

proposed rebate. Thus, to qualify a transaction for the rebate process, a written rebate request, along with supporting documentation, must be submitted to the Exchange.<sup>10</sup>

The purpose of capping the ROT and specialist transaction and comparison fees for merger spread and dividend spread transactions at \$1,750 is to attract additional liquidity to the Exchange.<sup>11</sup> The purpose of deleting the reference to the fixed monthly fee is to update the Exchange's fee schedule to eliminate a reference to a fee that is no longer in effect.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of section 6(b)(4) of the Act,<sup>13</sup> in particular, in that it is an equitable allocation of reasonable fees among Exchange members.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

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

No written comments were either solicited or 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>14</sup> and Rule 19b-4(f)(2)<sup>15</sup> thereunder, because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, as amended, the

<sup>10</sup> Specifically, within 30 calendar days of the billing period (i.e., within thirty days from the issue date of the invoice) for these transactions, a written request, along with the appropriate documentation, must be completed and submitted to the Exchange. After the appropriate verification and subsequent acceptance, the Exchange would credit the appropriate member's account for the amount of the rebate (i.e., either \$0.08 or \$0.07 per contract side) on contracts executed in trades occurring as part of a merger-acquisition strategy.

<sup>11</sup> Similar to the rebate process described above, members who wish to benefit from the proposed fee cap will be required to submit to the Exchange a written rebate request with supporting documentation.

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

<sup>13</sup> 15 U.S.C. 78f(b)(4).

<sup>14</sup> 15 U.S.C. 78(s)(b)(3)(A)(ii).

<sup>15</sup> 17 CFR 240.19b-4(f)(2).

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>16</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 is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2005-19 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2005-19. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change 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 the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

<sup>16</sup> See 15 U.S.C. 78s(b)(3)(C). For purposes of calculation the 60-day abrogation period, the Commission considers the period to commence on April 19, 2005, the date the Phlx filed Amendment No. 1.

submissions should refer to File Number SR-Phlx-2005-19 and should be submitted on or before May 20, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-2050 Filed 4-28-05; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### Region IV Small Business Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Hearing

The U.S. Small Business Administration, Region IV Small Business Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a public hearing on Thursday, May 26, 2005, at 8:30 a.m., at the Mobile Chamber of Commerce, McGowin Room, 451 Government Street, Mobile AL 36602-2319, phone (251) 433-6951, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by Federal agencies.

Anyone wishing to attend or to make a presentation must contact L.D. Ralph in writing or by fax, in order to be put on the agenda. L.D. Ralph, Loan Specialist, SBA Alabama District Office, 801 Tom Martin Drive, Suite 201, Birmingham, AL 35211, phone (205) 290-7101, Ext. 237, fax (202) 481-4009, e-mail: [lafero.ralph@sba.gov](mailto:lafero.ralph@sba.gov).

For more information, please see our Web site at <http://www.sba.gov/ombudsman>.

**Matthew K. Becker,**

*Committee Management Officer.*

[FR Doc. 05-8566 Filed 4-28-05; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF STATE

### [Public Notice 5059]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for International Bridge at Calais, ME

**AGENCY:** Office of Canadian Affairs, Department of State.

**ACTION:** Notice.

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

**SUMMARY:** The proposed action is to issue a Presidential Permit to the State of Maine to authorize it to construct, connect, operate and maintain an international bridge between the City of Calais, Maine, and Canada. The Department of State (the "Department") has reviewed the potential environmental impacts and determined that the proposal will not have a significant effect on the quality of the human environment. Therefore, the Department of State has issued its Environmental Assessment and Finding of No Significant Impact.

**SUPPLEMENTARY INFORMATION:** The Department of Transportation of the State of Maine has filed with the Office of Canadian Affairs of the Department of State an application for a Presidential permit to permit the construction of a new international bridge across the St. Croix River and a new international border crossing facility between the city of Calais, Maine (ME), and the town of St. Stephen, New Brunswick (NB). That application was accompanied by a draft environmental assessment dated December 2001 (2001 Draft EA), submitted by the Federal Highway Administration of the U.S. Department of Transportation and the Maine Department of Transportation, in cooperation with the General Services Administration, and in conjunction with the New Brunswick Department of Transportation.

Notice of the application was published in the **Federal Register**, Vol 68, No. 146, pages 44833 *et seq.*, on July 30, 2003. No formal written public comments were received by the Department of State on the Presidential permit application or the 2001 Draft EA provided as part of the application for a Presidential permit.

Comments were received from the Federal and State agencies concerning the application and were either responded to directly, or are addressed in the analysis contained in this review set forth below. In addition to inclusion in the analyses of impacts and risks, the comments received were used to develop measures to be undertaken by the Sponsor as commitments to prevent or mitigate potentially adverse environmental impacts.

This summary environmental assessment, the comments submitted by the Federal and State agencies, any responses to those comments, and the 2001 Draft EA submitted by the project sponsor together constitute the Final Environmental Assessment of the proposed action by the Department of State.

## I. The Proposed Project

The U.S. Department of State (the "Department") is charged with the issuance of Presidential permits for the certain cross-border facilities under Executive Order 11423 of August 16, 1968, 33 FR 11741, as amended by Executive Order 12847 of May 17, 1993 (58 FR 29511), Executive Order 13284 of January 23, 2002 (68 FR 4075), and Executive Order 13337 of April 30, 2004 (69 Fed. Reg. 25299), as well as under the International Bridge Act of 1972, 33 U.S.C. 535, *et seq.*

The Department of Transportation of the State of Maine ("MDOT," the "Sponsor") has filed an application ("the application") for a Presidential Permit to permit the construction of a new international bridge across the St. Croix River and a new international border crossing facility between the city of Calais, ME, and the town of St. Stephen, NB, to supplement two small existing crossings: The "Ferry Point Crossing," which connects the downtown areas of both Calais and St. Stephen; and the "Milltown Crossing," which connects Calais and St. Stephen about ½ mile upstream from the Ferry Point Crossing.

In January 2001, the Sponsor, in cooperation with the United States General Services Administration and the Federal Highway Administration of the U.S. Department of Transportation, and with the assistance of Gannett Fleming, Inc., initiated preparation of an environmental assessment of the potential environmental effects of the proposed International Bridge. The "Draft Environmental Assessment Calais-St. Stephen Area International Border Crossing Study" (2001 Draft EA) was completed in December 2001. The 2001 Draft EA was reviewed by the Federal Highway Administration, which issued a Finding of No Significant Impact (FONSI) on July 31, 2002. That FONSI, and its supporting documentation, are herein incorporated by reference.

The Department has engaged in follow-up inquiries concerning various issues raised with respect to a "Calais-St. Stephen Area International Border Crossing Study," conducted by the Maine Department of Transportation in conjunction with the New Brunswick Department of Transportation, the Federal Highway Administration, and the U.S. General Services Administration (the study can be found on the Internet at <http://www.nbdot-mdot-bordercross.com/>). A discussion of those issues is found below, in Section IV. In addition, the Department, acting in a manner consistent with its

regulations for the implementation of the National Environmental Policy Act ("NEPA") in the context of its responsibilities with respect to Presidential Permits, has conducted its own, independent review of the 2001 Draft EA provided by the Sponsor. The 2001 Draft EA has also been reviewed by numerous Federal, State, and local agencies. Each such "cooperating agency" has approved or accepted the 2001 Draft EA, provided, in certain cases, that mitigation recommendations proposed in the application itself or by those agencies are followed. These cooperating agencies are:

- U.S. Government: The Department of State; the Department of Defense; the Department of Transportation; the Department of the Interior, U.S. Fish and Wildlife Service; the Department of Justice; the Department of Agriculture, including the Animal and Plant Health Inspection Service's Office of Veterinary Services; the Environmental Protection Agency; the Food and Drug Administration; the Department of Commerce; the Council on Environmental Quality; the General Services Administration; the U.S. Office of the International Boundary Commission; the U.S. Office of the International Joint Commission; and, within the Department of Homeland Security: The Federal Emergency Management Agency; the Bureau of Customs and Border Protection; the Bureau of Immigration and Customs Enforcement; and the U.S. Coast Guard.

- State of Maine: The Department of Transportation, the City of Calais.

Based on the 2001 Draft EA, information developed by the Department during its review of the Sponsor's application and all comments received, and its own review of this information, the Department has completed its Final Environmental Assessment (Final EA). On the basis of the Final EA, the Department has concluded that the issuance of the permit will not have a significant impact on the quality of the human environment within the United States. Therefore, an environmental impact statement ("EIS") need not be prepared.

## II. Factors Considered

### A. The Need for the Proposed Action

Over the last ten-plus years, a number of studies have been made of traffic flow in the vicinity of the Ferry Point crossing, which is located in and connects the central business districts of Calais, ME, and St. Stephen, NB. Those studies, including one completed in August 1999, revealed that the Ferry Point crossing is characterized by: poor

highway system linkage; inefficient GSA-owned inspection facilities; traffic congestion; safety hazards; and freight delays.

A second border bridge, at Milltown, is also undersized and is used primarily by non-commercial, local traffic. Both the Milltown and the Ferry Point crossings were built in the 1930s. The traffic load statistics gathered in the 1999 traffic count do not clearly distinguish between the two crossings, and general references herein to "Calais-St. Stephen" should be construed as referring to both the Milltown and Ferry Point crossings.

According to the U.S. Department of Transportation, Calais-St. Stephen is the eighth busiest northern border crossing in the United States for commercial vehicles (trucks) and the fifth busiest for passenger vehicles.

Traffic crossing the current, two-lane Ferry Point bridge has overwhelmed the processing capacity at the border station. Congestion has deteriorated quality of life and commercial activity for nearby homes and businesses. Oversized trucks must be re-routed around the commercial vehicle area, for which they are too big, and into the oncoming traffic lane to navigate the inspection facility. Inspections of such loads must be undertaken while the trucks are parked in the travel lane, leading to significant delays and traffic jams, as well as unsafe working conditions for the inspection staffs. Secondary inspections are carried out in the public streets. In similar vein, outbound inspections are also carried out in the travel lane, limiting the number of such inspections that can be conducted.

A 1999 traffic survey conducted by the Sponsor found that about 6,700 vehicles per day were using the Ferry Point Crossing, with another 2,500 or so using the Milltown Crossing. According to information provided by the Province of New Brunswick, the St. Stephen/Milltown border crossings combined ranked as the ninth busiest in Canada in 2002, with 6,000 vehicles a day, including close to 600 trucks. Whether using the 1999 U.S., or the 2002 Canadian figures, it appears that a substantial amount of traffic uses the St. Croix River crossings, and traffic congestion in the downtown areas of both communities is serious.

The General Services Administration contracted for an extensive study of potential traffic volumes with and without a new crossing in the Spring of 2004. The study was based on actual incoming traffic data provided by the office of the Port Director for the region. The data showed that traffic volumes

through the existing crossings at Ferry Point and Milltown have been in flux over the last ten years, and that the busiest months could see at least 50%—in some years as much as 70%—greater than average traffic volumes, leading the GSA contractor to conclude that a simple projection of past growth figures would not be an adequate basis for assessing the effectiveness of the proposed design for the inspection facility or the impacts of a new crossing on the existing entry points. GSA's contractor therefore ran a number of simulations at a substantially higher rate of growth than studies done previously, using both a low range of 7% annual growth over a period of ten years, and a high range of doubling current traffic volumes over the same ten-year period.

GSA's study determined that there is a slight tendency for more commercial vehicles and fewer passenger vehicles to use the Ferry Point crossing, while the reverse is the case at Milltown. Despite this readjustment, however, delays at both crossings are significant. At certain times of the day, commercial vehicles at Milltown may wait as long as 70 minutes to cross the border, while passenger vehicles can wait longer than 60 minutes. At Ferry Point, the wait time for commercial vehicles regularly exceeds 80 minutes at certain times (morning rush) of the day, while passenger vehicles may wait as long as 60 minutes or more at the same times.

Delays and traffic congestion affect the economic and physical environments locally, and increase safety risks as well. Also, a number of trucks carry hazardous materials, and local residents are concerned about the possibility of a hazardous materials spill.

U.S. and Canadian traffic surveys from 1999 and 2000 also indicated that between 27% and 32% of passenger vehicles and approximately 77% of truck traffic at the Ferry Point and Milltown crossings are non-local.

Calais serves as the primary coastal-area crossing point; traffic moves between northeastern Maine and the Maritime Provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland-Labrador. The nearest alternate border crossing facility for commercial vehicles is located at Houlton, ME, approximately 75 miles distant.

#### *B. The Goals of the Proposed Action*

A new crossing would improve traffic flow in the immediate area, reduce traffic congestion, and speed through-travel time. It is also clear that a new crossing would furnish greater flexibility for handling traffic flows and

greatly improve border security by expanding the capacity of inspection services to carry out their work. According to project documents, the new crossing is also intended to create a gateway between Maine and the Maritime Provinces as part of an overall east-west transportation corridor. The route through Calais is the shortest between Bangor and points in eastern New Brunswick, the Bay of Fundy, and Nova Scotia.

### **III. Alternatives Considered**

#### *A. Initial Options*

1. **Transportation System Management.** This would involve small changes such as signal timing improvements and/or minor traffic flow reconstruction at principal intersections in downtown Calais. The restricted space on the ground limits the ability to make substantial improvements. This alternative was rejected by the study committee.

2. **Travel Demand Management.** This consists of a number of strategies to reduce demand through such mechanisms as rideshare and transit networks to remove vehicles or to encourage local employers to offer flextime hours to shift the times that vehicles would be on the roads. Success depends on a high proportion of commuter traffic versus recreational or commercial traffic, which is not the case at Calais. This alternative was rejected by the study committee.

3. **Intelligent Transportation Systems(ITS)/Commercial Vehicle Operations.** ITS uses traffic monitoring technology and signage to apprise vehicle operators and inspection agencies of conditions at the border crossing, with the idea that operators can decide whether/how to proceed and inspectors can increase staffing to meet increased demand. This alternative was not considered by the study committee, because there is no flexibility to expand operations at the existing crossing, nor are there workable alternatives for vehicle operators to avoid the delays.

4. **No-Build Alternative.** This alternative would not address the problems that exist at the current border crossing facilities, while those conditions would worsen over time. This alternative was rejected by the study committee.

5. **Alternative 1—Upgrades at the Ferry Point Crossing.** Upgrades would include reconstruction of a portion of Union Street and the intersection with Main Street and North Street, reconstruction of the intersection with U.S. Route 1 east of the Milltown Bridge to define a right-turn lane, and

reconstruction of the intersection of Route 1 with Charlotte Street at the entrance to Moosehorn National Wildlife Refuge (NWR) to provide longer acceleration and deceleration lanes on Route 1. This alternative was rejected because it failed to meet the needs for system linkage and safety.

6. Alternatives 2 and 2A—Baileyville Crossing, Connection to Maine Route 9. A new bridge would be built at a site approximately eight miles from Calais' city center near the intersection between U.S. Route 1 and Maine Route 9. This location is favored by some international truckers and by some officials and residents of Baileyville, who believe this route would cut down travel time and/or bring more economic options to Baileyville itself. According to the 2001 Draft EA, this routing would disturb more wetlands, undeveloped lands, and good agricultural soil than the Calais Industrial Park site. The design was altered slightly (creating Alternative 2A) to move a connecting road further away from residences than originally proposed. This route would also remove a substantial amount of traffic from Route 1 as it passes through the Moosehorn NWR, thus reducing the risk of accidents or hazardous material (hazmat) spills in the Refuge. Alternative 2A was one of the two proactive alternatives placed before the public and the agencies reviewing the project. However, it was not ultimately selected as the preferred alternative.

7. Alternative 3—Calais Industrial Park. This alternative was selected as the preferred alternative. See fuller discussion below, at item III B.

8. Alternative 4, 4A—Bypass East of Calais. This alternative envisioned construction of a new bridge over the St. Croix River and Route 1 east of Calais center, between a church and a golf course. The area available for inspection services was only 21.4 hectares, well below the area needed by the U.S. Government for border inspection facilities. This alternative was rejected because it failed to meet the needs for system linkage and safety and because it did not satisfy system linkage needs on the New Brunswick side. In addition, there would be greater impacts to water resources.

9. Stud Mill Road Alternative. Stud Mill Road is a private logging road, used by paper companies, that runs from near the study area (Princeton, north of Baileyville) to the Old Town area just north of Bangor. Using this road would necessitate upgrading approximately 56 miles (90 km) and the construction of a new crossing of the Penobscot River north of Bangor and a new interchange to connect it with Interstate 95. This

alternative was rejected because it failed to meet the needs for system linkage and safety and because of expense.

10. Foley Road Alternative. This alternative is similar to Alternative 2, albeit longer, located slightly north of the intersection of Routes 1 and 9. This alternative was rejected because Alternative 2A would accomplish the identified Purpose and Needs at a lower cost and with fewer adverse environmental impacts.

11. Calais Branch Alternative. This alternative, suggested at public meeting, would involve the rehabilitation of the existing rail bridge and the substitution of rail traffic for truck traffic. This alternative was rejected as providing insufficient freight movement capacity, and as failing to meet security requirements.

#### *B. The Preferred Alternative*

The project Sponsor studied a number of alternative sites and approaches, in addition to the no-action alternative, as outlined above. Finding that the other alternatives either did not satisfy the Purpose and Needs identified in the study, the 2001 Draft EA focused its analysis on two of the alternatives: Alternative 2A at Baileyville (featuring a connection between shared U.S. Routes 1 and 9 and New Brunswick Routes 1 and 3); and Alternative 3, in the Calais Industrial Park, with access to U.S. Route 1.

From among these, the Sponsor, New Brunswick, and several of the commenting agencies have all concurred in recommending adoption of Alternative 3, which is located in an undeveloped portion of the Calais Industrial Park and situated approximately 1.5 miles upstream of the Ferry Point Crossing in close proximity to U.S. Route 1 between the Town of Baring and the City of Calais.

The selection of Alternative 3 as the Preferred Alternative was made primarily because the Calais Industrial Park site is already zoned commercial, whereas the Baileyville site (Alternative 2A) is zoned rural and economic impacts will be less if the crossing is closer to the Calais business district. On the other hand, construction at the Baileyville site would disturb less wildlife habitat (10.8 hectares, versus 16.7 ha at the Calais site) but the same amount of wetlands and floodplain areas (2.6 acres in both locations).

#### *C. The Canadian Project*

The Governments of Canada and New Brunswick announced on November 20, 2003, that funding for the Canadian portion of the project—a connector route to NB Routes 1 and 3 and the

Canadian portion of the bridge—had been secured. Road construction has begun to connect the proposed new bridge to existing roads on the Canadian side.

#### **IV. Concerns and Comments**

##### *A. Environmental Impacts During Construction and Normal Operation*

Some concerns have been raised with respect to the potential environmental impact on the Moosehorn National Wildlife Refuge, and in particular, with continued or potential expansion of truck traffic passing through the Refuge to or from a crossing at Calais Industrial Park. Both during the public outreach process conducted by Sponsor and subsequent to release of the 2001 Draft EA, some commenters suggested that the new crossing should be built at the intersection of Routes 9 and 1, in the vicinity of Baileyville, Maine (*i.e.*, Alternative 2A), in order to reduce area noise and air pollution and the risks that could be posed to the Refuge by a traffic accident involving a truck carrying hazardous materials.

Traffic volume along Route 1 from Calais to the junction with Route 9, including through Moosehorn National Wildlife Refuge, will be higher under Alternative 3 than it would be under Alternative 2A at Baileyville and as compared to the No-Build Alternative. (Information on traffic growth projections is provided below.) The new crossing is also expected to attract higher traffic volumes than the No-Build Alternative, as it will offer greater transportation efficiency for destinations along the coastal areas of New Brunswick and Maine. However, as discussed in more detail below, these traffic increases are not expected to have a significant impact on the environment of the Moosehorn National Wildlife Refuge or its surrounding area. Furthermore, Alternative 3 will better safeguard the economic health of Calais businesses and improve the ambient air quality in the business district of Calais without appreciably altering the economic well-being of Baileyville businesses. Alternative 3 also attracted overwhelming public support.

In response to a request from the U.S. Department of Transportation, MDOT has developed updated traffic projections for the new crossing and for Route 1 between the junction with Route 9 in Baileyville and Calais, including the section passing through Moosehorn National Wildlife Refuge (NWR), that reflect an estimated traffic growth of approximately 20 percent over twenty years. Current traffic volumes, according to figures obtained

from MDOT in April 2004, indicate a "design hourly traffic volume" of 872 vehicles on this stretch of highway, and a projected value of 1,094 by 2024. The design hourly traffic volume is a measure of the highest number of vehicles (usually during rush hour) over a typical 24-hour period.

The majority of commercial vehicles now crossing at Ferry Point are expected to move to the new crossing; this switch is most likely for non-local truck traffic. Given the distance between Calais and the nearest alternative crossing point at Houlton, we conclude it is unlikely that substantial traffic will divert from Houlton to Calais and therefore overall traffic volumes are unlikely to diverge significantly from current growth projections of between 1.5 and 2 percent per year. However, the GSA traffic study team considered a possible shift to Calais of from one-quarter to one-third of combined passenger and commercial vehicle traffic that presently uses the border crossing at Houlton, Maine. In the absolute worst-case scenario (*i.e.*, the highest potential traffic volume at Calais), this would mean 330,000 commercial vehicles and 1,324,000 passenger vehicles passing through the port on an annual basis—an average of just under 190 vehicles per hour.

According to MDOT, this number is well within the design hourly volume for Route 1 in its current configuration and would not be expected to have a significant impact on the local environment.

The U.S. Environmental Protection Agency requested information regarding the possible widening of Route 1 to accommodate larger traffic volumes in future, and cautioned that its acceptance of the project was predicated on no disturbance of a bald eagle nesting platform near Route 1. Two raised platforms were installed to provide nesting sites for osprey. One is occupied by ospreys, the other by bald eagles. MDOT has stated that it does not currently foresee the need to expand Route 1 to four lanes from the present two. MDOT's two-, six-, and twenty-year plans do not include a widening or expansion of Route 1 at this location. MDOT also has committed to not disturb the two existing bald eagle nesting platforms, which are located approximately 100 yards south of—but within sight of—Route 1. EPA has requested that should the State of Maine change its plans, it notify and work with the EPA to address any agency concerns at that time.

There is a 100-foot wide right-of-way for U.S. Route 1 as it traverses the northwest corner of the Baring Division of Moosehorn National Wildlife Refuge.

The length of Route 1 through the NWR is approximately 7,000 feet. The total right-of-way area occupied by Route 1 is therefore 700,000 square feet or about 16 acres. Widening the road to four lanes (two in each direction) would not require widening the right-of-way or take any additional land from the Refuge. However, there are no current plans to widen the road, as noted above.

#### *B. U.S. Agency Comments*

1. The U.S. Coast Guard stated it has no objection to the proposed project. A Coast Guard permit will be required before construction may commence.

2. The Environmental Protection Agency, as noted above, expressed a concern with the potential for widening Route 1 through the Moosehorn NWR, referring to a draft of the environmental assessment prepared in December 2001, and requested clarification from MDOT regarding potential future expansion plans for Route 1. MDOT has responded by noting there are no plans to widen Route 1 in the 2, 6, or 20-year Maine transportation plan. The Environmental Protection Agency has accepted this statement as responsive to its concerns, and has no further objection to the project.

3. The Office of the Under Secretary of Defense for Installations and Environment noted no objections to the proposed project, subject to the issuance of a permit by the U.S. Army Corps of Engineers. The issuance of such a permit is not a prerequisite to issuance of a Presidential Permit; however, it is a prerequisite to construction of the project.

4. The Federal Emergency Management Agency (FEMA) of the Department of Homeland Security requested that the Sponsor provide a study of the hydraulic and hydrologic impacts of the project to the St. Croix River. FEMA also requires verification that the project will meet the requirements of 44 CFR 60.3(d)(3) (2003) with respect to flood plain protection and flood prevention measures. Sponsor has responded that these matters will be addressed during the design phase. FEMA has not approved the project pending receipt of the verification. FEMA approval is not a prerequisite for issuance of a Presidential Permit; however, FEMA approval is a prerequisite for construction.

5. The General Services Administration (GSA) raised the following environmental issues:

a. GSA requested that responsibilities regarding storm water management, a spill response plan, and groundwater monitoring be made clear. GSA and the

Sponsor have agreed to work together to apportion responsibilities appropriately.

b. Noise levels on the site will exceed highway noise abatement criteria during construction. GSA seeks assurance from the Sponsor that GSA will not have to deal with noise reduction in the geometry and grading of the proposed border crossing facility. The issue was addressed in the Federal Highway Administration's NEPA process, which determined that noise abatement is not feasible and therefore no commitments on noise abatement exist. GSA has indicated to the Department of State that it is satisfied with this conclusion. No agency expressed environmental concerns about the anticipated level of noise.

6. The Department of Transportation, Federal Highway Administration raised the following issues:

a. FHWA expressed a concern that a substantial period of time had elapsed since the last MDOT traffic survey of the area was performed in 1999 and, along with the Department of Homeland Security, requested that updated traffic statistics and projections be provided. Working with the Department of Homeland Security and MDOT, the GSA conducted a new study in Spring 2004, the results of which are summarized above. FHWA has accepted this measure as satisfying its concerns and has no further concerns about the project.

7. The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security requested:

a. Updated traffic statistics and projections. This information has been provided as noted above.

b. Provision for special lanes for bi-national programs (*e.g.*, NEXUS, FAST) be included in the project design for the highway and bridge connection. MDOT has agreed to work with CBP to incorporate any specific traffic design measures that may be required.

c. Information on flood plain, utilities, easements, rights-of-way, and aerial photographs of the construction site. MDOT has agreed to provide this information.

d. Information on the location of Calais City water wells, which adjoin the proposed site, and about the mitigation plans to ensure that the wells will not be contaminated during construction or operation of the border crossing and inspection facilities. GSA has assured the project sponsor it will address storm water runoff concerns throughout design development and construction of the inspection facilities. GSA has also pledged in a letter to the Department of State to design for spill containment and remedial or mitigation action as it relates to the port and port

traffic. The City of Calais will continue its ongoing monitoring and maintenance of the wells.

The Bureau of Customs and Border Protection of the Department of Homeland Security has accepted these measures as satisfying its environmental concerns.

8. The U.S. Section of the U.S.-Canada International Joint Commission (IJC) noted that IJC permission is required to build a new bridge. IJC permission is not a prerequisite for issuance of a Presidential permit; however it is a prerequisite to construction.

9. The following agencies noted no objection to the proposed project: The Food and Drug Administration, the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, the Council on Environmental Quality, the Department of Interior, the Department of Justice, and the Department of Commerce, the Food and Drug Administration, and, within the Department of Homeland Security (DHS), the Bureau of Immigration and Customs Enforcement and that portion of the Animal and Plant Health Inspection Service under DHS jurisdiction.

#### *C. Economic Impacts*

Economic impacts were an overriding concern to many residents of the Calais-Baileyville region. A small survey of area businesses and customers indicated that most expected that economic losses stemming from a decline in traffic volume in downtown Calais would likely be higher for the Baileyville crossing site (Alternative 2A) than for the Calais Industrial Park site (Alternative 3). Most business owners believed that it would be quite difficult to attract potential customers to drive the six miles from Baileyville into Calais in order to shop.

#### *D. Environmental Justice*

In accordance with the requirements of Executive Order 12898 of February 11, 1994, as amended by E.O. 12948 of February 1, 1995, on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, the Department has examined whether the selection by the Sponsor of Alternative 3 will have a disproportionately high and adverse impact on minority or low-income populations. After examination of information provided by the Sponsor in its submission as to the population and income demographics of the proposed site and its environs, the Department is satisfied that any impacts attendant on the project will not disproportionately

affect any minority or low-income populations.

#### *E. Other Impacts*

At a public hearing held in Calais on February 8, 2002, several other points were made. Putting the crossing at the Calais Industrial Park would help control unconstrained growth, as the Industrial Park itself provides plenty of appropriately zoned space for businesses and services. Many business owners believe that a crossing at Baileyville will discourage tourists from visiting downtown Calais due to the greater distance they would have to drive. One commenter pointed out that with the selection of Alternative 3, the Moosehorn NWR could receive more visitors as well.

#### **V. Commitments and Conditions Relevant To Issuance of a Finding of No Significant Impact**

The sponsor, Maine Department of Transportation, has undertaken the following commitments in response to issues identified during the interagency project review:

A. Sponsor will adopt Alternative 3 as its preferred alternative. Sponsor will work with the General Services Administration and other bodies to ensure that adequate space for the GSA-owned inspection facility will be provided and made available (approximately 40 acres) to GSA and the Federal inspection agencies, under terms agreed between the GSA and Sponsor.

B. Sponsor will perform hydrologic and hydraulic analyses and prepare a report based on those analyses in relation to the design of the bridge in order to verify that the project complies with the requirements of 44 CFR 60.3(d)(3) (2003). A copy of the report, containing said analyses, shall be supplied to the Department of State and to the Federal Emergency Management Agency of the Department of Homeland Security.

C. There will be no disturbance of bald eagle nests in the adjacent Moosehorn National Wildlife Refuge (NWR) and all reasonable efforts will be made to avoid disturbance of other wildlife or migratory bird species and their nests. The Department notes that there are no proposed construction activities within the Refuge.

The Department will condition issuance of the permit on the following measures in order to minimize negative environmental impacts:

A. The sponsor would be required to apply for and obtain a permit from the International Joint Commission and the International Boundary Commission for

construction and operation of the bridge.

B. The following environmental provisions would also apply to the Presidential permit:

1. All reasonable efforts will be made to minimize particulate matter, lighting and noise that might affect wildlife.

2. A biologist will do a pre-construction survey to identify and protect any wildlife in the project area. Construction activities should be conducted in such a way as to avoid as much as reasonably possible migratory bird species and their nests.

3. Injured wildlife will be reported and/or taken to the proper authorities for rehabilitation.

4. In the event of unexpected discovery of archaeological or historical cultural resources, all activity shall cease in the area of discovery. Immediate telephone notification of the discovery shall be made to an appropriate responsible state or federal official, as provided in the Section 105.9 of the State of Maine Department of Transportation General Conditions, Supplemental Specifications, and Supplemental Standard Details for Construction, dated February 1, 2002, and the National Historic Preservation Act of 1966. In addition, reasonable efforts to protect the cultural resources discovered shall be made. The activity may resume only after the appropriate federal and state agency officials have authorized a continuance.

5. Reasonable measures will be taken to prevent conveyed materials, including soil and rock, from being dropped into the river or other bodies of water in order to avoid adverse effects on the current water quality.

6. Petroleum, oils, and lubricants (POL) will be properly contained. Waste POLs and other articles, such as batteries, will not be burned, dumped in trash containers, deposited in landfills, buried, left on the ground or dumped in ditches. All materials brought on site will be disposed of in a proper manner.

7. Spills of POLs or hazardous wastes will be properly contained and the contamination cleaned up and disposed of in accordance with current applicable regulations. Spills of hazardous materials will be immediately reported to the appropriate state and federal authorities.

8. The area will be watered during construction and site operations as needed to protect plants and wildlife and minimize blowing dust.

9. There will be a short-term increase in noise levels during construction. All personnel working in the area will use proper ear protection.

10. A berm and fence shall be erected along the property line separating any aggregate receiving/distribution site from the St. Croix River or other watercourses. Fencing material should be such as will act as a dust transport barrier.

11. Herbicides used in landscape maintenance will be properly approved and applied in accordance with all regulations.

### Conclusion: Finding of No Significant Impact

Based on the Department's independent review of the Final Environmental Assessment, comments received by the Department from Federal, and state and local agencies in response to the Notice of Application, published in the **Federal Register**, Vol. 68, No. 146, dated Wednesday, July 30, 2003, page 44833 *et seq.*, as well as measures which the Sponsor has committed to take to prevent potentially adverse environmental impacts, the Department has concluded that issuance of a Presidential Permit authorizing construction of the proposed Calais-St. Stephen International Bridge and Border Crossing Facilities, as proposed to be constructed in Alternative No. 3 as set forth in the Environmental Assessment, would not have a significant impact on the quality of the human environment within the United States. Accordingly a Finding of No Significant Impact is adopted and an environmental impact statement will not be prepared.

The Final Environmental Assessment addressing this action is incorporated by reference and is on file and may be reviewed by interested parties at the Department of State, 2201 C Street NW., Room 3917, Washington DC 20520 (attention: Ms. Evelyn Wheeler, Tel 202-647-3135).

For the Department of State.

**Terry A. Breese,**

*Director, Office of Canadian Affairs,  
Department of State.*

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BILLING CODE 4710-29-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. OST-2005-21074]

### Notice of Request for Extension of a Previously Approved Collection

**AGENCY:** Office of the Secretary.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this

notice announces the Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

**DATES:** Comments on this notice must be received June 28, 2005.

**ADDRESSES:** You may submit comments identified by Docket No. OST-2005-21074 by any of the following methods.

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: 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 on Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this information collection. For detailed instructions on submitting comments and additional information, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or 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 on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Torlanda Archer, Office of the Secretary, Office of International Aviation, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-1037.

### SUPPLEMENTARY INFORMATION:

**Title:** Aviation Charter Rules.

**OMB Control Number:** 2106-0005.

**Expiration Date:** January 31, 2006.

**Type of Request:** Extension of a previously approved information collection.

**Abstract:** In 14 CFR part 380 (adopted in 1979) of its Special Regulations, the

Department established the terms and conditions governing the furnishing of Public Charters in air transportation by direct air carriers and Public Charter operators. Public Charter operators arrange transportation for groups of persons on aircraft chartered from direct air carriers. This arrangement is less expensive for the travelers than individually buying a ticket. Further, the charter operator books hotel rooms, tours, etc., at the destination for the convenience of the traveler. Part 380 exempts charter operators from certain provisions of the U.S. code in order that they may provide this service. A primary goal of part 380 is to seek protection for the consumer. Accordingly, the rule stipulates that the charter operator must file evidence (a prospectus) with the Department for each charter program certifying that it has entered into a binding contract with a direct air carrier to provide air transportation and that it has also entered into agreements with Department-approved financial institutions for the protection of charter participants' funds. The prospectus must be approved by the Department prior to the operator's advertising, selling or operating the charter. The forms (OST Forms 4532, 4533, 4535 and 4535) that comprise the operator's filing are the information collections at issue here. The collection involved here under 14 CFR part 380 requests general information about the charter operator and direct air carrier that will provide a Public Charter and requires each to certify that it has contracted with the other to provide air transportation. The routing, charter price and tour itinerary of the proposed charter are also identified. The collection also requires the charter operator, direct air carrier and financial institution(s) involved to certify that proper financial instruments are in place or other arrangements have been made to protect the charter participants' funds and that all parties will abide by the Department's Public Charter regulations.

**Respondents:** Public Charter operators.

**Estimated Total Burden on Respondents:** 1,343 hours.

**Estimated Number of Respondents:** 316.

**Comments are invited on:** (a) Whether the continued collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the current information collection; (c) ways to enhance the quality, utility and clarity of the information being