

copies of the Program Announcement/ Application may be obtained by request.

Brooke Holmes,

Director, Office of Science and Technology Cooperation, Bureau of Oceans and International Environmental and Scientific Affairs and, Co-Chair, U.S.-Egypt S&T Joint Board.

[FR Doc. 98-23124 Filed 8-27-98; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 2877]

Delegation of Authority No. 145-12

Pursuant to section 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a), as amended and Executive Order No. 12938, as amended, Section 1(a) of State Department Delegation of Authority No. 145 of February 4, 1980, 45 F.R. 11655, as amended, is hereby further amended by adding a new subparagraph 12 as follows:

“(12) The functions conferred on the Secretary of State in Executive Order 12938 of November 14, 1994.”

Dated: July 30, 1998.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 98-23123 Filed 8-27-98; 8:45 am]

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DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice 2874]

National Interest Determination Concerning Four Pipelines Operated on the Border of the United States at International Falls, Minnesota by Boise Cascade Corporation

Pursuant to the authority vested in me under Executive Order 11423 of August 16, 1968 as amended by Executive Order 12847 of May 17, 1993, and Department of State Delegation of Authority No. 118-1 of April 11, 1973, and subject to satisfaction of the requirements of sections 1(d) and 1(f) of the said Executive Order, I hereby determine that issuance of a permit to Boise Cascade Corporation, a Delaware Corporation, to operate and maintain four existing pipelines for the transportation of water, steam and filler material across the international boundary between the United States and Canada near International Falls, Minnesota would serve the national interest.

This determination shall become final fifteen days after the Secretaries of Defense, Treasury, Interior, Commerce, Transportation, the Attorney General, the Chairman of the Surface Transportation Board, and the Director of the Federal Emergency Management Agency have been notified of this proposed determination, unless the matter must be referred to the President for consideration and final decision pursuant to section 1(f) of said Executive Order.

Dated: August 4, 1998.

Stuart E. Eizenstat,

Under Secretary of State for Economic, Business and Agricultural Affairs.

[FR Doc. 98-23119 Filed 8-27-98; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 2876]

Revised Notice of Guidelines for Determining Comparability of Foreign Programs for the Protection of Sea Turtles in Shrimp Trawl Fishing Operations

SUMMARY: Section 609 of Public Law 101-162 (“Section 609”) provides that shrimp harvested with technology that may adversely affect certain species of sea turtles may not be imported into the United States unless there is an annual certification to Congress that the harvesting nation has a regulatory program and an incidental take rate comparable to that of the United States, or, alternatively, that the fishing environment in the harvesting nation does not pose a threat to the incidental taking of sea turtles. This notice revises the April 19, 1996 guidelines used by the Department of State in making such certification, in response to a decision made by the U.S. Court of Appeals for the Federal Circuit on June 4, 1998.

EFFECTIVE DATE: August 28, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington DC 20520, telephone number (202) 647-2335.

SUPPLEMENTARY INFORMATION: Section 609 provides that shrimp or products from shrimp harvested with commercial fishing technology that may adversely affect certain species of sea turtles protected under U.S. law and regulations may not be imported into the United States unless the President certifies to Congress by May 1, 1991, and annually thereafter, that:

a. The government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

b. The average rate of that incidental taking by vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

c. The particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

The President has delegated to the Secretary of State the authority to make certifications pursuant to Section 609 (Memorandum of December 19, 1990; 56 FR 357; January 4, 1991).

The relevant species of sea turtles are: loggerhead (*Coretta caretta*), Kemp's ridley (*Lepidochelys kemp*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*) and hawksbill (*Eremochelys imbricata*).

On October 8, 1996, the Court of International Trade held that Section 609 could not be enforced by the Department of State so as to allow entry into the United States of any shrimp or products from shrimp harvested by citizens or vessels of nations which had not been certified in accordance with Section 609. *Earth Island Institute v. Christopher*, 942, F. Supp. 597 (CIT 1996).

On November 25, 1996, the Court of International Trade issued an opinion which clarified the October 1996 ruling and stated that the State Department could allow entry into the United States of any shrimp or products from shrimp harvested by citizens or vessels of nations which have not been certified in accordance with Section 609 so long as the harvest was accomplished in a manner which did not adversely affect sea turtles (e.g. shrimp harvested in an aquaculture facility under certain circumstances; shrimp harvested by manual rather than by mechanical methods; or shrimp harvested in areas in which sea turtles do not occur). However, shrimp and products from shrimp harvested with turtle excluder devices (TEDs) could not be imported unless the harvesting nation was certified in accordance with Section 609. *Earth Island Institute v. Christopher*, 948 F. Supp. 1062 (CIT 1996).

On June 4, 1998, the U.S. Court of Appeals for the Federal Circuit vacated the trial court's October 8, 1996 and November 25, 1996 rulings and held

that the trial court lacked jurisdiction because the plaintiffs had previously withdrawn their motion on which the court based its decisions.

In response to the June 4, 1998 decision, the Department of State takes this opportunity to reaffirm the guidelines issued on April 19, 1996 (FR Vol. 61, No. 77, April 19, 1996), except as modified herein.

The Department of State reinstates its determination that the harvesting of shrimp with TEDs does not adversely affect sea turtle species and that TED-caught shrimp is therefore not subject to the import prohibition created by Section 609(b)(1). As described below, however, the Department of State has decided to establish several conditions and incentives relating to the importation of such shrimp that are intended to address concerns that have been raised about the effect of this determination on the conservation of sea turtle species.

These concerns are of two basic kinds. First, there is a concern that foreign harvesters will fraudulently claim that shrimp has been harvested with TEDs. To protect against such fraud, the guidelines issued on April 19, 1996 already require every shipment of shrimp entering the U.S. market to be accompanied by a completed DSP-121 form indicating either that the shrimp was harvested in a certified nation or was harvested in an uncertified nation under one of the conditions that do not adversely affect sea turtles species. For shrimp harvested in certified nations, only the exporter must certify that the shrimp was harvested in the manner indicated on the form. For shrimp harvested in uncertified nations, both the exporter and a government official in the harvesting nation must so certify. The Department of State has decided to add to these safeguards by undertaking regular examinations of the procedures that governments of uncertified nations have put in place for verifying the accurate completion of the DSP-121 forms. If, upon our review, such governments do not demonstrate that they have adequate procedures in place, the Department will instruct the Customs Service not to permit the importation of TED-caught shrimp harvested in that nation.

Second, there is a concern that foreign nations that have established regulatory programs governing the incidental taking of sea turtles in the course of shrimp trawl harvesting that are comparable to the U.S. program will abandon or limit those programs so that only shrimp vessels harvesting shrimp for export to the U.S. market will actually use TEDs. Similarly, a concern

has been raised that other nations that may be considering the adoption of such programs may instead adopt a policy of using TEDs only on vessels harvesting shrimp for export to the U.S. market.

As a matter of policy, the Department of State is of the view that foreign governments should require TEDs to be used on shrimp trawl vessels wherever there is a likelihood of intercepting sea turtles. Available evidence does not indicate that a decision to permit the importation of TED-caught shrimp from uncertified nations will cause foreign governments to abandon (or to refrain from adopting) regulatory programs requiring TEDs to be used in this manner. During the earlier period in which the United States permitted importation of TED-caught shrimp from uncertified nations, no foreign nation that had established such a program abandoned or limited its program. Indeed, some Central American nations expanded their TEDs programs during that time to include their Pacific as well as Caribbean coasts.

Nevertheless, in order to ensure that a decision to permit the importation of TED-caught shrimp from uncertified nations does not undermine the establishment of such programs, the Department of State will review the effects of the decision every six months for a three-year period beginning May 1, 1999. If evidence indicates that the decision has adversely affected sea turtle species; e.g., by prompting foreign governments to abandon or limit country-wide TEDs programs or to fail to adopt such programs, the Department will reassess the decision.

The Department has further decided to increase its efforts to protect and conserve sea turtles through the negotiation and implementation of multilateral agreements. To this end, the Department shall strive to secure the entry into force of the Inter-American Convention for the Protection and Conservation of Sea Turtles throughout the Western Hemisphere as early as possible. The Department will also intensify efforts to negotiate comparable agreements for other regions where sea turtles are at considerable risk, including from shrimp trawl fishing, beginning with the Indian Ocean region.

For the sake of clarity, the April 19, 1996 guidelines are restated below with certain modifications.

The U.S. Program. The foundation of the U.S. program governing the incidental taking of sea turtles in the course of shrimp harvesting is the requirement that commercial shrimp trawl vessels use TEDs approved in accordance with standards established by the U.S. National Marine Fisheries

Service (NMFS), in areas and at times when there is a likelihood of intercepting sea turtles. The goal of this program is to protect sea turtle populations from further decline by reducing the incidental mortality of sea turtles in commercial shrimp trawl operations.

The commercial shrimp trawl fisheries in the United States in which there is a likelihood of intercepting sea turtles occur in the temperate waters of the Gulf of Mexico and the Atlantic Ocean from North Carolina to Texas. With very limited exceptions, all U.S. commercial shrimp trawl vessels operating in these waters must use approved TEDs at all times and in all areas. The only exceptions to this requirement are as follows:

a. Vessels equipped exclusively with the following special types of gear and deployed with certain restricted tow times are not required to use TEDs because the nature of their operations does not pose a threat of the incidental drowning of sea turtles: barred beam trawls and/or roller trawls, wing nets, skimmer trawls, and pusher-head trawls. Single try nets (with less than a twelve foot headrope and fifteen foot rope) and test nets, used briefly to test for shrimp concentrations, need not have TEDs.

b. Vessels whose nets are retrieved exclusively by manual rather than mechanical means are not required to use TEDs because the lack of a mechanical retrieval system necessarily limits tow times to a short duration so as not to pose a threat of the incidental drowning of sea turtles. This exemption applies only to vessels that have no power or mechanical-advantage trawl retrieval system.

c. In exceptional circumstances, where NMFS determines that the use of TEDs would be impracticable because of special environmental conditions such as the presence of algae, seaweed, or debris, or that TEDs would be ineffective in protecting sea turtles in particular areas, vessels are permitted to restrict tow times instead of using TEDs. Such exceptions are generally limited to two periods of 30 days each. In practice, NMFS has permitted such exceptions only rarely.

With these limited exceptions, all other commercial shrimp trawl vessels operating in waters subject to U.S. jurisdiction in which there is a likelihood of intercepting sea turtles must use TEDs at all times. For more information on the U.S. program governing the incidental taking of sea turtles in the course of commercial shrimp trawl harvesting, see 50 CFR 227.17 and 50 CFR 227.72(e).

Shrimp Harvested in a Manner Not Harmful to Sea Turtles. The Department prohibitions imposed pursuant to Section 609 do not apply to shrimp or products of shrimp harvested under the following conditions, since such harvesting does not adversely affect sea turtles:

a. Shrimp harvested in an aquaculture facility in which the shrimp spend at least 30 days in pond prior to being harvested.

b. Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States.

c. Shrimp harvested exclusively by means that do not involve the retrieval of fishing nets by mechanical devices or by vessels using gear that, in accordance with the U.S. program described above, would not require TEDs.

d. Species of shrimp, such as the pandalid species, harvested in areas in which sea turtles do not occur.

Shrimp Exporter's/Importer's Declaration. The requirement that all shipments of shrimp and products of shrimp imported into the United States must be accompanied by a declaration (DSP-121, revised) became effective as of May 1, 1996 and remains effective. The DSP-121 attests that the shrimp accompanying the declaration was harvested either under conditions that do not adversely affect sea turtles (as defined above) or in waters subject to the jurisdiction of a nation currently certified pursuant to Section 609. All declarations must be signed by the exporter.

The requirement that a government official of the harvesting nation not currently certified pursuant to Section 609 must also sign the DSP-121 asserting that the accompanying shrimp was harvested under conditions that do not adversely affect sea turtles species remains effective. Notice is hereby given that the Department intends to conduct periodic reviews of the system that such foreign governments have put in place to verify the statements made on the DSP-121 form in order to protect against fraud. The declaration must accompany the shipment through all stages of the export process, including, any transformation of the original product and any shipment through any intermediary country. As before, the Department of State will make copies of the declaration readily available; local reproduction of the declarations is fully acceptable.

Date of Export. Import prohibitions shall not apply to shipments of shrimp and products of shrimp with a date of export falling at a time in which the

harvesting nation is currently certified pursuant to Section 609.

Country of Origin. For purposes of implementing Section 609, the country of origin shall be deemed to be the nation in whose waters the shrimp is harvested, whether or not the harvesting vessel is flying the flag of another nation.

Guidelines for Determining Comparability

I. Certification Pursuant to Section 609(b)(2)(C)

Section 609(b)(2)(C) authorizes the Department of State to certify a harvesting nation if the particular fishing environment of the harvesting nation does not pose a threat of incidental taking of sea turtles in the course of commercial shrimp trawl harvesting. Accordingly, the Department shall certify any harvesting nation meeting the following criteria without the need for action on the part of the government of the harvesting nation:

a. Any harvesting nation without any of the relevant species of sea turtles occurring in waters subject to its jurisdiction;

b. Any harvesting nation that harvests shrimp exclusively by means that do not pose a threat to sea turtles, e.g., any nation that harvests shrimp exclusively by artisanal means;

c. Any nation whose commercial shrimp trawling operations take place exclusively in waters subject to its jurisdiction in which sea turtles do not occur.

II. Other Certifications

The Department of State shall certify any other harvesting nation by May 1st of each year only if the government of that nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of sea turtles in the course of commercial shrimp trawl harvesting that is comparable to that of the United States and if the average take rate of that incidental taking by vessels of the harvesting nation is comparable to the average take rate of incidental taking of sea turtles by United States vessels in the course of such harvesting.

a. *Regulatory Program.* The Department of State shall assess regulatory programs, as described in the documentary evidence provided by the governments of harvesting nations, for comparability with the U.S. program. Certification shall be made if a program includes the following:

1. Required Use of TEDS—a requirement that all commercial shrimp trawl vessels operating in waters in

which there is a likelihood of intercepting sea turtles use TEDs at all times. TEDs must be comparable in effectiveness to those used in the United States. Any exceptions to this requirement must be comparable to those of the U.S. program described above; and

2. Enforcement—a credible enforcement effort that includes monitoring for compliance and appropriate sanctions.

b. *Incidental Take.* Average incidental take rates will be deemed comparable if the harvesting nation requires the use of TEDs in a manner comparable to that of the U.S. program described above.

c. *Additional Considerations.* 1. Form—A regulatory program may be in the form of regulations promulgated by the government of the harvesting nation and having the force of law. If the legal system and industry structure of the harvesting nation permit voluntary arrangements between government and the fishing industry, such an arrangement may be acceptable so long as there is a governmental mechanism to monitor compliance with the arrangement and to impose penalties for noncompliance, and confirmation that the fishing industry is complying with the arrangement.

2. Documentary Evidence—Documentary evidence may be in the form of copies of the relevant laws, regulations or decrees. If the regulatory program is in the form of a government-industry arrangement, then a copy of the arrangement is required. Harvesting nations are encouraged to provide, to the extent practicable, information relating to the extent of shrimp harvested by means of aquaculture.

3. Additional Turtle Protection Measures—The Department of State recognizes that sea turtles require protection throughout their life cycle, not only when they are threatened during the course of commercial shrimp trawl harvesting. In making the comparability determination, the Department shall also take into account other measures the harvesting nation undertakes to protect sea turtles, including national programs to protect nesting beaches and other habitat, prohibitions on the directed take of sea turtles, national enforcement and compliance programs, and participation in any international agreement for the protection and conservation of sea turtles. The Department of State relies on the technical expertise of NMFS to evaluate threats to sea turtles and the sea turtle protection programs of the harvesting nations in order to assist in making the comparability determination.

4. Consultations—The Department of State will engage in ongoing consultations with harvesting nations. The Department recognizes that, as turtle protection programs develop, additional information will be gained about the interaction between turtle populations and shrimp fisheries. These Guidelines may be revised in the future to take into consideration that and other information, as well as to take into account changes in the U.S. program.

In addition, the Department seeks public comment on the best ways to implement both these guidelines and Section 609 as a whole and may revise these guidelines in the future accordingly.

III. Related Determination

Any harvesting nation that is not certified on May 1 of any year may be certified prior to the following May 1 at such time as the harvesting nation meets the criteria necessary for certification. Conversely, any harvesting nation that is certified on May 1 of any year may have its certification revoked prior to the following May 1 at such time as the harvesting nation no longer meets those criteria.

As a matter relating to the foreign affairs function, these guidelines are exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This action is exempt from Executive Order 12866, and is not subject to the requirements of the Regulatory Flexibility Act.

Dated: August 18, 1998.

Stuart E. Eizenstat,

Under Secretary for Economic, Business and Agricultural Affairs.

[FR Doc. 98-23121 Filed 8-27-98; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 98-4360]

Notice of Request for the Extension of Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection:

49 U.S.C. 5335(a) and (b) National Transit Database.

DATES: Comments must be submitted before October 27, 1998.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL-401, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT:

Donna Albritton, Office of Program Management (202) 366-0203.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5335(a) and (b) (OMB Number: 2132-0544)

Background: 49 U.S.C. Section 5335(a) and (b) require the Secretary of Transportation to maintain a reporting system by uniform categories to accumulate mass transportation financial and operating information and a uniform system of accounts and records. Federal, state, and local governments, transit agencies/boards, labor unions, manufacturers, researchers, consultants and universities use the National Transit Database for making transit related decisions. State and local governments also use the National Transit Database in allocating funds under 49 U.S.C. Section 5307. National Transit Database information is essential for understanding cost, ridership and other national performance trends, including transit's share of urban travel. It would be difficult to determine the future structure of FTA programs, to set policy, and to make funding and other decisions relating to the efficiency and effectiveness of the Nation's transit

operations without the National Transit Database.

Respondents: State and local government, business or other for-profit institutions, non-profit institutions, and small business organizations.

Estimated Annual Burden on Respondents: 420 hours for each of the 567 respondents.

Estimated Total Annual Burden: 238,140 hours.

Frequency: Annual.

Issued: August 25, 1998.

Nuria I. Fernandez,

Deputy Administrator.

[FR Doc. 98-23243 Filed 8-27-98; 8:45 am]

BILLING CODE 4910-57-U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Docket No. NHTSA 98-4357; Notice 1

Aprilia, SpA, Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

Aprilia SpA of Noale, Italy, has applied for a temporary exemption for calendar years 1999 and 2000 from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the request is that "compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall level of safety at least equal to the overall safety level of nonexempt vehicles," 49 U.S.C. Sec. 30113(b)(3)(iv).

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

If a motorcycle is produced with rear wheel brakes, S5.2.1 of Standard No. 123 requires that the brakes be operable through the right foot control, though the left handlebar is permissible for motor driven cycles (Item 11, Table 1). Aprilia would like to use the left handlebar as the control for the rear brakes of its Leonardo 150 motorcycle, whose 150 cc engine produces more than the 5 hp maximum that separates motor driven cycles from motorcycles. The Aprilia can attain speeds up to 106 km/h (65.7 mph). The frame of the Leonardo "has not been designed to mount a right foot operated brake pedal, which is a sensitive pressure point able to apply considerable stress to the frame, causing failure due to fatigue * * *" Aprilia "intends to begin sales