

including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: <http://www.nichd.nih.gov/about/bsd/htm>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 4, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9-10801 Filed 5-8-09; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism, Special Emphasis Panel, The Effects of Alcohol on Glial Cells (RFA-AA-09-003/004).

*Date:* July 8-9, 2009.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Legacy Hotel, 1775 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Beata Buzas, PhD, Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 2081, Rockville, MD 20852. 301-443-0800. [bbuzas@mail.nih.gov](mailto:bbuzas@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.271 Alcohol Research Career Development Awards for Scientists

and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: May 4, 2009.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. E9-10783 Filed 5-8-09; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[USCG-2004-17674]

#### Craft Routinely Operated Dockside

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of policy.

**SUMMARY:** The Coast Guard gives notice that, in accord with a recent Supreme Court decision, it will no longer inspect permanently moored craft or issue Certificates of Inspection to such craft unless a craft demonstrates that it is a vessel, capable of being used as a means of transportation on water. This notice discusses the implications of the Supreme Court decision and responds to comments received in response to a 2004 notice that proposed a policy for permanently moored vessels.

**DATES:** The policy announced in this notice is effective May 11, 2009. Inspection services will continue, with State concurrence, until May 11, 2011, for permanently moored craft that currently possess a Coast Guard-issued Certificate of Inspection, and that have been designed to Coast Guard regulations, and that may not be acceptable for regulation immediately by the State having jurisdiction.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2004-17674 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, 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://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this policy, contact Lieutenant Commander David Webb of the Coast Guard's Office of Vessel Activities (CG-543), telephone 202-

372-1216. For questions on viewing the docket call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Background

This notice is issued under the authority of 46 U.S.C. 3306, which conveys authority to the Secretary of Homeland Security to implement the vessel inspection provisions of 46 U.S.C. 3301.

On June 21, 2004, the Coast Guard published a notice of proposed policy in the **Federal Register** (69 FR 34385), regarding the inspection of permanently moored vessels (PMVs). We proposed a policy of no longer issuing Certificates of Inspection (COI) to PMVs and no longer inspecting PMVs that currently have a COI, and invited public comments. In response, we received letters from 27 commenters, containing 62 comments.

While we were considering those public comments, the Supreme Court issued its decision in *Stewart v. Dutra Construction Company, Inc.*, 543 U.S. 481, 125 S.Ct. 1118 (2005). That case held that a dredge was a "vessel" under 1 U.S.C. 3. The Court decided that 1 U.S.C. 3 provides the defining criteria for determining what constitutes a vessel, wherever the U.S. Code refers to "vessel" as a jurisdictional criterion. In determining whether a particular craft is also a vessel, the "question remains in all cases whether the watercraft's use 'as a means of transportation on water' is a practical possibility or merely a theoretical one." 543 U.S. at 496.

The Supreme Court's decision ended the prior situation, under which various circuit courts of appeal had applied different tests to determine whether a particular craft constituted a vessel, depending on the statute to be construed and the facts of the case. Under the prior situation, we attempted to apply the different tests so as to provide maximum flexibility in achieving the purpose of the particular statute being administered. After *Stewart*, however, it is clear that we must apply the single test of whether a craft is used, or is practically capable of being used, as a means of transportation on water. *Stewart* implies that a "permanently moored vessel" is an oxymoron, since such a craft is neither used nor practically capable of being used as transportation on water, and therefore cannot be considered a vessel. Only a vessel can be inspected by the Coast Guard under the authority of 46 U.S.C. 3301. Thus, in order to conform to *Stewart*, we have concluded that we will issue Certificates of Inspection to

craft that routinely operate dockside and do not normally get underway only if they also constitute "vessels" as defined in 1 U.S.C. 3 and interpreted in *Stewart*.

#### Discussion of Comments

In response to our June 2004 notice of proposed policy, the Coast Guard received letters from 27 commenters, containing 62 comments. Ten comments asked for greater clarity in our proposed policy, or questioned how uniformly it could be applied across the country, four comments pertained to specific craft that might be affected by the proposed policy, and two comments requested public meetings to discuss the proposed policy. We have concluded that these comments need no specific response, in light of the *Stewart* case and the consequent revision of our policy. Also, we received three comments raising concerns about the timing of any transition from Coast Guard to land-based State or local regulation. As we discuss later in this notice, we will respond to these concerns by providing temporary grandfathering for certain PMCs that currently possess a Certificate of Inspection. The remaining 43 comments are addressed under the following four subject headings.

#### Vessels Operating in Moorings and Not Underway

Fourteen comments expressed concern that the Coast Guard might force any vessel choosing to operate in its moorings instead of getting underway to surrender its Certificate of Inspection and become reclassified as a "permanently moored vessel".

In light of *Stewart*, we will not reclassify any craft as a "permanently moored vessel." Existing policy documents that refer to permanently moored vessels are not aligned with *Stewart*, and for that reason we hereby cancel Chapter B.4.I of the Coast Guard Marine Safety Manual, Vol. II, and G-MOC Policy Letter 04-01 (May 25, 2004), until they can be conformed to the *Stewart* decision.

For the purposes of this document, a "permanently moored craft" (PMC) is a craft of design and mooring arrangement such that it does not have a practical capability of being used as transportation on the water. We will continue to inspect craft that are indeed vessels and are subject to inspection, even if they do not normally get underway. However, except for the temporarily grandfathered PMCs discussed later in this notice, we will no longer inspect or issue COIs to PMCs that are not vessels or that do not otherwise meet the statutory

requirements for vessels subject to inspection.

**Manning.** Nineteen comments expressed concerns that a craft's loss of its COI would result in the loss of licensed and documented crew members, and that this would adversely affect passenger safety, security, and craft maintenance. We agree that inspected vessels must be crewed and operated by qualified personnel and one of the Coast Guard's missions is to ensure that these mariners possess a minimum level of safety knowledge and professional competency through a qualification and renewal process.

As previously discussed, we will continue to inspect craft that are indeed vessels and are subject to inspection, even if they do not normally get underway, and those vessels will continue to be subject to all applicable Coast Guard regulations.

**Economic Costs.** Five comments expressed concerns over the economic impact of requiring a permanently moored craft to comply with land-based State or local regulations. The Coast Guard is sympathetic to these concerns, but if a craft is a PMC, it is therefore not a vessel under the *Stewart* criteria and we are without authority to deem it otherwise and inspect it. Nevertheless, as we discuss later in this notice, we will provide temporary grandfathering for certain PMCs that currently possess a Certificate of Inspection.

**Coast Guard Inspection Alternatives.** Five comments suggested that the Coast Guard seek alternative approaches to the traditional Coast Guard inspection for certification, such as the Streamlined Inspection Program or the use of third-party inspection and certification as the basis for issuance of a Coast Guard Certificate of Inspection.

This type of approach already exists. We encourage, but do not require, the use of these programs by the operators of craft that qualify as vessels under *Stewart*. For PMCs the use of land-based structure building codes may be appropriate, but we will not object if the State or local government having jurisdiction over a PMC adopts any or all of the regulatory standards we use to issue Coast Guard Certificates of Inspection.

#### Statement of Policy

The following policy applies to any craft that routinely operates dockside and does not usually get underway, currently existing or built in the future. The determination of whether any specific craft is or will be a vessel as defined in 1 U.S.C. 3 and interpreted by the Supreme Court in *Stewart* will be made by the cognizant Coast Guard

Officer in Charge, Marine Inspection (OCMI). The OCMI will advise the craft's owner or operator of this determination, as well as any appeal rights should the owner or operator wish to contest the OCMI's determination. If you are contemplating operating a craft, we advise you to consult with the cognizant OCMI as soon as possible in order to determine whether your craft will qualify as a vessel.

In order to be inspected and certificated as a vessel by the Coast Guard, the craft owner or operator must demonstrate, to the OCMI's satisfaction, the practical, rather than theoretical, capability of the craft to operate as a means of transportation on water. The following non-exclusive list of questions is intended to assist OCMI's and vessel owners in determining whether or not a craft possesses that capability. This list should be considered under the totality of the circumstances presented in each instance:

- Is the craft surrounded by a cofferdam, land or other structure, such that although floating, it is in a "moat" with no practical access to navigable water?
- Is the craft affixed to the shore by steel cables, I-beams or pilings, or coupled with land based utility connections for power, water, sewage and fuel?
- If the craft were operated in navigation, would it be thereby endangered because of its construction?
- What is the purpose, function, or mission of the craft?
- Can the craft get underway in less than eight (8) hours? If more than eight hours are required, the OCMI will determine if the delay was attributable to factors outside the owner's or operator's control, in which case the delay may be overlooked.

"Getting underway" consists of operating in the navigation channel, at the time of inspection for certification or at least annually, and conducting propulsion tests, steering tests, and drills including the launching of rescue boats, all to the satisfaction of the OCMI. Non-self propelled craft may get underway with the assistance of an appropriate towing vessel. A craft that cannot demonstrate its ability to get underway to the satisfaction of the OCMI will be deemed a land structure and will no longer be inspected for certification by the Coast Guard, except for temporary grandfathering of certain PMCs.

A craft that has been determined to be a vessel remains subject to all applicable requirements including Coast Guard inspection and certification

requirements, and must remain in compliance with its approved plans at all times, even if it does not normally get underway but routinely engages in dockside operations. Authorized exceptions and equivalencies may be granted by the Coast Guard; for example, 46 CFR part 199 allows an OCMI to conduct a safety assessment on passenger vessels over 100 tons by using risk based decision-making principles to allow departures from traditional lifesaving equipment requirements. Sliding scale manning tables have also been found acceptable.

We recognize that the owners and operators of some PMCs currently possess, and expected to be able to renew indefinitely, a Certificate of Inspection issued by the Coast Guard. Now, these PMCs may be subject to State and local building codes or similar standards. Complying with the land-based standards may be time-consuming and costly (as much as \$10 million for a casino craft, according to one comment). Therefore, with the concurrence of the State having jurisdiction over the craft, we will continue to provide inspection services for a two-year period, provided that the PMC:

- Currently possesses a Coast Guard-issued Certificate of Inspection;
- Has been designed to Coast Guard regulations; and
- May not be acceptable for regulation immediately by the State having jurisdiction.

This policy will not affect semi-submersible platforms, which are not listed as “vessels subject to inspection” under 46 U.S.C. 3301, but instead are inspected under 43 U.S.C. 1333 based on their work on the Outer Continental Shelf.

Dated: April 24, 2009.

**Brian M. Salerno,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security, and Stewardship.*

[FR Doc. E9-10971 Filed 5-8-09; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5309-N-01]

### Notice of Availability: Program Requirements for Community Development Block Grant Program Funding Under the American Recovery and Reinvestment Act of 2009

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD announces the program requirements, submission deadlines, and waivers and alternative requirements for funding available under the Community Development Block Grant Recovery (CDBG-R) program authorized by Title XII of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, approved February 17, 2009). The focus of CDBG-R funding is on infrastructure improvements that meet the overall goals of the American Recovery and Reinvestment Act, which are to stimulate the economy through measures that modernize the nation's infrastructure, improve energy efficiency, and expand educational opportunities and access to health care. Approximately \$1 billion is available for CDBG-R to states and local governments. The notice establishing the program requirements, including waivers and alternative requirements, is available on the HUD Web site at: <http://www.hud.gov/recovery/cdblock.cfm>.

**FOR FURTHER INFORMATION CONTACT:** Stanley Gimont, Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room 7286, Washington, DC 20410; telephone 202-708-3587 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

Dated: April 14, 2009.

**Nelson R. Bregón,**

*General Deputy Assistant Secretary for Community Planning and Development.*

[FR Doc. E9-10968 Filed 5-6-09; 4:15 pm]

BILLING CODE 4210-67-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R9-IA-2009-N0090; 96300-1671-0000-P5]

#### Receipt of Applications for Permit

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

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. The Endangered

Species Act requires that we invite public comment on these permit applications.

**DATES:** Written data, comments or requests must be received by June 10, 2009.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358-2104.

#### SUPPLEMENTARY INFORMATION:

##### Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Hendrix College, Conway, AR, PRT-195341

The applicant requests a permit to import biological samples from kakapo (*Strigops habroptilus*) collected in the wild in New Zealand, incidental to other research activities, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Henry Doorly Zoo, Center for Conservation and Research, Omaha, NE, PRT-210155

The applicant requests a permit to import blood, scute, and post-hatch egg shell samples from wild and captive-bred Philippine crocodiles (*Crocodylus mindorensis*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Kootenai Tribe of Idaho, Bonners Ferry, ID, PRT-011646

The applicant requests re-issuance of a permit for multiple exports of white sturgeon (*Acipenser transmontanus*) fertilized eggs from a spawning facility in Bonners Ferry, Idaho, to the Kootenay Trout Hatchery in Fort Steele, British Columbia, Canada, an action addressed in the white sturgeon recovery plan, for the purpose of enhancement of the