

OPIC

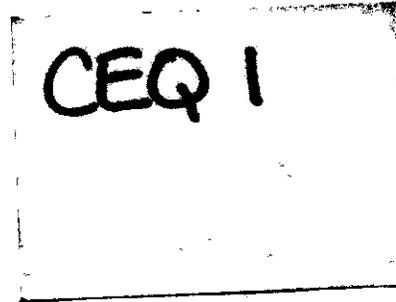
Overseas
Private
Investment
Corporation



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February 8, 2000

Doug Norlen
Center of International Environmental Law
Pacific Environmental and Resources Center
1367 Connecticut Ave., N.W., Suite 300
Washington, D.C. 20036



Dear Mr. Norlen:

This is in response to your January 5, 2000 letter to OPIC President and CEO George Muñoz urging OPIC to undertake proactive and bold efforts to help U.S. renewable energy businesses address growing international energy demands, a position which the Administration is undertaking actively and for which your support is welcome. You also recommend that OPIC undertake a Programmatic Environmental Impact Assessment (PEIS) of its existing portfolio of fossil fuel projects, citing the National Environmental Policy Act (NEPA) and Executive Order 12114.

OPIC agrees that proactive and bold efforts are required to increase financing and insuring of certain types of renewable energy projects. OPIC already has committed support for a substantial dollar volume of U.S. investment in renewable energy projects, including geothermal projects in the Philippines and Indonesia and run-of-river hydroelectric projects in Central America and India. Even more activity is desirable, but challenging. This is particularly the case in remote and other off-grid locations where no matter how environmentally beneficial, power purchasers' credit status may limit a projects' ability to meet OPIC's credit standards mandated by our statutory requirement to be a self-sustaining program. Other impediments to OPIC financing include the requirement that projects financed by OPIC involve substantial U.S. equity ownership and that OPIC-insured companies be beneficially owned by U.S. citizens. Last, but not least, U.S. renewable energy companies compete with foreign suppliers that benefit from government subsidies (such as grants and concessional loans) that are not within OPIC's authority to match.

At the same time, we agree that there may be other opportunities for outreach to the renewable energy industry and, through collaboration with other U.S. Government, multilateral and bilateral agencies, for financing and insuring eligible projects (including renewable-conventional hybrid technology) in a manner consistent with OPIC's self-sustaining mandate. To this end, OPIC has committed to a \$1 million joint undertaking with the U.S. AID-funded US-Asian

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Environmental Partnership to finance environmentally sustainable projects, including renewable energy, in the Philippines. With the input of a number of the organizations that signed your January 5th letter, this OPIC supported program was specifically initiated and tailored to be responsive to the stated goals and objectives of the renewable energy industry and the environmental community.

As an example of other activities in which OPIC has been involved to promote renewables, in December 1999 OPIC signed a Memorandum of Understanding with the Department of Energy (DoE) to jointly undertake a U.S.-Africa Sustainable Energy Pilot Program (copy enclosed). At the same time, we have been working diligently with the business community to explore the commercial viability of a number of projects that might meet the criteria of the OPIC/DoE program.

To further increase its outreach to the renewable energy industry, OPIC recently held meetings with the Export Council for Energy Efficiency, the Solar Energy Industry Association, the American Wind Energy Association and other industry associations to discuss potential project opportunities. Through sharing information and remaining informed on the issues, we hope that OPIC can continue to partner with industry groups to explore opportunities that meet our self-sustaining mandate. If you have any ideas for future collaborative efforts, we would be very interested in hearing about them.

You also request in your letter that OPIC undertake a PEIS of the direct, indirect, and cumulative effects of its lending on global climate change based on an assertion that OPIC-supported projects "contribute to a substantial level of emissions of greenhouse gases into the atmosphere, either directly or indirectly." Based on our analysis, we question this assertion and the report on which it appears to be based ("OPIC, Exim and Climate Change: Business as Usual?"). That report erroneously concluded that the 20-year CO₂ emissions that could be projected to occur as a result of six years of projects ascribed to OPIC and the Export-Import Bank ("Exim") are equivalent to global 1996 CO₂ emissions. If true, we would agree that this would amount to a "substantial level" of greenhouse gas (GHG) emissions.

However, our own analysis of projected emissions from projects actually supported by OPIC during this period (discounting projects for which commitments listed in OPIC annual reports did not go forward, the actual capacity of the projects and other inaccuracies in the data) indicates that the total annual share of 1996 global CO₂ emissions that can be attributed to OPIC-supported projects is no more than 0.5 percent. This observation is corroborated by a more comprehensive analysis conducted by Eximbank ("Eximbank's Role in Greenhouse Gas Emissions and Climate Change," August 31, 1999). Therefore, we question the assumption that OPIC's contribution to GHGs meets the "significance" test that could, under your interpretation, trigger a PEIS review under NEPA, or, for that matter an EIS pursuant to EO 12114.

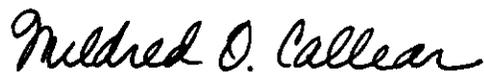
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OPIC is very interested in making available additional information on project impacts. Last year, for example, OPIC began reporting publicly for the first time the CO2 emissions projected to result from the thermal power projects to which it has committed in each preceding fiscal year. As noted in OPIC's Annual Environmental Report (AER) for fiscal year (FY) 1998, a fairly typical year, OPIC made commitments to seven new power projects with a total capacity of 2,195 megawatts. The maximum emissions projected to result from these projects would amount to no more than 0.6 percent of total energy-related CO2 emissions from the six countries in which the projects are located. We will continue to report such information in our AERs, including the forthcoming AER for FY 1999. Within our limited staff and budgetary resources, OPIC is considering the utility of undertaking a more detailed analysis of the cumulative portfolio of OPIC-assisted projects that emit readily measurable quantities of GHGs, along the lines of the study conducted by Exim. Once we have done appropriate due diligence on the scope of such an analysis and the methodologies used by Exim and similar agencies, we will be in a better position to make a decision on such a study.

In the meantime, we appreciate your interest in OPIC and look forward to working with you and the other organizations to identify eligible projects in the renewable energy and energy efficiency sectors for the developing world and emerging markets in which OPIC operates.

Sincerely yours,



Mildred O. Callear
Vice President and Treasurer

Enclosure

cc:

Charles Toy, OPIC Vice President of Legal Affairs
Joan Edwards, Director of Investment Development
Dinah Bear, General Counsel, Council on Environmental Quality

CEQ 2



Phil Cooney
12/27/2002 11:34:57 AM

Record Type: Record

To: Dinah Bear/CEQ/EOP@EOP
cc:
Subject: nyt

----- Forwarded by Phil Cooney/CEQ/EOP on 12/27/2002 11:34 AM -----



Samuel A. Thornstrom
12/27/2002 11:30:06 AM

Record Type: Record

To: Phil Cooney/CEQ/EOP@EOP
cc:
Subject: nyt

The New York Times
December 24, 2002
2 Western Cities Join Suit to Fight Global Warming
By KATHARINE Q. SEELYE

WASHINGTON, Dec. 23 -- In a novel legal action, the City Councils of Oakland, Calif., and Boulder, Colo., have voted to join Friends of the Earth and Greenpeace in a lawsuit charging two federal agencies with failing to conduct environmental reviews before financing projects that the cities say contribute to global warming.

The lawsuit contends that the agencies — the Export-Import Bank and the Overseas Private Investment Corporation — have provided \$32 billion in financing and insurance over the last 10 years for fossil-fuel extraction projects overseas like oil fields, pipelines and coal-fired power plants without assessing the contribution those projects make to global warming.

Spokesmen for the two federal agencies, which provide financing for American corporations for projects that commercial banks often deem too risky, said they could not comment on the specifics of the lawsuit because they were in litigation but they said they followed good environmental practices.

Mayor Jerry Brown of Oakland, who is a former governor of California and a former presidential candidate, said in an interview today that the suit was necessary because "there's been such an abject failure on the part of the Bush administration to protect the people of this country from the seriously deleterious effects of climate disruption."

The Oakland city council, which voted on Dec. 17 to join the suit, contends that global warming could cause the sea levels to rise, putting the city's groundwater aquifers at risk of saltwater contamination and threatening to flood the airport and sewer systems.

Mayor Will Toor of Boulder, said in a statement that Boulder officials, who voted to join the suit in August, were disturbed by predictions that global warming would bring more rain and less snow, which could threaten water availability in much of the West, where the water supply relies on gradual melting of the annual snowpack.

At the same time, Mr. Toor said that predictions of severe drought could require water restrictions and might mean an increased risk of wildfires, which could affect not only human life but the city budget to the tune of millions of dollars.

The Bush administration, which rejected joining the Kyoto Treaty on climate change, has been increasingly criticized for its climate policy, even though last year President Bush accepted findings by a panel of American experts that most of the global warming in recent decades had been caused by human activity.

Last year, Mr. Bush set a climate policy that until 2012 would rely on voluntary measures by industries to slow growth in emissions of carbon dioxide and the other heat-trapping gases. He said more research was needed to clarify the potential environmental risks of warming before stronger measures were taken, although White House officials said recently that they might speed up their timetable in seeking compliance.

Bo Ollison, a spokesman for the Export-Import bank, said that the bank had followed all necessary procedures in its projects. "The bank is very confident that we apply all rules, laws and regulations, including N.E.P.A., whenever we do a transaction," he said.

Lawrence Spinelli, a spokesman for the Overseas Private Investment Corporation, said, "All projects OPIC supports must meet the strictest environmental standards." He added, "Project sponsors must provide environmental impact assessments, major projects are posted on the OPIC Web site to allow for public comment, and, where appropriate, OPIC's environmental staff will actually visit the host country of a potential project to conduct due diligence."

The suit, however, filed in United States District Court in San Francisco, says the two agencies have refused to review the fossil-fuel projects they are involved in for their effects on climate change and that such reviews are required by the federal government.

"The case law is clear," said Brian Dunkiel, a Vermont lawyer representing the environmental groups and the cities. The National Environmental Policy Act, he said, "requires agencies to look

at the impacts of their activities if a decision is made in the United States and the activity causes impact on the United States or on the global commons," meaning Antarctica and the international oceans.

Mr. Dunkiel added, "The agencies say there is no significant impact, but they have made that determination without doing an environmental assessment."

He said the suit targets these two relatively obscure federal agencies because the fossil-fuel projects that they finance account for the release of significant carbon dioxide emissions, both agencies "have virtually completely evaded all" National Environmental Policy Act review, and they were both designated by the administration as playing a major role in the Bush/Cheney energy plan.

The suit seeks to have the agencies conduct the environmental reviews on their future energy projects so that their claims of no significant impact can be scrutinized.

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I. Legislative Background

A. Early History

Environmental considerations have been a part of OPIC's development mandate from almost the beginning of its existence as a public corporation. Prior to any statutory requirements, OPIC's Board issued its first Policy Guideline on environmental considerations in 1971 because the Board recognized it was consistent with OPIC's developmental objectives and because OPIC wanted to support projects which would be welcome in the host-country. Under this guideline, project officers were instructed to use particular care when reviewing mining, forestry and other natural resource exploitation activities; industrial projects which polluted air or water; and, the manufacturing of pesticides and similar products.

The Board adopted a second Guideline on environmental protection in 1974, in response to an amendment in OPIC's statute (Section 239 (h)) which required the Corporation to adopt "specific criteria intended to minimize the environmental implications of projects" undertaken with OPIC assistance. The amendment exempted OPIC from the National Environmental Protection Act and defined "specific criteria" to mean policy and procedural guidelines as opposed to technical standards and limits. This Guideline remained in force until 1985 when it was superceded by a new Board resolution and by changes in OPIC's statute.

B. Executive Order 12114

In 1979, the President issued Executive Order 12114 "Environmental Effects Abroad of Major Federal Actions," which is still in effect. This order required OPIC to ensure that all significant environmental effects of its actions outside the United States are considered when reviewing proposed insurance or finance projects. Under this order, OPIC is required to review each proposed project and document its determinations on whether the project is likely to have a significant effect on: 1) the environment of the global commons; 2) the environment of a host country; or, 3) the environment of a foreign country other than the host country.

OPIC's Investment Committee and General Counsel are entitled, under the Executive Order, to exempt certain projects from the environmental review process. Excludable categories include emergency circumstances, situations involving exceptional foreign policy or national security sensitivities or other special circumstances. OPIC must consult with the Department of State and the Council of Environmental Quality when making such exemptions.

C. Current Legislation and Board Policy 1985 Board Policy:

Although OPIC had no connection with the December 1984 Bhopal accident at the Union Carbide plant in India, OPIC's Board issued a new policy in May 1985, which expanded upon

responsibilities and procedures established in the previous board resolution and Executive Order 12114. This resolution directed OPIC Management to judge projects against environmental standards established by international organizations including the World Bank, and to provide training and technical assistance to small investors to mitigate serious environmental impacts. Environmental sensitivity was established as a criterion for the selection of projects for monitoring.

1985 Legislation: Congress, in the course of OPIC's 1985 reauthorization, amended OPIC's statute [OPIC Amendments Act, Sections 231, 237(m)(1) and 239(g)], further increasing its environmental responsibilities. Sections 117, 118, and 119 of the Foreign Assistance Act of 1961 which cover environment and natural resources, tropical forests and protection of biological diversity were added to OPIC's legislation. The Corporation was barred from supporting projects which "will pose an unreasonable or major environmental, health or safety hazard or will result in the significant degradation of national parks or similar protected areas."

Finally, OPIC was instructed to notify appropriate government officials of the country in which OPIC contemplates supporting an environmentally-sensitive investment of

international guidelines and standards which are applicable to the project as well as any restrictions which would apply to the project if it were undertaken in the United States. The notification procedure must be completed and OPIC must take any host government comments it receives into account before it can issue insurance or financing for any environmentally-sensitive project.

II. Current Environmental Procedures

A. Environmental Assessments

In keeping with the spirit of its most recent legislation, OPIC's Office of Development examines the potential environmental and worker safety impacts of every insurance and finance project, no matter what its size. In order to receive insurance or financing, the project must have a written environmental clearance which indicates the nature of the project, the environmental or worker safety issues associated with the project, a discussion of its impacts and a conclusion as to whether the project poses major or significant environmental or safety hazards. Recommendations for changes in the project or for host government notification also are made in the same analysis.

B. Applications Process (Insurance): For insurance projects, formal information gathering begins at the application stage. The current application form contains the following questions:

Does the proposed project involve any potentially significant adverse effects on the environment of the host country, natural resources, worker health and safety or endangered species?

Will (the OPIC-assisted investor) have sufficient control over the design and operation of the project to mitigate environmental or worker health and safety problems?

C. Applications Process (Finance): While there is no standard finance application form, finance officers usually inform clients of OPIC's environmental responsibilities during early discussions of the project and ask the investors to provide general information on anticipated impacts. This information is passed on to the Development office along with a general description of the project, the financing arrangements and relevant economic data.

In obvious cases, such as a project which involves the establishment of a branch bank, and where there are no known environmental or worker safety issues, an environmental clearance is provided without asking for further representations from the investor. However, OPIC requires most investors to provide more detailed information regarding the inputs and processes used and the wastes produced in order to complete the required analysis.

D. Environmental Standards: In addition to the investor's representations about the project, OPIC attempts to determine the environmental standards or conditions that exist in the host country, the international and U.S. standards that would apply to the project, and any other information which might corroborate the investor's representations. The World Bank has developed worker safety and environmental standards for approximately fifty industrial activities as well as guidelines for use of hazardous materials and for assessing major hazards. The United Nations Environment Program has published guidelines for a number of sectors, as well. Environmental organizations are an invaluable source of information on host country conditions and environmental issues. OPIC looks to these and other reputable institutions for standards as well as advice on specific projects.

E. Notification Process: When it appears that a project will be designed and operated in an environmentally-sound manner, the Office of Development summarizes its findings in an assessment which serves as a project clearance. If it is found that the project is using potentially hazardous materials or processes, but is convinced that the materials or processes are being managed responsibly, OPIC will implement the host government notification process. In these cases, OPIC identifies the appropriate environmental or safety officials in

the host country and sends these officials a letter describing the project and the issues which make the project sensitive. Relevant standards or background information are included with the letter. The Corporation has established a waiting period between the time the notification package is delivered to the host country official and when insurance or financing can be provided. This waiting period allows the host government time to respond to the notification. If the host government has questions or problems regarding the project, OPIC will not issue insurance or financing until the issue is resolved.

F. Problems and Options: If OPIC perceives a problem with the project, a number of options may be pursued. OPIC may send its own officers to the project site or may send a consultant to investigate the situation more thoroughly. On a number of occasions, environmental experts from the U.S. Agency for International Development have assisted OPIC by making site visits and providing OPIC with recommendations for mitigative measures. In other cases, mining and forestry consultants have been hired by OPIC to provide similar services.

The Office of Development will recommend that OPIC reject projects which pose unacceptable threats to the environment or worker safety. However, the overwhelming majority of projects which are marginally unacceptable can be improved; and many investors choose to make such project changes rather than forego OPIC support.

Where OPIC is providing support contingent on certain mitigative measures being taken, the insurance contract or loan agreement may include language which describes the measures and the time period in which they are to be taken. In some cases, the investor will sign a side letter to the insurance contract or loan agreement which describes the required actions in detail. Failure to comply with these requirements may result in incurable default of the contract or loan.

G. Monitoring: Certain projects are singled out for monitoring at the time of the environmental assessment because of their sensitivity. Depending on monitoring results, OPIC may recommend remedial actions if shortcomings are identified.

H. Need for Flexibility: At every stage of the analysis and monitoring process, subjective judgments are required. Even in cases where concrete standards exist, the promulgating institution expects the standards to be adjusted to take local conditions into account. Consequently, the outcome of analyses of similar projects may be quite different. OPIC requires a large degree of flexibility in its environmental review procedures, which is appropriate given the wide array of activities it supports and the vast differences among the countries and regions in which it operates. This flexibility also allows OPIC to devise creative solutions to environment problems which are encountered.

III. Other Activities Related to the Environment

While OPIC's environmental responsibilities and workload since the 1985 reauthorization have increased, the Corporation has been making a special effort to find creative ways to encourage projects which are actually beneficial to the environment. Also, OPIC has used its broad range of contacts in the public and private sectors to encourage discussion and cooperation among groups which might not otherwise have the opportunity to communicate their views on environmental matters.

A. OPIC Staff Training. Every officer in the Corporation is expected to have a good understanding of the environmental responsibilities laid out in the 1985 OPIC Amendments Act and the purpose behind the Act. OPIC's officers are expected to be able to communicate these issues to investors and to judge which projects may be unacceptable or problematic.

(1) Environmental Handbook: A forty-eight page Environmental Handbook has been prepared by the Office of Development for OPIC's line officers to provide them with background information on the Corporation's environmental policies and on some relevant environmental issues. The handbook is designed to be easily updated. New officers are provided with handbooks and briefed on OPIC's environmental responsibilities.

(2) Seminars and Briefings: In addition to providing reference materials and informal briefings, the Office of Development led a formal training session, in 1985, which introduced line officers to the new environmental legislation received that year. OPIC staff, members of the environmental community and representatives of U.S. AID, the World Bank and Congressional staffs gave presentations.

Officers hired since the 1985 training session learn of OPIC's environmental requirements through the informal briefings and handbook mentioned above as well as from a formal presentation made by the Office of Development during the annual seminar which is attended by all OPIC staff hired during the last year. This seminar is designed to give an overview of all OPIC's functions.

B. Bangkok Workshop. In January 1986, OPIC financially assisted and participated in a Workshop on Business-Government Cooperation in Environmental and Natural Resource Management in the Asian-Pacific region. The workshop, co-sponsored by the World Resources Institute, the Asia regional office of the United Nations Environment Programme and the Environment and Policy Institute of the East-West Center, was attended by 40 senior officials from domestic and international businesses, government agencies, international and non-governmental

organizations and academia. The participants concluded that private business has a strong self-interest and a potentially constructive role to play in improving environmental and natural resource management. Foreign investors, in particular have important financial, technological and managerial resources that can be harnessed for sustainable development.

C. Creating Opportunities. OPIC is looking for ways to encourage the transfer of U.S. technologies for environmental management to developing countries. Three sectors that OPIC is currently targeting for this effort are renewable energy, forest management and industrial waste management and recycling. By taking this approach, OPIC can fulfill three of its goals simultaneously: the stimulation of U.S. exports and U.S. investment in developing countries as well as the transfer of technology which may conserve or protect the natural resources of developing countries.

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positions exceeding those set forth in subsection (1) of this Rule must file copies of such form with the Exchange. These copies must be filed with the Exchange at the same time the form is required to be filed with the CFTC under applicable CFTC Regulations. These copies need not contain such person's CFTC code number, but must contain either the person's name or a code number on file with the Exchange.

(6) Reduction or Elimination of Positions Over the Position Limits: Whenever the President in his discretion determines that positions exceeding the limits are not bona fide hedging positions, he may, upon notification, order the reduction or elimination of such positions held by any persons or all persons for such period of time as he may determine.

(7) Appeal: Action of the President may be appealed to the Control Committee and thereafter to the Board of Governors. On such appeal, the respective body may affirm, rescind or modify the order or grant such other relief as in its discretion may be warranted.

NEW YORK MERCANTILE EXCHANGE—POTATO CONTRACT, NOVEMBER, FEBRUARY, MARCH, AND APRIL FUTURES—HEDGE NOTICE

The undersigned hereby furnishes notice that he holds or controls contracts in excess of the Exchange's position limits for the November, February, March and April Potato Futures, in accordance with Exchange Rule 60.17.

1. Name of Applicant: _____
Phone: () _____
Address: _____

City: _____ State: _____ Zip Code: _____

3. Principal Business (check one) — Grower; — Dealer; — Processor; — Other (describe): _____

4. Officers, employees or managing agents responsible for futures trading: _____

5. Principal Owners of applicant: _____

6. Do any of the principal owners control or have financial interest in any other potato commodity account(s)? — If yes, please provide the name of the account, account number, account executive, type of control or percentage of financial interest, and the FCM or Clearing Member where the accounts are maintained.

7. Clearing members where hedge accounts will be maintained:

Name: _____ Account Executive: _____ Account No. _____
Name: _____ Account Executive: _____ Account No. _____
Name: _____ Account Executive: _____ Account No. _____

8(a) Total number of positions held or controlled:

Short _____ Long _____
November _____
February _____
March _____
April _____

(b) If short against production or stocks, what variety? _____; located in what state? _____
(c) If long and have a fixed price commitment specifying a variety, what variety is specified? _____

The applicant hereby affirms: That the foregoing contracts are bona fide hedges, as defined in CFTC Reg. Section 1.3(z) which are necessary or advisable as an integral part of his business.

That he will inform the New York Mercantile Exchange of any changes in the information provided in answer to questions two (2) through seven (7) of this Notice within 48 hours of any such change.

That he has complied with all federal requirements relating to hedging and has received approval for this purpose from the CFTC where necessary.

That he will furnish to the Exchange such information as requested relating to contracts held or controlled.

That he will comply with whatever limitations are imposed by the Exchange with relation to said hedges.

That he will not make use of his hedge exemption to violate or avoid Exchange rules, manipulate any market, or otherwise impair the dignity or good name of the Exchange.

This notice is subject to the by-laws, rules and resolutions of the Exchange.

Date _____
Applicant _____
Signature _____
Please Print Name _____
Title _____

The NYME's proposed amendment to rule 60.05(F) is printed below, using arrows to indicate additions and brackets to indicate deletions:

Proposer Amendment to Rule 60.05(F)

(F) There shall be no maximum limit on price fluctuations [on] ► during ◀ the last ► six (6) ◀ trading day ► ◀ established for the delivery month.

Other materials submitted by the NYME in support of its position limits program may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145, as amended at 45 FR 26853-4 (April 22, 1980)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters, in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed position limits program should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading

Commission, 2033 K Street, N.W., Washington, D.C. 20561, by July 6, 1981. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on May 1, 1981.
Jane K. Stuckey,
Secretary of the Commission.
(FR Doc. 81-13088 Filed 5-6-81; 9:45 am)
BILLING CODE 8301-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Publication of Tenth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Publication of tenth progress report on agency implementing procedures under the National Environmental Policy Act.

SUMMARY: In response to Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). 43 FR 55978-56007; 40 CFR 1500-08). Section 1507.3 of the regulations provides that each agency of the Federal government shall have adopted procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the tenth of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; 202-395-5750.

Tenth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

At the direction of Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43

of the Federal Register, pages 55978-56007 and in Volume 40 of the Code of Federal Regulations, Sections 1500-1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 day review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures. Although CEQ's regulations required agencies to publish their procedures by July 30, 1979 a number of Federal agencies did not meet the deadline. We stress, however, that the CEQ regulations are in effect now and are binding on all agencies of the Federal government now, whether or not the agencies are on time or late with their own procedures.

The Council published its first progress report on agency implementation procedures on May 7, 1979, its second report on July 23, 1979, its third report on September 28, 1979, its fourth report on November 2, 1979, its fifth report on December 14, 1979, its sixth report on January 29, 1980, its seventh report on March 25, 1980, its eighth report on June 25, 1980 and its ninth report on November 21, 1980 (44 FR 26781-82; 44 FR 43037-38; 44 FR 55408-55410; 44 FR 63132-63133; 44 FR 72622-72623; 45 FR 6638-6640; 45 FR 19294; 45 FR 42786; 45 FR 77107). The tenth progress report appears below.

The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following four categories:

Category No. 1: Final Procedures Have Been Published

This category includes agencies whose final procedures have appeared in the Federal Register:

- Advisory Council on Historic Preservation, 45 FR 4353 (Jan. 22, 1980)
- Agency for International Development 45 FR 76239 (Oct. 23, 1980)
- Arms Control Disarmament Agency, 45 FR 84840 (Dec. 23, 1980)
- Central Intelligence Agency, 44 FR 45431 (Aug. 2, 1979)
- Consumer Product Safety Commission, 45 FR 69433 (Oct. 21, 1980)
- Department of Agriculture, 44 FR 44802 (July 30, 1979)
 - Animal and Plant Health Inspection Service, 44 FR 50381 (Aug. 28, 1979) [correction: 44 FR 51272 (Aug. 31, 1979)]
 - Forest Service, 44 FR 44718 (July 30, 1979)
 - Soil Conservation Service, 44 FR 50676 (Aug. 29, 1979)
 - Rural Electrification Administration, 45 FR 6592 (Jan. 29, 1980)
- Department of Commerce, 45 FR 47898 (July 17, 1980)
 - Economic Development Administration, 45 FR 63310 (Sept. 24, 1980), supplemented 45 FR 74902 (Nov. 13, 1980)
 - National Oceanic and Atmospheric Administration, 45 FR 49312 (July 24, 1980)
- Department of Defense, 44 FR 46841 (Aug. 9, 1979)
 - Army Corps of Engineers, 45 FR 56760 (Aug. 25, 1980)
 - Department of the Army, 45 FR 60215 (Oct. 20, 1980)
- Department of Energy, 45 FR 20894 (Mar. 28, 1980); Proposed amendments for categorical exclusions for Fuel Use Act, 45 FR 53199 (Aug. 11, 1980)
- Department of Housing and Urban Development (agency wide procedures), 44 FR 67906 (Nov. 27, 1979). CEQ approval letter of April 29, 1981 scheduled for publication in Tuesday, May 5, 1981 Federal Register. Title I Programs under Housing and Community Development Act, see Appendix I
- Department of the Interior (revised), 45 FR 27541 (April 23, 1980)
 - Bureau of Indian Affairs, 46 FR 7490 (Jan. 23, 1981)

- Bureau of Mines, 45 FR 85529 (Dec. 29, 1980)
- Bureau of Land Management, 46 FR 7492 (Jan. 23, 1981)
- Fish and Wildlife Service, 45 FR 47941 (July 17, 1980)
- Geological Survey, 46 FR 7485 (Jan. 23, 1981)
- Heritage Conservation and Recreation Service, 45 FR 70801 (Nov. 20, 1980)
- Lowell Historic Preservation Commission, 45 FR 86562 (Dec. 31, 1980)
- National Park Service, 46 FR 1042 (Jan. 5, 1981)
- Office of Surface Mining Reclamation and Control, 46 FR 7487 (Jan. 23, 1981)
- Water and Power Resources Service, 45 FR 47944 (July 17, 1980)
- Department of Health and Human Services, 45 FR 78519 (Nov. 19, 1980)
- Department of Labor, 45 FR 51184 (Aug. 1, 1980)
- Department of Justice, 46 FR 7953 (Jan. 28, 1981)
 - Drug Enforcement Agency, 46 FR 7956 (Jan. 28, 1981)
 - Immigration and Naturalization Service, 46 FR 7957 (Jan. 28, 1981)
 - Bureau of Prisons, 46 FR 7955 (Jan. 28, 1981)
 - Office of Justice, Assistance, Research and Statistics (formerly LEAA), 46 FR 7959 (Jan. 28, 1981)
- Department of State, 45 FR 59553 (Sept. 10, 1980)
- Department of Transportation, 44 FR 56420 (Oct. 1, 1979)
 - Coast Guard, 45 FR 32816 (May 19, 1980)
 - Federal Aviation Administration, 45 FR 2244 (Jan. 10, 1980)
 - Federal Highway Administration, issued jointly with UMTA, 45 FR 71968 (Oct. 30, 1980)
 - Federal Railroad Administration, 45 FR 40854 (June 18, 1980)
 - Urban Mass Transportation Administration, issued jointly with FHWA, 45 FR 71968 (Oct. 1980)
- Department of the Treasury, 45 FR 1828 (Jan. 8, 1980)
- Environmental Protection Agency, 44 FR 64174 (Nov. 6, 1979)
- Export-Import Bank, 44 FR 50610 (Aug. 30, 1979)
- Farm Credit Administration, 45 FR 81733 (Dec. 12, 1980)
- Federal Emergency Management Agency, 45 FR 41141 (June 18, 1980); amendments for categorical exclusions, 46 FR 2049 (Jan. 8, 1981)
- Federal Maritime Commission, 45 FR 33996 (May 21, 1980)
- Federal Railroad Administration, 45 FR 40854 (June 18, 1980)

General Services Administration, 45 FR 83 (Jan. 2, 1980) Public Buildings Service (see 44 FR 65675, Nov. 14, 1979)

International Communications Agency, 44 FR 45489 (Aug. 2, 1979)

Interstate Commerce Commission, 45 FR 79610 (Dec. 2, 1980)

Marine Mammal Commission, 44 FR 52837 (Sept. 11, 1979)

National Aeronautics and Space Administration, 44 FR 44485 (July 30, 1979) [corrections: 44 FR 49650 (Aug. 24, 1979); 44 FR 69920 (Dec. 5, 1979)]

National Capitol Planning Commission, 44 FR 64923 (Nov. 8, 1979)

National Science Foundation, 45 FR 39 (Jan. 2, 1980)

Overseas Private Investment Corporation, 44 FR 51385 (Aug. 31, 1979). [NEPA Procedures are contained in this agency's procedures implementing Executive Order 12114 above.]

Postal Service, 44 FR 63524 (Nov. 5, 1979)

Small Business Administration, 45 FR 7358 (Feb. 1, 1980)

Tennessee Valley Authority, 45 FR 54511 (Aug. 15, 1980)

Veteran's Administration, 45 FR 62800 (Sept. 22, 1980)

Water Resources Council, 44 FR 69921 (Dec. 5, 1979)

Category No. 2: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have appeared in the Federal Register:

ACTION, 44 FR 60110 (Oct. 18, 1979)

Civil Aeronautics Board, 44 FR 45637 (Aug. 3, 1979). [reissuance of part: 45 FR 16132 (Mar. 12, 1980)]

Community Services Administration, 45 FR 65485 (Dec. 29, 1980)

Department of Agriculture Agencies
Agriculture Stabilization and Conservation Service, 44 FR 44167 (July 27, 1979) [correction: 44 FR 45631 (Aug. 3, 1979)]; procedures published as final without CEQ approval, 45 FR 32312 (May 16, 1980)

Food Safety and Quality Service, 45 FR 60460 (Sept. 12, 1980)

Science and Education Administration, 45 FR 11147 (Feb. 20, 1980)

Notice of proposed categorical exclusion of certain Department of Agriculture agency programs, 45 FR 38092 (June 8, 1980)

Department of Defense Agencies
Department of the Air Force, 44 FR 44118 (July 26, 1979)

Federal Energy Regulatory Commission, 44 FR 50052 (Aug. 27, 1979)

Food and Drug Administration, 44 FR 71742 (Dec. 11, 1979)

Federal Communications Commission, 44 FR 38913 (July 3, 1979)

Federal Trade Commission, 44 FR 42712 (July 20, 1979)

International Boundary and Water Commission (U.S. Section), 44 FR 61665 (Oct. 26, 1979)

National Credit Union Administration, 45 FR 12211 (Feb. 25, 1980)

Nuclear Regulatory Commission, 45 FR 13739 (Mar. 3, 1980)

Pennsylvania Avenue Development Corporation, 44 FR 45925 (Aug. 6, 1979)

Saint Lawrence Seaway Development Corp., 45 FR 46601 (July 10, 1980)

Category #3: Proposed Procedures Have Not Been Published

This category includes agencies that have not published proposed procedures in the Federal Register as of March 31, 1981:

Defense Logistics Agency
Department of the Navy
(Farmers Home Administration) *cat #2 11/21/81 ER*
Federal Reserve System
Appalachian Regional Commission
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Savings and Loan Insurance Corporation
METRO
National Highway Traffic Safety Administration
Securities and Exchange Commission

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the Federal Register in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Prior to promulgation of final procedures, agencies are required to submit the proposed final version of their procedures to the Council for review. When the Council finds that an agency's procedures conform with NEPA and the NEPA regulations, the Council sends a letter of approval to the agency after which the agency may adopt and publish its procedures in final form.

The following is an example of the approval letter:

Honorable R. Max Peterson,
Chief, Forest Service, Department of
Agriculture, Washington, D.C. 20250.

Dear Mr. Peterson: Section 1507.3 of the "Regulations for Implementing The Procedural Provisions of the National Environmental Policy Act," 40 CFR 1500, et seq. provides that each agency shall as necessary adopt procedures to supplement the regulations. Section 1507.3 also provides that final agency procedures shall be adopted only after review by the Council on Environmental Quality.

On June 12, 1979 your predecessor, Mr. John McGuire, transmitted for Council review final procedures developed by the Forest Service under Section 1507.3 of the NEPA regulations. These procedures were published in the Federal Register for public review and comment on April 29, 1979. The comment period on the procedures concluded May 31, 1979. The preamble to the procedures contains a point-by-point response to the major comments received on the procedures.

The Council has completed its review of the procedures developed by the Forest Service. Based on that review, the Council has determined that the procedures address all of the sections of the regulations required to be addressed by Section 1507.3(b) of the regulations. The procedures will take effect and supplement the NEPA regulations once they are published in final form in the Federal Register.

Yours truly,
Nicholas C. Yost,
General Counsel.

Disapproved

Department of Housing and Urban Development; proposed procedures implementing NEPA for the Urban Development Action Grant (UDAG) Program under Title I programs under Housing and Community Development Act

Approved

Advisory Council on Historic Preservation
Agency for International Development
Arms Control Disarmament Agency
Central Intelligence Agency
Consumer Product Safety Commission
Department of Agriculture
Animal & Plant Health Inspection Service
Forest Service
Soil Conservation Service
Rural Electrification Administration
Department of Commerce
Economic Development Administration
National Oceanic & Atmospheric Administration
Department of Defense
Army Corps of Engineers
Department of the Army
Department of Energy
Department of the Interior
Bureau of Indian Affairs
Bureau of Mines
Bureau of Land Management
Fish and Wildlife Service
Geological Survey

Heritage Conservation and Recreation Service
 Lowell Historic Preservation Commission
 National Park Service
 Office of Surface Mining Reclamation and Control
 Water and Power Resources Service
 Department of Health and Human Services
 Department of Justice
 Drug Enforcement Agency
 Immigration and Naturalization Service
 Bureau of Prisons
 Office of Justice Assistance, Research and Statistics
 Department of Labor
 Department of State
 Department of Transportation
 Coast Guard
 Federal Aviation Administration
 Federal Highway Administration & Urban Mass Transit Administration
 Federal Railroad Administration
 Department of the Treasury
 Environmental Protection Agency
 Export-Import Bank
 Farm Credit Administration
 Federal Emergency Management Agency
 Federal Maritime Commission
 Federal Railroad Administration
 General Services Administration
 Public Buildings Service
 International Communications Agency
 Interstate Commerce Commission
 Marine Mammal Commission
 National Aeronautics & Space Administration
 National Capitol Planning Commission
 National Science Foundation
 Overseas Private Investment Corporation
 Postal Service
 Small Business Administration
 Tennessee Valley Authority
 Veteran's Administration
 Water Resources Council

Dated: April 27, 1981.

Nicholas C. Yoest,
 General Counsel.

[FR Doc. 81-13821 Filed 5-6-81; 8:48 am]
 BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers,

Department of the Army
 Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Harbor Facilities at Ninilchik, Alaska

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Three alternatives are being studied in detail to provide additional small boat harbor facilities at Ninilchik, Alaska. These include a rubble mound breakwater offshore of the beach immediately south of Ninilchik River, a dredged half tide

harbor protected by two rubble mound breakwaters south of Ninilchik River, and expansion of the existing harbor.

2. A scoping meeting is planned to identify the significant resources to be discussed within the DEIS. The date of this meeting has not been determined. Written comments will be requested from Federal, State, and local agencies as well as the general public.

The sites are located within the Clam Gulch State Critical Habitat Area. Significant issues to be discussed in the DEIS are impacts to mollusks, anadromous and resident fish, water dependent birds, marine mammals, littoral drift, water quality and socioeconomic factors.

3. Interested persons, agencies and organizations desiring to submit comments or suggestions for consideration in preparation of the DEIS are invited to do so. Upon completion of the DEIS, estimated to be early 1982, it will be available for public comment and review.

ADDRESS: Questions about the proposed action and DEIS can be answered by: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Lee R. Nunn,
 Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81-13810 Filed 5-6-81; 8:48 am]
 BILLING CODE 3710-1K-M

Intent To Prepare a Supplement to the Final Environmental Impact Statement (FEIS) for the Kaskaskia River Navigation Project, Illinois (Operation and Maintenance)

AGENCY: St. Louis District, Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Supplement to the Final Environmental Impact Statement (FEIS) for the Kaskaskia River Navigation Project, Illinois (Operation and Maintenance).

SUMMARY:

1. **Proposed Action:** The proposed action is to prepare a Supplement to the FEIS for the Kaskaskia River Navigation Project, Illinois (Operation and Maintenance) Study concerning construction of the remaining 0.9 mile of the canal from canal mile 28.7 to 29.8; dredging the canal from canal mile 29.8 to the head of navigation at Fayetteville, Illinois, mile 35.9; full coverage revetment of the canal banks from mile 28.7 to mile 35.9; and planning for future operation and maintenance disposal sites. Dredging activities are to be accomplished by hydraulic pipeline dredge, and dredge material is to be

placed in existing placement sites and selected new sites. A cumulative impact analysis of the Kaskaskia River as a system may be considered and addressed within the Supplement to the FEIS, pending coordination with affected State and Federal agencies. The project area is located in St. Clair County, Illinois.

2. **Alternatives:** The alternatives will include selection of dredge material placement sites, choice of land use determination for filled disposal sites, and no action.

-3. Scoping Process:

a. **Public Involvement:** The FEIS was released in July 1974 after coordination with Federal, State and local agencies and other interested private organizations and parties.

We are inviting the participation of affected Federal, State and local agencies and other interested organizations and individuals. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will begin at a meeting in May 1981, and will be incorporated in the existing planning process.

b. **Significant Issues:** Significant issues addressed in the Supplement to the FEIS will include dredging, revetment, placement of dredge material, and an analysis of the impact on the environment regarding the proposed action and the economically justified alternatives.

c. **Lead Agency and Cooperating Agency Responsibilities:** The St. Louis District, Army Corps of Engineers, is the lead agency responsible for the preparation of the supplement to the FEIS. The Illinois Department of Transportation, the Illinois Department of Conservation, the U.S. Fish and Wildlife Service, and the Kaskaskia Regional Port District will furnish input for the supplement and be invited to participate as cooperating agencies.

d. **Environmental Review and Consultation Requirements:** The completed Supplement to the FEIS will be made available to appropriate Federal, State, and local agencies, and other interested individuals. The Supplement to the FEIS will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. **Scoping Meeting:** The scoping process will be initiated in May 1981 at a formal coordination meeting with the Illinois Department of Transportation (State sponsor), and interested Federal, State, and local agencies. The scoping process will continue, as additional

CEQ 5

ROUTING AND TRANSMITTAL SLIP

Date 6/29

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Neidhart		
2. J. Bessio for file		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Copies sent to Knigle & Gellman.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

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OPTIONAL FORM 41 (Rev. 7-76)
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**OVERSEAS
PRIVATE
INVESTMENT
CORPORATION**

1129 20th Street, N.W.
Washington, D.C. 20527
Telex-OPIC Wsh 89-2310



June 25, 1979

Nicholas C. Yost, Esq.
General Counsel
Council on Environmental Quality
Executive Office of the President
722 Jackson Place, N.W.
Washington, D.C. 20006

Dear Mr. Yost:

This is in response to your memorandum of June 13, 1979 pertaining to the adoption of agency implementing procedures under the NEPA regulations. In a letter to Mr. Charles Warren, Chairman of CEQ, dated January 26, 1979, a copy of which is enclosed for your information, Mr. J. Bruce Llewellyn, President of Overseas Private Investment Corporation ("OPIC"), discussed the nature of OPIC activities and the applicable environmental regulations. He stated therein that "OPIC confines its activities having potential environmental impacts to friendly developing countries with which formal agreements have been concluded to implement most of our programs."

Since OPIC does not conduct federal actions having effects on the environment within the United States, OPIC activities do not give rise to the domestic application of NEPA. To the extent that OPIC programs have significant effects on the environment outside the United States, OPIC is subject to Section 239(h) of the Foreign Assistance Act of 1961, as amended (the "Act"), and to Executive Order No. 12114, issued January 4, 1979.

Section 239(h) of the Act provides

"Within six months after the date of enactment of this subsection, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title."

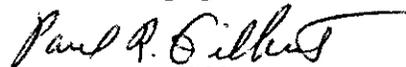
Nicholas C. Yost, Esq.
General Counsel
Council on Environmental Quality
Page 2

Executive Order No. 12114 provides, among other things, that

"Every Federal agency taking major Federal actions encompassed hereby and not exempted herefrom having significant effects on the environment outside the geographical borders of the United States and its territories and possessions shall within eight months after the effective date of this Order have in effect procedures to implement this Order."

OPIC is in the process of drafting the internal procedures required by Executive Order No. 12114 and will certainly consult with you prior to placing such procedures into effect. Such procedures, in addition to OPIC's existing procedures and guidelines implemented pursuant to Section 239(h) of the Act, will encompass all aspects of OPIC activities which have any significant effect upon the environment. Therefore, in satisfying the requirements of Executive Order No. 12114, OPIC will have developed internal procedures to take cognizance of and review any significant environmental impact of any of its programs.

Sincerely yours,


Paul R. Gilbert
Vice President
and General Counsel

Enclosure

26 JAN 1979

Mr. Charles Warren
Chairman
Council on Environmental Quality
Executive Office of the President
722 Jackson Place, N. W.
Washington, D. C. 20006

Dear Mr. Warren:

I am writing this letter in response to your memorandum of December 18, 1978, to Heads of Agencies regarding CEO's new NEPA regulations. As you are no doubt aware, the President on January 4 of this year promulgated Executive Order No. 12114 dealing with the actions of federal agencies having significant environmental impacts outside the jurisdiction of the United States. OPIC confines its activities having potential environmental impacts to friendly developing countries with which formal agreements have been concluded to implement most of our programs.

Because of the exclusively extraterritorial nature of OPIC actions, it is our belief that the President's order and our own statute provide the sole authority upon which OPIC can adopt rules regarding the international environment. We are currently examining Executive Order No. 12114 to determine the nature of the actions which this order requires us to take. Once we have concluded our examination of the order, we shall certainly consult with you prior to our placing whatever procedures we determine are required into effect.

Until that time, in all of our actions, we shall continue to take into consideration the environmental effect of our actions as required by our statute, the Foreign Assistance Act of 1961, as amended, Section 239(h). Enclosed you will find a copy of OPIC's Policy and Guidelines adopted pursuant to this provision.

I hope that this is responsive to your letter, but as the Executive Order, rather than NEPA, is applicable to us, and the order has only recently been promulgated, we cannot be more specific until we have further studied the requirements of the order.

Sincerely,

/s/ J. BRUCE LLEWELLYN

J. Bruce Llewellyn
President

Enclosure

[REDACTED]

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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

CEQ 7

May 8, 1979

Memorandum For NEPA Liaisons

Subject: Progress Report on Agency Implementing Procedures

We have enclosed a copy of the progress report on agency implementing procedures which appeared in the Federal Register on Monday, May 7 at pages 26781-26782. The purpose of the report is to assist the public in identifying which agency procedures are available for public review and comment and to inform interested persons of when to expect publication of those agency procedures which have not yet appeared in the Federal Register.

Please note that the NEPA regulations themselves take effect on July 30, 1979 (with exceptions for certain highway and community development programs). It is imperative that final agency implementing procedures also be adopted by that date. Between now and then (for agencies which have not already done so) each agency must provide a period of public review and comment (by publication in the Federal Register) and thereafter provide the required 30-day period of CEQ review. At the conclusion of that 30 days the Council will provide you in writing its comments on any deficiencies necessary to bring the procedures into conformity with the regulations and the Act. As we have said before, we expect to make these comments public. To reiterate -- the agency procedures must be finally adopted by July 30. Failure to do so would represent a violation of Section 1507.3 of the regulations. It could also raise more general concerns about the adequacy of an agency's compliance with NEPA.

We remain ready to be of assistance in insuring the deadlines are met with sound regulations.



NICHOLAS C. YOST
General Counsel

Enclosure

Dated: April 30, 1979

Gay W. Chamberlin, Jr.
Acting Assistant Secretary for Administration
IFR Doc. 79-14071 Filed 5-4-79 9:45 am
BILLING CODE 3510-17-M

Travel Service

Travel Advisory Board; Meeting

On April 16, 1979, notice was given in the Federal Register (74 FR, Page 22503) that the Travel Advisory Board would meet on May 17, 1979. Notice is hereby given that the Travel Advisory Board meeting will begin at 9:30 a.m., in Room 4830 of the Main Commerce Building, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

Agenda items are as follows

1. USTS' FY 1980 Budget
2. DRV Annual Convention—November 1979 (German Travel Agents Association)
3. ABTA Annual Convention—November 1979 (British Travel Agents)
4. Traveler Cheque Promotion
5. Knoxville Expo '82
6. U.S. Mexico Consultative Mechanism Tourism Working Party
7. Result of WTO Executive Council Meeting
8. Latest information on possible meeting with Soviet Union.
9. USTS involvement in triangular tourism development—Egypt/Israel/USA
10. FY 1979 Research Program.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, of the United States Travel Service, Room 1858, U.S. Department of Commerce, Washington D.C. 20230, (telephone (202) 377-4752) will respond to public requests for information about the meeting.

Jeane Westphal
Acting Assistant Secretary for Tourism
IFR Doc. 79-14163 Filed 5-4-79 9:45 am
BILLING CODE 3510-11-M

COUNCIL ON ENVIRONMENTAL QUALITY

Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act

May 3, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). (43 FR 55978-56007; 40 CFR 1500-08.) Section 1507.3 of the regulations provides that each agency of the Federal Government shall adopt procedures to supplement these regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish a progress report on agency efforts to develop "implementing procedures", as they are called. The purpose of this progress report, which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006, 202-395-5750.

Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the Federal Register, pages 55978-56007 and Volume 40 of the Code of Federal Regulations, Sections 1500-1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency

"implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

The NEPA regulations themselves take effect on July 30, 1979 (with exceptions for certain highway and community development programs). It is imperative that final agency implementing procedures also be adopted by that date. Failure to do so would represent a violation of Section 1507.3 of the regulations. It could also raise more general concerns about the adequacy of an agency's compliance with NEPA.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 days review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures by July 30.

To ensure that these steps are completed on time, the Council recommended that agencies publish proposed procedures for comment in April. Because many agencies were unable to meet this deadline, the Chairman wrote the heads of numerous Federal agencies underscoring the Council's concern that agency procedures be adopted by July 30, 1979. The Chairman also indicated the Council's intention to publish a progress report on agency implementing procedures in the Federal Register.

That progress report appears below. Its purpose is to provide an update on agency efforts to develop procedures and to inform interested persons of when to expect the publication of proposed procedures for their review and comment. The Council hopes that concerned members of the public will review these procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing

implementing procedures are listed under one of the following three categories:

1. On Schedule

This category includes agencies whose proposed procedures have either appeared in the Federal Register or been transmitted to the Federal Register for publication.

2. Good Progress

This category includes agencies which have developed a draft of implementing procedures as a basis for consultation with the Council. It is expected that these agencies will publish proposed procedures in the Federal Register during the month of May.

3. Limited Progress

This category includes agencies which have not yet produced a draft of procedures as a basis for consultation with the Council.

Category #1: On Schedule

Department of Agriculture
Forest Service
Soil Conservation Service
Central Intelligence Agency
Federal Maritime Administration
National Aeronautics and Space Administration

Category #2: Good Progress

Action
Advisory Council on Historic Preservation
Agency for International Development (State)
Animal and Plant Health Inspection Service (Agriculture)
Department of Defense
Air Force
Corps of Engineers (Civil Works)
Department of Energy
Federal Energy Regulatory Commission
Environmental Protection Agency
Export-Import Bank
Federal Communications Commission
6Federal Trade Commission
General Services Administration
Department of Health, Education and Welfare

Department of the Interior
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
Geological Survey
Heritage Conservation and Recreation Service
National Park Service
Department of Justice
National Capitol Planning Commission
Nuclear Regulatory Commission
Postal Service

Rural Electrification Administration (Agriculture)
Tennessee Valley Authority
Department of Transportation
Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration
Urban Mass Transportation Administration

Veteran's Administration
Category #3: Limited Progress¹
Arms Control and Disarmament Agency
Army (Defense)
Civil Aeronautics Board
Coast Guard (Transportation)
Department of Commerce
Community Services Administration
Consumer Product Safety Commission
Department of Housing and Urban Development
Farmers Home Administration (Agriculture)
Interstate Commerce Commission
Department of Labor
Marine Mammal Commission
National Highway Traffic Safety Administration (Transportation)
National Science Foundation
Navy (Defense)
Overseas Private Investment Corporation
Pennsylvania Avenue Development Corporation
Securities and Exchange Commission
Department of State
Department of Treasury

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the Federal Register in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yeat,
General Counsel.
[FR Doc. 79-14348 Filed 5-7-79; 8:45 am]
BILLING CODE 3125-01-01

DEPARTMENT OF JUSTICE

Council on the Role of Courts; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended (Pub. L. No. 94-409), the Attorney General has determined that the establishment of the Council on the Role of Courts is in the public interest in accordance with the duties imposed on the Department of Justice by law.

¹ Progress at some agencies has been limited by special circumstances such as minimal experience with NEPA and other factors that require more extensive consultation with the Council. These agencies include the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Farm Credit Administration, and the Water Resources Council.

The Council will assist the Department of Justice's Office for Improvements in the Administration of Justice (OIAJ) in developing research projects aimed at devising solutions to pressing problems of the American court system. The Council will afford OIAJ access to the collective expertise of a diverse body of judges, law school professors, and attorneys who share OIAJ's concern with improving the fit between the institutional capabilities of courts and the functions they are called upon to perform. The issues the Council is expected to address include the following:

(1) What standards or criteria should be used to determine what types of cases should or should not be in courts?

(2) What are the categories of cases currently most troublesome to courts, and what institutional adjustments are called for in response?

(3) In what areas should access to courts be expanded and/or restricted?

(4) What are the sectors of court business that would benefit most from empirical examination?

Answers to any and all of these questions will help point the way to optimal allocation of OIAJ research funds. They should also assist the Office in its ongoing effort to develop strategies for improving the administration of civil and criminal justice in the federal courts.

The Council will hold an estimated total of six meetings, at a rate of three per year. Its duties will be solely advisory in nature. Membership will be limited to a maximum of twenty-eight individuals, designated by the Assistant Attorney General of the Office for Improvements in the Administration of Justice.

Pursuant to OMB Circular No. A-63 (Revised), the General Services Administration has authorized, for good cause shown, the filing of the Council's charter less than fifteen days subsequent to the publication of this notice.

Persons interested in commenting on the establishment of the Council on the Role of Courts, or in obtaining further information, are requested to forward written submissions to Mr. Harry A. Scarr, Administrator, Federal Justice Research Program, U.S. Department of Justice, Washington, D.C. 20530.

Harry A. Scarr,
Administrator, Federal Justice Research Program.
[FR Doc. 79-14373 Filed 5-4-79; 10:18 am]
BILLING CODE 4410-01-01

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

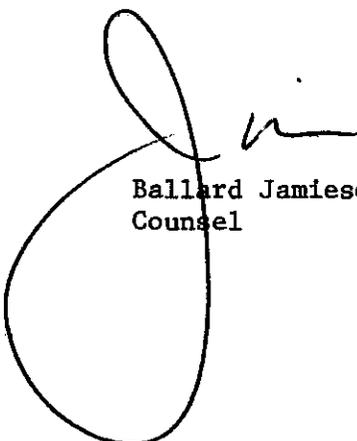
CEQ 8

May 9, 1979

Memorandum For The Staff

Subject: Progress Report on Agency Implementing Procedures
Under NEPA

Attached please find the "Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act" which we published in the Federal Register on Monday. Although most agencies have made good progress in developing their procedures, a lot remains to be done before the July 30 deadline.



Ballard Jamieson, Jr.
Counsel

Attachment

cc: Nicholas C. Yost

Dated: April 30, 1979

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for Administration
(FR Doc. 79-14071 Filed 5-4-79; 8:45 am)
BILLING CODE 3510-17-M

Travel Service

Travel Advisory Board; Meeting

On April 16, 1979, notice was given in the *Federal Register* (74 FR, Page 22503), that the Travel Advisory Board would meet on May 17, 1979. Notice is hereby given that the Travel Advisory Board meeting will begin at 9:30 a.m., in Room 4830 of the Main Commerce Building, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

Agenda items are as follows:

1. USTS' FY 1980 Budget.
2. DRV Annual Convention—November 1979 (German Travel Agents Association)
- ABTA Annual Convention—November 1979 (British Travel Agents).
3. Traveler Cheque Promotion.
4. Knoxville Expo '82.
5. U.S. Mexico Consultative Mechanism Tourism Working Party.
6. Result of WTO Executive Council Meeting.
7. Latest information on possible meeting with Soviet Union.
8. USTS involvement in triangular tourism development—Egypt/Israel/USA.
9. FY 1979 Research Program.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, of the United States Travel Service, Room 1858, U.S. Department of Commerce, Washington, D.C. 20230, (telephone (202) 377-4752) will respond to public requests for information about the meeting.

Jeanne Westphal,
Acting Assistant Secretary for Tourism
(FR Doc. 79-14163 Filed 5-4-79; 8:45 am)
BILLING CODE 3510-11-M

COUNCIL ON ENVIRONMENTAL QUALITY

Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act

May 3, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). (49 FR 55978-56007; 40 CFR 1500-08.) Section 1507.3 of the regulations provides that each agency of the Federal Government shall adopt procedures to supplement these regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish a progress report on agency efforts to develop "implementing procedures", as they are called. The purpose of this progress report, which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202-395-5750.

Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the *Federal Register*, pages 55978-56007 and Volume 40 of the Code of Federal Regulations, Sections 1500-1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency

"implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

The NEPA regulations themselves take effect on July 30, 1979 (with exceptions for certain highway and community development programs). It is imperative that final agency implementing procedures also be adopted by that date. Failure to do so would represent a violation of Section 1507.3 of the regulations. It could also raise more general concerns about the adequacy of an agency's compliance with NEPA.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the *Federal Register* for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 days review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures by July 30.

To ensure that these steps are completed on time, the Council recommended that agencies publish proposed procedures for comment in April. Because many agencies were unable to meet this deadline, the Chairman wrote the heads of numerous Federal agencies underscoring the Council's concern that agency procedures be adopted by July 30, 1979. The Chairman also indicated the Council's intention to publish a progress report on agency implementing procedures in the *Federal Register*.

That progress report appears below. Its purpose is to provide an update on agency efforts to develop procedures and to inform interested persons of when to expect the publication of proposed procedures for their review and comment. The Council hopes that concerned members of the public will review these procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing

implementing procedures are listed under one of the following three categories:

1. On Schedule

This category includes agencies whose proposed procedures have either appeared in the Federal Register or been transmitted to the Federal Register for publication.

2. Good Progress

This category includes agencies which have developed a draft of implementing procedures as a basis for consultation with the Council. It is expected that these agencies will publish proposed procedures in the Federal Register during the month of May.

3. Limited Progress

This category includes agencies which have not yet produced a draft of procedures as a basis for consultation with the Council.

Category #1: On Schedule

Department of Agriculture
Forest Service
Soil Conservation Service
Central Intelligence Agency
Federal Maritime Administration
National Aeronautics and Space Administration

Category #2: Good Progress

Action
Advisory Council on Historic Preservation
Agency for International Development (State)
Animal and Plant Health Inspection Service (Agriculture)
Department of Defense
Air Force
Corps of Engineers (Civil Works)
Department of Energy
Federal Energy Regulatory Commission
Environmental Protection Agency
Export-Import Bank
Federal Communications Commission
Federal Trade Commission
General Services Administration
Department of Health, Education and Welfare
Department of the Interior
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
Geological Survey
Heritage Conservation and Recreation Service
National Park Service
Department of Justice
National Capitol Planning Commission
Nuclear Regulatory Commission
Postal Service
Rural Electrification Administration (Agriculture)
Tennessee Valley Authority
Department of Transportation
Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration
Urban Mass Transportation Administration

Veteran's Administration
Category #3: Limited Progress¹
Arms Control and Disarmament Agency
Army (Defense)
Civil Aeronautics Board
Coast Guard (Transportation)
Department of Commerce
Community Services Administration
Consumer Product Safety Commission
Department of Housing and Urban Development
Farmers Home Administration (Agriculture)
Interstate Commerce Commission
Department of Labor
Marine Mammal Commission
National Highway Traffic Safety Administration (Transportation)
National Science Foundation
Navy (Defense)
Overseas Private Investment Corporation
Pennsylvania Avenue Development Corporation
Securities and Exchange Commission
Department of State
Department of Treasury

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the Federal Register in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,
General Counsel.
[FR Doc. 79-14349 Filed 5-7-79; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF JUSTICE

Council on the Role of Courts; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended (Pub. L. No. 94-409), the Attorney General has determined that the establishment of the Council on the Role of Courts is in the public interest in accordance with the duties imposed on the Department of Justice by law.

¹ Progress at some agencies has been limited by special circumstances such as minimal experience with NEPA and other factors that require more extensive consultation with the Council. These agencies include the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Farm Credit Administration, and the Water Resources Council.

The Council will assist the Department of Justice's Office for Improvements in the Administration of Justice (OIAJ) in developing research projects aimed at devising solutions to pressing problems of the American court system. The Council will afford OIAJ access to the collective expertise of a diverse body of judges, law school professors, and attorneys who share OIAJ's concern with improving the fit between the institutional capabilities of courts and the functions they are called upon to perform. The issues the Council is expected to address include the following:

(1) What standards or criteria should be used to determine what types of cases should or should not be in courts?

(2) What are the categories of cases currently most troublesome to courts, and what institutional adjustments are called for in response?

(3) In what areas should access to courts be expanded and/or restricted?

(4) What are the sectors of court business that would benefit most from empirical examination?

Answers to any and all of these questions will help point the way to optimal allocation of OIAJ research funds. They should also assist the Office in its ongoing effort to develop strategies for improving the administration of civil and criminal justice in the federal courts.

The Council will hold an estimated total of six meetings, at a rate of three per year. Its duties will be solely advisory in nature. Membership will be limited to a maximum of twenty-eight individuals, designated by the Assistant Attorney General of the Office for Improvements in the Administration of Justice.

Pursuant to OMB Circular No. A-63 (Revised), the General Services Administration has authorized, for good cause shown, the filing of the Council's charter less than fifteen days subsequent to the publication of this notice.

Persons interested in commenting on the establishment of the Council on the Role of Courts, or in obtaining further information, are requested to forward written submissions to Mr. Harry A. Scarr, Administrator, Federal Justice Research Program, U.S. Department of Justice, Washington, D.C. 20530.

Harry A. Scarr,
Administrator, Federal Justice Research Program.
[FR Doc. 79-14373 Filed 5-4-79; 10:18 am]
BILLING CODE 4410-01-M

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Housing and Urban Development (N)

Interior (J)

Bureau of Indian Affairs (J)

Bureau of Land Management (J)

Bureau of Mines (J)

Bureau of Reclamation (J)

Fish and Wildlife Service (J)

Geological Survey (J)

Heritage Conservation & Recreation Serv. (J)

National Park Service (J)

Office of Surface Mining Control and Reclamation (J)

Interstate Commerce Commission (N)

Justice (K)

Law Enforcement Assistance Admin. (K)

Labor (N)

Marine Mammal Commission (K)

METRO (N)

National Aeronautics & Space Admin. (N)

National Capital Planning Commission (N)

National Science Foundation (N)

Nuclear Regulatory Commission (J)

Overseas Private Investment Corporation (K)

Arthur will decide on basis of proposal within a week. Things should begin to move fairly quickly after that.

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