

12372, "Intergovernmental Review of Federal Programs."

Executive Order Statement

This funding notice was determined to be "not significant" for purposes of Executive Order 12866.

Dated: May 22, 2000.

Karen H. Brown,

Deputy Director, NIST.

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BILLING CODE 3510-13-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Solicitation of Public Comments on Establishing a Review Process for Mandatory Conditions Developed by the Departments of the Interior and Commerce in the Context of Hydropower Licensing

AGENCIES: Office of the Secretary, Interior; National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of solicitation of public comments.

SUMMARY: The Department of the Interior and the Department of Commerce (Departments) have committed to establishing a review process for the mandatory conditions and prescriptions the Departments develop as part of the Federal Energy Regulatory Commission's hydropower licensing proceedings under part I of the Federal Power Act. The Departments have convened a joint drafting committee to develop such a process and, with the input of the public and agency field staffs, will be exploring a variety of options in the coming months.

DATES: Comments must be submitted by June 26, 2000.

ADDRESSES: Please submit all comments to Liz Birnbaum, U.S. Department of the Interior, Solicitor's Office, MS-6352, 1849 C Street, NW 20240, or by email: <MARP@ios.doi.gov>.

FOR FURTHER INFORMATION CONTACT: Liz Birnbaum, U.S. Department of the Interior, 202-208-4423, or Stephen Waste, U.S. Department of Commerce, 301-713-2325, extension 182.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Part I of the Federal Power Act, 16 U.S.C. 791a *et seq.*, the

Department of the Interior and Department of Commerce possess certain authorities in the process for licensing non-federal hydroelectric generating facilities. Although the final licensing decision lies with the Federal Energy Regulatory Commission (Commission), various bureaus of the Departments provide input to the Commission on a number of issues related to the license application. Among others, the Departments' authorities include the U.S. Fish and Wildlife Service's and National Marine Fisheries Service's authority to prescribe fishways under section 18 of the Federal Power Act, 16 U.S.C. 811, and the Secretary of the Interior's authority with respect to land "reservations" that may contain non-federal hydropower project works, to establish conditions "necessary for the adequate protection and utilization of such reservations" under section 4(e) of the Federal Power Act, 16 U.S.C. 797(e). These reservations may include lands managed principally by the U.S. Fish and Wildlife Service, the National Park Service, the Bureau of Land Management, the Bureau of Reclamation and the Bureau of Indian Affairs.

The Federal Power Act states that both section 18 prescriptions and section 4(e) conditions must be included in any license issued by the Commission. The mandatory nature of these prescriptions and conditions has been upheld by Federal courts, including the Supreme Court. *Escondido Mutual Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765 (1984); *Bangor Hydroelectric Co. v. FERC*, 78 F.3d 659 (D.C. Cir. 1996); *American Rivers v. FERC*, 129 F.3d 99 (2d Cir. 1997); *American Rivers v. FERC*, 187 F.3d 1007 (9th Cir. 1999). After incorporation into a license, the prescriptions and conditions are subject to judicial review under the appeal procedures of the Federal Power Act, which places exclusive jurisdiction in the Federal courts of appeals (16 U.S.C. 8251(b)).

Currently, the Departments try to work closely with the license applicant in developing mandatory prescriptions and conditions. However, the Departments understand the interest of licensees and others in having a more formal opportunity to provide input on the Departments' mandatory conditions before FERC issues a license. Such a review process mechanism would provide an opportunity for the Departments and interested parties to work together to improve prescriptions and conditions in advance of license issuance. While it is generally thought that this process would only be

appropriate in a traditional process licensing, the Departments will also evaluate whether such a mechanism should be available for prescriptions and conditions developed during negotiations under the Commission's alternative licensing procedure, or other settlement negotiations.

Before the Departments can establish a review process, a number of issues must be considered and addressed. The Departments do not wish to institute a review process that causes significant delays in developing prescriptions and conditions, or creates unnecessary procedural burdens on the Commission, licensees, or on to balance the need to obtain timely, meaningful input with their legal obligation to support conditions and prescriptions with substantial evidence in the record. Furthermore, in consideration of increasingly significant resource constraints, the Departments must adopt a procedure that is not too burdensome.

Timing will be a particularly important consideration in establishing a review process. While the Departments often have an opportunity to review and comment on draft hydropower licensing applications before the applications are due, they typically do not see the final license application until it is submitted to the Commission. The Departments therefore have very little time to analyze the application and develop appropriate prescriptions and conditions. In addition, they often must wait to receive additional environmental information before being able to develop section 18 prescriptions or Section 4(e) conditions. Commission rules ask that the Departments submit prescriptions and conditions within 60 days after the Commission determines that the application is complete and ready for environmental review. Where there is sufficient information to support a preliminary prescription or condition, the Departments normally take this time to develop prescriptions and conditions that address the application as written, leaving little time for any kind of review process. Once the prescriptions and conditions have been submitted, the Commission's regulations provide a narrow 45-day comment period for public comments. Therefore, in developing a review process, the Departments must consider whether to delay their submissions to the Commission in order to accommodate the new process, use the time period already contemplated under the Commission's regulations, or take other steps to integrate this new process into the licensing procedure.

Issues To Be Addressed

Based on the cited considerations, the Departments are seeking public comment on the following questions:

1. Should a review process be adopted and, if so, what kind of process should be established?

2. If so, how could such a process be integrated into the Commission's current licensing procedures in a timely and efficient manner? To meet the constraints of timeliness and resource limitations, are changes needed in the timing or implementation of various steps in the agencies'—including the Commission's—existing regulations or procedures? If not, then when should the review process take place?

3. If, under any review process mechanism, it were not possible to avoid delaying the overall licensing process, would it still be worth establishing such a process?

4. Should the review process for Section 4(e) and Section 18 be the same?

5. Who should be allowed to initiate and/or participate in the review process? Should it be limited to the license applicant? Should it be limited to formal parties (*i.e.*, intervenors) to the Commission's licensing process (note that, depending upon when the review process takes place, there may not yet be intervenors before the Commission)? Should the opportunity be available to anyone with an interest in the project?

6. Should the new process be available for prescriptions and conditions agreed upon pursuant to the Commission's streamlined alternative licensing procedure—a process that already provides considerable opportunity for communication and negotiation among the Departments and other interested parties?

Alex Matthiessen,

Special Assistant to the Deputy Secretary, U.S. Department of the Interior.

Andrew Rosenberg,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 00-13265 Filed 5-25-00; 8:45 am]

BILLING CODE 4310-10-P

DEPARTMENT OF DEFENSE**Office of the Secretary****Submission for OMB Review; Comment Request**

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor Protege Program Improvements; OMB Number 0704-0412.

Type of Request: Extension.

Number of Respondents: 145.

Responses per Respondent: 1.

Annual Responses: 145.

Average Burden per Response: 3 hours.

Annual Burden Hours: 435 (145 reporting hours and 290 recordkeeping hours).

Needs and Uses: The new information collection required by Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protege Program, is required by section 811 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65). DoD will use the information to assess whether the purposes of the Pilot Mentor-Protege Program have been attained and to prepare the reports to Congress required by section 811 of Public Law 106-65. DFARS Appendix I requires a protege firm to report on its progress under a mentor-protege agreement by concurring with or rebutting its mentor firm's year-end report. The protege firm also must provide data on its employment, revenues, and participation in DoD contracts. The report is required annually during the protege firm's program participation term and for two fiscal years after the expiration of the program participation term.

Affected Public: Business or Other For-Profit.

Frequency: Annually.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Lewis W. Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD (Acquisition), Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: May 22, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense,

[FR Doc. 00-13286 Filed 5-25-00; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE**Office of the Secretary****Submission for OMB Review; Comment Request**

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Form Number, and OMB Number: Pentagon Reservation Parking Permit Application; DD Form 1199; OMB Number 0704-0395.

Type of Request: Extension.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 833.

Needs and Uses: The information collection requirement is necessary for the administration and management of the Pentagon's parking control program, which is designed to meet the government mandated car pool program. Respondents are Department of Defense and non-DoD personnel who utilize designated parking areas on the Pentagon Reservation. The Pentagon Reservation Parking Permit Application, DD Form 1199, is a machine read form that includes information, such as name, rank or grade, Social Security Number (SSN), and vehicle license plate number, required for the issuance and control of the parking permit. The DD Form 1199 is scanned into a computerized database designed for the administration of the Pentagon's parking control program. Each member of a Pentagon Reservation authorized car pool or individual parking permit holder is required to complete and submit the DD Form 1199 upon initial application and annually thereafter.

Affected Public: Individuals or Households.

Frequency: On Occasion; Annually.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to