

which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From December 15, 2005 until March 15, 2006, add temporary § 117.T398 to read as follows:

117.T398 Upper Mississippi River.

See § 117.671, Upper Mississippi River, listed under Minnesota.

■ 3. From December 15, 2005 until March 15, 2006, add temporary § 117.T408 to read as follows:

117.T408 Upper Mississippi River.

See § 117.671, Upper Mississippi River, listed under Minnesota.

■ 4. From December 15, 2005 until March 15, 2006, amend § 117.671 by adding paragraphs (c) and (d) to read as follows:

117.671 Upper Mississippi River.

* * * * *

(c) From December 15, 2005 until March 15, 2006, the draws of the Ft. Madison Drawbridge, mile 383.9, the Burlington Railroad Drawbridge, mile 403.1, and the Illinois Central Railroad Drawbridge, mile 579.9, need not open unless at least 24 hours advance notice is given.

(d) From December 15, 2005 until March 15, 2006, the draw of the Rock Island Arsenal Drawbridge, mile 482.9, need not open for the passage of vessels.

Dated: November 1, 2005.

Steve Venckus,

Chief, Office of Regulations & Administrative Law, Office of the Judge Advocate General, United States Coast Guard.

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DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Restricted Areas at Multiple Military Sites Within the State of Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is amending seven existing regulations to incorporate changes to the types of restriction, the area affected by the restriction, and/or the administration of six restricted areas and one danger zone. Additionally, the Corps is establishing two new restricted areas. The restricted areas and danger zone are located within the State of Florida. The amended regulations will enable the affected units of the U.S. Military to enhance safety and security around active military establishments. These regulations are necessary to safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions that may exist as a result of military use of the area.

EFFECTIVE DATE: December 7, 2005.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW-CO, 441 G Street, NW., Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, U.S. Army Corps of Engineers, Headquarters, Washington, DC at 202-761-4922, or Mr. Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904-232-1680.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is amending the regulations in 33 CFR part 334 by modifying the area or restrictions at sections 334.560, 334.580, 334.610, 334.760, 334.775, 334.778, and 334.780. Additionally, the Corps is establishing two new restricted areas at § 334.635 and § 334.515. The modification to each existing restricted area and danger zone is described in the body of this notice along with a description of the two newly established restricted areas. The proposed rule was published in the March 25, 2005, issue of the **Federal Register** (70 FR 15247).

These amendments to the regulations will allow the Commanding Office at each of the affected military units to restrict passage of persons, watercraft, and vessels at his or her discretion in the interest of National Security until such time he or she determines such restrictions may be terminated.

In response to the proposed rule, two commenters raised concerns about the amendment of § 334.540, specifically the potential loss of public access to areas presently open to public recreational fishing. These issues are still being considered and the proposed changes to § 334.540 are not included in this final rule. Therefore, the restricted area at § 334.550 will not be disestablished, because we proposed to remove that section only if the proposed changes to § 334.540 were adopted.

Procedural Requirements

a. *Review Under Executive Order 12866.* These rules are issued with respect to a military function of the United States and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* These rules have been reviewed under the Regulatory Flexibility Act (Public Law 96-354; 5 U.S.C. 601) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small Governments). We have concluded that the proposed modifications to the existing restricted areas and danger zone and the establishment of two new restricted areas would have practically no economic impact on the public, and would create no anticipated navigational hazard or interference with existing waterway traffic. Accordingly, we certify that these rules will not have a significant economic impact on a substantial number of small entities.

c. *Review Under the National Environmental Policy Act.* We have concluded, based on the minor nature of the changes, that these amendments to the danger zone and restricted areas will not be a major Federal action having a significant impact on the quality of the human environment, and preparation of an environmental impact statement is not required.

d. *Unfunded Mandates Act.* These rules do not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104-4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of

the Act, that small Governments will not be significantly or uniquely affected by this rule.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

■ For the reasons set out in the preamble, the Corps amends portions of 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.515 to read as follows:

§ 334.515 U.S. Marine Slip area at Blount Island, Jacksonville, Fla.; restricted area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR 329, within the area identified at the U.S. Marine Corps Slip (also identified as Back River on many nautical maps) located on the southeastern side of Blount Island, Jacksonville, Florida. The entrance to the U.S. Marine Corps Slip is described as commencing from a line drawn between the southwesterly most shore point (latitude 30°23'34" N., longitude 81°30'52" W.) and the southeasterly most shore point (latitude 30°23'38" N., longitude 81°30'36" W.).

(b) *The regulations.* (1) All persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the area described in paragraph (a) of this section for any reason without the permission of the Commanding Officer, Blount Island Command, Jacksonville, Florida, or his/her authorized representative. The cognizant Captain of the Port (COTP) or Federal Maritime Security Coordinator (FMSC), in performance of Homeland Security responsibilities, may from time to time, need to investigate or cause to investigate incidents of national security with the Blount Island Command Restricted Area. Authority to enter the restricted area under mission critical situations is hereby granted to the COTP or FMSC, or his representative. Situations that require COTP or FMSC to immediately access the restricted area shall be reported to the Commanding Officer, Blount Island Command as soon as practicable.

(2) The restriction noted in paragraph (b)(1) of this section is in effect 24 hours a day, 7 days a week.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, Blount Island Command, Jacksonville, Florida, and/or

such persons or agencies as he/she may designate.

■ 3. Amend § 334.560 by revising paragraphs (a) and (b)(2) to read as follows:

§ 334.560 Banana River at Patrick Air Force Base, Fla.; restricted area.

(a) *The area.* The waters within an area beginning at a point located at latitude 28°16'19" N., longitude 80°36'28" W.; proceed west to latitude 28°16'19" N., longitude 80°36'35" W.; thence, southwesterly to latitude 28°14'34" N., longitude 80°37'08" W.; thence, southerly to latitude 28°12'44" N., longitude 80°37'18" W.; thence, east to latitude 28°12'44" N., longitude 80°37'11" W. This encompasses an area reaching from the northern extent described to the southern extent described and extending from the mean high water line waterward a minimum distance of approximately 600 feet.

(b) *The regulations.* (1) * * *

(2) The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida, and such agencies as he/she may designate.

■ 4. Amend § 334.580 by revising paragraph (b) to read as follows:

§ 334.580 Atlantic Ocean near Port Everglades, Fla.

* * * * *

(b) *The regulations.* (1) Anchoring, trawling, dredging, or attaching any object to the submerged sea bottom shall be prohibited in the above described area.

(2) The regulations of this section shall be enforced by the Facility Director, Naval Surface Warfare Center, Detachment Dania, Florida, and such agencies as he/she may designate.

■ 5. Amend § 334.610 by revising paragraph (a)(6) to read as follows:

§ 334.610 Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted areas and danger zone.

(a) *The areas.* * * *

(6) *Danger zone.* All waters within an area along the northeast side of the Naval Air Station on Boca Chica Key defined by a line beginning at latitude 24°35.472' N., longitude 81°41.824' W.; thence proceed in a northerly direction to a point at latitude 24°36.289' N., longitude 81°41.437' W.; thence proceed westerly to a point at latitude 24°36.392' N., longitude 81°41.970' W.; thence to a point on shore at latitude 24°35.698' N., longitude 81°41.981' W.

* * * * *

■ 6. Add § 334.635 to read as follows:

§ 334.635 Hillsborough Bay and waters contiguous to MacDill Air Force Base, Fla.; restricted area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR 329, within the following boundaries.

Commencing from the shoreline at the northeast portion of the base at latitude 27°51'52.901" N., longitude 82°29'18.329" W., thence directly to latitude 27°52'00.672" N., longitude 82°28'51.196" W., thence directly to latitude 27°51'28.859" N., longitude 82°28'10.412" W., thence directly to latitude 27°51'01.067" N., longitude 82°27'45.355" W., thence directly to latitude 27°50'43.248" N., longitude 82°27'36.491" W., thence directly to latitude 27°50'19.817" N., longitude 82°27'35.466" W., thence directly to latitude 27°49'38.865" N., longitude 82°27'43.642" W., thence directly to latitude 27°49'20.204" N., longitude 82°27'47.517" W., thence directly to latitude 27°49'06.112" N., longitude 82°27'52.750" W., thence directly to latitude 27°48'52.791" N., longitude 82°28'05.943" W., thence directly to latitude 27°48'45.406" N., longitude 82°28'32.309" W., thence directly to latitude 27°48'52.162" N., longitude 82°29'26.672" W., thence directly to latitude 27°49'03.600" N., longitude 82°30'23.629" W., thence directly to latitude 27°48'44.820" N., longitude 82°31'10.000" W., thence directly to latitude 27°49'09.350" N., longitude 82°32'24.556" W., thence directly to latitude 27°49'38.620" N., longitude 82°33'02.444" W., thence directly to latitude 27°49'56.963" N., longitude 82°32'45.023" W., thence directly to latitude 27°50'05.447" N., longitude 82°32'48.734" W., thence directly to latitude 27°50'33.715" N., longitude 82°32'45.220" W., thence directly to a point on the western shore of the base at latitude 27°50'42.836" N., longitude 82°32'10.972" W. The restricted area will encompass an existing Danger Zone (§ 334.630).

(b) *The regulations.* (1) All persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the area described in paragraph (a) of this section for any reason without the permission of the Commander, MacDill Air Force Base, Florida, or his/her authorized representative.

(2) The restriction noted in paragraph (b)(1) of this section is in effect 24 hours a day, 7 days a week.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, MacDill Air Force Base, Florida, and/or such persons or agencies as he/she may designate.

■ 7. Revise § 334.760 to read as follows:

§ 334.760 Naval Support Activity Panama City and Alligator Bayou, a tributary of St. Andrew Bay, Fla.; naval restricted area.

(a) *The area.* The waters within an area beginning at a point located along the shore at the southern end of the facility designated by latitude 30°09'45.6" N., longitude 85°44'20.6" W.; thence proceed 100 feet waterward of the mean high water line directly to a point at latitude 30°09'46.8" N., longitude 85°44'20.6" W. From this position the line meanders irregularly, following the shoreline at a minimum distance of 100 feet from the mean high water line to a point at latitude 30°10'16.7" N., longitude 85°45'01.2" W. located east of the south side of the entrance to Alligator Bayou; thence directly across the entrance to a point at latitude 30°10'23.4" N., longitude 85°45'05.7" W. located east of the north side of the entrance to Alligator Bayou; thence continuing the northerly meandering, following the shoreline at a minimum distance of 100 feet from the mean high water line to a point at latitude 30°11'11.3" N., longitude 85°45'02.8" W.; thence directly to the shoreline to a point at latitude 30°11'12.3" N., longitude 85°45'03.2" W. This encompasses an area reaching from the southern extent described to the northern extent described and extending from the mean high water line waterward a minimum distance of approximately 100 feet.

(b) *The regulations.* (1) No vessel, person, or other craft shall enter, transit, anchor, drift or otherwise navigate within the area described in paragraph (a) of this section for any reason without written permission from the Officer in Charge, Naval Support Activity Panama City, Panama City Beach, Florida, or his/her authorized representative.

(2) The restriction noted in paragraph (b)(1) of this section is in effect 24 hours a day, 7 days a week.

(3) The regulations in this section shall be enforced by the Officer in Charge, Naval Support Activity Panama City, Panama City Beach Florida, and such agencies as he/she may designate.

■ 8. Revise § 334.775 to read as follows:

§ 334.775 Naval Air Station Pensacola, Pensacola Bay, Pensacola and Gulf Breeze, Fla.; naval restricted area.

(a) *The areas.* (1) Bounded by a line drawn in the direction of 180° T from the position latitude 30°20'44" N., longitude 87°17'18" W. (near the Naval Air Station, due south of the Officer's Club) to position latitude 30°20'09" N., longitude 87°17'18" W. thence 94° T to position latitude 30°20'07" N., longitude

87°16'41" W., thence 49° T to position latitude 30°20'37" N., longitude 87°16'01" W. (southwest end of Lexington finger pier), thence along the shoreline to point of origin.

(2) The waters within an area enclosed by the following points: Beginning at latitude 30°21.58' N., longitude 87°12.49' W.; thence to latitude 30°20.25' N., longitude 87°11.00' W.; thence to latitude 30°20.28' N., longitude 87°14.27' W.; thence to the point of beginning. This encompasses a large triangular area north of Santa Rosa Island and west of the land area between Fair Point and Deer Point.

(b) *The restrictions.* (1) The area described in paragraph (a)(1) of this section will normally be in use Monday through Wednesday between 8 a.m. and 4 p.m. and one evening from 4 p.m. until 8 p.m., every other week.

(2) The area described in paragraph (a)(2) of this section will normally be utilized Wednesday through Friday between 8 a.m. and 4 p.m. for parasail operations.

(3) During those times that specific missions, exercises, or training operations are being conducted, the U.S. Navy vessels and/or crafts designated as essential to the operation(s) by proper U.S. Navy authority shall have the rights-of-way. All other vessels and crafts are required to keep clear of and remain 300 yards from all naval vessels engaged in said operations. Approaching within 300 yards of vessels and/or crafts while they are engaged in operations and/or training exercises is prohibited.

(4) Vessel traffic through the restricted area will remain open during operations and/or exercises; however, mariners shall exercise extreme caution and be on the lookout for swimmers, small craft and helicopters when transiting the area. It should be presumed by all mariners that Navy operations and/or exercises are being conducted whenever military craft and/or helicopters are operating within the restricted area.

(5) Any problems encountered regarding Navy operations/exercises within the restricted area should be addressed to "Navy Pensacola Command" on Channel 16 (156.6 MHz) for resolution and/or clarification.

(6) The regulations in this section shall be enforced by the Commander of the Naval Air Station, Pensacola, Florida, and such agencies as he/she may designate.

■ 9. Amend § 334.778 by revising paragraph (b) to read as follows:

§ 334.778 Pensacola Bay and the waters contiguous to Naval Air Station, Pensacola, FL; restricted area.

* * * * *

(b) *The regulations.* (1) All persons, vessels, and other craft are prohibited from entering the waters described in paragraph (a) of this section for any reason. All vessels and craft, including pleasure vessels and craft (sailing, motorized, and/or rowed or self-propelled), private and commercial fishing vessels, other commercial vessels, barges, and all other vessels and craft, except vessels owned or operated by the United States and/or a Federal, State, or local law enforcement agency are restricted from transiting, anchoring, or drifting within the above described area, or within 500 feet of any quay, pier, wharf, or levee along the Naval Air Station Pensacola shoreline abutting, nor may such vessels or crafts or persons approach within 500 feet of any United States owned or operated vessel transiting, anchored, or moored within the waters described in paragraph (a) of this section. The Commanding Officer, Naval Air Station Pensacola, or his/her designee, or the Commanding Officer of a vessel of the United States operating within the said area, may grant special permission to a person, vessel, or craft to enter upon the waters subject to the restrictions aforementioned.

(2) The existing "Navy Channel" adjacent to the north shore of Magazine Point, by which vessels enter and egress Bayous Davenport and Grande into Pensacola Bay shall remain open to all craft except in those extraordinary circumstances where the Commanding Officer, N.A.S. or his/her designee determines that risk to the installation, its personnel, or property is so great and so imminent that closing the channel to all but designated military craft is required for security reasons, or as directed by higher authority. This section will not preclude the closure of the channel as part of a security exercise; however, such closures of said channel will be limited in duration and scope to the maximum extent so as not to interfere with the ability of private vessels to use the channel for navigation in public waters adjacent thereto not otherwise limited by this regulation.

(3) The regulations in this section shall be enforced by the Commanding Officer of the Naval Air Station, Pensacola, Florida, and such agencies he/she may designate.

■ 10. Amend § 334.780 by revising paragraph (b) to read as follows:

§ 334.780 Naval Air Station Pensacola, Pensacola, FL; restricted area.

* * * * *

(b) *The regulations.* (1) The area is established as a Naval Air Station small boat operations and training area.

(2) All persons, vessels, and other craft are prohibited from entering the waters described in paragraph (a) of this section for any reason. All vessels and craft, including pleasure vessels and craft (sailing, motorized, and/or rowed or self-propelled), private and commercial fishing vessels, other commercial vessels, barges, and all other vessels and craft, except vessels owned or operated by the United States and/or a Federal, State, or local law enforcement agency are restricted from entering, transiting, anchoring, drifting or otherwise navigating within the area described in paragraph (a) of this section.

(3) The regulations in this section shall be enforced by the Commanding Officer, Naval Air Station Pensacola and/or such persons or agencies he/she may designate.

Dated: November 1, 2005.

Gerald W. Barnes,

Chief, Operations Division, Directorate of Civil Works.

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DEPARTMENT OF EDUCATION

34 CFR Parts 673, 674, 675, and 676

Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant Programs, and the General Provisions for These Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice regarding reallocation of campus-based aid and waivers of statutory and regulatory provisions pursuant to the Natural Disaster Student Aid Fairness Act, Public Law 109-86.

SUMMARY: The Natural Disaster Student Aid Fairness Act (Aid Fairness Act), Public Law 109-86, signed by the President on October 7, 2005, provides, in part, that the Secretary must reallocate unexpended Federal Perkins Loan (Perkins), Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) program funds (campus-based funds) to institutions of higher education that are located in areas affected by Hurricane Katrina or Hurricane Rita or that have enrolled eligible students who were affected by Hurricane Katrina or Hurricane Rita. In this notice, we announce the reallocation process for institutions of higher education that

have enrolled students affected by Hurricane Katrina or Hurricane Rita and waivers or modifications of relevant statutory and regulatory provisions. We will be addressing the reallocation of additional campus-based funds for institutions that are located in an area affected by a Gulf hurricane disaster through a separate process.

FOR FURTHER INFORMATION CONTACT: John Kolotos, U.S. Department of Education, 400 Maryland Avenue, SW., UCP, room 113F2, Washington, DC 20202. Telephone: (202) 377-4027, FAX: (202) 275-4552, or by e-mail at john.kolotos@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Background

Section 2(b) of the Aid Fairness Act requires the Secretary to reallocate to certain eligible institutions of higher education (institutions) any unexpended campus-based funds from the 2004-2005 award year as supplemental allocations for the 2005-2006 award year. An institution is eligible to receive a reallocation if the institution participates in the program for which excess allocations are being reallocated and (1) is located in an area affected by a Gulf hurricane disaster or (2) has accepted for enrollment any affected students, as defined in the following paragraph, in academic year 2005-2006. The Aid Fairness Act further authorizes the Secretary to determine the manner in which excess allocations will be reallocated and authorizes the Secretary to waive or modify any statutory or regulatory provisions relating to reallocations.

The Aid Fairness Act defines an *affected student* as an individual who has applied for, or received, student financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA), and who (1) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution in an area affected by a Gulf hurricane disaster; (2) was a dependent student enrolled or accepted for enrollment at an institution that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane

disaster; or (3) suffered direct economic hardship as a direct result of a Gulf hurricane disaster, as determined by the Secretary.

An area affected by a Gulf hurricane disaster is any county or parish in Alabama, Louisiana, Mississippi, and Texas declared by FEMA as Major Disaster Areas designated for Individual Assistance. A listing of those counties and parishes is posted on the Department's "Information for Financial Aid Professionals" (IFAP) Web site at <http://www.ifap.ed.gov>.

Reallocation for Institutions Enrolling Affected Students

In this notice, we are addressing the reallocation of campus-based funds for *only* those institutions that participate in at least one of the campus-based programs and that accepted affected students for enrollment in academic year 2005-2006, including institutions located in an area affected by a Gulf hurricane disaster that enrolled affected students. We will be addressing the reallocation of additional campus-based funds for institutions that participate in at least one of the campus-based programs and that are located in an area affected by a Gulf hurricane disaster through a separate process.

Criteria for Determining Economic Hardship

As provided in the Aid Fairness Act in the definition of "affected student," the Secretary has determined that a student has "suffered direct economic hardship as a direct result of a Gulf hurricane disaster" if the student (or if a dependent student, the student's parents) lost a domicile, income, or other means of support as a result of a Gulf hurricane disaster.

Procedures for Reallocation of Campus-Based Funds

Institutions that participate in at least one of the campus-based programs and that have accepted for enrollment any affected students may submit a request to the Secretary for reallocation of excess campus-based funds, using the Reallocation Request Form described below. We will be sending to institutions that participate in one or more of the campus-based programs an e-mail message that will include, as an attachment, a Reallocation Request Form. Any of these institutions that have enrolled affected students and are requesting reallocation of funds must complete this form and submit it to the Department via FAX at the number that will be included in the e-mail message. The e-mail message also will specify the deadline date by which requests must