

- (x) Landfill temperature;
- (xi) Landfill moisture content;
- (xii) Data on the leachate pressure (head) on the liner; (xiii) The amount of aeration of the waste;
- (xiv) Data on landfill settlement;
- (xv) Any information on the performance of the landfill cover; and
- (xvi) Observations, information, or studies made on the physical stability of the landfill.

(6) This section will remain in effect until August 13, 2006. By August 13, 2006, Yolo County Central Landfill shall return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through this Project XL site-specific rule. This section applies to Phase I of Module D. This section also will apply to any phase of Module D beyond Phase I only if a second Final Project Agreement that describes the additional phase has been signed by representatives of EPA Region 9, Yolo County, and the State of California. Phase I of Module D is defined as the operation of twelve acres of the twenty acre Module D.

[FR Doc. 01-20261 Filed 8-10-01; 8:45 am]

BILLING CODE 6560-50-P

## NATIONAL SCIENCE FOUNDATION

### 45 CFR Parts 672 and 673

RIN 3145-AA36

#### Antarctic Non-Governmental Expeditions

**AGENCY:** National Science Foundation (NSF).

**ACTION:** Final rule.

**SUMMARY:** NSF is issuing a final rule that implements the amendments to the Antarctic Conservation Act of 1978 contained in the Antarctic Science, Tourism, and Conservation Act of 1996. These regulations require that U.S. non-governmental expeditions using non-U.S. flagged vessels for Antarctic voyages ensure that the vessel has an emergency response plan. The regulation also requires that U.S. non-governmental expeditions doing business in the United States notify passengers and crew of their Antarctic Conservation Act obligations.

**DATES:** Effective Date: NSF is publishing this rule to become effective September 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Anita Eisenstadt, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

**SUPPLEMENTARY INFORMATION:** On June 4, 1998, the National Science Foundation (NSF) published a proposed rule to implement emergency response plan and environmental protection information requirements contained in the Antarctic Conservation Act of 1978, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996 (ASTCA), and invited public comment on the proposed rule (63 FR 30438). NSF received written comments from the International Association of Antarctica Tour Operators (IAATO) and the U.S. Environmental Protection Agency (EPA).

IAATO expressed uncertainty as to whether NSF is the appropriate Federal agency to issue a rule implementing Article 15 of the Protocol on Environmental Protection to the Antarctic Treaty (the Protocol) with respect to vessels. In enacting ASTCA, Congress reaffirmed NSF's role as the lead Federal agency in Antarctica with longstanding responsibility for ensuring that U.S. scientific activities and tourism are conducted with an eye to preserving the unique values of the Antarctic region. (16 U.S.C. 2401(a)(3)). Article 15 of the Protocol requires that the U.S. Government provide for prompt and effective response action to environmental emergencies arising from scientific research programs, tourism and non-governmental activities in Antarctica. The U.S. Coast Guard has issued regulations which implement this obligation with respect to U.S. flagged vessels. However, many U.S. non-governmental expeditions charter non-U.S. flagged vessels. To ensure that the U.S. obligation to comply with Article 15 is met for all activities in Antarctica for which advance notice is required under Article VII of the Antarctic Treaty, it was necessary to have a regulation addressing Article 15 obligations for those U.S. non-governmental expeditions which charter non-U.S. flagged vessels. Section 6(a) of the Antarctic Conservation Act, as amended by ASTCA, authorizes NSF to issue such regulations as are necessary and appropriate to implement the Protocol and the ACA. It is under this authority, and to fully meet the U.S. obligations under Article 15, that NSF is issuing this regulation.

IAATO also suggested that the proposed rule could be interpreted as an attempt to govern the operations of foreign flag vessels. The U.S. obligation under the Protocol is to ensure that all expeditions for which advance notice is required by the United States under the Treaty are prepared to provide for prompt and effective response actions to environmental emergencies, regardless

of the flag state or the state of registry of the vessel being used for the expedition. This regulation regulates the U.S. expedition organizer rather than the foreign flagged vessel by requiring the expedition organizer to make provision for prompt and effective response action as required under Article 15. The expedition organizer may do so by contract. NSF has revised the language in § 673.1, Purpose of Regulations, of the final rule to provide clarification in this respect.

IAATO also noted that different national authorities may impose different rules to implement Article 15 and that amending Shipboard Oil Pollution Emergency Plans ("SOPEPs") will be an iterative process. IAATO commented that the regulatory requirements should be flexible enough to accommodate varying approaches to response plans. IAATO sought clarification as to whether the preamble language, stating that a plan which met Coast Guard's rule implementing Article 15 would also meet the requirements of this regulation, would limit such flexibility. NSF agrees that a flexible approach is necessary. The regulation does not dictate the detailed content of the response plan and the reference to the Coast Guard regulation was merely intended to provide consistent guidance on one acceptable approach to the content of an effective response plan.

EPA also submitted written comments on the proposed rule. EPA expressed concern with the language in § 673.4 which limited the requirement for providing environmental protection information to persons organizing non-governmental expeditions "who do business" in the United States. The limitation to an entity who "does business in the United States" reflects the specific statutory language contained in section 4(a)(6) of the ACA, as amended by ASTCA. The scope of coverage for the response action provisions in the rule is not limited to organizers "who do business" in the United States.

EPA also expressed concern that the proposed rule appeared to be limited to tour operators rather than all non-governmental operators. Of course, the majority of non-governmental operators are tour operators. However, to the extent that any language contained in the preamble to the proposed rule would have given the impression that the rule is limited to tour operators, NSF wishes to clarify that the rule applies to all categories of non-governmental expeditions organized in or proceeding from the United States and required to give notice under Article VII(5) of the Antarctic Treaty. In order to avoid any

misperception about the scope of the rule, NSF is changing the title of part 673 to Antarctic Non-Governmental Expeditions. However, as noted above, the environmental protection information provision is limited in applicability to expedition organizers who do business in the United States as provided in section 4(a)(6) of the ACA.

EPA also raised concerns that the preamble to the proposed rule gave the impression that requirements to amend SOPEPs were being levied on non-U.S. flagged vessels. However, the rule regulates the U.S. expedition organizer rather than the foreign flagged vessel by requiring the expedition organizer who uses non-U.S. flagged vessels to ensure that the vessel owner or operator has an emergency response plan.

EPA suggested that NSF might wish to incorporate preamble language in the final rule stating that “\* \* \* any plan which satisfies the requirements contained in 33 CFR 151.26 of the Coast Guard regulations will also satisfy the requirements of this rule.” NSF’s reference to the Coast Guard regulation was intended to provide consistent guidance to Antarctic expedition organizers. NSF considered EPA’s suggestion and has modified the final rule to incorporate this provision.

EPA also suggested that NSF add definitions to its final rule found in EPA’s interim final rule for environmental impact assessment of non-governmental activities in Antarctica. Specifically, EPA suggested adding definitions for Antarctic Treaty area and operator. Since NSF has defined “Antarctica” as the area south of 60 degrees south latitude which is also the Antarctic Treaty area, NSF will consistently use the single term “Antarctica” throughout the regulation. NSF does not believe that the addition of the term “operator” to the regulation would provide any additional clarification to the rule.

Finally, EPA recommends that NSF change the term “tour operators” to “nongovernmental operators” in § 673.4(b). This provision in the rule preserves the option for NSF to prepare educational information at its discretion for dissemination to passengers aboard tourist vessels. Since the vast majority of nongovernmental expeditions to Antarctic are tourist expeditions, NSF is limiting the mandatory distribution of such materials to tour operators. This information could certainly be provided to other non-governmental expeditions but mandatory dissemination is not needed.

*Determinations:*

#### A. Executive Order 12866

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs.

#### B. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is hereby certified this rule will not have significant impact on a substantial number of small businesses.

#### C. Paperwork Reduction Act

For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the collection of information requirements have been approved by the Office of Management and Budget (OMB No. 3145–0180).

#### D. Unfunded Mandates Act

The Unfunded Mandates Act of 1995 (Pub. L. 104–4) requires agencies to prepare several analytic statements before proposing any rule that may result in annual expenditures of \$100 million by State, local, Indian Tribal governments, or the private sector. Since this rule will not result in expenditures of this magnitude, it is hereby certified that such statements are not necessary.

#### E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 804). The rule will not result in an annual effect on the economy of \$100 million or more; result in a major increase in cost or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

#### F. Executive Order 13132: Federalism

The rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, NSF has determined that this rule does not have sufficient federal implications to warrant the preparation of a federalism summary impact statement.

#### G. Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Executive Order 12988.

#### H. Executive Order 13175: Tribal Consultation

This rule does not have tribal implications.

#### I. The Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*), provides that agencies shall submit a report, including a copy of all final rules, to each House of Congress and the Comptroller General of the United States. The Foundation has submitted this report, identifying this rule as non-major.

#### List of Subjects

##### 45 CFR Part 672

Administrative practice and procedure, Antarctica.

##### 45 CFR Part 673

Administrative practice and procedure, Antarctica, Oil pollution, Vessels.

Dated: August 7, 2001.

#### Lawrence Rudolph,

*General Counsel, National Science Foundation.*

The National Science Foundation hereby amends 45 CFR part 672, and adds 45 CFR part 673 as follows:

1. The authority citation for part 672 continues to read as follows:

**Authority:** 16 U.S.C. 2401 *et seq.*

2. The part heading to part 672 is revised to read as follows:

#### PART 672—ENFORCEMENT AND HEARING PROCEDURES

##### § 672.3 [Amended]

3. In § 672.3, remove and reserve paragraph (h) and redesignate paragraph (i) as (h).

4. Part 673 is added to read as follows:

#### PART 673—ANTARCTIC NON-GOVERNMENTAL EXPEDITIONS

Sec.

673.1 Purpose of regulations.

673.2 Scope.

673.3 Definitions.

673.4 Environmental protection information.

673.5 Emergency response plan.

**Authority:** 16 U.S.C. 2401 *et seq.*

##### § 673.1 Purpose of regulations.

The purpose of the regulations in this part is to implement the Antarctic Conservation Act of 1978, Public Law

95-541, as amended by the Antarctic Science, Tourism and Conservation Act of 1996, Public Law 104-227, and Article 15 of the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991. Specifically, this part requires that all non-governmental expeditions, for which advance notice by the United States is required under the Antarctic Treaty, who use non-flagged vessels ensure that the vessel owner or operator has an appropriate emergency response plan. This part is also designed to ensure that expedition members are informed of their environmental protection obligations under the Antarctic Conservation Act.

(Approved by the Office of Management and Budget under control number 3145-0180).

#### **§ 673.2 Scope.**

The requirements in this part apply to non-governmental expeditions to or within Antarctica for which the United States is required to give advance notice under Paragraph (5) of Article VII of the Antarctic Treaty.

#### **§ 673.3 Definitions.**

In this part:

*Antarctica* means the area south of 60 degrees south latitude.

*Expedition* means an activity undertaken by one or more non-governmental persons organized within or proceeding from the United States to or within Antarctica for which advance notification is required under Paragraph 5 of Article VII of the Antarctic Treaty.

*Person* has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States except that the term does not include any department, agency, or other instrumentality of the Federal Government.

#### **§ 673.4 Environmental protection information.**

(a) Any person who organizes a non-governmental expedition to Antarctica and who does business in the United States shall notify expedition members of the environmental protection obligations of the Antarctic Conservation Act.

(b) The National Science Foundation's Office of Polar Programs may prepare for publication and distribution explanation of the prohibited acts set forth in the Antarctic Conservation Act, as well as other appropriate educational material for tour operators, their clients, and employees. Such material provided to tour operators for distribution to their passengers and crew shall be

disseminated prior to or during travel to the Antarctic.

#### **§ 673.5 Emergency response plan.**

Any person organizing a non-governmental expedition to or within Antarctica who is transporting passengers aboard a non-U.S. flagged vessel shall ensure that:

(a) The vessel owner's or operator's shipboard oil pollution emergency plan, prepared and maintained according to Regulation 26 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), has provisions for prompt and effective response action to such emergencies as might arise in the performance of the vessel's activities in Antarctica. Any emergency response plan which satisfies the requirements contained in 33 CFR 151.26 of the U.S. Coast Guard regulations will also satisfy the requirements of this paragraph. If the vessel owner or operator does not have a shipboard oil pollution emergency plan, a separate plan for prompt and effective response action is required.

(b) The vessel owner or operator agrees to take all reasonable measures to implement the plan for a prompt and effective response action in the event of an emergency, taking into account considerations of risk to human life and safety.

[FR Doc. 01-20274 Filed 8-10-01; 8:45 am]

BILLING CODE 7555-01-P

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 0**

[DA 01-1844]

#### **Freedom of Information Act**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Communications Commission is modifying a section of the Commission's rules that implements the Freedom of Information Act (FOIA) Fee Schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and the Commission's rules, unless such fees are restricted or waived. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

**DATES:** Effective September 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Abbate, Freedom of

Information Act Officer, Office of Performance Evaluation and Records Management, Room 1A827, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418-0440 or via Internet at kabbate@fcc.gov.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission is modifying § 0.467(a) of the Commission's rules. This rule pertains to the charges for searching and reviewing records requested under the FOIA. The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidelines issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA Fee Schedule on the grade level of the employee who processes the request. Thus, the Fee Schedule was computed at a Step 5 of each grade level based on the General Schedule effected January 1987. The revisions correspond to modifications in the rate of pay recently approved by Congress.

#### **Regulatory Procedures**

This proposed rule has been reviewed under Executive Order No. 12866 and has been determined not to be a "significant rule" since it will not have an annual effect on the economy of \$100 million or more.

In addition, it has been determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

#### **List of Subjects in 47 CFR Part 0**

Freedom of information.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

#### **Rule Changes**

Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 0—COMMISSION ORGANIZATION**

1. The authority citation for Part 0 continues to read as follows:

**Authority:** 47 U.S.C. 155, unless otherwise noted.

2. Section 0.467(a)(1) is amended by revising the last sentence, the table in