Funding recipient	Amount approved
Native Village of Kongiganak, P.O. Box 5069, Kongiganak, AK 99559	500,000
Native Village of Kotlik, P.O. Box 20210, Kotlik, AK 99620	500,000
Nenana native Association, P.O. Box 356, Nenana, AK 99760	494,928
Native Village of Nightmute, P.O. Box 90021, Nightmute, AK 99690	499,487
Nikolai Village Council, P.O. Box 9145, Nikolai, AK 99691	500,000
Orutsaramuit Native Council, P.O. Box 927, Bethel, AK 99559	495,619
Native Village of Port Graham, P.O. Box 5510, Port Graham, AK 99603	479,236
Native Village of St. Michael, P.O. Box 50, St. Michael, AK 99659	500,000
Native Village of Stevens Village, P.O. Box 74016, Stevens Village, AK 99774	500,000
Tuluksak Native Community (IRA), P.O. Box 195, Tuluksak, AK 99679	500,000

[FR Doc. 00–31686 Filed 12–12–00; 8:45 am]
BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill Public Advisory Group; Renewal of Charter

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice is published in accordance with 41 CFR Part 101–6, section 101–6.1015(a), Committee establishment, reestablishment, or renewal. Following the recommendation and approval of the Exxon Valdez Oil Spill Trustee Council, the Secretary of the Interior hereby renews the Exxon Valdez Oil Spill Public Advisory Group Charter to continue for approximately 2 years, to September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: On March 24, 1989, the T/V *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound in Alaska spilling approximately 11 million gallons of North Slope crude oil. Oil moved into the Gulf of Alaska, along the Kenai coast to Kodiak Island and the Alaska Peninsula—some 600 miles from Bligh Reef. Massive clean-up and containment efforts were initiated and continued to 1992. On October 8, 1991, an agreement was approved by the United States District Court for the District of Alaska that settled claims of the United States and the State of Alaska against the Exxon Corporation and the Exxon Shipping Company for various criminal and civil violations. Under the civil settlement, Exxon agreed to pay to the governments $900 million over a period of 10 years.

The Exxon Valdez Oil Spill Trustee Council was established to manage the funds obtained from the civil settlement of the Exxon Valdez Oil Spill. The Trustee Council is composed of three State of Alaska trustees (Attorney General; Commissioner, Department of Environmental Conservation; and Commissioner, Department of Fish and Game) and three Federal representatives appointed by the Federal Trustees (Secretary, U.S. Department of Agriculture; the Administrator of the National Oceanic and Atmospheric Administration; and the Secretary, U.S. Department of the Interior).

The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991 and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The Public Advisory Group was chartered by the Secretary of the Interior on October 23, 1992, and functions solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1988)).

The Public Advisory Group was established to advise the Trustee Council, and began functioning in October 1992. The Public Advisory Group consists of 17 members representing the following principal interests: sport hunting and fishing, environmental, public-at-large (5), recreation users, local government, science/academic, conservation, subsistence, commercial fishing, aquaculture, commercial tourism, forest products, and Native landowners. Members are appointed to serve a 2-year term.

To carry out its advisory role, the Public Advisory Group makes recommendations to, and advises, the Trustee Council in Alaska on the following matters:

All decisions related to injury assessment, restoration activities, or other use of natural resource damage recovery monies obtained by the governments, including all decisions regarding:

a. Planning, evaluation and allocation of available funds;

b. Planning, evaluation and conduct of injury assessment; and

c. Planning, evaluation and conduct of restoration activities.

Trustee Council intentions regarding the importance of obtaining a diversity of viewpoints is stated in the *Public Advisory Group Background and Guidelines* (March 1993, updated June 1994 and August 1996): ''The Trustee Council intends that the Public Advisory Group be established as an important component of the Council's public involvement process.'' The Council continues, stating their desire that ''* * * a wide spectrum of views and interest are available for the Council to consider as it evaluates, develops, and implements restoration activities. It is the Council's intent that the diversity of interests and views held by the Public Advisory Group members contribute to wide ranging discussions that will be of benefit to the Trustee Council.''

In order to ensure that a broad range of public viewpoints continues to be available to the Trustee Council, and in keeping with the settlement agreement, the continuation of the Public Advisory Group for another 2-year period is necessary.

Dated: November 29, 2000.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 00–31677 Filed 12–12–00; 8:45 am]
BILLING CODE 4310–RC–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket Number 001206343–0343–01 and I.D. 120400E]

Solicitation of Public Comments on a Proposed Policy for Review of 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), National Marine Fisheries Service (NMFS), Commerce.

ACTION: Notice of solicitation of public comments on proposed agency policy.

SUMMARY: The Department of the Interior and the Department of Commerce (Departments) are proposing a new process for public review of and comment on mandatory conditions and prescriptions the Departments develop as part of the Federal Energy Regulatory Commission's (Commission's) hydropower licensing proceedings under part I of the Federal Power Act (Act). This policy would offer an opportunity for public comment on the Departments' mandatory conditions and prescriptions for both the traditional licensing process and the alternative licensing process.

DATES: Submit written comments on the proposed policy to be received by the Departments on or before January 3, 2001.

ADDRESSES: Submit written comments to Kathryn Conant, National Marine Fisheries Service, Office of Habitat Conservation, 1315 East West Highway, Building 3, Room 15206, Silver Spring, Maryland 20910 or fax: 301–713–1043.

FOR FURTHER INFORMATION CONTACT: Tom Iseman, U.S. Department of the Interior, 202–208–6291, or Kathryn Conant, U.S. Department of Commerce, 301–713–2325, extension 205.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Part I of the Federal Power Act, 16 U.S.C. 791a *et seq.* (Act), the Department of the Interior and the Department of Commerce (Departments) 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), the Departments, and Bureaus within the Department of the Interior, 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 Act, 16 U.S.C. 811, and the Secretary of the Interior's authority under section 4(e) of the Act, 16 U.S.C. 797(e), to establish conditions ''necessary for the adequate protection and utilization'' of land ''reservations'' that may contain non-federal hydropower project works. The affected 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, or the Bureau of Indian Affairs.

The Act requires that both section 18 prescriptions and section 4(e) conditions 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 Company* v. *FERC,* 78 F.3d 659 (DC Cir.1996); *American Rivers* v. *FERC,* 129 F.3d 99 (2d Cir. 1997); *American Rivers* v. *FERC,* 201 F.3d 1186 (9th Cir. 1999). After incorporation into a license, the prescriptions and conditions are subject to judicial review under the Act's appeal procedures, which place exclusive jurisdiction in the Federal courts of appeals, 16 U.S.C. 8251(b).

The Departments' practice has been to try to work closely with license applicants in developing mandatory conditions and prescriptions. However, licensees and others have expressed interest in having the Departments consider outside input and comments on these conditions and prescriptions through a standardized process. Such a standardized mechanism would provide an opportunity for interested parties to provide comment on the conditions and prescriptions. On May 26, 2000, the Departments published a **Federal Register** notice soliciting public comments on the possibility of the Departments' establishing a review process for their mandatory conditions and prescriptions, and asking six specific questions regarding such a possible review process. (65 FR 34151, May 26, 2000).

The Departments received 25 sets of comments representing a broad range of parties interested in hydropower licensing. All the commenters supported the idea of establishing a review process, and they expressed a broad range of views regarding the potential timing and substance of the process. After careful review and consideration of the comments received and the constraints of the existing hydropower licensing process the Departments are proposing to provide a two part process for review of mandatory conditions and prescriptions under the traditional licensing process of the Act and the Commission's regulations. In addition, the Departments are proposing a more limited process for review of conditions and prescriptions developed through the Commission's alternative licensing process.

The review process proposed today will be limited to section 4(e) and 18 conditions and prescriptions. The recommendations filed by the Departments under sections 10(a) and 10(j) of the Act are subject to further review by the Commission and may be addressed under existing Commission procedures. In all cases, the review of conditions and prescriptions would occur at an appropriate level within the relevant agency.

This process would be adopted as an agency policy to be become effective six months after adoption, in order to provide time for field implementation.

The proposed review procedures are briefly summarized below. (Please refer to the detailed description of the policy for more specific information.)

A. Review Process—Traditional Licensing

The Departments are proposing a two-part process for review of license conditions and prescriptions in the traditional licensing process. This process would provide participating parties an opportunity both before and after license issuance to comment on conditions and prescriptions.

First, the Departments propose to consider comments through the Commission's traditional hydropower licensing process, prior to issuance of the license. In most situations, the Departments file preliminary conditions and prescriptions in response to the Commission's Ready for Environmental Analysis (REA) notice. Under this process, parties will have the opportunity to comment on the preliminary conditions and prescriptions to the appropriate Departments within a 45-day time period. In most cases, this will be concurrent with the Commission's allowed time to reply to REA submissions. Although the Departments intend for this 45-day response period to be the primary mechanism for receiving comments from participants in the licensing process, they will also seek comments in response to the Commission's draft National Environmental Policy Act (NEPA) document, to ensure that the public at-large has the opportunity to participate in the review process. The Departments will consider information developed through the draft NEPA document and all comments on the conditions and prescriptions, and then issue modified conditions and prescriptions to the Commission for inclusion in its final NEPA document.

In addition, the Departments propose to consider any issues raised regarding the Departments' conditions and

prescriptions, submitted through the Commission's request for rehearing process after license issuance. If an intervener [1] submits a request for rehearing, pursuant to 18 CFR 385.713, that clearly addresses the Departments' conditions and prescriptions, the Departments will review those comments. The Departments will submit a written response to issues raised regarding its mandatory conditions and prescriptions, including any necessary changes to the conditions and prescriptions, within 30 days if possible. In those infrequent situations when more than 30 days is required for response because of substantive and new information or other unexpected circumstances, the Departments will, within 30 days, submit a description of the reason for additional review and a reasonable time line for the written response.

B. Review Process—Alternative Licensing Procedure.

The Commission's alternative licensing procedure raises unique concerns regarding the adoption of a review process for the Departments' mandatory conditions and prescriptions, particularly when parties negotiate delicately balanced license terms in a settlement agreement. If the Departments submit conditions and prescriptions that are not included in a settlement agreement, the Departments propose to apply to that proceeding the review process described above for the traditional licensing process.

If the Departments submit conditions and prescriptions that are included in the settlement agreement, then the Departments propose to apply a modified version of the review process described above. The Departments will review specific comments on conditions and prescriptions in response to the Commission-issued notice calling for comment on the settlement agreement and/or license application pursuant to 18 CFR 4.34(b). If comments raise substantive issues that may require amendment of the negotiated agreement, the Departments will discuss appropriate resolution with the settling parties. After conferring with the settling parties, the Departments will respond to the comments. The Departments will include any changes or adjustments made to the agreed-upon conditions and prescriptions as a result of the comments received and collaboration with the settling parties when the conditions and prescriptions are formally submitted to the Commission.

II. Response to Comments

In response to the **Federal Register** notice (May 26, 2000), the Departments received comments from a variety of stakeholders who participate in hydropower licensing, including: the Commission; the United States Department of Agriculture, Forest Service; National Hydropower Association; Western Urban Water Coalition; the Hydroelectric Licensing Reform Task Force; Alcoa Power Generating, Inc.; Duke Power; the American Public Power Association; Pacific Gas and Electric Company; Alabama Power Company; Public Utility District No. 1 Chelan County; Public Utility District No. 1 of Douglas District and Public Utility District of Grant County; Idaho Power; Petersburg Municipal Power & Light; Orion Power of New York; Southern California Edison; New York Power Authority; Senator Coppola of the State of New York; Edison Electric Institute; Allegheny Energy Supply; Northwestern University; Kleinschmidt Associates Consulting Engineers; Trout Unlimited; American Rivers; New York Rivers United; and Defenders of Wildlife.

By their **Federal Register** notice, the Departments sought public comment on six questions. After consideration of all of the comments received, and giving consideration to the issues raised as discussed in the preamble, these specific questions are answered in Section I—Response to Specific Questions. Some commenters raised issues not directly related to the specific questions. These general issues, and expansion of some issues raised in the specific questions, are addressed in Section II—Response to General Issues.

A. Section I—Response to Specific Questions

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

Answer. The Departments agree with the unanimous comments received that a review process should be adopted. Through this notice, the Departments are proposing to establish a Mandatory Conditions Review Process (MCRP). Commenters provided a wide range of options regarding the kind of process—from a process that includes an appeal component to a process that includes full evidentiary hearings with administrative law judges [2] to a process that involves some form for notice and comment upon preliminary conditions and prescriptions.[3] All options suggested by commenters were considered by the Departments in the development of this procedure.

Question 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?

Answer. Most commenters suggested that any review process designed by the Departments should not impede or delay the Commission's licensing process.[4] The Departments agree. In designing the proposed MCRP, the Departments gave predominant consideration to establishing a seamless process which would provide the desired opportunities for meaningful review, without undermining, impeding or delaying the Commission's licensing process in any fundamental way. The Departments' proposed MCRP, in fact, employs the Commission's existing licensing process and requires only minor adjustments. If the Departments foresee that review of comments may require more time than is allotted in the Commission's licensing process, the Departments propose submitting target letters to the Commission, with schedules for completion of review of public comments and modification of conditions and prescriptions. The Departments anticipate only minor delays and expect that target letters will be required rarely, in instances when new and substantive information is provided in comments, if coordination between the Departments or bureaus with the Department of Interior requires additional time, or other unexpected situations.

Question 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?

[1] The request for rehearing is available only to interveners, as described by FERC regulations.

[2] Alabama Power Company; American Public Power Association; the Hydropower Licensing Reform Task Force; Southern California Electric; Public Utility Districts of Chelan, Douglas and Grant Counties; National Hydropower Association; Idaho Power Company; Duke Energy; Orion Power of NY; and Edison Electric Institute.

[3] Senator Coppola; Federal Energy Regulatory Commission; Defenders of Wildlife; New York Rivers United; Alcoa Power Generating Inc.; Trout Unlimited; American Rivers.

[4] Coppola; New York Rivers United; Western Urban Water Coalition; Alcoa Power Generating Inc.; Edison Electric Institute; Public Utility Districts of Chelan, Douglas and Grant Counties.

Answer. While most commenters did not want the Departments' review process to cause significant delay to the licensing process,[5] most commenters also responded that in order to achieve meaningful review of the Departments' mandatory conditions and prescriptions, some delay was justifiable.[6] However, while the Departments agree, the Departments have developed a process that provides meaningful review without significant delay to the licensing process.

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

Answer. All commenters who addressed this issue commented that the review process for mandatory conditions under section 4(e) and mandatory prescriptions under section 18 should be the same.[7] The Departments agree.[8] The proposed MCRP is generally the same whether the mandatory condition is submitted under section 4(e) or under section 18. However, it should be noted that the Departments also designed the proposed MCRP to be used by both Departments, including the different bureaus within the Department of the Interior. Thus, flexibility was necessary to accommodate the different chain of command, signature authority and other administrative functions within and between Departments and the bureaus within the Department of the Interior.

Question 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. interveners) to the Commission's licensing process (note that, depending upon when the review process takes place, there may not yet be interveners before the Commission)? Should the opportunity be available to anyone with an interest in the project?

Answer. There was some divergence in comments on this issue. Some commenters asserted the process should apply only to the license applicant.[9] Other commenters asserted that any review process should be open to any participant.[10] The Departments agree that participants in the process in addition to the license applicant have a significant interest in these proceedings, and that all participants in the licensing process may be included in the review process without creating either a cumbersome or time-consuming process. Consequently, the Departments have proposed that the MCRP should include review opportunity for the license applicant, any participants in the licensing process, and the general public. The Departments have designed the MCRP to be available to the participants in the licensing process on the Commission's Service List when the Departments submit preliminary conditions and prescriptions in response to the Commission's Ready for Environmental Analysis (REA) Notice and to any members of the general public when the Commission includes the preliminary conditions and prescriptions in the publication of the Commission's Draft National Environmental Policy Act (NEPA) document. All of these comments will be considered in the Departments' review and in their submission of modified conditions and prescriptions after the Draft NEPA document is published. In order to merge time frames with the Commission regulations, participants in the licensing process should submit comments in response to the submission of preliminary conditions and prescriptions after the REA Notice. The comment period after public notice in the Draft NEPA document publication is provided to allow members of the public who may have an interest, but were not previously involved in the licensing process, the opportunity to comment as well. In this way, both participants in the licensing process and members of the general public who have an interest, but were not previously involved, will have an opportunity to provide comments. Those who have intervened in accordance with Commission regulations will be provided further review through the Commission's request for rehearing.

Question 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?

Answer. Many commented that the review process should be applicable to the alternative licensing process (ALP).[11] Some commenters asserted that the review process was not necessary in the alternative licensing process, given the extensive amount of consultation and coordination which is embodied in the process itself.[12] The Departments find merit in both of these comments. In considering this issue, the Departments had several concerns: most of the alternative licensing process takes place before a license application is filed or an administrative record of the proceeding is established, precluding the preparation of conditions and prescriptions; the process is new and unique to each project, so clear hallmarks and procedures do not exist; and, most importantly, review and alteration of carefully crafted license conditions could undermine settlement agreements negotiated through the ALP. For these reasons, designing a practical process was difficult. However, the Departments propose to provide an opportunity for comment on mandatory conditions and prescriptions negotiated through alternative licensing proceedings and included in the settlement agreement.

B. Section II—Response to General Comments

1. Public Input to Process Development

Some commenters suggested the possibility of the Departments' holding a technical conference to discuss options for the proposed review process.[13] The Departments considered this possibility, but decided that an opportunity to seek written comments would give the public more time to comment on a proposed process and provide better documentation of concerns raised with the proposed process. Further, the Departments intend to revisit the process after two years, allowing refinement based on experience to date. Therefore, this proposed policy has been developed based on the public response to **Federal**

[5] See Footnote 4 herein.

[6] Northwestern University; Idaho Power Company, Federal Energy Regulatory Commission; Defenders of Wildlife; Petersburg Municipal Power and Light; Kleindschmidt Associates; National Hydropower Association; and Trout Unlimited.

[7] Senator Coppola; Idaho Power Company; Federal Energy Regulatory Commission; Defenders of Wildlife; Orion Power of NY; New York Rivers United; Kleindschmidt Associates; Western Water Coalition; American Public Power Association; Trout Unlimited; Public Utility Districts of Chelan, Douglas and Grant Counties.

[8] The U.S. Forest Service already has a public review process, through its Forest Planning/NEPA guidelines, for its 4(e) conditions.

[9] Senator Coppola; Western Urban Water Coalition; Edison Electric Institute.

[10] Northwestern University; Idaho Power Company; Federal Energy Regulatory Commission; Defenders of Wildlife; Orion Power; Petersburg Municipal Power & Light; New York Rivers United; Kleinschmidt Associates; Duke Power; Trout Unlimited; National Hydropower Association; American Rivers; Public Utility Districts of Chelan, Douglas and Grant Counties.

[11] Idaho Power Company; Federal Energy Regulatory Commission; Defenders of Wildlife; Petersburg Municipal Power & Light; Kleinschmidt; Duke Power; National Hydropower Association; Public Utility Districts of Chelan, Douglas & Grant Counties; American Rivers; Trout Unlimited; New York Rivers United.

[12] Western Urban Water Coalition; Edison Electric Institute.

[13] Orion Power of New York; Kleindschmidt Associates; Duke Power; National Hydropower Association; Public Utility Districts of Chelan, Douglas and Grant Counties.

Register notice (May 26, 2000), staff experience with the licensing process, and consultation with Commission staff.

2. Form of Review Process

Some commenters suggested that the review process should be established through binding regulations.[14] Others recommended that the review process should start immediately with policy and move toward regulation, or that new regulations were not necessary.[15] In considering all comments, the Departments propose that the best way to implement the proposed MCRP is through the publication of a policy. In addition, the Departments recognize that meaningful evaluation of this process may best take place after a trial period of implementation. The Departments intend to revisit the process after two years, allowing refinement based on experience to date.

3. Timing

The Departments found that timing was a principal consideration in determining whether and how to establish a review procedure for the Departments' conditions and prescriptions. Several comments suggested that the Departments should write conditions and prescriptions and provide a review period before a hydropower license application is submitted,[16] but the Departments found that unworkable. While the Departments will continue to work with licensees to coordinate development of conditions and prescriptions together with project design, license applications still may change significantly between drafts circulated to interested parties and final applications submitted to the Commission. Many of the studies identified by the parties as necessary would not have been completed, again undermining the ability to formulate preliminary conditions and prescriptions. Moreover, the publication of preliminary conditions and prescriptions before there is a proceeding, or a license application on the record that identifies a specific project, project operations, and probable project impacts for which mitigation may be needed, is not consistent with the legal requirements for substantial evidence in the record before the Commission, set forth in *Bangor Hydroelectric Co., Inc.* v. *FERC*, 78 F.3d 659 (DC Cir. 1996).

Once an application is submitted to the Commission, the timing of the issuance of mandatory conditions and prescriptions and any review process is necessarily intertwined with the Commission's procedures for processing the application. The length of time required for hydropower licensing has been a continuing concern for the Commission, the Departments, licensees and other members of the interested public. While the Departments and the Commission may disagree over the extent to which the Commission may affect the Departments' authorities through its procedural regulations, the Departments wish to work with the Commission and within the Commission's existing process to the extent possible, in order to avoid creating any new delays in the licensing process. Thus, the timing of the Departments' proposed review process takes into account the timing contemplated by the Commission's regulations.

The Departments have found, however, that it is not always possible to act within the time period contemplated by the Commission's regulations. Since the Commission's REA notice is based upon the Commission's own requirements for information to perform its NEPA analysis, it does not necessarily take into account the question of whether the Departments have sufficient information to form the basis of the conditions that meet the Departments' statutory responsibilities and to provide substantial evidence for the Departments' administrative record. See *Bangor Hydroelectric* v. *FERC*, 78 F.3d 659 (DC Cir. 1996). In addition, the Departments propose to file modified conditions and prescriptions 90 days after the close of the comment period on the Commission's draft NEPA document, in order to respond to public comments addressing the preliminary conditions and prescriptions. Currently, Commission practice anticipates that the modified conditions and prescriptions would be filed within the public comment period. Another conflict could arise with the Departments' proposal to file a response following requests for rehearing that raise issues with the Departments' conditions and prescriptions. Current Commission regulations provide discretion for the Commission to allow filings in response to a request for rehearing, and the Commission generally does not reject or exclude from the record such filings. However, the Departments' proposal would standardize that practice. By proposing to notify the Commission regarding the anticipated timing for the Departments' filings, the Departments seek to improve agency coordination and reduce delays in the process.

4. Appeal Mechanism

Many of the commenters wanted an appeal component, some including full evidentiary hearings before administrative law judges.[17] Other commenters recommended notice and comment.[18] The Departments have given this issue careful consideration. The Departments propose not to provide full evidentiary hearings for two primary reasons: (1) no appropriate forum is available that has jurisdiction over the Departments' decision under the FPA; and (2) full evidentiary hearings would prevent the Departments from meeting the most common request of all commenters, that the review process fit within the Commission's existing licensing process and not cause extended delay. However, the Departments propose to meet the request for an appeal component by answering specific issues raised on its modified conditions and prescriptions that are included in a party's request for rehearing.

5. Level of Review

Some commenters [19] specifically requested that the review process be conducted at a different and/or higher level than the staff responsible for preparing the conditions and prescriptions. These comments may, in part, be based on a misconception regarding the level at which the Departments submit conditions; in most cases, conditions and prescriptions are submitted at the regional level or higher. Nonetheless, the Departments considered this issue in developing this process. The initial signature level of the conditions and prescription is different between the Departments of Commerce and Interior, and also within the bureaus of the Department of the Interior. The level of review of modified conditions and prescriptions will vary depending upon the Department and the bureau. In all cases, the Departments propose that the review will occur at least at the State or regional level.

[14] Southern California Edison; Idaho Power Company; Alabama Power Company; Duke Power; Public Utility Districts of Chelan, Douglas and Grant Counties; New York Rivers United; Western Urban Water Coalition.

[15] National Hydropower Association; American Rivers; Orion Power; Federal Energy Regulatory Commission.

[16] Senator Coppola, Southern California Edison, Idaho Power Company, Federal Energy Regulatory Commission, Western Urban Water Coalition, Alcoa Power Generating Inc.

[17] See Footnote 2 herein.

[18] See Footnote 3 herein.

[19] Pacific Gas & Electric Co.; American Public Power Association; Duke Power; Hydropower Licensing Reform Task Force.

6. Review of Non-Exercise or Reservation of Authority

Some commenters suggested that any review process should be applicable to situations in which a stakeholder challenges the Departments' failure to exercise mandatory authority.[20] In certain cases when the Commission issues the REA notice, the Departments already participating in the licensing process may respond by exercising their section 4(e) or 18 statutory authority by reserving that authority. In these cases, that submission would be subject to the review process proposed here. When the Department(s) are not participating in a licensing process, the review process is not applicable.

7. Review of Economic Impacts

Some commenters suggested that the review process provide a review of the economic impacts of the conditions and prescriptions on the project.[21] It is not necessary, or appropriate, to address here what substantive issues may be raised by participants in requesting review. Commenters may raise whatever concerns they consider relevant at the appropriate time in each licensing proceeding.

III. Procedural Requirements

A. Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that the action proposed (implementation of a policy) is not a ''significant regulatory action''. This proposed policy describes an opportunity for public review of and comment on conditions and prescriptions that the Departments develop as part of the Commission's existing hydropower licensing process. Thus, the policy would not impose a compliance burden on the economy generally.

B. Administrative Procedures Act

This policy is not subject to prior notice and an opportunity to comment because it is a general statement of policy (5 U.S.C. 553(b)(A)).

C. Regulatory Flexibility Act

This policy is not subject to notice and comment under the Administrative Procedures Act, and therefore not subject to the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Furthermore, the Departments have determined that this policy will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed policy is guidance and does not compel any party to conduct any action. This policy would provide a standardized opportunity for public comment on the Departments' mandatory conditions and prescriptions. Therefore, the Departments believe that no economic effects on small entities will result from compliance to the criteria in this policy.

D. Small Business Regulatory Enforcement Fairness Act

This policy is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This policy:

1. Will not have an annual effect on the economy of $100 million or more and is expected to have no significant economic impacts.

2. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions and will impose no additional regulatory restraints in addition to those already in operation.

3. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The intent of the policy is to provide a standardized opportunity for public comment on the Departments' mandatory conditions and prescriptions. It will impose no additional regulatory restraints to those already in operation. The Departments have, therefore, determined that the policy will not have a significant economic effect on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

E. Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*):

1. This policy will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The policy does not require any additional management responsibilities. The Departments expect that this proposed policy will not result in any significant additional expenditures by entities that participate in the Commission's hydropower licensing process.

2. This proposed policy will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. This rule is not expected to have significant economic impacts nor will it impose any unfunded mandates on other Federal, State, or local governments agencies to carry out specific activities.

F. Federalism

In accordance with Executive Order 13132, this proposed policy does not have significant Federalism effects; therefore, a Federalism assessment is not required. This policy will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments will not change, and fiscal capacity will not be substantially directly affected. Therefore, the policy does not have significant effects or implications on Federalism.

G. Paperwork Reduction Act

This policy does not require an information collection under the Paperwork Reduction Act. Therefore, this proposed policy does not constitute a new information collection requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

H. National Environmental Policy Act

The Departments have analyzed this policy in accordance with the criteria of the National Environmental Policy Act (NEPA). This proposed policy does not constitute a major Federal action significantly affecting the quality of the human environment because it only provides notice and comment on conditions and prescriptions. Issuance of the proposed policy is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1.10. The National Oceanic and Atmospheric Administration (NOAA) has determined that the issuance of this policy qualifies for a categorical exclusion as defined by NOAA 216–6 Administrative Order, Environmental Review Procedure.

I. Essential Fish Habitat

We have analyzed this policy in accordance with section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and determined that issuance of this policy may not adversely affect the essential fish habitat of federally managed species, and, therefore, an essential fish

[20] New York Rivers United; American Rivers.

[21] Western Urban Water Coalition' American Public Power Association; Hydropower Licensing Reform Task Force.

habitat consultation on this policy is not required.

J. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, the Departments have assessed the impact of this proposed policy on tribal trust resources and have determined that it does not directly affect Tribal resources. Because the policy will standardize a review process of section 4(e) conditions, which do directly affect tribal resources, the Departments will consult with tribal governments when reviewing and responding to comments or requests for rehearing that directly relate to conditions that affect tribal resources.

IV. Commission Coordination

The Departments have begun discussions with the Commission regarding the integration of the proposed MCRP with the Commission's existing licensing process. Timing issues require coordination with the Commission, and the Departments will continue to work with the Commission to determine how best to minimize timing conflicts while providing meaningful review of the Departments' conditions and prescriptions.

V. Mandatory Conditions Review Process—Narrative

A. Traditional Licensing Process

The following process describes a proposal for the Departments to receive and respond to comments regarding the mandatory conditions and prescriptions submitted to the Commission through the traditional licensing process. The Departments already have informal policies and practices for maintaining communications with licensees and others throughout the development of conditions and prescriptions. The Departments view this as an iterative, cooperative process. However, the Departments have not until now had a standardized process for reviewing public comments on the conditions and prescriptions developed during the licensing process. This proposed policy is designed to work within the Commission's licensing process to efficiently allow meaningful public input without unduly delaying licensing.

1. Part A: Notice and Comment on Preliminary Conditions and Prescriptions

a. Ready for Environmental Analysis. The Departments' proposed Mandatory Conditions Review Process (MCRP) is triggered when the Commission determines that a hydropower license application is complete and it has issued a notice indicating the license application is Ready for Environmental Analysis (REA). Comments, recommendations, terms and conditions, and prescriptions concerning the license application are typically to be filed with the Commission within 60 days from the date of the REA notice. The MCRP relates only to the mandatory conditions and prescriptions (not comments or recommendations). The information that is filed in response to the REA notice is generally incorporated into the Commission's National Environmental Policy Act (NEPA) analysis that establishes the framework for license conditions the Commission may include in any issued license.

b. Filing of Preliminary Conditions and Prescriptions. The Departments will file preliminary conditions and prescriptions within the Commission's 60-day REA comment period. In those infrequent cases when the Departments' administrative record is insufficient, the Departments need more time to coordinate, or other circumstances arise and the Departments are unable to issue preliminary conditions and prescriptions during this period, the Departments will follow the procedures described below.

When the Departments are unable to provide some or all preliminary prescriptions and conditions to the Commission within the 60-day REA notice period, the Departments will, in a letter to the Commission and its service list, exercise their statutory authorities by reserving authority. The Departments will include in this letter: (1) the reasons why preliminary prescriptions and conditions are not being filed at this time; and (2) a schedule, including a target date, for submitting the preliminary prescriptions and conditions. When the preliminary prescriptions and conditions are completed, they will be provided to the Commission and its service list. The Departments intend that preliminary conditions and prescriptions will be filed for inclusion in the draft NEPA document and that both comment periods will be completed as discussed below.

If the Departments make the determination that their administrative record does not support the filing of conditions and prescriptions at the time of licensing, but may support such a filing during the license term, the Departments will exercise statutory authority by reserving that authority until a later date when the Departments' administrative record supports such an exercise. The participating Departments will provide the reservation of authority during the 60-day REA comment period.

The level of signature for preliminary conditions and prescriptions will vary depending on the signature authority within each Department and within the bureaus of the Department of the Interior. The Departments will file an original and eight copies of the preliminary conditions and prescriptions with the Commission and an index to the Departments' administrative record that supports the preliminary conditions and prescriptions. These materials will also be provided to the Commission's service list. The Departments will file an original and three copies of the Departments' administrative record with the Commission either concurrently or within a time period specified in the preliminary submission. The administrative record will also be provided to the applicant and, for section 4(e) conditions mandated for the protection and utilization of an Indian Reservation, to the Indian Tribe of that Reservation. The Departments' administrative record will be available at the Departmental office from which it originates, but will not be automatically served upon the service list. Any party may request copies of the record, in whole or in part, from the conditioning Department, according to procedures described in the issuing document.

c. Comment Opportunity. The proposed MCRP would provide two very specific opportunities for notice and comment targeted to two separate audiences. The Departments will respond to comments and modify conditions and prescriptions as necessary after the end of the second comment opportunity.

The first opportunity is provided to participants in the licensing process who receive the Departments' preliminary conditions and prescriptions in response to the Commission's REA notice. The preliminary submission, which is served on the Commission's Service List, will invite comments and new supporting evidence on the preliminary conditions and prescriptions within a 45 day time period. Commission regulations call for submissions within 60 days of the REA notice, and provide for reply to those submissions to be filed

within 105 days of the REA notice See 18 CFR 4.34(b). Thus, the comment period on the preliminary conditions and prescriptions will usually be concurrent with the Commission's allowed time to reply to REA submissions. All comments on the Departments' preliminary conditions and prescriptions should be specifically identified and include supporting evidence. The Departments will begin reviewing comments when received; however, no response will be made until after review of the draft NEPA document.

To be responsive to the fact that there may be persons with an interest in the Departments' preliminary conditions and prescriptions who have not been previously involved in the licensing process, the Departments are providing a second opportunity to the public to provide comments. With publication of the draft NEPA document for comment, which will include the Departments' preliminary conditions and prescriptions, the Commission will inform the public that, if they want to comment, they must provide a copy of specific comments and supporting evidence to the Departments within the comment period for the draft NEPA document. In order to have adequate time to thoroughly review comments and to efficiently provide the Commission with the modified conditions and prescriptions, the Departments strongly encourage participants in the licensing process to submit comments during the first notice and comment period, rather than wait until the NEPA comment period. While it is neither necessary nor recommended for participants in the licensing process to re-submit comments already submitted, to the extent that participants in the process resubmit comments in the NEPA comment period, any changes or new comments should be specifically and expressly identified in the submission. The Departments will consider all comments received.

d. Filing Modified Conditions and Prescriptions. The Departments will review the draft NEPA document and all comments received on the preliminary conditions and prescriptions. Based on this review, the Departments will modify the conditions and prescriptions, as needed, and respond to comments. Within 90 days of the close of the draft NEPA comment period, the Departments will submit modified conditions and prescriptions, unless substantial and new information was provided during the NEPA comment period requiring additional review time, or coordination between the Departments or Department of Interior's bureaus or other unexpected circumstances arise that reasonably require additional time. In those infrequent situations where additional time is needed, the Departments will submit to the Commission and its service list, and all commenters, a letter providing an explanation of the need for additional time and a schedule for preparing the modified conditions and prescriptions.

The process of comment and review itself modifies the conditions and prescriptions by modifying the record underlying them, even if the actual language of the conditions and prescriptions does not change. The Departments will coordinate the review and response to comments. The format of the response to comments will be commensurate with the nature, substance and extent of the comments received, the inter-agency and intra-bureau involvement, time frame, staff availability and the Departments' practice. Signature authority will vary between the Departments and among the bureaus of the Department of the Interior; however, this submission will be signed at the state or regional level.

The result of this process will be the Departments' submission to the Commission of an original and eight copies of the modified conditions and prescriptions, a response to comments, and an index to the Departments' supplemental administrative record generated as a result of the review process, as needed. These materials will also be provided to the Commission's service list and to commenters. The Departments will file an original and three copies of the Departments' supplemental administrative record with the Commission. The supplemental administrative record will also be provided to the applicant and, for section 4(e) conditions mandated for the protection and utilization of an Indian Reservation, to the Indian Tribe of that Reservation. Any party may again request copies of the supplemental record, in whole or in part. The Departments intend that modified conditions and prescriptions will be provided to the Commission in advance of issuance of the final NEPA document.

2. Part B: Comments on Modified Conditions and Prescriptions

a. Request for Rehearing. After the Commission issues the license, if any intervener submits a request for rehearing, pursuant to Commission regulations at 18 CFR 385.713, that clearly identifies issues with the Departments' modified conditions and prescriptions, and includes supporting evidence, the Departments will review those concerns. Assuming the Commission grants rehearing for further consideration, as is its custom, the Departments will review all information and coordinate their response to all issues raised within 30 days of the formal filing with the Commission of a timely request for rehearing. The Departments may choose to file consolidated responses to more than one request for rehearing. The Departments will either file the response pursuant to 18 CFR 385.713(d)(2) or, in the unexpected situation that substantive or new issues are raised, the Departments will notify the Commission of the issues raised, that additional time is necessary to review issues, and provide a time line for response. The content of the response will vary depending on whether the issue is one that has been raised previously, or presents new issues that require a new response or supplementation of the record. The Departments will file the response with the Commission and its Service List.

B. Alternative Licensing Process

The following process describes a proposed opportunity for the Departments to receive and respond to comments regarding the mandatory conditions and prescriptions submitted to the Commission through the alternative licensing process. The form of the review process will depend on whether the Departments submit conditions and prescriptions as part of a settlement agreement. If the Departments submit conditions and prescriptions that are not part of a settlement agreement, then the process described for the traditional licensing process applies, as detailed herein.

If negotiations in the alternative licensing process result in an agreement as to the Departments' mandatory conditions and prescriptions, then a modified review process applies. Under the alternative licensing process, the license applicant files a license application, including any settlement offer, which may include the Departments' agreement as to their preliminary mandatory conditions and prescriptions, and a Draft Applicant Prepared NEPA document with the Commission. The Commission then publishes a notice calling for comments on the license application, including the settlement offer and any agreed-upon preliminary conditions and prescriptions included in the settlement offer. In response to the Commission's notice, interested parties, including parties that are not signatories to the

settlement, are provided an opportunity to provide comments regarding the license application, the settlement offer, and the Departments' agreed-upon preliminary conditions and prescriptions.

If a non-settling party submits comments directly addressing the Departments' agreed-upon conditions and prescriptions, including the evidence in support thereof, then the Departments will review the comments pertaining to the mandatory conditions and prescriptions. If comments do not necessitate changes to the mandatory conditions and prescriptions that would render them inconsistent with the settlement agreement, the Departments will address the comments without returning to the settling parties. If comments are substantive and raise issues not previously identified, the Departments will discuss the comments and their appropriate resolution with the settling parties. If the Departments determine, after discussion with the settling parties, that the comments warrant a change in the conditions and prescriptions, the Departments will submit modified conditions and prescriptions. This process will be the only review of the Departments' agreed-upon conditions and prescriptions submitted through the alternative licensing process.

As part of the alternative licensing process, the Commission also publishes a notice indicating that it is proceeding with the environmental review. In response to this Notice, the Departments, pursuant to their statutory authority under sections 4(e) and 18, will submit to the Commission, as a separate filing, their agreed-upon conditions and prescriptions, so that, regardless of Commission action on the settlement agreement, the Departments' agreed-upon conditions and prescriptions will become mandatory license conditions. Any changes that may have been made to the settlement conditions and prescriptions as a result of comments received will be included in this submission.

VI. Mandatory Conditions Review Process—Step-by-Step

A. Traditional Licensing Process

1. Notice and Comment on Preliminary Conditions and Prescriptions:

a. The Commission issues a notice stating that the license application is Ready for Environmental Analysis (REA).

b. In most cases, the Departments will submit to the Commission some or all preliminary conditions and prescriptions within 60 days of the REA notice. Signature authority will vary between the Departments and within the bureaus of the Department of the Interior.

To the extent that the Departments' conditions and prescriptions are based on materials not already included in the Commission's administrative record, a copy of the materials submitted by the Departments in support of conditions and prescriptions will be maintained at the originating office

Additions to the administrative record will be filed with the preliminary conditions and prescriptions or within a specified time period thereafter.

Submission to the Commission will include:

- An original and eight copies of the preliminary conditions and prescriptions; and
- The index to the Departments' administrative record that includes documents not already included in the Commission's administrative record and appropriate citations for documents already included in the Commission's record; and
- An original and three copies of the Departments' administrative record.

Submission to the applicant and, for section 4(e) conditions mandated for the protection and utilization of an Indian Reservation, to the Indian Tribe of that Reservation, will include:

- A copy of the preliminary conditions and prescriptions; and
- The index to the Departments' administrative record that includes documents not already included in the Commission's administrative record and appropriate citations for documents already included in the Commission's record; and
- A copy of the Departments' administrative record

Submission to the Commission's service list will include:

- A copy of the preliminary conditions and prescriptions; and
- The index to the Departments' administrative record that includes documents not already included in the Commission's administrative record and appropriate citations for documents already included in the Commission's record.

A party may request copies of the record, in whole or in part, according to procedures described in the issuing document.

c. If the Departments determine that the evidence in the Commission's administrative record and information generally available is not sufficient or if other circumstances arise and the Departments cannot file preliminary conditions and prescriptions within 60 days of the REA notice, the Departments will include a reservation of authority. The submission will also include:

- An explanation for the delay; and
- A schedule and date for submitting preliminary conditions and prescriptions.

d. The preliminary conditions and prescriptions submission will include an invitation for interested persons to submit comments.

The comment period will be 45 days. This is concurrent with the time allowed by Commission regulation to reply to REA submissions.

The Departments will consider comments if they:

- Are identified as raising issues pertaining to the mandatory conditions and prescriptions;
- Include supporting evidence.

The Departments will begin reviewing comments; however, no response will be made until after review of the NEPA document.

e. The Commission will issue the draft NEPA document for public comment, which will include the Departments' preliminary conditions and prescriptions.

The Commission's notice will inform the public that they may submit comments on the preliminary conditions and prescriptions.

The Departments will consider comments if they:

- Are identified as raising issues pertaining to the mandatory conditions and prescriptions;
- Are copied to the conditioning Department(s); and
- Include supporting evidence.

f. The Departments will review all comments received and the draft NEPA document within 90 days of the close of the Draft NEPA comment period, the Departments will either

- Submit the modified conditions and prescriptions; or
- Send the Commission a letter (an original and eight copies) with an explanation of why additional time is required and an anticipated target date for submitting the modified conditions and prescriptions. The letter will also be served on the Commission's Service List.

The Departments will coordinate the review and submission of modified conditions and prescriptions, when appropriate.

The response to comment will be commensurate with the nature, substance and extent of the comments received, the inter-agency and intra-bureau involvement, the time frame, staff availability and the Departments' practice.

Signature authority will vary between the Departments and within the bureaus

of the Department of the Interior; however this submission will be signed at the state or regional level or higher.

The Departments intend to submit the modified conditions and prescriptions in advance of issuance of the Commission's final NEPA document.

A copy of the Departments' supplemental administrative record, as needed, will be maintained at the originating office.

The Departments' administrative record will be filed with the modified conditions or within a time period specified in the submission.

Submission to Commission will include:

- An original and eight copies of the modified conditions and prescriptions;
- An index of the Departments' supplemental administrative record formed as part of the review process and not yet included in the Commission's administrative record and appropriate citations for documents already included in the Commission's record;
- An original and three copies of the Departments' supplemental administrative record; and
- Response to comments.

Submission to the applicant and, for section 4(e) conditions mandated for the protection and utilization of an Indian Reservation, the Indian Tribe of that Reservation, will include:

- A copy of the modified conditions and prescriptions;
- An index of the Departments' supplemental administrative record formed as part of the review process and not yet included in the Commission's administrative record and appropriate citations for documents already included in the Commission's record;
- A copy of the Departments' supplemental administrative record; and,
- Response to comments.

Submission to the Commission's service list and all other commenters will include:

- A copy of the modified conditions and prescriptions;
- An index to the Departments' supplemental administrative record, as needed. A party may request copies of the record, in whole or in part, according to procedures described in the issuing document; and
- Response to comments

2. Comments on Modified Conditions and Prescriptions:

a. After the license is issued, an intervener may submit a request for rehearing pursuant to 18 CFR 385.713.

The request for rehearing is available only to interveners, as described by the Commission's regulations.

b. The Departments will consider those issues raised in requests for rehearing: that pertain to the mandatory conditions and prescriptions; are clearly identified as issues relating to the Departments' mandatory conditions and prescriptions; and include supporting evidence or citation to the supporting evidence in the administrative record.

c. Within 30 days of the filing of the request for rehearing, the Departments will either submit a response relating only to those issues directed to the Department's conditions and prescriptions, with any changes to the conditions and prescriptions, if needed; or send the Commission a letter (an original and eight copies), in those infrequent cases where significant and/or new issues relating to the Departments' mandatory conditions and prescriptions are raised in the request, with an explanation of why additional time is required and an anticipated date for submitting the response and any changes to the modified conditions and prescriptions, if needed. The letter will also be served on the Commission's Service List.

d. The Departments may coordinate this submission, but may submit their responses separately.

e. The response will be commensurate with the nature, substance and extent of the comments received, the inter-agency and intra-bureau involvement, the time frame, staff availability and the Departments' practice.

For issues addressed earlier in the licensing process, the response will include the appropriate citations to the administrative record.

f. The response will be sent to the Commission (an original and eight copies) and be served on the Commission's Service List.

g. The Departments intend to submit the response prior to issuance of the Commission's decision on the requests for rehearing.

B. Alternative Licensing Process

1. If the Departments submit conditions and prescriptions that are not part of a settlement agreement resulting from an alternative licensing process, then the review process described for the traditional licensing process applies.

2. If the Departments submit mandatory conditions and prescriptions that are included in the license application and settlement offer, then the following process applies.

a. The license applicant will file a license application, including the settlement offer, which may include any agreed-upon preliminary mandatory conditions and prescriptions, and Draft Applicant Prepared Environmental Assessment to the Commission.

b. The Commission will publish a Notice calling for comments on the license application (including the settlement offer and any agreed-upon conditions and prescriptions).

c. If a non-settling party submits comments that raise issues on the Departments' agreed-upon preliminary conditions and prescriptions, then the Departments will review the comments pertaining to the mandatory conditions and prescriptions.

Comments should include specific comments on the mandatory conditions and prescriptions and supporting evidence.

d. If comments do not necessitate changes to the mandatory conditions and prescriptions that would render them inconsistent with the settlement agreement, the Departments will address the comments without returning to the settling parties.

e. To the extent that the comments are substantive and raise issues not previously identified, the Departments will discuss the comments and their appropriate resolution with the settling parties.

f. The Commission issues Notice stating the application is ready for final analysis.

g. The resource agencies will formally file those agreed-upon preliminary conditions and prescriptions as modified by the Departments in response to comments and after consultation with the settling parties.

Dated: December 5, 2000.

David J. Hayes,

Deputy Secretary, U.S. Department of the Interior.

Dated: December 7, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Approval under the Paperwork Reduction Act (PRA)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: New information collection approval—the federal aid grant application booklet.

SUMMARY: The U.S. Fish and Wildlife Service (Service) submitted the collection of information requirement described below to the Office of