

proposed rule change, as amended. The Exchange represents that, under this proposal, *all* trades executed via Auto-Ex on behalf of broker-dealers will be uniformly assessed the fee. The Exchange also represents that the surcharge for automatic execution of broker-dealer orders will only be charged to member firms. The Exchange asserts that these firms will be assessed the fee monthly. The Exchange represents that bills will be issued to these firms approximately five days after the end of each trade month. The Exchange asserts that the surcharge will not apply to non-members.

The Exchange represents that the November 6, 2001 Rule Change to Auto-Ex extends the benefits of automatic execution to broker-dealers.<sup>7</sup> The Exchange asserts that such change provides instant execution without the need for a floor broker. The Exchange represents that the fast turnaround time minimizes the possibility that the market will move away from the prevailing quote. The Exchange asserts that broker-dealers who want to access the PCX's markets, but who do not want to pay the surcharge, can send their orders to the PCX for manual execution by Floor Brokers. The Exchange believes, however, that the benefits of automatic execution outweigh the burden of paying the surcharge.

The Exchange represents that broker-dealer orders that are automatically executed on Auto-Ex are not subject to brokerage fees that would otherwise be imposed by PCX members. The Exchange believes that the floor brokerage fees on broker-dealer order executions are generally comparable to the proposed surcharge amount. The Exchange represents that broker-dealer orders routed to Floor Broker Hand Held Terminals are not subject to the surcharge. The Exchange asserts that the surcharge is in addition to existing fees.

The Exchange represents that the fee will recoup costs associated with developing the new feature allowing automatic execution of broker-dealer orders in designated option issues. The Exchange asserts that the costs required to allow its Pacific Options Exchange Trading System ("POETS") to accept and execute these orders included an extensive system design change, programming and testing, and that billing programming was also required. The Exchange believes the fee is reasonable.

## 2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with section 6 of the Act,<sup>8</sup> in general, and with section 6(b)(4) of the Act,<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change, as amended, were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4<sup>11</sup> thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of March 21, 2002, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>12</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change between the

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-2002-10 and should be submitted by April 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 02-8368 Filed 4-5-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[USCG-2002-11843]

### National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of agency policy; request for comment.

**SUMMARY:** The Coast Guard proposes to revise its list of agency actions that we have determined do not individually or cumulatively have a significant effect on the human environment and, thus, are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA). Consistent with the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA, the Coast Guard has periodically reviewed its NEPA implementing procedures and has determined that it was necessary to clarify some existing categorical exclusions (CEs) to prevent misinterpretation and to create new CEs to reduce excessive and needless paperwork for actions that have proven to have no potential for significant impacts. The purpose of this notice is to provide the public an opportunity to comment on the proposed changes to our list of categorical exclusions.

**DATES:** Comments and related material must reach the Docket Management Facility on or before May 8, 2002.

**ADDRESSES:** To make sure your comments and related material are not

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> See 15 U.S.C. 78(b)(3)(C).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>7</sup> The Exchange represents that, previously, these benefits were only available to public customers.

entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2002-11843), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

In choosing among these means, please give due regard to the recent difficulties and delays associated with delivery of mail through the U.S. Postal Service to Federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as this notice, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kebby Kelley, Office of Civil Engineering, Environmental Management Division, U.S. Coast Guard, Headquarters, 202-267-6034 or via e-mail at [kkelley@comdt.uscg.mil](mailto:kkelley@comdt.uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages interested persons to submit written data, views, or comments. Persons submitting comments should please include their name and address, and identify the docket number (USCG-2002-11843). You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will

consider all comments received during the comment period.

##### **Background**

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) established the Council on Environmental Quality (CEQ). NEPA and CEQ regulations (40 CFR parts 1500-1508) establish a broad national policy which encourages and promotes productive harmony between man and his environment and provides policies and goals to ensure that environmental considerations and associated public concerns are given careful weight in all decisions of the Federal government.

Section 102 of NEPA (42 USCS 4332) and 40 CFR 1507.3 require Federal agencies to develop and, as needed, revise implementing procedures consistent with NEPA and the CEQ regulations. Additionally, 40 CFR 1500.4 and 1500.5 require Federal agencies to use categorical exclusions (CEs) to reduce excessive paperwork and reduce delay.

To determine whether improvements are needed in its list of agency actions that we have determined are categorically excluded from further NEPA environmental impact analysis, the Coast Guard periodically reviews its list. For references to some of these reviews in the **Federal Register**, see 59 FR 3152, January 20, 1994; 59 FR 38654; July 29, 1994; and 61 FR 13563, March 27, 1996. This list of CEs is contained in section 2.B.2, figure 2-1, of the "Coast Guard National Environmental Policy Act (NEPA) Implementing Procedures and Policy for Considering Environmental Impacts," (Commandant Instruction M16475.1D).

During the most recent review, NEPA-related information in our project administrative records was examined to determine whether the current CEs were being applied consistently and appropriately. Areas of confusion or misinterpretation were identified for further evaluation. Also, the Coast Guard evaluated whether new CEs would be appropriate to further reduce needless paperwork and delay.

Where areas of confusion or misinterpretation with the existing CEs were identified, the USCG evaluated whether the situation could be resolved through improvements in internal guidance, modifications to the existing CEs, or the development of new CEs. Evaluations, in these cases included both an examination of the administrative record, as well as experiences of expert staff in working with the existing CEs. Modifications of existing CEs and new CEs have been proposed where appropriate to resolve

areas of confusion or misinterpretation of the existing CE list.

The need for other new CEs was identified by examination of Environmental Assessments (EAs), and associated Findings of No Significant Impact (FONSI's) for similar or like actions. Where it was found that EAs with FONSI's existed for many similar or like actions, a new CE has been proposed. The working group also received input from other Coast Guard staff as to actions that were not currently categorically excluded but should be based on their experience that such projects normally had no significant environmental impacts.

The working group determined that new CEs were needed for several categories of Coast Guard personal and real property actions. The working group then benchmarked the our CEs against those of the General Services Administration (GSA) as the expert agency in terms of personal and real property management for the Federal government. Since other new CEs involved Coast Guard operations, the working group used the Department of the Navy as a benchmark because many of the Navy's actions are similar operationally, albeit at a much larger scale. Coast Guard CEs were then developed to address Coast Guard actions.

Finally, one new and one revised CE for regulatory actions were proposed. The new regulatory CE was proposed for regulatory actions mandated by Congress for the improvement or protection of the environment. The working group found that the Coast Guard had multiple EAs with FONSI's for regulations of this type, and, after reviewing the regulations and their environmental aspects, they determined that these types of actions do not normally have significant effects either individually or cumulatively on the human environment.

The recommended list of new and modified CEs developed by the working group was then extensively reviewed within the Coast Guard. This draft list was then also reviewed by and discussed with CEQ. Further revisions were made based on CEQ comments. The draft list is available in the appendix to this notice that will also be available in the docket (as indicated under **ADDRESSES**). It is now being offered for public comment.

After receipt of public comment, CEQ will conduct their final review. The USCG will then incorporate, as necessary, any public or CEQ comments prior to finalizing and publishing the final list of USCG new and modified CEs in the **Federal Register**.

Our proposed revisions to Section 2.B.2, Figure 2–1, of M16475.1D, entitled, “Coast Guard Categorical Exclusions” consist of three related parts. The first part is a non-substantive administrative reorganization of the Coast Guard’s CEs to group CEs for like actions together under an appropriate general heading. The second part is a proposed revision requiring that a written Categorical Exclusion Determination (CED) be prepared for the administrative record whenever a CE calls for the preparation of a written environmental checklist (checklist). The third part is a substantive addition of new and modified CEs.

A CED is a 1- or 2-page Coast Guard document that states the Coast Guard project being proposed and the CE that is applicable. Our administrative procedures (contained in the Commandant Instruction M16475.1 series) require that the applicability of each CE be examined for extraordinary circumstances for each specific action. The checklist is a tool that is designed to assist us in determining whether there are any extraordinary circumstances that might require preparation of an Environmental Impact Statement (EIS) or an EA.

The NEPA regulations require agencies to consider extraordinary circumstances and to define categories of agency actions that do not have the potential for significant impacts (that is, categorically excluded actions); however, they do not require that such consideration of extraordinary circumstances or agency use of CEs be documented. (Thus, both, the CED and the checklist are internal Coast Guard administrative requirements to ensure that the potential for impacts on the human environment are given adequate consideration in proposed Coast Guard actions and are not required by NEPA law or regulation.) We are proposing that a CED be prepared whenever a checklist is required for a Coast Guard CE. Currently, checklists are required for those CEs covering actions which experience has shown could be likely to occasionally involve unusual circumstances that might make the CE inappropriate in certain instances.

Our CE revision also proposes new and modified CEs, the majority of which address real and personal property actions. A few additional modifications and new CEs are proposed for certain Coast Guard operations, specific Coast Guard environmental studies, and two types of Coast Guard regulatory actions.

These proposed new and modified CEs represent actions that, based on our past experience with similar actions, do not normally require an EA or EIS

because they do not individually or cumulatively have a significant effect on the human environment. We propose CEs for certain situations in which the Coast Guard acquires, or arranges for permitted use of, property. At the time of acquisition or arrangement for permitted use of the property, we will use our Environmental Analysis Checklist to determine whether a CE is appropriate or if an EIS or EA is required. If a CE is appropriate, the USCG will prepare a written CED.

If, in the future, the Coast Guard determines the need to change the use of the property, we will conduct the appropriate NEPA analysis and prepared the documentation—either another CE, an environmental assessment, or an environmental impact statement on the proposed new use. The earlier acquisition or permit use arrangement for the property will not influence the subsequent environmental analysis and documentation, including the need to use the property for the proposed new use, the consideration of alternatives, or selection of the preferred alternative.

#### Synopsis of Proposed Changes

The proposed general changes to the current Coast Guard CEs are that the CEs will be reorganized by action type as Administrative Actions, Real and Personal Property Actions, Training Actions, Operational Actions, Special Studies, Bridge Administration Actions, and Regulatory Actions. Additionally, all CEs requiring an environmental checklist will also require a CED.

Specific changes to our current CEs involve the proposed new or amended CEs listed in the appendix to this notice. In the appendix, the proposed new CEs and the proposed modified language of existing CEs are shown in *italics*. Where a change to the CEs involves deletion of text, that text will be shown in brackets (“[]”). Existing Coast Guard CEs that remain unchanged are not included in the appendix.

This notice provides the public opportunity to comment on the proposed changes to the Coast Guard’s CEs. All comments on the proposed changes will be considered in preparing the final version of Figure 2–1 of Commandant Instruction M16475.1D. The Coast Guard encourages full public participation during this comment period.

Dated: April 1, 2002.

**R.F. Silva,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Systems, “Chief Engineer”.*

#### Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions Notice of Agency Policy and Request for Comments\*

##### 1. Administrative Actions:

a. *Personnel and other administrative actions associated with consolidations, reorganizations, or reductions in force resulting from identified inefficiencies, reduced personnel or funding levels, skill imbalances, or other similar causes. (Checklist and CED required.)*

b. *Approval of recreational activities or events (such as a USCG unit picnic) [which do not involve significant physical alteration of the environment, increased disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species. (Checklist required unless the activity will take place) at a location developed or created for that type of activity.]*

2. *Real and Personal Property Related Actions (where the term “real property” is used throughout this section, it means real and any related personal property—and the term “related personal property” means personal property that is an integral part of the subject real property and removal of the personal property would significantly diminish the economic value of the subject real property):*

a. *The initial lease of, or grant of an easement interest in, Coast Guard-controlled real property to a non-Federal party, or the amendment, renewal, or termination of such lease or easement interest, where the reasonably foreseeable real property use will not change significantly and is similar to existing uses. (Checklist and CED required.)*

b. *The grant of a license, to a non-Federal party, to perform specified acts upon Coast Guard-controlled real property, or the amendment, renewal, or termination of such license, where the proposed real property use is similar to existing uses. (Checklist and CED required.)*

c. *Allowing another Federal agency to use Coast Guard-controlled real property under a permit, use agreement or similar arrangement, or the amendment, renewal, or termination of such permit or agreement where real property use is similar to existing uses. (Checklist and CED required.)*

d. *The lease of a Coast Guard-controlled historic lighthouse property to a non-Federal party as outlined in the Programmatic Memorandum of Agreement between the Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers. (Checklist and CED required.)*

e. *Acquisition of real property (including fee simple estates, leaseholds, and easements), improved or unimproved, and related personal property from a non-Federal party, by purchase, lease, donation or exchange where the proposed real property*

use is similar to existing uses for the foreseeable future (acquisition through condemnation not covered). (Checklist and CED required).

f. Acquisition of real property and related personal property, through transfer of administrative control, from another Department of Transportation (DOT) component or another Federal agency to the Coast Guard where title to the property remains with the United States, including transfers made pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510, as amended (10 U.S.C. 2687 note), where the proposed Coast Guard real property use is similar to existing uses. (Checklist and CED required).

g. Coast Guard use of real property under the administrative control of another DOT component or another Federal agency through a permit, use agreement or similar arrangement where the proposed real property use is similar to existing uses. (Checklist and CED required).

h. USCG new construction upon, or improvement of, land where all of the following conditions are met (Checklist and CED required):

- The structure and proposed use are substantially in compliance with prevailing local planning and zoning standards.
- The site is on heavily developed property and/or located on a previously disturbed site in a developed area;
- The proposed use will not substantially increase the number of motor vehicles at the facility; and,
- The site and scale of construction are consistent with those of existing or adjacent or nearby buildings.

i. Real property inspections for compliance with deed or easement restrictions.

j. Transfer of administrative control over real property, from the Coast Guard to another Department of Transportation (DOT) component or another Federal agency (title to the property remains with the United States), that results in no immediate change in use of the property. (Checklist and CED required.)

k. Determination by the Coast Guard that real property is excess to its needs, pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), and the subsequent reporting of such determination to the Administrator of the General Services Administration or the subsequent filing of a notice of intent to relinquish lands withdrawn or reserved from the public domain with the Bureau of Land Management, Department of Interior, in accordance with 43 CFR Part 2370. (Checklist and CED required).

l. Congressionally mandated conveyance of Coast Guard controlled real property to another Federal agency or non-Federal entity. (Checklist and CED required.)

m. Relocation of Coast Guard personnel into existing Federally owned or leased space where use does not change substantially and any attendant modifications to the facility would be minor.

n. Decisions to temporarily or permanently decommission, disestablish, or close Coast Guard shore facilities including any follow on connected protection and maintenance needed to maintain the property until it is no

longer under Coast Guard control. (Checklist and CED Required).

o. Demolition of buildings, structures, or fixtures and disposal of subsequent building, structure, or fixture waste materials. (Checklist and CED required).

p. Determination by the Coast Guard that Coast Guard controlled personal property, including vessels and aircraft, is "excess property," as that term is defined in the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)), and any subsequent transfer of such property to another Federal agency's administrative control, or conveyance of the United States' title in such property to a non-Federal entity. (Checklist and CED required).

q. Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in functional use of the real property, [a historically significant element, or historically significant setting] (e.g., realigning interior spaces of an existing building, extending an existing roadway in a developed area a short distance, installing a small antenna on an already existing antenna tower, adding a small storage shed to existing building, etc.) (Checklist and CED required.)

r. Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas. (Checklist and CED required.)

### 3. Training:

a. Defense preparedness training and exercises conducted on Coast Guard-controlled property that do not involve undeveloped property, or increased noise levels over adjacent property and involve a limited number of personnel, such as exercises involving primarily electronic simulation or command post personnel. (Checklist and CED required.)

### 4. Operational Actions:

a. Realignment or initial homeporting of mobile assets, including vessels and aircraft, to existing operational facilities that have the capacity to accommodate such assets or where supporting infrastructure changes will be minor in nature to perform as new homeports or for repair and overhaul. *Note: If the realignment or homeporting would result in more than a one for one replacement of assets at an existing facility, then the checklist required for this CE must specifically address whether such an increase in assets could trigger the potential for significant impacts to protected species or habitats before use of the CE can be approved.* (Checklist and CED required.)

### 5. Special Studies:

a. Environmental site characterization studies and environmental monitoring, including siting, construction, operation, and dismantling or closing of characterization and monitoring devices. Such activities include, but are not limited to:

- Geological, geophysical, geochemical, and engineering surveys and mapping, including the establishment of survey marks;
- Installation and operation of field instruments, such as stream-gauging stations

or flow-measuring devices, telemetry systems, geochemical monitoring tools, and geophysical exploration tools;

- Drilling of wells for sampling or monitoring of groundwater, well logging, and installation of water-level recording devices in wells;

- Aquifer response testing;
- Installation and operation of ambient air monitoring equipment;
- Sampling and characterization of water, soil rock, or contaminants;
- Sampling and characterization of water effluents, air emissions, or solid waste streams;

- Sampling of flora or fauna;
- Archeological, historic, and cultural resource identification and evaluation studies in compliance with 36 CFR part 800 and 43 CFR part 7.

- Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.

### 6. Regulatory Actions:

a. Regulations concerning vessel operation safety standards (e.g., regulations requiring: certain boats to use approved equipment which is required to be installed, such as an ignition cut-off switch, or carried on board, such as personal flotation devices (PFDs), and/or stricter blood alcohol concentration (BAC) standards for recreational boaters, etc.), equipment approval, and/or equipment carriage requirements (e.g., personal flotation devices (PFDs) and visual distress signals (VDS)).

b. Congressionally mandated regulations designed to improve or protect the environment (e.g., regulations implementing the requirements of the Oil Pollution Act of 1990, such as those requiring vessels to have the capability to transmit and receive on radio channels that would allow them to receive critical safety and navigation warnings in U.S. waters, regulations to increase civil penalties against persons responsible for the discharge of oil or hazardous substances into U.S. waters, etc.). (Checklist and CED required).

**\* Note to Appendix:** Specific changes to our current Categorical Exclusions (CEs) involve the proposed new or amended CEs listed in this appendix. The proposed new CEs and the proposed modified language of existing CEs are shown in italics. Proposed deletion of text is shown in brackets ("[]"). Existing Coast Guard CEs that remain unchanged are not included in this appendix.

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Job Access and Reverse Commute Program Grants

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of availability of funds; solicitation for grant proposals.