

California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards; whether California needs state standards to meet compelling and extraordinary conditions; and whether California's standards and accompanying enforcement procedures are consistent with section 209.

California determined that its standards and test procedures would not cause California emission standards, in the aggregate, to be less protective of public health and welfare as the applicable Federal standards. I was not presented with any information opposing California's authorization request or demonstrating that California arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find California's determination to be arbitrary or capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle pollution control program. In addition, CARB provided information regarding actions taken by the California Legislature in an effort to address the current air quality conditions in California, directing CARB to consider adopting regulations for off-road engines. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Based on previous showings by California in the context of motor vehicle waivers and CARB's submission to the record regarding the status of air quality in the state, I agree that compelling and extraordinary conditions warrant the need in California for separate standards for heavy-duty off-road diesel cycle engines. Thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that the requirements of its emission standards and test procedures are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 209 of the Act.

The one issue of inconsistent test procedures was resolved. For the test procedure for hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x), EPA has more stringent test specifications such that EPA cannot be certain that if an engine were tested and met the California test

specifications, that it would definitely meet the EPA test specifications. It is clear, on the other hand, that an engine that passed the EPA test specifications could definitely be deemed to have passed the CARB test specifications. CARB presented a letter to EPA dated January 21, 1995, which resolved this issue.³ The letter stated that "tests properly conducted by the manufacturer, according to the U.S. EPA procedure, will be considered valid for purposes of California certification, quality-audit, and new engine compliance testing." Thus, the manufacturer will be able to accomplish both Federal and California certification requirements with one test and the test procedure tier of the consistency criterion is met.

The Agency received no comments regarding this issue. Since both California and Federal certification requirements can be met with the same test vehicle in the course of a single test, test procedure inconsistency is not a bar to California to obtaining authorization by EPA to adopt and enforce California regulations. Thus, based on the foregoing information, I cannot find that California's standards and accompanying enforcement procedures are inconsistent with section 209 of the Act.

The Agency received written comment from the United States Department of Defense expressing concern that CARB's emission standards will have a major impact on military operations in California. As further explained in the decision document for this authorization, EPA expects CARB to adequately address this concern by adopting regulatory language to closely parallel the national security exemption provisions promulgated by EPA.

Accordingly, I cannot make the determinations required for a denial of this authorization under section 209(e) of the Act, and therefore, I authorize the State of California to enforce these regulations.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce nonroad equipment engines for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of

Columbia Circuit. Petitions for review must be filed by November 20, 1995. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver and authorization decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to make determinations regarding waivers of Federal preemption under section 209(e) of the Act to the Assistant Administrator for Air and Radiation.

Dated: September 15, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

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[FRL-5300-2]

Border Environment Cooperation Commission Guidelines

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Notice.

SUMMARY: This notice announces the availability of the BECC Guidelines for Project Submission and Criteria for Project Certification document to the public.

FOR FURTHER INFORMATION OR A COPY

CONTACT: April Lander, Manager-Environmental Program, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, TX 79913, tel. (011-52-16) 29-23-95, fax (011-52-16) 29-23-97, Email becc1@itsnet.com.

SUPPLEMENTARY INFORMATION: A report to the public discussing BECC responses to public comment is also available to the public. For further information or a copy contact April Lander, H. Roger Frauenfelder, General Manager, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, TX 79913.

³ Letter to Charles N. Freed, EPA from K.D. Drachand, CARB dated January 21, 1995. Docket A-94-44 II-D-3.

Dated: September 11, 1995.

H. Roger Frauenfelder,
General Manager.

BECC Guidelines for Project Submission and Criteria for Project Certification

I. Authority

These guidelines and criteria are adopted under the authority of the November 1993 Agreement Between the Government of the United States of America (U.S.) and the Government of the United Mexican States (Mexico) Concerning the Establishment of a Border Environment Cooperation Commission (BECC) and a North American Development Bank (NADBank) (Agreement) which authorizes the BECC Board of Directors (Board) to determine its general operational and structural policies as may be necessary or appropriate to conduct BECC business.

II. Program Purpose

The purpose of BECC is to help preserve, protect, and enhance the environment of the border region in order to advance the well-being of the people of the United States and Mexico and achieve sustainable development. In carrying out this purpose, BECC will cooperate as appropriate with the NADBank and other national and international institutions, and with private sources supplying capital for environmental infrastructure projects in the border region.

III. Program Scope

In carrying out its purpose, BECC will: (1) assist states and localities and other public entities, and private investors in (A) coordinating, preparing, developing, implementing, and overseeing environmental infrastructure projects; (B) assisting with planning, design, construction management, operation and maintenance; (C) providing technical assistance to applicants in the development of proposals, project feasibility planning, engineering design, and environmental assessments; (D) assessing the technical and financial feasibility of projects; (E) evaluating social, environmental, and economic benefits of projects; (F) organizing, developing, and arranging public and private financing for projects; (G) assisting with the development of a comprehensive public outreach and participation plan, and (2) certify projects for financing by the NADBank or other sources.

Projects located within 100 km (62 miles) on either side of the U.S./Mexico border may be considered for

certification. Projects outside this region may be considered for certification only if the BECC, with concurrence of the U.S. Environmental Protection Agency (EPA) and the Mexican Secretaria de Desarrollo Social, find the project would remedy an environmental or health problem within the 100 km (62 mile) area.

In certifying projects, or in providing technical assistance, BECC shall give preference to projects relating to:

- (a) water pollution,
- (b) wastewater treatment,
- (c) municipal solid waste management, and
- (d) related matters.

Potential water pollution projects could include, but are not limited to:

- (a) potable water treatment,
- (b) water supply systems,
- (c) water pollution prevention, and
- (d) projects to improve or restore the quality of water resources.

Potential wastewater treatment projects could include, but are not limited to:

- (a) wastewater collection systems,
- (b) wastewater treatment plants,
- (c) water reuse systems, and
- (d) systems for treatment and beneficial use of sludge.

Potential municipal solid waste projects could include, but are not limited to:

- (a) landfills,
- (b) solid waste collection and disposal, and
- (c) reuse, recycling, or waste-to-energy projects.

Related projects include projects which in some way directly or indirectly correspond to the three priority areas described above. Interpretation of this term will be at the discretion of the BECC Board of Directors on a case-by-case basis.

The BECC acknowledges the importance of the environmental goals and objectives embodied in the following international agreements: Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area (La Paz Agreement) the North American Free Trade Agreement (NAFTA), and the North American Agreement on Environmental Cooperation as well as other agreements undertaken by the United States or Mexico.

IV. Definition of Terms

Advisory Council. Advisory Council of the BECC. The Council has eighteen members, nine from the United States and nine from Mexico. The Council may provide advice to the Board of Directors or the General Manager on any matter within the scope of BECC functions,

including certifications, and may perform such other functions as directed by the BECC Board of Directors. The BECC shall consult with the Council regarding community participation and requests for technical assistance.

Agreement. Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank dated November 1993.

Applicant. States and localities, other public entities, and private investors which submit proposals for certificates or technical assistance to the BECC. Applicants may include individuals, non-profit organizations, and non-governmental organizations.

Appropriate Technology. Technology which closely matches the level of technology used with the ability of the local user to operate and maintain the system without creating dependency on high levels of resource inputs from outside the community and without adding significant stress to the environment or the social fabric of the community.

Board of Directors. Board of Directors of the BECC. The Board has ten directors, five from the United States and five from Mexico. The Board determines general operational and structural policies for the BECC, evaluates projects and certifies qualified projects pursuant to the Agreement.

Certification. The approval of the BECC Board of Directors that an environmental infrastructure project meets the criteria for certification as described in the Agreement and in this document.

Community Participation. Active and interactive involvement by individuals or groups who reside in an affected community, or other representatives officially designated by the affected community, who can represent the community's interest in decision-making during the project life cycle.

Cultural Resources. Historical, archeological, and ethnic resources, both past and present.

Environmental Infrastructure Project. A project that will prevent, control, or reduce environmental pollutants, improve the drinking water supply, or protect flora and fauna so as to improve human health, promote sustainable development, or contribute to a higher quality of life.

General Manager. General Manager of the BECC.

Impacts. Potential and actual environmental, social, and economic effects of project development and

implementation. Impacts may be adverse or beneficial.

Life Cycle Cost. Cost of the entire project from beginning to end, including planning, construction, operations and maintenance phases. Includes purchase of land, site restoration, and post-closure maintenance whenever applicable.

Mitigation. Avoidance of negative impacts by not taking an action and/or the minimization of impacts by limiting the degree or magnitude of the action.

Municipal Solid Wastes. Domestic and commercial non-hazardous waste accumulated by a community.

Natural Resources. Flora, fauna, minerals, soil, surface water, groundwater, wetlands, and air.

Project Life Cycle. Planning, development, construction, operation, closure, and post-closure phases of a project.

Sustainable Development. Development which meets the needs of the current generation without compromising the needs of future generations to meet their own needs (Brundtland Report: Our Common Future, World Commission on Environment and Development, 1987, p. 43).

User Fees. Fees paid by users of the infrastructure projects.

Wastewater Treatment. Pre-treatment, primary, secondary, or tertiary treatment of a polluted liquid of diverse composition coming from domestic, industrial, commercial, agricultural, livestock waste, or other sources.

Water Pollution. Presence of one or more contaminants in the environment which damage or degrade the quality of water resources.

V. Technical Assistance Proposal Submission Procedures

Requests for technical assistance for development of proposals, planning and project feasibility, including community involvement in the process and engineering design studies, and environmental assessments may be submitted at any time to the General Manager with the Step I Project Pre-Proposal Submission Form. Funds for technical assistance in the form of direct grants are limited but BECC is working on a revolving fund to enable initial grants for planning which would then be paid back as part of the overall loan package if the project is certified by BECC and financed by NADBank. A technical assistance guide will be developed with public input to help potentially eligible project applicants in this process. Also, BECC staff is available to assist with general proposal guidance. BECC will give technical

assistance priority to communities which have the least available resources for project development.

VI. Project Proposal Submission Procedures

A. Preapplication Communication

Prior to project submission, project originators are highly encouraged to meet or communicate with BECC staff to establish fundamental eligibility of the proposed project and to be briefed on the two step BECC project submission process and the BECC technical assistance program.

B. Step I: Project Pre-Proposal Submission Process

Step I is a preliminary stage in the project proposal submission process to be completed prior to the comprehensive project proposal as described in Step II: Project Proposal Submission Process. Step I involves completion of a simple form describing the project's basic parameters. These parameters will be used to establish initial project conformance with BECC objectives and will indicate the applicant's need for technical assistance. The Step I: Project Pre-Proposal Form may be submitted at any time to the General Manager of the BECC. After positive review of Step I, the Applicant may submit Step II. Applicants will be sent a letter acknowledging receipt of Step I within 30 days.

The project information requested on the Step I Form includes the project title, project type, project sponsor information, and contractor, if known. Additionally, general project information is requested such as project location and type of technical assistance needed. Furthermore, information describing the project and project planning information is requested. In the case that not all information requested is available, please indicate that you are in the process of developing this information and include the approximate date this information will be provided to the BECC. The Step I Form is provided at the end of this document.

C. Step II: Project Proposal Submission Process

Step II of the project submission process may be undertaken after completion of the Step I Form. Step II involves provision of detailed project proposal information, based upon the proper engineering, environmental, economic, financial and social studies, to the BECC in the following areas:

(1) general project description,

(2) environment and human health,
(3) technical feasibility,
(4) economic and financial feasibility,
(5) social issues,
(6) community participation,
(7) operation and maintenance, and
(8) sustainable development.

Although it is not entirely necessary to have the final design of the project completed by the time that Step II is submitted, it is required that the process design is well advanced and a fairly good estimation of the total project cost is available, so that the NADBank can determine its funding feasibility. The greater the detail provided in the areas mentioned above, the easier it will be for the BECC staff to review and come up with a recommendation for certification to the Board of Directors.

The proposed project must meet fundamental BECC criteria for certification. The project Applicant should not only provide as much information as possible on each of the above areas, but should describe and fully justify all of the components involved in the project, especially those related to the different fundamental criteria that appear in the following sections. Applicants will be sent a letter acknowledging receipt of Step II within 30 days.

The BECC requests the project information be submitted in the same order and using the same alphanumeric system as in this document, in order to make the document easier to review and speed-up the certification process.

VII. Project Certification Criteria

Each of the following eight categories of fundamental criteria must be satisfactorily met in order for projects to obtain BECC certification. The BECC Board of Directors, with advice from the BECC Advisory Council, will make the final decision on project certification. Certification will formally document the project's compliance, or ability to comply, with the fundamental criteria prior to submission to NADBank, or other financing sources. Certification by BECC is not a guarantee that NADBank will approve the project for financing; however, once certified, BECC will work with project applicants to obtain financing for the project.

1. General Project Description

Information Requested

a. Project Applicant's. Provide information, that has changed from the Step I form, including, lead organization, all co-applicants, and contractor information, if applicable. Information should include lead contact persons, addresses, phone numbers, fax

numbers, and Email addresses. Additionally, provide history of cooperation between applicants, if applicable. Provide evidence of financial responsibility and performance history of company contracted for the project, if applicable.

b. Project Location.

i. Describe the geographical location of the project and provide a site location map as well as a regional map showing the site location. Also, describe the area of project impact as specifically as possible. If possible, use a scale of 1:24000 for regional area maps and of 1:2400 for project site maps. Provide Geographic Information System (GIS) maps or overlays, if available.

ii. Describe the suitability of the proposed site, identifying such factors as the existence and capacity of available infrastructure, natural resources, etc.

c. Environmental Issue. Describe the environmental condition or issue to be addressed by the project and the activities taken in response to the environmental condition that led up to the proposed project. If available, include preliminary reports.

d. Project Alternatives. Describe the analysis of alternatives considered to address the environmental and or health issues.

e. Project Justification. Justify aspects which make project implementation necessary, including the consequences of not implementing the project. Explain why the proposed project is the best alternative to solve the problem. Describe the net environmental benefit to be achieved by the project both onsite and overall. Discuss project strengths and weaknesses and available resources to overcome the weaknesses. Provide relevant health statistics, environmental monitoring results, or other materials, if available, documenting the justification.

f. Transboundary Aspects. Discuss difficulties and opportunities, if any, created by projects which are located in and/or impact both the United States and Mexico. Explain how these difficulties might be resolved or opportunities taken. Consider applicable international agreements.

g. Project Work Tasks. Provide a detailed list of project work tasks through construction. List who will complete the task, the cost of each task, and a time schedule for each task.

Fundamental BECC Criteria

a. Project Location. The project must be located within 100 km (62 miles) of the U.S./Mexican border or has been found by the BECC, in concurrence with the U.S. Environmental Protection Agency and the Mexican Secretaria de

Desarrollo Social, to remedy a transboundary environment or health issue.

b. Project Work Tasks. Project work tasks and budget estimates by task must be reasonable, in order to complete project as planned by the Applicant.

2. *Environment and Human Health*

The goal of BECC is to help preserve, protect, and enhance the environment in a sustainable manner in order to improve the quality of life in the U.S./ Mexico border region. The applicant should ensure that negative environmental impacts of the project have been avoided to the extent reasonably possible. Those negative impacts that are unavoidable should have been identified and considered in the project evaluation process, and the Applicant must ensure that appropriate safeguards have been included in the project for potential impacts which could cause damage to the environment and human health. All projects, once completed, must be in compliance with applicable local, regional, state, and federal laws, rules, standards and applicable international agreements.

Information Requested

a. Documentation of Environmental Regulatory Compliance. Project applicants must coordinate with appropriate local, regional, state, and federal agencies, as early in the project planning process as possible, to identify all environmental impacts to natural resources. Applicants must demonstrate that the project will meet all applicable environmental regulations once the project is constructed, although all permits may not be completed at the time of BECC certification. Such a project may be certified by BECC on the condition that all environmental authorizations are obtained prior to construction. Applicants must identify for the BECC all environmental and regulatory authorizations that are required for completion of the project and demonstrate that the project is capable of meeting those regulatory requirements.

i. Describe environmental action required, including no action, regulatory organization requiring the action, proof of action completed or proof of approval for method to complete the action in the future, and contact person.

ii. List required authorizations (i.e. permits, licenses, etc.), regulatory organization providing authorizations, date authorizations approved or anticipated, status of authorization or proof of authorization approval, and contact person. Such information

should include the appropriate environmental standards to be met.

iii. Provide copies of all documents submitted to regulatory agencies to BECC at the time of application, and all future documentation when available.

iv. Identify any environmental issues not already addressed in i.-iii. that may be affected by project development.

v. Provide environmental baseline studies and other environmental or health reports, if available. If not available, describe gaps in the environmental impact information.

b. Conformance with Local and Regional Conservation and Development Plans. Projects submitted to the BECC must conform with local and regional plans as well as land use and zoning regulations.

i. List applicable local and regional plans and regulations, agency (or agencies) with authority, and contact person.

ii. Describe how the project addresses or will address the plans and regulations.

c. Environmental Assessment. Every Applicant must submit an environmental assessment before the project may be considered for certification. On a case-by-case basis the BECC may certify a project before the assessment is "final" according to applicable environmental law. In such instances, the BECC may condition the certification upon successful completion of the assessment.

i. The assessment should include an analysis of a full range of project alternatives, including implications of not implementing the project, as well as justification for the alternative chosen. Additionally, it should include a discussion on indirect, cumulative, and short, medium, and long-term positive and negative impacts on biological diversity, ecosystem integrity, sensitive environmental habitats, and human health. If negative impacts are unavoidable describe actions to be taken to mitigate these impact. Furthermore, provide an overview of environmental risks and costs, environmental standards and objectives of the affected area, and appropriate additional information which has not already been described in documents provided to the BECC.

ii. Each assessment must include a discussion on transboundary effects. If the project is located in and/or impacts both the United States and Mexico, the assessment should include a discussion on possible effects in both countries. If the project is located in only one country it should include a discussion of possible impacts on the other country.

Fundamental BECC Criteria

a. Enhancement of Environment and Human Health. All projects must address a critical human health and/or environmental need.

b. Environmental Protection. Projects should achieve a high level of environmental protection for the affected area that results in a benefit to the environment or human health. Projects with negative impacts must provide actions to mitigate the impacts.

c. Compliance with Applicable Environmental Regulations. All projects certified by the BECC must demonstrate compliance with all applicable local, regional, state, and federal environmental regulations before project operations begin. The BECC may condition its certification upon the Applicant's ability to comply with applicable environmental regulations.

d. Environmental Assessment. Every Applicant must submit an environmental assessment before the project may be considered for certification. On a case-by-case basis, the BECC may certify a project before the assessment is "final" according to applicable domestic environmental laws. In such instances, the BECC may condition the certification upon successful completion of the assessment.

e. Conformance with Applicable Local and Regional Plans. All projects must address applicable local and regional plans as well as land use and zoning regulations.

f. Conformance with Applicable International Agreements. Projects must comply with applicable international agreements.

3. Technical Feasibility

BECC projects must utilize appropriate technology and provide a close match between the level of technology used and the ability of the local user to operate and maintain the system without creating dependency on high levels of resource inputs from outside the community and without adding significant stress to the environment or the social fabric of the community.

Information Requested

a. Project Specifications. It is necessary to include all technical aspects which justify the project, including a study of sensitivity analysis and a justification of the following factors, depending upon the type of project:

i. Water Supply. Growth analysis, both mid and long range for the proposed planning time frame; average

and peak daily consumption rate; characteristics of the production source, water quality analysis, water conservation program, pollution prevention program, description of the well-head protection program (for groundwater system, if any), transportation, and distribution infrastructure; type capacity of treatment and its efficiencies; estimate of design and construction costs, estimated annual operation, and maintenance costs; and any other information that will ensure a better understanding of the project.

ii. Wastewater Treatment. Quantity and quality of wastewater to be treated; industrial wastewater control program; projection of the wastewater volume for the proposed life of the project; design of collection system including pumping; design of treated wastewater discharge or reuse systems; analysis of treated wastewater quality; sludge treatment system, analysis of treated sludge and final disposal system; stormwater pollution prevention and treatment systems if applicable, and any other information that will ensure a better understanding of the project.

iii. Municipal Solid Waste. Projection of amounts of solid waste generated by the population for the proposal life of the project; source reduction, separation, treatment and recycling programs; areas of collection; description of operation efficiency; type and capability of proposed equipment; plan for treatment and disposal of household hazardous waste; recycling and waste stream reduction proposals; plan for the expansion, upgrade, or closure of landfills; incineration capabilities; composting capabilities; energy production capabilities; and any other information that will ensure a better understanding of the project.

b. Technical Process. Use of appropriate technologies known to be effective is encouraged. Criteria for selection and justification of the chosen technology should be included with emphasis on appropriateness to the community and efficiency of operation.

c. Quality Control Program. Submit the quality control plan for all aspects of the project. It should include contractor and equipment quality control and personnel training, as well as other quality control issues.

d. Investment Timetable. Submit the project financing plan and the required sequence to be followed in order to implement different stages of the project. Additionally, provide project development with a detailed description of stages, and activities necessary to reach the objectives in a timely and cost-effective manner. Include a bar

diagram showing the actions to be carried out, an investment schedule, stages of progress, cost and source of funds.

Fundamental BECC Criteria

a. Appropriate Technology. BECC will only certify projects which use appropriate technology and which are designed to be constructed, operated, and maintained in a cost-effective manner to achieve the project's purpose.

4. Economic and Financial Feasibility

BECC projects must show financial feasibility, considering that any NADBank financing will require loan repayment. Potential access to grants and the amount of owner equity will be key considerations in BECC's evaluation of financial feasibility.

Information Requested

Applicants are requested to submit financial information that allows the analysis of the project's future results. All projects must show with a reasonable assurance, based on sound assumptions, that their future performance is going to be financially successful regardless of the project's source of funds. Specifically, the applicant is requested to provide the following information:

a. Main Financial Information. This should include cash flow, balance sheet, income statement, and sources of financing. In case of an existing business, the financial information should cover the past five years.

b. Planning, Construction, Operations, and Maintenance Budget. The Budget should show fixed and variable costs as well as expected revenues during the investment recovery period. It should also include an analysis and characterization of anticipated income sources. If a user fee or other dedicated revenue source is to be established, the budget must state clearly how the system will be set up and what assurances there are that users will pay.

c. Sensitivity Analysis. Tests the impact on the results of the analysis from changes in one or more of the input variables.

d. Break-Even Analysis (Operational and financial). Determine the level of revenues at which the project will just recover fixed and variable costs.

e. Economic Benefits. Provide an analysis of the economic benefits of the project.

Fundamental BECC Criteria

a. Debt Coverage. Project revenues must be sufficient to cover debt amortization and operation and

maintenance costs with an appropriate safety margin.

5. Social Issues

The BECC recognizes the need to assess social issues which may affect the success of a project. A goal of BECC is to improve quality of life in the border zone.

Information Requested

a. General Information on the Community. Provide information on the size of the population based on the most recent census, population growth rate, and demographic information.

b. Description of Local Environmental Services. Provide information on the current availability of environmental services (i.e. water, wastewater, solid waste).

c. Potential Economic Impacts. Provide information on the number of people who will directly benefit if the project is implemented, as a percentage of the total population, and the number of people who would be affected directly and indirectly if the project is not implemented. Discuss the positive and negative impacts of the project on the community, including local employment, local economic development, social development (i.e. education, training, and institutional strengthening), quality of life, and other local issues.

d. Project Impacts on Cultural Resources. Provide information about project impacts on cultural resources including historical, archeological, and ethnic resources.

e. Other Project Impacts. Other predicted impacts on the local population (e.g. odors, noise, or visual impacts).

Fundamental BECC Criteria

a. Compliance with Applicable Cultural Resource Regulations. All projects certified by the BECC must comply with all appropriate cultural resource (i.e. historical, archeological, and ethnic) regulations.

6. Community Participation

In order to fulfill BECC's mission, each project submitted must demonstrate community acceptance. An interactive process has been developed to ensure meaningful community participation in the development and implementation of project proposals.

Information Requested

a. Comprehensive Community Participation Plan. Before a project may be certified, an Applicant must submit to the BECC a "Comprehensive Community Participation Plan" that

must be approved by BECC and implemented by the Applicant.

Each Comprehensive Community Participation Plan will vary with the specifics of each project and will be designed to meet the particular needs of the community where the project will be located. In each case, the Applicant must demonstrate how the public will be meaningfully engaged in project development and implementation.

Members of the BECC Board of Directors, Advisory Council, and staff will participate, where appropriate, in the implementation of this Comprehensive Plan to ensure compliance with the community participation criteria.

Each Comprehensive Community Participation Plan should contain at least the following essential components:

i. Local Steering Committee. The Applicant may develop a local steering committee made up of representatives from diverse organizations in the affected community (i.e. business, government, elected, education, academia, civic, non-profit, environment, etc.) to assist with all aspects of community participation. The steering committee may be made up of representatives from both countries if the proposed project is located in and/or impacts both the United States and Mexico.

The local steering committee may be responsible for developing detailed outreach activities, disseminating information about the project, engaging public participation in the process, developing public education and media campaigns, and soliciting public acceptance. The local steering committee may also be involved in developing the Comprehensive Community Participation Plan.

ii. Meetings with Local Organizations (Consultations). The Applicant must meet individually with local organizations affected by the project and provide information on and develop acceptance for the project (i.e. business, civic, community, neighborhood, environmental, academic, etc.).

iii. Public Meeting. Each Applicant must hold at least one public meeting in the community affected by the project. If the project affects more than one community, a public meeting should be held in each community.

The Applicant must comply with the following requirements of a BECC-approved public meeting:

(1) The Applicant must provide legal notice of a public meeting to include the date, time, place, and agenda at least 30 days prior to the meeting to the BECC, in the local newspaper, and other media

avenues, where appropriate. The legal notice must include an accessible location where the public may obtain the Applicant's project proposal and supporting documentation, in English and Spanish where appropriate, 30 days prior to the meeting.

(2) During the public meeting the Applicant must provide a briefing on the proposed project and hear public comments on the proposed project. The Applicant's project proposal and supporting documentation must be made available during the public meeting.

(3) The Applicant must record Minutes of the public meeting to include the names of the participants and comments made. The Minutes will serve as an official record of the meeting.

The public meeting may be conducted in conjunction with public meetings required to comply with existing state or federal environmental law as long as the state or federal agency agrees to such and the legal notice of a public meeting is written and published accordingly.

iv. Report to BECC. The Applicant must provide a written report to the BECC documenting the successful completion of the Comprehensive Community Participation Plan. The report must include supporting documentation including a list of local steering committee members and their activities related to the project, if applicable, a list of the local meetings conducted, a copy of the legal notice of the public meeting, the minutes from the public meeting, and other such documentation as to demonstrate the scope and success of the public participation plan. The report should convey that the community understands and accepts the project and the associated environmental, health, and social benefits and associated costs such as a tariff increase.

v. Post-Certification Participation Plan. The Applicant must develop a post-certification participation plan with a goal of achieving public awareness of and acceptance for the construction, operation, and maintenance of a facility during its life cycle.

Fundamental BECC Criteria

a. Comprehensive Community Participation Plan. Applicants must submit and implement a BECC-approved Community Participation Plan that will consist of meeting with local organizations conducting at least one publicly advertised public meeting, and may utilize a local steering committee.

b. Public Acceptance. The Comprehensive Community

Participation Plan report submitted to the BECC following implementation shall indicate the degree of public acceptance of the project.

7. Operation and Maintenance

It is important to detect and correct any shortcomings in operations at an early stage in order to reach planned operational efficiency levels as soon as possible.

Information Requested

- a. **Start-Up Operation Program.** Establish the sequence in which operation of the infrastructure will be initiated, as well as how any projected problems or defects in equipment or workmanship will be identified and corrected during the start-up phase.
- b. **Contingency Program.** Describe actions and corrective measures to be taken should a contingency program be needed during start-up and operational phases of the project.
- c. **Operation and Maintenance Program.** A well-defined long-term operation and maintenance program is necessary. Describe the system's operation and maintenance program to include training and certification of operators, training of maintenance personnel, and preparation of operation and maintenance instruction material. Also quantify funds reserved in project budget to ensure adequate support for operation and maintenance program.
- d. **Safety Program.** An operational safety program should be an integral part of the operation and maintenance program.
- e. **Pollution Prevention Plan.** Projects having a potential for release of pollutants must submit a pollution prevention plan identifying pollutants of concern generated during operation, actions that will be taken to prevent or reduce their release, including projected year to year improvements during the life of the facility.
- f. **Closure and Post-Closure Plan for Landfills.** Submit a closure and post-closure plan which describes how waste resulting from the closure of the facility will be treated and disposed of, and how the site will be monitored after closure.

Fundamental BECC Criteria

- a. **Operation and Maintenance Program.** Project documents must include an operation and maintenance program, including an effective program for emergency planning, an occupational health and safety plan, training plan for operation and maintenance personnel, and where applicable, a pollution prevention plan,

facility closure plan, and post-closure plan.

8. Sustainable Development

Sustainable development is that which meets the needs of the present without compromising the ability of future generations to meet their own needs. The BECC adheres to this definition and the following sustainable development principles:

Principle 1. Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature;

Principle 2. The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations; and

Principle 3. In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Information Requested

Much of the information related to a project's contribution to sustainable development will have been provided under previous headings including environment and human health; technical feasibility; economic and financial feasibility; social issues; community participation; and operation and maintenance. A proposed project may, however, have characteristics contributing to sustainable development that are not fully described under those headings. Examples of such characteristics are described below under the headings: conservation of natural resources, energy efficiency, natural resource preservation, capacity building, and benefits for low income communities.

Applicants should provide as much information as possible about any additional development characteristics of their projects not described under prior headings in order to maximize their chances of attracting funding from sources particularly concerned with sustainable development. In particular, there are a number of foundations that may be willing to make grants in support of projects that exhibit additional sustainable development characteristics such as those described below.

In its certification documents, BECC will give explicit recognition to those projects that incorporate a large number of sustainable development characteristics (including, but not limited to, the following examples) that go beyond the minimum requirements

of the fundamental sustainable development criteria and effectively promote sustainable development.

Fundamental BECC Criteria

- a. **Principles.** Projects must adhere to the principles of sustainable development set forth above.
- b. **Institutional and Human Capacity Building.** Projects must demonstrate and strengthen the ability of the community for long-term support and maintenance, including measures to build human and institutional capacities.

Examples of Project Characteristics that Contribute to Sustainable Development

Natural Resource Management

- a. **Ecosystem Management.** Projects that adopt a comprehensive approach to natural resource management and environmental protection by implementing ecosystem management.
- b. **Source Reduction.** Projects that reduce the amount of pollution per unit of economic activity through more efficient use of inputs and/or superior technology.
- c. **Recycling.** Projects that recycle residuals to the production of saleable products.
- d. **Project Life Cycle Planning.** Projects that combine source reduction and recycling into an overall product life cycle approach that minimizes residuals.

Technical Efficiency

- a. **Project Life Cycle Cost.** Projects that are designed to lower their life cycle cost by reducing inputs of energy, equipment, maintenance, and other resources.
- b. **Energy Production Efficiency.** Projects that increase the efficiency of energy production (i.e., more efficient turbines).
- c. **Energy End-Use Efficiency.** Projects that increase the efficiency of energy end use (i.e. better insulation, energy efficient lighting, variable speed motors).

Natural Resource Preservation

- a. **Habitat Preservation or Enhancement.** Projects that preserve or enhance a wildlife habitat such as wetlands used by migratory birds or a forest inhabited by an endangered species.
- b. **Creation or Improvement of Parks or Reserves.** Projects that create or improve the quality of parks, reserves, or other areas where people can enjoy nature.

Environmental Protection

- a. **Prevention and Compliance.** Projects that implement an effective

pollution-prevention program and implement an effective environmental compliance program.

Benefits to Low-Income Residents

a. Jobs. Projects that provide additional long-term job opportunities to low-income residents.

b. Better Environmental or Health Services. Projects that improve the quality of environmental or health services (i.e. clean drinking water in low-income communities).

c. Other Community Enhancements. Projects that provide new recreational,

educational, or other community development benefits.

Community Participation

a. Education Program. Projects that include an environmental education program directed at schools, civic organizations, and other institutions.

b. Post-Certification Participation Plan. Projects that present an effective post-certification plan with a goal of achieving public awareness.

VII. Project Certification

After review of the proposed project, BECC staff will make a determination on whether to recommend certification of

the project to the Board of Directors, based on the fundamental criteria described in this document. The BECC should be involved in local public meetings on the projects under consideration prior to certification in order to achieve a higher level of appreciation for public acceptance. The Board will certify projects during its scheduled public meetings. Projects certified by the Board will be submitted as a proposal for financing to the NADBank or to other sources of funding a appropriate. Project certification does not guarantee financing by the NADBank or by other sources.

BECC

BORDER ENVIRONMENT COOPERATION COMMISSION

STEP 1

FORM FOR PRESENTING PROJECTS FOR CERTIFICATION

Date of Submittal to the BECC _____
Date of Receipt of BECC _____

NAME AND TYPE OF PROJECT

1. NAME OF THE PROJECT:

2. TYPE OF PROJECT:

- A. ___ Water Supply.
- B. ___ Wastewater Treatment.
- C. ___ Solid Waste Management.
- D. ___ Other Related Projects.

PRIMARY APPLICANT INFORMATION

3. NAME OF THE ORGANIZATION: _____
Name of Contact Person: _____
Position: _____
Address: _____
City: _____ State: _____ ZIP CODE: _____
Phone No.: _____ Fax: _____
E-mail Address: _____

CO-APPLICANT INFORMATION (IF APPLICABLE)

4. NAME OF THE ORGANIZATION: _____
Name of Contact Person: _____
Position: _____
Address: _____
City: _____ State: _____ ZIP CODE: _____
Phone No.: _____ Fax: _____
E-mail Address: _____

CONTRACTOR INFORMATION (IF APPLICABLE)

5. NAME OF THE FIRM: _____
Name of Contact Person: _____
Position: _____
Address: _____
City: _____ State: _____ ZIP CODE: _____
Phone No.: _____ Fax: _____
E-mail Address: _____

GENERAL PROJECT INFORMATION

6. LOCATION OF PROJECT SITE: Mexico _____ U.S.A. _____
7. NEAREST City: _____ State: _____
8. DISTANCE FROM NEAREST City (in miles): _____
9. POPULATION OF NEAREST CITY: _____
10. POPULATION BENEFITED: _____
11. IS PROJECT WITHIN THE BORDER REGION? (62 mi either side) Yes ___ No ___
12. IF THE ANSWER TO QUESTION 11 IS NO: HOW does the Project Affect the Border Region?: _____

13. TYPE OF PROJECT: NEW SYSTEM, EXPANSION OR REHABILITATION OF CURRENT ONE?:
New _____ Expansion _____ Rehabilitation _____

14. ESTIMATED USEFUL LIFETIME OF THE PROJECT: _____ years.

TECHNICAL ASSISTANCE

15. IS TECHNICAL ASSISTANCE REQUIRED?: Yes _____ No _____

If the Answer is Yes, Indicate Type and Amount of Technical Assistance Required in Order to Complete the Documentation Necessary for STEP II:

- (a) _____ Environmental Assessment Study _____ SU.S.
- (b) _____ Technical Feasibility and Preliminary Engineering Study _____ SU.S.
- (c) _____ Development of Project Final Design _____ SU.S.
- (d) _____ Economic and Financial Feasibility Study _____ SU.S.
- (e) _____ Evaluation of Social and Sustainability Aspects of the Project _____ SU.S.
- (f) _____ Planning the Public Outreach Program _____ SU.S.
- (g) _____ Development of the Operation and Maintenance Program _____ SU.S.
- (h) _____ Other _____ SU.S.
- (i) _____ Total _____ SU.S.

DESCRIPTION OF THE PROJECT

A. IF THE PROJECT IS RELATED TO WATER SUPPLY, IT CONCERNS:

- 16. DEVELOPMENT OF A WATER SOURCE: Yes _____ No _____
- 17. WATER TREATMENT: Yes _____ No _____
- 18. WATER DISTRIBUTION: Yes _____ No _____
- 19. CONTROL OF SUPPLY IN DISTRIBUTION SYSTEM: Yes _____ No _____
- 20. PUMP STATIONS AND SUMPS: Yes _____ No _____
- 21. WATER TRANSMISSION LINES: Yes _____ No _____
- 22. OTHER: _____

B. IF THE PROJECT IS RELATED TO WASTEWATER TREATMENT, IT CONCERNS:

- 22. TYPE OF WASTEWATER: Municipal _____ Industrial _____
- 24. SEWER SYSTEM: Yes _____ No _____
- 25. COLLECTOR TRUNK LINES: Yes _____ No _____
- 26. WASTEWATER TREATMENT PLANTS: Yes _____ No _____
- 27. WATER REUSE: Yes _____ No _____
- 28. DISCHARGE OF TREATED WASTEWATER: Yes _____ No _____
- 29. TREATMENT OF WASTEWATER GENERATED SLUDGE: Yes _____ No _____
- 30. DISPOSAL OF WASTEWATER GENERATED SLUDGE: Yes _____ No _____
- 31. OTHER: _____

C. IF THE REPORT IS RELATED TO MUNICIPAL SOLID WASTE, IT CONCERNS:

- 32. RECOVERY OF RECYCLABLE MATERIALS: Yes _____ No _____
- 33. TREATMENT OF MUNICIPAL SOLID WASTE:
 _____ Composting
 _____ Incineration
 _____ Power Generation
- 34. DISPOSAL OF MUNICIPAL SOLID WASTE:
 _____ Sanitary Landfill
- 35. OTHER: _____

D. IN CASE OF OTHER RELATED PROJECTS PLEASE INDICATE RELATIONSHIP:

- 36. PREVENTION, CONTROL OR REMEDIATION OF POLLUTION CASES RELATED TO:
 Water Supply Yes _____ No _____
 Treatment of Wastewater Yes _____ No _____
 Municipal Solid Waste Disposal Yes _____ No _____

Indicate How the Project is Related to the Three Previously Mentioned Subjects:

Q _____

PROJECT PLANNING INFORMATION

THE PROJECT ALREADY HAS COMPLETED:

- 37. ENVIRONMENTAL ASSESSMENT STUDY: Yes _____ No _____
- 38. PRELIMINARY ENGINEERING STUDY: Yes _____ No _____
- 39. TECHNICAL FEASIBILITY STUDY: Yes _____ No _____
- 40. ECONOMIC AND FINANCIAL FEASIBILITY STUDY: Yes _____ No _____
- 41. PRELIMINARY DESIGN: Yes _____ No _____
- 42. FINAL DESIGN: Yes _____ No _____
- 43. COST ANALYSIS: Yes _____ No _____

- 44. COST ESTIMATE FOR:
 Final Design Development: _____ SU.S.
 Construction of Facilities: _____ SU.S.
 Operation & Maintenance (annual): _____ SU.S.
 Financing Costs (annual): _____ SU.S.

