; and,

(f) Fees for use of facility.

Subpart C—Grant Selection

§ 85.30 Grant selection criteria.

The Director shall give priority consideration to grant proposals that meet the criteria listed in Subsections a-h and in the accompanying chart:

(a) In coastal States that have no survey or plan, proposals to complete such survey and plan;

(b) Proposals for constructing and renovating pumpout and dump stations without an approved plan;

(c) In coastal States, proposals for constructing and renovating pumpout and dump stations in accordance with a coastal State's plan approved under section 5603(c) of the Clean Vessel Act, and for inland States, proposals for constructing and renovating pumpout and dump stations in accordance with an inland State's plan;

(d) Proposals that provide for public/private partnership efforts to develop and operate pumpout and dump stations;

(e) Proposals for innovative ways to increase the availability and use of pumpout and dump stations, e.g., where private parties put in more than the minimum amount;

(f) Proposals that include an education/information component;

(g) Proposals that benefit the waters most likely to be affected by the discharge of sewage from vessels, including the waters as defined in the technical guidelines as published in the Federal Register; and,

(h) Proposals in areas with high vessel/pumpout or dump station ratios.

Criteria	Points	
	Coastal state	Inland state
a. Do a survey/plan	50
b. Construct w/no plan .	10	5
c. Construct with plan ..	20	10
d. Partnership	10	5
e. Innovative approach .	5	2
f. Education	5	2
g. Sensitive area	5	2
h. Low pumpout ratio ...	5	2
Total		

§ 85.31 Grant selection.

The Fish and Wildlife Service, Division of Federal Aid, will convene a ranking panel of Federal employees, to include representatives from the Service's Washington Office of the Division of Federal Aid, the National

Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the U.S. Coast Guard, to review, rank, and make funding recommendations to the Director of the Fish and Wildlife Service. The Director will make the selection of eligible grants by August 1, annually. Upon selection of a proposal the appropriate Regional Office will advise the successful applicant of additional documentation requirements.

Subpart D—Conditions on Use/Acceptance of Funds

§ 85.40 Cost sharing.

(a) The Federal share shall not exceed 75% of total costs approved in the grant agreement.

(b) The provisions of 43 CFR 12.64 apply to cost sharing or matching requirements. Third party in-kind contributions must be necessary and reasonable to accomplish grant objectives and represent the current market value of noncash contributions furnished as part of the grant by another public agency, private organization, or individual.

§ 85.41 Allowable costs.

(a) Allowable grant costs are limited to those costs that are necessary and reasonable for accomplishment of approved grant objectives and meet the applicable Federal cost principles in 43 CFR 12.60(b). Purchase of informational signs, program signs, and symbols designating pumpout and dump stations, are allowable costs.

(b) Grants or facilities designed to include purposes other than those eligible under the Act shall have the costs prorated equitably among the various purposes. Grant funds shall only be used for the part of the activity related to the Clean Vessel Act.

(c) Costs incurred prior to the effective date of the grant agreement are not allowable with the exception that preliminary costs are allowed only with the approval of the appropriate Regional Director. Preliminary costs may include such items as feasibility surveys, engineering design, biological reconnaissance, appraisals, or preparation of grant documents such as environmental assessments for compliance with the National Environmental Policy Act.

§ 85.42 Real and personal property.

(a) Applicable regulations regarding acquisition, property records, maintenance, and disposal of real property and equipment are found in 43 CFR 12.71 and 12.72. If questions arise regarding applicability, the appropriate Regional Office should be contacted.

(b) A State shall ensure that design and installation of the facilities are in accordance with the technical standards identified in the technical guidelines as published in the **Federal Register**.

(c) The State must ensure that facilities are operated and maintained, and that structures or related assets are used for the stated grant purpose.

§ 85.43 Signs and symbols.

A national symbol, to be developed, should be installed to be clearly visible to direct boaters entering the facility to pumpout and dump stations. Appropriate information signs should be installed at pumpout and dump stations. Such information could indicate fees, restrictions, hours of operation, operating instructions, and a contact name and telephone number if the facility is inoperable.

§ 85.44 Fee charges for use of facilities.

A maximum of a \$5.00 fee may be charged, with no justification, for use of pumpout facilities constructed, operated or maintained with grant funds. If higher fees are charged, they must be justified before the proposal can be approved. Such proceeds shall be retained, accounted for, and used by the operator to defray operation and maintenance costs as long as the facility is needed and it serves its intended purpose. The maximum fee shall be evaluated for inflation, etc., each year.

§ 85.45 Public access to facilities and maintenance.

All recreational vessels must have access to pumpout and dump stations funded under this grant program. Facilities shall be operated, maintained, and continue to be reasonably accessible to all recreational vessels for the full period of their useful life.

§ 85.46 Survey and plan standards.

(a) *Survey standards.* (1) Surveys should be conducted according to the technical guidelines as published in the **Federal Register**.

(2) Surveys may be conducted Statewide, if necessary, to obtain information on boats using the coastal zone.

(b) *Plan standards.* Plans should be developed according to the technical guidelines as published in the **Federal Register**.

§ 85.47 Program crediting.

Signs should acknowledge that the facility was constructed or improved with funds from the Clean Vessel Act. Following is suggested language: "This facility was built (or improved) using Federal Aid matching funds authorized by the Clean Vessel Act."

§ 85.48 Compliance with federal laws, regulations, and policies.

(a) In accepting Federal funds, State representatives must agree to and certify compliance with all applicable Federal laws, regulations, and policies. This is done by submitting an assurances statement that describes the compliance requirements for Federal grants.

(b) Compliance with environmental and other laws, as defined in Service Manual 523 FW Chapter 1, may require additional documentation. Consult with Regional Offices for specific applicability.

(c) For method of payment, refer to 43 CFR part 12, 31 CFR part 205, and any other regulations referenced in these parts.

Dated: February 11, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 931199-4042; I.D. 030794A]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific cod for the inshore component in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 8, 1994, through 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Fishery Biologist, Fisheries Management Division, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and