

governmental and Public Affairs, Construction and Capital Project Implementation, as well as Special Committee Reports. Superintendent Roger K. Rector will give a report on various park issues.

**SUPPLEMENTARY INFORMATION:** The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100-573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items with the Commission. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizens Advisory Commission, P. O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Delaware Water Gap National Recreation Area, Bushkill, PA 18324, 717-588-2418.

Bob Kirby,

*Acting Superintendent.*

Congressional Listing for Delaware Water Gap NRA

Honorable Frank Lautenberg, U.S. Senate, SH-506 Hart Senate Office Building, Washington, D.C. 20510-3002

Honorable Robert G. Torricelli, U.S. Senate, Washington, D.C. 20510-3001

Honorable Richard Santorum, U.S. Senate, SR 120 Senate Russell Office Bldg., Washington, D.C. 20510

Honorable Arlen Specter, U.S. Senate, SH-530 Hart Senate Office Bldg., Washington, D.C. 20510-3802

Honorable Paul McHale, U.S. House of Representatives, 511 Cannon House Office Bldg., Washington, D.C. 20515-3815

Honorable Joseph McDade, U.S. House of Representatives, 2370 Rayburn House Office Bldg., Washington, D.C. 20515-3810

Honorable Margaret Roukema, U.S. House of Representatives, 2244 Rayburn House Office Bldg., Washington, D.C. 20515-3005

Honorable Tom Ridge, State Capitol, Harrisburg, PA 17120

Honorable Christine Whitman, State House, Trenton, NJ 08625

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## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

### Overseas Private Investment Corporation

#### Notice of Publication and Request for Comments

**AGENCY:** Overseas Private Investment Corporation, IDCA.

**ACTION:** Notice of Publication and Request for Comments.

**SUMMARY:** The Overseas Private Investment Corporation (OPIC) has published an "Environmental Handbook" which represents the current environmental policies and procedures in use at the Agency. Section 231(n) of the Foreign Assistance Act of 1961 (Title 22 U.S.C. 2191 (k)(2)), as amended, requires OPIC to: "Refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines 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."

The Handbook was published to consolidate a number of sources of information into a single, easy-to-review and easily accessible document. This Handbook is also available on OPIC's Internet web site at [www.OPIC.gov](http://www.OPIC.gov). Comments on the Handbook and its content are being invited for Agency consideration. OPIC intends to consider revising the Handbook based upon the comments received. OPIC encourages all interested parties to respond within 120 calendar days of publication of this Notice. The entire text of the Handbook appears below.

**DATES:** Comments must be received on or before June 6, 1997.

**ADDRESSES:** Comments should be submitted to Mr. Harvey Himberg, Environmental Affairs, Overseas Private Investment Corporation, 1100 New York Ave., NW., Washington, DC 20527 USA.

**FOR FURTHER INFORMATION CONTACT:** Contact Mr. Himberg by phone at 202/336-8414, by fax at 202/218-0177 or via Internet e-mail at /S=himberg/G=harvey@mhs-opic.attmail.com.

*TEXT OF HANDBOOK:*

OPIC ENVIRONMENTAL HANDBOOK  
December 1996

#### INTRODUCTION: STATEMENT OF PURPOSE AND OBJECTIVES

This Handbook is intended to provide guidance to OPIC's clients, as well as the interested public, with respect to the environmental standards, assessment and monitoring procedures that OPIC applies to prospective and ongoing investment projects. The standards and procedures described in this Handbook generally reflect existing practice at OPIC as it has evolved since the enactment in 1985 of statutory environmental provisions applicable to OPIC. (The environmental provisions contained in OPIC's statute are reprinted in Appendix A.) (OPIC is also subject to Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions." Environmental Assessment Procedures for EO 12114 are included in Appendix A.)

Since 1985, OPIC has been required by statute to assess the environmental impacts of projects under consideration for political risk insurance and financing. OPIC's authorizing statute was amended at that time with the congressional intent of ensuring that "great care \* \* \* be paid to assuring the environmental soundness of U.S. Government supported foreign assistance projects." This is particularly important given OPIC's self-sustaining mandate. OPIC strongly supports these principles on their own merits.

In addition, it is increasingly evident that responsible and proactive environmental assessment and management enhance the competitiveness of U.S. investors, as well as project developers, suppliers and contractors associated with overseas investment projects.

Whereas public policy considerations have spurred multilateral and bilateral financial institutions such as OPIC to take the lead in addressing environmental issues in project finance and political risk insurance, private financial institutions both in the U.S. and overseas also have recently begun to integrate environmental concerns into their lending and insurance criteria.

Corporations themselves, through such initiatives as the ISO 14000 process, have undertaken to standardize environmental management, auditing and labeling on an international basis. (ISO is the International Standards Organization, a voluntary membership body composed of private sector companies.)

Over the years OPIC has worked with counterpart organizations providing similar services to investors in the U.S., overseas and on a multilateral basis as environmental procedures were developed. Many of the OPIC standards and procedures described in this Handbook are also applied by organizations such as the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), both affiliates of the World Bank; the European Bank for Reconstruction and Development (EBRD); and the U.S. Export-Import Bank (US Exim). In OPIC's experience, the application of standards and procedures similar to those used by these organizations has facilitated co-financing and co-insurance arrangements and made it simpler for clients to address environmental requirements.

The Handbook is not designed to be a static document but rather an evolving process. OPIC welcomes comments from business and public interest organizations seeking to enhance OPIC's environmental assessment and management process.

#### Environmental Assessment (EA)

By statute, OPIC is precluded from assisting any project that it determines will pose an "unreasonable or major environmental health or safety hazard." (See Appendix A.)

Environmental assessment (EA) is the tool used by OPIC to make this determination. The state-of-art of EA is steadily evolving through experience with actual projects over time. EA is a continuing activity through the life of a project, not a one-time exercise. Effectively applied, it is integrated into the design and operations of a project, rather than undertaken as an "add-on" to satisfy a requirement external to the project. EA consists of several stages of analysis—descriptive, prospective and retrospective.

By statute, OPIC is required to provide some degree of EA to every project considered for insurance or finance in determining whether to provide support for the project. This requirement extends to subprojects undertaken by OPIC-supported investment funds and on-lending facilities. (See the discussion of financial intermediaries, below.) OPIC cannot provide a final commitment to a project (i.e., issue an insurance contract, disburse a loan, or approve a transaction by a financial intermediary) until its environmental assessment is complete and a determination is made by OPIC that the environmental, health and safety impacts of the project are acceptable.

Different types of EAs are conducted by the applicant depending on the nature of the project. The actual work may be conducted by the applicant/sponsor or by a third party, such as an environmental consultant. On the basis of its considerable experience in reviewing such materials, OPIC can advise applicants regarding many aspects of EA preparation.

EAs and other environmental reports should be provided to OPIC as early as possible in the application process. This enables OPIC to identify environmental issues that may require additional attention before the EA can be considered to be complete. Collaboration between OPIC and other official and private lenders and insurers in reviewing environmental information is in the interest of the applicant as it expedites the review process and avoids delays and needless duplication with the requirements of other lenders and insurers.

Once the EA is complete, OPIC will make every effort to review the material within a two to four week time frame. In circumstances where OPIC confronts a particularly full project pipeline, OPIC may contract for outside expertise to enable it to complete the review process in a timely manner.

In all cases, the cost of preparing the original EA is borne by the applicant, sponsor or foreign enterprise. When OPIC engages independent consultants to review

all or part of the EA materials submitted by the investor, to undertake an original assessment of the project and/or to undertake a site visit as part of the environmental review process, it requires the applicant to reimburse the associated costs.

OPIC may require one or more of the following documents to satisfy a project's EA requirements:

Environmental Impact Statement (EIS). By statute and Executive Order (EO) 12114 (See Appendix A), OPIC is required to prepare, and to take fully into account, an EIS for any project "significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica)." Given the discrete nature of projects assisted by OPIC, it is considered unlikely that any single project assisted by OPIC would have a sufficiently large impact on the global commons to warrant an EIS. However, the cumulative impacts of several large projects could conceivably have an impact on extraterritorial waters or the atmosphere sufficient to trigger the requirement.

As prescribed by EO 12114, such an EIS should be concise and no longer than necessary to permit an informed consideration of the environmental effects of the proposed project and the reasonable alternatives. It should include the following sections: (1) Purpose and need for the proposed project; (2) a sufficient description of the environment of the global commons affected by the proposed action; (3) an analysis, in comparative form, of the environmental consequences on the global commons of the proposed action; and (4) reasonable alternative means of structuring the project.

In lieu of preparing a new EIS, the Executive Order permits OPIC to rely on one of the following: A pre-existing EIS for the same project; a project involving similar environmental issues; a generic EIS covering a number of similar projects; or an EIS obtained by other agencies.

Environmental Impact Assessment (EIA). An EIA is a comprehensive assessment of the diverse impacts of a project on the natural and human environment. It includes a detailed description of pre-existing conditions ("baseline assessment"), all project activities having a potential environmental impact (from pre-construction through decommissioning and site reclamation), and the net impacts of the project, taking into account alternative mitigative measures. It also considers the relationship of the project to the natural and human environment in the affected area and the cumulative impacts of those activities. The content and format for an EIA will vary depending on industry sector, the site and other project-specific factors. (A generic format for an EIA is provided in Appendix B.)

Environmental Management and Monitoring Plan (EMMP). An EMMP is designed to specify in detail the actions—both technical and managerial—that the applicant or sponsor will undertake in order to mitigate anticipated adverse impacts of the project on the environment, health and safety. It also describes the technology and

methodology used to monitor the actual impacts of the project on the environment and the standards and procedures to be used for adjusting mitigative measures as necessary to maintain impacts within an acceptable range. (A generic format for an EMMP is suggested in Appendix C.) While ISO 14000 Environmental Management Systems implementation is not a substitute for a project-specific EMMP, a project sponsor's adherence to the ISO criteria can facilitate the process of developing an acceptable EMMP.

Major Hazard Assessment (MHA). An MHA is a specialized form of EA designed to identify and assess the risks of catastrophic events resulting from the operation of an industrial facility. For projects requiring an MHA, OPIC requires completion of the MHA, preferably as part of the EIA process, but no later than the commencement of project operations. The categories of facilities subject to an MHA as well as the content and format of an MHA are outlined in the "World Bank Guidelines for the Identification, Analysis and Control of Major Hazard Installations in Developing Countries," a copy of which is available from OPIC.

Environmental Audit (EAU). If the investment involves the acquisition of a pre-existing facility or a site on which industrial activity previously occurred, the project may also be subject to an EAU. An EAU is designed to identify pre-existing adverse environmental, health or safety conditions that could affect future impacts from the facility or site. (A generic format for an EAU is suggested in Appendix D.) ISO Environmental Auditing criteria are a useful adjunct to, although not a substitute for, performance-based auditing that is required to meet OPIC EAU requirements.

Environmental Remediation Plan (ENR). The project may involve the remediation of environmentally adverse conditions at a site. In this case the applicant will be required to provide OPIC with an ENR, similar in format to an EMMP, and designed to address the issues raised in the audit.

An EMMP, EAU or ENR may be included as part of an EIA. Other documents prepared to satisfy the requirements of other lenders may be submitted to OPIC so long as the documentation addresses the substantive issues needed for OPIC to complete its review of the project.

#### Screening

The type of EA required for a particular project, including the timing and the level of effort involved, depends upon the nature of the project. Therefore, the first step in OPIC's EA is screening, in which OPIC's Environmental Unit assigns each project to one of the following categories:

*Category A:* Projects in this category can be expected to have potentially significant, diverse and irreversible environmental impacts. Such projects can be readily identified on the basis of industry sector or site sensitivity. They require a full-scale EIA, as well as an EMMP. A fairly comprehensive

list of industries and sites within this category is provided in Appendix E. Category B: Projects in this category may result in specific environmental impacts and require adherence to certain predetermined performance standards, guidelines, or design criteria to avoid or mitigate impacts. Due to their nature, size or location, such projects can be readily assessed in terms of their environmental impacts and mitigation measures can be readily identified. Projects not included in Categories A, C, or D (as defined above and below) can be expected to belong to Category B. Examples of such project categories include: Agriculture, electrical distribution, electronics, food processing, light manufacturing, telecommunications, textiles and tourism. Information required from the applicant typically includes the following: Site description; processes involved; materials used and stored on site; air, liquid, and solid wastes generated in relation to applicable standards; and occupational health and safety measures.

*Category C:* This category includes projects that are normally exempt from all environmental assessment, analysis or review because they do not normally result in any environmental impact. Examples of such projects include branch banking and computer software development.

*Category D:* This category includes financial intermediaries (FIs) that make investments in or provide financing (loans, leases, etc.) to multiple projects or enterprises ("subprojects") engaged in activities within categories A and B. OPIC screens these subprojects to determine the type of environmental review required. Also taken into account is the nature and size of the FI's involvement in the subproject. Expedited reviews are conducted for Category B subprojects involving less than \$5.0 million in investment, subject to further review if the FI proceeds with additional investments in the same subproject.

#### Environmental Standards

All projects must comply with host country environmental regulations. In addition, for most categories of activities, OPIC requires that projects meet World Bank environmental, health and safety guidelines. Therefore, whenever possible, applicants should provide OPIC with summaries or copies of applicable host country regulations as part of their EIA (for Category A projects) or as information provided in support of their application (for Category B projects). Government permits and certifications of compliance are necessary in this regard, although not always sufficient to establish compliance.

World Bank guidelines were most recently officially issued in 1988 and many of the guidelines themselves date from the early 1980s. For that reason, OPIC has opted to use the draft guidelines prepared by the World Bank in May 1994 for the majority of industrial categories. (Use of the 1994 draft guidelines is consistent with the current practice of the International Finance Corporation pending the issuance of revised World Bank guidelines.) (For certain industries not included in the 1994 draft,

OPIC may consider compliance with the 1988 guidelines acceptable.) As the Bank continues to update its guidelines, OPIC will substitute more current versions of particular guidelines on a case-by-case basis by industry. (A comprehensive list of official and draft World Bank and U.S. Exim guidelines for industry sectors as well as ecologically sensitive sites is contained in Appendix F. All are available from OPIC on request).

For certain environmentally sensitive industries or circumstances, OPIC may require a project to meet a more restrictive standard than the World Bank guidelines, including, in some cases, emissions, effluent, ambient air and water quality limitations set by the U.S. Environmental Protection Agency, the World Health Organization or a similar authority.

OPIC does not attempt to prescribe to its potential clients the choice of technologies or processes they must use to meet the applicable guidelines. However, standards of best practice developed by governments, industry and non-governmental organizations can be useful in providing guidance to OPIC and its clients in assessing alternatives and their feasibility. For this purpose OPIC is developing, in consultation with experts, international best practice guidelines for three sectors of particular importance to OPIC's mandate with respect to environmental impact: power generation; metals mining; and forestry (both tropical and temperate/boreal). Copies of these best practice guidelines will be available from OPIC on request.

#### Eligibility Determinations

The primary purpose of OPIC's environmental review is to determine the eligibility of the project based on OPIC's statutory obligation to decline support for projects posing "unreasonable or major environmental, health or safety hazards". OPIC interprets "health or safety" to apply both to project employees and to the affected public living or working in the vicinity of the project.

In addition, OPIC is also required by statute to operate its programs in a manner consistent with sections 117, 118 and 119 of the Foreign Assistance Act (FAA). These provisions pertain to environmental assessment, and the protection of tropical forests and endangered species, respectively.

Grounds for Declining Assistance to Projects. There are several circumstances under which OPIC will decline support for a project on environmental grounds:

- The applicant fails to provide OPIC with an EIA for a Category A project or with adequate information about a Category B project to conduct a review sufficient to determine project eligibility on environmental grounds.
- The project will, in OPIC's determination, result in
  - Significant degradation of a national park, similar protected area or tropical rainforest;
  - The destruction of or significant degradation in the habitat of an endangered species; and/or
  - Other "unreasonable or major environmental, health or safety hazards."

OPIC provides applicants with the opportunity to demonstrate that the proposed project does not pose an "unreasonable or major environmental or safety hazard" and is otherwise consistent with the letter and intent of the FAA provisions. However, at one time or another, OPIC has declined to support projects on one or more of the above grounds.

Conditionality. In many cases, determinations of eligibility rely on critical representations made by the client with respect to baseline environmental conditions, mitigative measures and net impacts of proposed projects. In addition to the EMMP or ENR submitted by the applicant, OPIC may require the application of additional mitigative measures in order to ensure that a project will not pose an unreasonable or major environmental, health or safety hazard. These critical representations and those undertakings agreed to by the applicant or sponsor may be included in project documentation as preconditions to contract execution, conditions of disbursement and/or ongoing covenants, depending on the type of agreement entered into between OPIC and the applicant. Where OPIC insures an institutional lender, contract conditions are incorporated into the loan documentation.

Environmental conditions and covenants are developed in close consultation with the client to minimize the cost to the project and to ensure that they are consistent with the host country's legal framework, objectively measurable and verifiable, and allow for sufficient flexibility to address issues if circumstances change.

#### Monitoring and Compliance

OPIC's environmental assessment process is an ongoing one and continues through the full term of OPIC's relationship with the project sponsor.

Monitoring. OPIC reserves the right to monitor projects' compliance with environmental representations and undertakings throughout the term of its insurance or financing. Monitoring may take the form of self-reporting by the investor of summaries and, in specified cases, raw data obtained from monitoring a project's environmental performance (emissions, effluents or other waste discharges) as well as its environmental impacts (e.g., on ambient conditions and biological resources). Monitoring may also take the form of third party evaluation, including compliance information developed by host government authorities, co-lenders/co-insurers and independent auditors.

OPIC routinely conducts on-site monitoring of projects, using OPIC staff and/or consultants, for environmental as well as U.S. economic and host country development effects. OPIC endeavors to monitor all Category A projects on-site at least once during the first three years of project commitment, and more frequently depending on the environmental sensitivity of the project. Category B and D projects are also subject to monitoring on a random and selective basis.

Non-compliance, Remediation and Termination. Material non-compliance with environmental representations and

undertakings may constitute an event of default under the terms of OPIC insurance contracts and loan agreements. Depending on the severity and reversibility of the environmental impact and the investor's responsibility and due diligence in attempting to prevent the default and in curing the problem, OPIC may treat the default as curable or incurable. In the case of a curable default, OPIC works cooperatively with the investor to develop a feasible timetable for remediation. In the case of an incurable default, OPIC may require contract termination in the case of insurance, or acceleration of repayment or other available lenders' remedies, in the case of a loan. If an equity investment on the part of an FI is involved, divestiture by the FI may be required. In all cases, OPIC seeks to work cooperatively with investors and lenders to arrive at an equitable resolution of the situation, subject, of course, to the requirements of other lenders and insurers.

#### Public Consultation and Disclosure

The environmental assessment process has become an increasingly public and transparent process among environmental regulatory agencies in the United States and in some, although not all, foreign countries. Likewise, multilateral development agencies that provide assistance to governments and other public sector clients have also made their activities more transparent to the public in both donor and host countries.

OPIC recognizes the added value that interested and well-informed members of the public can bring to the environmental assessment process undertaken by its clients as well as by OPIC itself. Grass roots as well as international non-governmental organizations (NGOs) often have access to information and perceptions about potential environmental impacts and resulting social, economic and cultural impacts that need to be carefully considered as early as possible in the assessment process.

At the same time, the plans and proposals of private sector investors are often business confidential, and, in such cases, must be strictly protected from disclosure. While OPIC is subject to the disclosure requirements of the Freedom of Information Act, those requirements contain an exemption for business confidential information that is protected from disclosure under the Trade Secrets Act.

In submitting project-specific information to OPIC, including Environmental Impact Assessments, audits, management and remediation plans as well as monitoring reports, applicants must specify which information has been or will be made public in any format, including in the host country. Because OPIC's goal is to provide the public with a level of comfort about its environmental process, applicants are strongly encouraged to submit environmental information in a form that can be shared with the public without compromising business confidentiality. Any information that is identified as a public document will be treated as such by OPIC in a response to a specific request for such information. Business confidential information will be accorded confidential treatment to the full extent permitted by law.

When OPIC receives an application for insurance or financing for an environmentally sensitive project or subproject (coinciding with all projects within Category A, as defined above) OPIC will list the nature of the project and its location on OPIC's Home Page on the World Wide Web (<http://www.opic.gov>). No business confidential information will be disclosed. This list will be updated monthly, and any comments received will be considered in OPIC's processing of the application. Additional information about projects may be provided to OPIC at any time throughout the term of the project.

Questions about this Environmental Handbook should be addressed to the Director, Environmental Affairs, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527; Phone (202) 336-8614; Fax (202) 218-0177.

#### Appendix A—OPIC Statute (Environmental Provisions)

All references are to the Foreign Assistance Act of 1961 (FAA), as amended, most recently by the Jobs Through Exports Act of 1992.

Section 231 \* \* \*. The Corporation, in determining whether to provide insurance, financing or reinsurance for a project, shall especially—

(3) ensure that the project is consistent with the provisions of section 117, (as so redesignated by the Special Foreign Assistance Act of 1986), section 118, and section 119 of this Act relating to the environment and natural resources of, and tropical forests and endangered species in, developing countries, and consistent with the intent of regulations issued pursuant to sections 118 and 119 of this Act.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(n) to refuse to ensure, reinsure, guarantee or finance any investment in connection with a project which the Corporation determines will pose a major or unreasonable environmental, health or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

#### Section 237. General Provisions Relating to Insurance, Guaranty and Financing Programs

(m)(1) Before finally issuing insurance, reinsurance, guarantees, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

(A) All guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health and safety or the environment which are applicable to the project; and

(B) To the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the

guidelines, standards and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review or study prepared with respect to the investment pursuant to section 239(g).

#### Section 239. General Provisions and Powers

(g) The requirements of section 117(c) of this Act relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this title in connection with a project in a country.

#### Environmental Assessment Procedures for Executive Order 12114

On January 4, 1979 the President issued Executive Order 12114 (44 FR 1957) entitled "Environmental Effects Abroad of Major Federal Actions". The Executive Order requires federal agencies taking action encompassed by the Order, and not exempted from it, to effectuate procedures to implement the Order. The Overseas Private Investment Corporation (OPIC) is implementing the Executive Order by the adoption of the following procedures to take effect on September 4, 1979.

#### Section 1. Purpose

As required by Executive Order 12114, issued January 4, 1979, which is incorporated herein by reference, the following procedures shall be used by OPIC to ensure that all significant environmental effects of its actions outside the United States are considered by OPIC in its review of proposed insurance and finance projects. These procedures shall supplement OPIC's existing environmental procedures and guidelines required by the Foreign Assistance Act as amended (the "Act"), as set forth in OPIC Board of Directors Resolution (74) 16 \* \* \* and the "OPIC Environmental Handbook".

#### Section 2. Definition

A. *Application*. The term "application" means a formal request to OPIC in the manner specified by OPIC for assistance under an OPIC program from an eligible private party interested in investing in a project in a foreign nation.

B. *Environment*. The term "environment" means the natural and physical environment and excludes social, economic, and other environments.

C. *Global Commons*. The term "global commons" means areas outside the exercise of any national jurisdiction.

D. *Host Country*. The term "host country" means the foreign country in which a project for which OPIC assistance is sought is or will be located.

E. *Major Action*. The term "major action" means a contractual commitment by OPIC to provide assistance under an OPIC program involving at least \$1 million of insured investment, loan guaranties or direct loans, if the applicant therefor has or will have sufficient control over the design and/or operation of the project to mitigate environmental concerns raised by OPIC.

F. *OPIC Programs*. The term "OPIC programs" includes OPIC's insurance, direct loan and loan guaranty programs as authorized by the Act.

G. Significant Effects. With respect to effects on the environment outside the United States, a proposed action has a significant effect on the environment if it does significant harm to the environment even though on balance the action is believed to result in beneficial effects on the environment.

### Section 3. Applicability of Procedures

A. Scope. Except as provided in Subsections B, C, and D below, these procedures shall apply with respect to OPIC's review of each new application for assistance under an OPIC program, whether for new projects or expansions of existing projects, if a favorable decision on such application will result in a major action by OPIC.

B. Exemptions. If upon the initial review of an application the OPIC insurance or finance officer making such review determines that the project for which OPIC assistance is sought has no significant effects upon the environment outside the United States, these procedures shall not apply. If upon further review of the application, and prior to taking action, it is determined that the project may have a significant effect upon the environment, this exemption shall no longer apply. Also exempt from these procedures are actions falling within the categories listed in Section 2-5(ii) through (vii) of the Executive Order, as limited by Section 2-5(d). A concise administrative record will be prepared to document these determinations.

C. Categorical Exclusions. These procedures shall not apply to the review of an application for any project falling within the scope of any category of projects which are determined to involve no significant effects on the environment. OPIC's Investment Committee shall have the authority to establish such categorical exclusions.

D. Special Exemptions. These procedures shall not apply to the review of any application for which the General Counsel determines that an exemption is necessary as a result of emergency circumstances, situations involving exceptional foreign policy or national security sensitivity or other special circumstances (except as limited by Section 2-5(d) of the Executive Order). In utilizing any such special exemption, OPIC, through its designated Environmental Officer, shall consult as soon as feasible with the Department of State and the Council on Environmental Quality.

### Section 4. Initial Determinations

A. With respect to any application for OPIC assistance falling within the scope of Section 3(A) above, the OPIC officer reviewing such application shall make the following determinations which shall be documented by a concise administrative record:

1. Whether the proposed project is likely to have a significant effect on the environment of the global commons;
2. Whether the proposed project is likely to have a significant effect on the environment of a foreign country other than the host country; and
3. Whether the proposed project is likely to have a significant effect on the

environment of a foreign country because it would provide to that country.

(a) A product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk, such as asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, mercury, beryllium, arsenic, cadmium, and benzene; or

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

4. Whether the proposed project is likely to have a significant effect on natural or ecological resources of global importance hereafter designated for protection by the President or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

B. The determination required in Subsection A above shall be based upon the information contained in the application, information reasonably available to OPIC and such additional information from the applicant as deemed necessary by the reviewing officer.

C. In the event that the reviewing officer makes a positive determination with respect to any of the categories specified in Subsection A above (i.e. that a significant effect is likely to result), and such determination is not reversed upon review by a supervisory officer or by the Investment Committee, the finance or insurance department, as the case may be, in consultation with OPIC's Environmental Officer, shall take the following actions, as appropriate, prior to acting on the application:

1. If the harmful effect is of the type described in Subsection A(1) above, an environmental impact statement shall be obtained in the manner specified in Section 5 below. Such an environmental impact statement shall consider only the effects described in Subsection A(1), regardless of whether the project would result in other kinds of environmental effects.

2. If the harmful effect is of the type described in Subsection A(2), A(3) or A(4) above, an environmental study or an environmental review shall be prepared in the manner specified in Section 6 below.

### Section 5. Environmental Impact Statement

A. If a department within OPIC is required by Section 4(C)(1) to cause the preparation of an environmental impact statement for a particular project, it shall do so in accordance with Subsection B below. If an environmental impact statement for the proposed project, a project involving similar environmental issues or a generic statement covering a host of similar projects already exists, no new environmental impact statement shall be required. When one or more other agencies are also involved in a particular project requiring an environmental impact statement OPIC may rely upon an environmental impact statement obtained by one or more of the other agencies.

B. Environmental impact statements shall be concise and no longer than necessary to permit an informed consideration of the environmental effects of the proposed project and the reasonable alternatives. The statement shall include a section on the consideration of the purpose of and need for the proposed project; a section that provides a succinct description of the environment of the global commons affected by the proposed action; and a section that analyzes, in comparative form, the environmental consequences on the global commons of the proposed action and of reasonable alternative means of structuring the project.

### Section 6. Environmental Studies and Reviews

A. If a department is required under Section 4(C)(2) to produce an environmental study or review, it shall, in consultation with the Environmental Officer, determine whether an environmental study as described in Subsection B below which deals with the environmental aspects of the proposed project is available or will be undertaken elsewhere. If no relevant environmental study is or will be available, the OPIC department, in consultation with the Environmental Officer, shall undertake the preparation of an environmental review as described in Subsection C below with, as appropriate, the assistance of the applicant and of other federal agencies having jurisdiction by law or special expertise. If an environmental review for the proposed project or a project involving similar environmental issues or a generic review covering a class of similar projects already exists, no new environmental review shall be required hereunder. When one or more agencies are involved with OPIC on a particular project, a lead agency may be designated to prepare the environmental review.

B. An environmental study shall consist of a bilateral or multilateral study by the United States and one or more foreign nations or by an international body or organization in which the United States is a member or participant.

C. An environmental review shall consist of a concise analysis of important environmental issues relating to a proposed project, including identification of such issues and of the significant effects to the environment. The department involved in the preparation of an environmental review shall consider the following factors in deciding the scope, substance, and timing of review and the availability of the review to other agencies:

1. The need to avoid infringement or the appearance of infringement on the sovereign responsibilities and internal affairs of another government;
2. The availability of meaningful information on the environment of a foreign nation;
3. The need to protect confidential business information and trade secrets of the applicant;
4. The desirability of acting promptly upon applications under OPIC programs;
5. The desirability of the project in terms of its export promotion and developmental effects;

6. OPIC's ability to influence the design and/or implementation of the proposed project; and

7. The need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure.

#### Section 7. Decision

The required environmental documents developed in accordance with these Procedures shall accompany the application through the review process to enable officers responsible for approving an application and, if necessary, the Board of Directors, to be informed and to take account of the environmental considerations covered by such documents.

#### Section 8. Availability

Subject to the consideration of Section 6(C), environmental documents developed under these procedures shall be available to the Department of State, Council on Environmental Quality and other federal agencies and shall be included in the public information files for the pertinent applications. Foreign governments affected thereby may also be informed of such documents after coordinating with the Department of State regarding such communication with the foreign government.

Effective Date. These procedures become effective on September 4, 1979.

Dated: August 27, 1979, J. Bryce Llewellyn, President.

#### Appendix B—Recommended Content and Format for Environmental Impact Assessment (Category A Projects)

##### I. Executive Summary

- A. Concise project description
- B. Identification of project sponsors, operators and contractors
- C. Baseline environmental conditions
- D. Applicable environmental standards
- E. Proposed mitigation measures
- F. Net environmental impacts

##### II. Policy, Legal and Administrative Framework

- A. Applicable host country environmental and occupational safety and health laws and regulations
- B. Relevant international agreements
- C. Requirements of potential investors, lenders and insurers

##### III. Baseline Conditions in Area Potentially Affected by Project ("Project Area")

- A. Designation of project area perimeters
- B. Physical geography (climate, geology, topography)
- C. Natural events history (earthquakes, floods, fires, storms, volcanic eruptions, etc.)
- D. Biological environment
  1. Proximity to national parks and other protected areas
  2. Identification of unique or sensitive natural habitats of internationally or locally recognized rare, threatened or endangered species
  3. Renewable and non-renewable natural resources
- E. Human environment
  1. Distribution of residential and occupational population in project area

2. Description of previous, current and planned land use activities in or near project area

3. Habitation or use of project area by indigenous peoples

F. Environmental quality of project area

1. Ambient air conditions (including seasonal variations)

- (a) Sulfur dioxide
- (b) Particulates
- (c) Nitrogen oxides
- (d) Carbon monoxides
- (e) Airborne toxics
2. Water supply, quality and end use (human consumption, agriculture, plant and animal habitat)

- (a) Marine waters, including estuaries
- (b) Surface waters (rivers, streams, lakes)
- (c) Groundwater

3. Noise levels

4. Soil conditions, including contamination from previous or current activities

G. Archeological, historical or cultural resources

##### IV. Potential (Unmitigated) Environmental, Health and Safety Impacts

- A. Sources and volumes of untreated airborne, liquid, and solid waste and potential impacts of unmitigated discharge on the environment
- B. Potential impacts on natural and biological resources
- C. Potential human impacts:
  1. Positive: Employment, services, economic opportunities
  2. Negative: Resettlement and economic displacement
- D. Potential occupational health and safety hazards
- E. Potential for major safety and health hazards beyond the workplace

##### V. Proposed Environmental Prevention and Mitigation Measures (including a thorough discussion of alternatives and justifications for measures selected)

- A. Waste minimization measures
- B. Waste treatment and disposal measures
- C. Natural resource management (e.g. sustainable management of biological resources and protection of endangered species and their habitats)
- D. Mitigation of human impacts: compensation, training, etc.
- E. Occupational safety and health measures
- F. Major hazard prevention and emergency response

##### VI. Projected Net Environmental Impacts (post-mitigation)

- A. Physical impacts (e.g., topography, ground and surface water supply, soil conservation)
- B. Biological impacts (flora, fauna and related habitat with particular attention to threatened and endangered species; natural resources, e.g. primary forests, coral reefs, mangroves, etc.)
- C. Net discharges of airborne, liquid and solid wastes and resulting ambient impacts as compared to applicable host country, World Bank and other relevant regulatory standards and guidelines
- D. Net exposures by workers to safety and health hazards
- E. Net potential for major hazards

F. Consistency with applicable international agreements

##### VII. Appendices

- A. Permits issued and pending from environmental authorities
- B. Author information
  1. Names, affiliations and qualifications of project team
  2. Relationship of authors to project sponsors
- C. Record of meetings held as part of EIA, including public hearings and consultations with government and non-governmental organizations
- D. Reference bibliography
- E. Technical data not included in text

#### Appendix C—Recommended Content and Format for Environmental Management and Monitoring Plan

##### I. Applicable Regulatory Standards and Guidelines

- A. Host country laws and regulations
- B. Sponsor, investor, lender and insurance requirements
- C. International agreements

##### II. Environmental Management Measures

- A. Potential impacts and corresponding preventive and mitigative measures
- B. Equipment specifications for preventive and mitigative measures
- C. Operational and maintenance procedures

##### III. Organizational Responsibilities and Management Issues

- A. Operations
- B. Supervision
- C. Internal enforcement
- D. Monitoring
- E. Remedial actions

##### IV. Training Requirements

##### V. Monitoring and Reporting Procedures

- A. Parameters to be monitored
  1. airborne emissions and corresponding ambient air impacts
  2. liquid effluents and corresponding ambient impacts on receiving waters
  3. Physical impacts
  4. Natural resource and biological impacts
  5. Human impacts
  6. Workplace conditions
    - (a) Accident frequency and severity
    - (b) Worker exposures to hazardous substances
  7. Impacts of dedicated offsite infrastructure and facilities
- B. Frequency of monitoring
- C. Monitoring techniques and procedures
  1. Equipment and instrumentation
  2. Quality assurance/quality control (QA/QC) procedures
  3. Personnel and training requirements
  - D. Reporting procedures
    1. Internal
    2. External (e.g. to local authorities)

#### Appendix D—Recommended Content and Format For Environmental Audit

##### I. Executive Summary

- A. Environmental, safety and health areas of concern
- B. Recommended mitigation measures/enhancement opportunities: priorities
- C. Implementation schedule

##### II. Project Description

- A. Location

- B. Past operations history
  - C. Current operations
  - III. Applicable Regulations and Guidelines
  - IV. Audit Procedure (protocol)
    - A. Historical research
    - B. Records review
    - C. Interviews
    - D. Site inspections
    - E. Sampling and analysis (quality assurance and control) procedures
  - V. Review of Environmental Management
    - A. Environmental management structure
    - B. Emergency, security and safety plans
    - C. Company-community interaction program
    - D. Handling of complaints and media coverage
  - VI. Environmental Impacts
    - A. Air emissions
    - B. Liquid effluents
    - C. Solid (non-hazardous) waste treatment
    - D. Hazardous materials and management
    - E. Noise and vibration
    - F. Groundwater and soil contamination
  - VII. Occupational Safety and Health
    - A. Summary of accident reporting, recording and investigation
    - B. Health and safety management
    - C. Site safety procedures
    - D. Medical monitoring program
    - E. Air quality
    - F. Noise level exposure
    - G. Chemical/material handling
    - H. Temperature exposure
    - I. Personal protective equipment
    - J. Emergency response capability
    - K. Fire protection
    - L. Training programs
  - VIII. Conclusions
  - IX. Mitigation Recommendations
    - A. Identify appropriate measures
    - B. Priorities
    - C. Implementation schedule
  - X. Environmental Enhancement Opportunities
    - A. Energy and energy conservation
    - B. Waste minimization
    - C. Cleaner technology initiatives
    - D. Training programs
  - XI. Annexes
    - A. Names of those responsible for preparing audit
    - B. Written material references used
    - C. Records of consultations
    - D. Other data
- Audit checklists for specific industry sectors are available from OPIC.
- Appendix E— Category A: Projects Requiring Environmental Impact Assessment
- I. Industrial Categories
    - A. Large-scale industrial plants
    - B. Industrial estates
    - C. Crude oil refineries
    - D. Large thermal power projects (200 megawatts or more)
    - E. Major installations for initial smelting of cast iron and steel and production of non-ferrous metals
    - F. Chemicals
      - 1. Manufacture and transportation of pesticides
      - 2. Manufacture and transportation of hazardous or toxic chemicals or other materials
  - G. All projects which pose potential serious occupational or health risks
  - H. Transportation infrastructure
    - 1. Roadways
    - 2. Railroads
    - 3. Airports (runway length of 2,100 meters or more)
    - 4. Large port and harbor developments
    - 5. Inland waterways and ports that permit passage of vessels of over 1,350 tons
  - I. Major oil and gas developments
  - J. Oil and gas pipelines
  - K. Disposal of toxic or dangerous wastes
    - 1. Incineration
    - 2. Chemical treatment
  - L. Landfills
  - M. Large dams and reservoirs
  - N. Pulp and paper manufacturing
  - O. Mining
  - P. Offshore hydrocarbon production
  - Q. Major storage of petroleum, petrochemical and chemical products
  - R. Forestry/large-scale logging
  - S. Large-scale wastewater treatment
  - T. Domestic solid waste processing facilities
  - U. Large-scale tourism development
  - V. Large-scale power transmission
  - W. Large-scale reclamation
  - X. Large-scale agriculture involving the intensification or development of previously undisturbed land
  - Y. All projects with potentially major impacts on people or serious socioeconomic concerns
  - II. Projects in, or Sufficiently Near Sensitive Locations of National or Regional Importance, to Have Perceptible Environmental Effects on:
    - A. National parks
    - B. Wetlands
    - C. Areas of archeological significance
    - D. Areas prone to erosion and/or desertification
    - E. Areas of importance to ethnic groups/indigenous peoples
    - F. Natural forests
    - G. Protected wildlands
    - H. Nationally designated refuges
    - I. Coral reefs
    - J. Mangrove swamps
    - K. Nationally designated seashore areas
    - L. Endangered species habitat
    - M. Properties on the World Heritage List
- Appendix F—Index of World Bank and U.S. Export-Import Bank Environmental, Health and Safety Guidelines
- I. Guidelines: Impacts
    - A. Air quality (Exim, WB 94, WB pending)
      - 1. Sulfur dioxide
        - (a) Ambient levels (WB 88)
        - (b) Emissions standards (WB 88)
        - (c) Sampling and analysis (WB 88)
        - (d) Sulfur oxides (WB 95)
      - 2. Airborne particulates (WB 95)
        - (a) Dust emissions (WB 88)
        - (b) Electrostatic precipitators (WB 88)
      - 3. Nitrogen oxides (WB 95)
        - (a) Emissions (WB 88)
        - (b) Sampling and analysis (WB 88)
      - 4. Transboundary pollution (WB 91)
        - (a) Acid rain (WB pending)
      - 5. Airshed modeling (WB pending)
      - 6. Emissions monitoring (WB pending)
      - 7. Elimination of ozone-depleting substances (WB 3/96)
  - B. Water use and quality (Exim)
    - 1. Irrigation and drainage (WB 88\*, 91)
    - 2. Water supply (WB 91)
  - C. Wastewater treatment (WB pending)
    - 1. Effluents, disposal of industrial wastes (WB 88)
    - 2. Wastewater collection, treatment, reuse and disposal (WB 91)
      - (a) Reuse (WB 94)
    - 3. Liquid effluents: land disposal and treatment (WB 88)
    - 4. Sludge treatment (WB pending)
  - D. Solid waste collection and disposal
  - E. Management of hazardous and toxic materials and waste (Exim, WB pending)
  - F. Occupational health
    - 1. General guidelines (WB 88)
    - 2. Safety (WB 88)
  - G. Sludge treatment (WB pending)
  - H. Site planning and management (WB 91, WB pending)
  - I. Hazardous materials management (WB 91)
    - 1. In small and medium scale industries (WB 85)
    - 2. Polychlorinated biphenyls (PCBs) (WB 94)
    - 3. Asbestos
      - (a) Sampling and analysis of airborne asbestos (WB 88)
      - (a) Use in manufacturing industries (WB 88)
  - J. Natural hazards (Exim, WB 91)
    - 1. Earthquake protection (WB 88, 93)
  - K. Major industrial hazards (WB 85, 91)
  - L. Socioeconomic and sociocultural effects (Exim)
    - 1. Core issues (WB 91)
    - 2. Induced development (WB 91)
    - 3. Ecologically sensitive areas (WB 91)
    - 4. Indigenous peoples (WB 91)
    - 5. Cultural property (WB 91)
    - 6. Cultural heritage in environmental assessment (WB 9/94)
  - M. Resettlement (WB 91, 94)
  - N. Wildland management (WB 91, 94)
  - O. Wetlands (WB 91)
  - P. Tropical forests (WB 91)
  - Q. Arid and semi-arid lands (WB 91)
  - R. Coastal zone management (WB 91)
  - S. Land and water resource management (WB 91)
  - T. Noise (Exim, WB 88)
  - U. International treaties and agreements (WB 91)
  - V. International waterways (WB 91)
  - W. Biological diversity (WB 91)
  - X. Secondary environmental effects (WB 88)
  - Y. Privatization (WB 4/94)
  - II. Guidelines: Industries
    - A. General industry and energy (Exim, WB 94)
      - 1. Small and medium scale industries (WB 91)
    - B. Heavy machinery (WB pending)
    - C. Cleaner production (WB pending)
    - D. Rehabilitation of old plants (WB pending)
    - E. Aluminum (WB 88, 88, WB pending)
    - F. Iron and steel (Exim, WB 88, 91, 94, 95)
      - 1. General considerations (WB 88)
      - 2. Blast furnaces (WB 88)
      - 3. Coke ovens (WB 88, 88)
      - 4. Ore preparation, sintering and pelletizing (WB 88)



environment and on humans dependent on that environment.

Environmental Audit (EAU)—assessment of environmental and related human impacts of pre-existing or ongoing activities.

Environmental Impact Assessment (EIA)—comprehensive analytical effort designed to anticipate environmental impacts of major projects having the potential to have significant, diverse and irreversible impacts on the natural environment and on humans dependent on that environment.

Environmental Impact Statement (EIS)—comprehensive analytical effort designed to anticipate environmental impacts of major federal actions affecting the global commons outside of the jurisdiction of any nation.

Environmental Management and Monitoring Plan (EMMP)—systematic program designed to prevent, mitigate and monitor anticipated environmental and related human impacts of prospective and ongoing activities.

Environmental Remediation Plan (ENR)—systematic program designed to reverse adverse environmental impacts of previous activities at a site.

European Bank for Reconstruction and Development (EBRD)—multilateral development bank established in 1990 to assist in the economic, social and political development of Central and Eastern Europe and the New Independent States of the former Soviet Union. Other members include the European Community and the United States.

Export-Import Bank of the United States (Exim)—independent U.S. government agency that helps finance the overseas sales of U.S. goods and services.

Financial Intermediary (FI)—investment fund, bank, or other financial institution that lends directly to projects or investment funds guaranteed or insured by OPIC that invest in projects ("subprojects") subject to OPIC approval on policy grounds.

Foreign Assistance Act (FAA)—Foreign Assistance Act of the United States International Finance Corporation (IFC)—affiliate of the World Bank group that makes loans to and investments in private sector projects in developing countries and emerging markets.

ISO 14000—basic elements of an effective environmental management system as developed by the Technical Committee of the International Standards Organization to provide organizations worldwide with a common approach to environmental management.

Major Hazard Assessment (MHA)—analytical tool used for identifying, analyzing and controlling potential major hazards to human health and safety resulting from storage and processing of toxic and hazardous substances.

World Bank (WB)—International Bank for Reconstruction and Development.

Dated: March 31, 1997.

James Offutt,

Assistant General Counsel, Administrative Affairs.

[FR Doc. 97-2874 Filed 2-5-97; 8:45 am]

BILLING CODE 3210-01-P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed consent decree in *United States v. Atlas Foundry Company, Inc., et al.*, Civil Action No. 1:97 CV 0015, was lodged on January 16, 1997, with the United States District Court for the Northern District of Indiana. The consent decree settles an action brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, ("CERCLA") for the recovery of past costs incurred by the United States in responding to a release or threat of release of hazardous substances at the Marion/Bragg Landfill Superfund Site in Grant County, Indiana (the "Site"). Under the terms of the proposed decree, the settling defendants will pay the United States \$750,000 in settlement of the United States' past costs claims against them.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Atlas Foundry Company, Inc., et al.*, DOJ Ref. #90-11-3-251A.

The proposed consent decree may be examined at the Office of the United States Attorney for the Northern District of Indiana, Fort Wayne Division, 1300 South Harrison Street, Room 3128, Fort Wayne, Indiana, 46802; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97-2904 Filed 2-5-97; 8:45 am]

BILLING CODE 4410-15-M

### Notice of Lodging of Consent Decree and Settlement Agreement Pursuant to the Clean Air Act

In accordance with the Clean Air Act, 42 U.S.C. § 7413(g) and Departmental Policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree and proposed Settlement Agreement in *Concerned Citizens for Nuclear Safety, Inc. & Patrick Jerome Chavez v. United States Department of Energy & Siegfried S. Hecker*, Civil No. 94-1039 M (D.N.M.), were lodged with the United States District Court for the District of New Mexico on January 14, 1997. Final approval and entry of the proposed Consent Decree and final approval of the Settlement Agreement are subject to the requirements of section 113(g) of the Clean Air Act, 42 U.S.C. § 7413(g), and the provisions of 28 C.F.R. § 50.7.

The Consent Decree and Settlement Agreement resolve allegations that the Los Alamos National Laboratory ("LANL"), located in Los Alamos, New Mexico, was not in full compliance with the national emission standard for radionuclides, as set forth at 40 C.F.R. §§ 61.90-61.97 ("Subpart H"). Under the proposed Consent Decree, the U.S. Department of Energy would be required to contract for, fund and facilitate performance of comprehensive independent technical audits described in the Consent Decree, operate additional AIRNET stations, add thermoluminescent dosimeters to detect gamma and thermal neutron emissions, and to make a payment of \$150,000 to the U.S. Treasury. The proposed Settlement Agreement would require, in part, the U.S. Department of Energy to fund a program at the University of New Mexico and to conduct radiation education training for the community.

The Department of Justice will receive written comments relating to the proposed Consent Decree and Settlement Agreement for a period of 30 days from the date of publication of this notice. Comments should be addressed to Alan D. Greenberg, U.S. Department of Justice, Environmental Defense Section, 999 18th Street, Suite 945, Denver, CO 80202, should refer to *Concerned Citizens for Nuclear Safety, Inc. & Patrick Jerome Chavez v. United States Department of Energy & Siegfried S. Hecker*, Civil No. 94-1039 M (D.N.M.), and should also make reference to DJ# 90-5-2-1-1749A.

The proposed Consent Decree and Settlement Agreement may be examined at the Clerk's Office, United States District Court for the District of New Mexico, 500 Gold Avenue, 10th Floor, Albuquerque, NM 87102 or at the Los Alamos National Laboratory Reading