

of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record

communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the

Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	File date	Presenter or requestor
Prohibited		
1. IS10-56-000	12-22-09	Nash McMahan.
2. Project 11858-000	12-23-09	Larry Rannals.
3. CP09-6-000, CP09-7-000	12-17-09	John Hempton.
4. CP09-6-000, CP09-7-000	12-17-09	Linda Martin.
5. CP09-6-000, CP09-7-000	12-17-09	Paul Sansone.
Exempt		
1. CP09-6-000, CP09-7-000	12-23-09	Marron Dooney and Jim Miller.
2. CP09-6-000, CP09-7-000	12-23-09	Olivia Schmidt.
3. CP09-6-000, CP09-7-000	12-23-09	Chuck and Cindy Straughan.
4. CP09-6-000	12-14-09	Hon. Ron Wyden.
5. CP09-35-000	12-8-09	John G. Wadsworth.
6. Project No. 3052-000	12-23-09	Mark Aumann. ¹
7. Project No. 3052-000	12-22-09	Hon. Ron Kind.
8. Project No. 13011-000	12-8-09	John Baummer. ²
9. Project No. 13011-000	12-8-09	John Baummer. ³

¹ Record of e-mail exchange.

² Record of e-mail exchange with Gary Lowe, *et al.*

³ Record of e-mail exchange with Daniel Heacock.

Kimberly D. Bose,
Secretary.

[FR Doc. 2010-181 Filed 1-8-10; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-9101-6]

Beaches Environmental Assessment and Coastal Health Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of 2010 BEACH Act Grants.

SUMMARY: Section 406(b) of the Clean Water Act (CWA) as amended by the Beaches Environmental Assessment and Coastal Health (BEACH) Act authorizes EPA to award program development and implementation grants to eligible States, territories, Tribes, and local governments to support microbiological monitoring and public notification of the potential for exposure to disease-

causing microorganisms in coastal recreation waters, including the Great Lakes. EPA encourages coastal and Great Lakes States and Tribes that have received BEACH Act grants in the past to apply for 2010 BEACH Act grants to implement effective and comprehensive coastal recreation water monitoring and public notification programs ("implementation grants"). EPA also encourages eligible coastal and Great Lakes Tribes to apply for 2010 BEACH Act grants to develop effective and comprehensive coastal recreation water monitoring and public notification programs ("development grants").

DATES: States, Erie County, Pennsylvania, and Tribes that previously received BEACH Act grants must submit applications on or before March 12, 2010. Other eligible Tribes should notify the relevant EPA Regional BEACH Act grant coordinator of their interest in applying for a grant on or before February 25, 2010. Upon receipt of a Tribe's notice of interest, EPA will establish an appropriate application deadline.

ADDRESSES: You must send your application to the appropriate EPA Regional grant coordinator listed in this notice under Section VI, Grant Coordinators.

FOR FURTHER INFORMATION CONTACT: Lars Wilcut, 1200 Pennsylvania Ave., NW., (4305T), Washington, DC 20460. Telephone: (202) 566-0447. E-mail: wilcut.lars@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

What Is the BEACH Act?

The Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000 amends the Clean Water Act to better protect public health at our nation's beaches through improved water quality standards and beach monitoring and notification programs. The BEACH Act authorizes EPA to award grants to develop and implement monitoring and public notification programs for coastal recreation waters, consistent with EPA's required performance criteria. EPA

published the required performance criteria for grants in its *National Beach Guidance and Required Performance Criteria for Grants* (EPA-823-B-02-004), on July 19, 2002. Currently, all 37 eligible States and Tribes operate beach monitoring and notification programs using BEACH Act grant funds.

What Is the Statutory Authority for BEACH Act Grants?

The general statutory authority for BEACH Act grants is section 406(b) of the Clean Water Act, as amended by the BEACH Act, Public Law 106-284, 114 Stat. 970 (2000). It provides that, "(T)he Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public." CWA section 406(b)(2)(A), however, limits EPA's ability to award implementation grants only to those States and Tribes that meet certain requirements (see Section II, Funding and Eligibility, below for information on specific requirements).

What Activities Are Eligible for Funding Under the FY 2010 Grants?

In fiscal year 2010, EPA intends to award grants authorized under CWA section 406(b) to eligible States and Tribes to support the implementation of coastal recreation water monitoring and public notification programs that are consistent with EPA's required performance criteria for implementation grants. Also in fiscal year 2010, EPA intends to award development grants to eligible Tribes to support the development of coastal recreation water monitoring and public notification programs that are consistent with EPA's performance criteria for grants. EPA published the required performance criteria for grants in its *National Beach Guidance and Required Performance Criteria for Grants* (EPA-823-B-02-004), on July 19, 2002. A notice of availability of the document was published in the **Federal Register** (67 FR 47540, July 19, 2002). This document can be found on EPA's Web site at <http://www.epa.gov/waterscience/beaches/grants>. Copies of the document may also be obtained by writing, calling, or e-mailing: Office of Water Resource Center, U.S. Environmental Protection Agency, Mail Code RC-4100, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. (Phone: 202-566-1731 or e-mail: center.water-resource@epa.gov.)

II. Funding and Eligibility

Who Is Eligible To Apply for BEACH Act Grants?

Coastal and Great Lake States that meet the requirements of CWA section 406(b)(2)(A) are eligible for grants in fiscal year 2010 to implement monitoring and notification programs. The definition of the term "State" in CWA section 502 includes the District of Columbia, and current U.S. territories: the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Tribes may also be eligible for BEACH Act grants. In order to be eligible, a Tribe must have coastal recreation waters adjacent to beaches or similar points of access that are used by the public, and the Tribe must demonstrate that it meets the "treatment in the same manner as a State" criteria in CWA section 518(e) for the purposes of receiving a section 406 BEACH Act grant.

Are Local Governments Eligible for Funding?

CWA section 406(b)(2)(B) authorizes EPA to make a grant to a local government for implementation of a monitoring and notification program only if, after July 19, 2003, EPA determines that the State within which the local government has jurisdiction is not implementing a program that meets the requirements of CWA section 406(b), which includes a requirement that the program is consistent with the performance criteria in *National Beach Guidance and Required Performance Criteria for Grants*. EPA has awarded an implementation grant to Erie County, Pennsylvania, the local government implementing the beach monitoring and notification program for all of Pennsylvania's coastal recreation waters. Local governments may contact their EPA Regional Office for further information about BEACH Act grants.

How May Tribes Apply for BEACH Act Development Grants and How Much Funding Is Available for Tribes?

Section 518(e) of the CWA authorizes EPA to treat eligible Indian Tribes in the same manner as States for the purpose of receiving CWA section 406 grant funding. For fiscal year 2010, EPA will make \$100,000 available to eligible Tribes. In order to be eligible for a CWA section 406 development grant, a Tribe must have coastal recreation waters adjacent to beaches or similar points of access that are used by the public. The phrase "coastal recreation waters" is defined in CWA section 502(21) to mean

the Great Lakes and marine coastal waters (including coastal estuaries) that are designated under CWA section 303(c) for use for swimming, bathing, surfing, or similar water contact activities. The statute explicitly excludes from the definition inland waters and waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea. In addition, a Tribe must demonstrate that it meets the "treatment in the same manner as a State" (TAS) criteria contained in CWA section 518(e) for purposes of receiving a CWA section 406 grant. To demonstrate TAS, the Tribe must show that it: (1) Is Federally recognized; (2) has a governing body carrying out substantial governmental duties and powers; (3) will be exercising functions pertaining to waters within the reservation; and (4) is reasonably expected to be capable of carrying out the functions consistent with the CWA and all applicable regulations. EPA encourages those Tribes with coastal recreation waters to contact their EPA Regional BEACH Act grant coordinator for further information regarding the application process as soon as possible.

Are There Any Additional Eligibility Requirements and Grant Conditions Applicable to States and Tribes?

Yes, there are additional eligibility requirements and grant conditions. First, CWA section 406(b)(2)(A) provides that EPA may only award a grant to implement a monitoring and notification program if:

- (i) The program is consistent with the performance criteria published by the Administrator under CWA section 406(a);
- (ii) The State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;
- (iii) The State or local government makes available to the Administrator the factors used to prioritize the use of funds under clause (ii);
- (iv) The State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under CWA section 406(a); and
- (v) The public is provided an opportunity to review the program through a process that provides for

public notice and an opportunity for comment.

Second, CWA section 406(c) requires that as a condition of receipt of a CWA section 406 grant, a State or local government program for monitoring and notification must identify:

(1) Lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;

(2) In the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

(3) The frequency and location of monitoring and assessment of coastal recreation waters based on—

(A) The periods of recreational use of the waters;

(B) The nature and extent of use during certain periods;

(C) The proximity of the waters to known point sources and nonpoint sources of pollution; and

(D) Any effect of storm events on the waters;

(4)(A) The methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and

(B) The assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

(5) Measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

(A) The Administrator, in such form as the Administrator determines to be appropriate; and

(B) A designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

(6) Measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and

(7) Measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

Third, as required by CWA section 406(b)(3)(A) and the *National Beach Guidance and Required Performance Criteria for Grants*, recipients of a CWA section 406 grant must submit to EPA, in such format and at such intervals as EPA determines to be appropriate, a report that describes:

(1) Data collected as part of the program for monitoring and notification as described in section 406(c), and

(2) Actions taken to notify the public when water quality standards are exceeded. Grant recipients must submit to EPA both the monitoring and notification reports for any beach season by January 31 of the year following the beach season. For the 2010 beach season, the deadline for States to submit complete and correct reports is January 31, 2011. EPA first established this report submission deadline in the **Federal Register** notice for the fiscal year 2003 grants (68 FR 15446, 15449 (March 31, 2003)).

Fourth, grant recipients must report to EPA, latitude, longitude and mileage data on:

(1) The extent of beaches and similar points of public access adjacent to coastal recreation waters, and

(2) The extent of those beaches that are monitored.

EPA first established this requirement in the **Federal Register** notice for the fiscal year 2003 grants (68 FR 15446, 15447 (March 31, 2003)). EPA is continuing this requirement in order to capture any changes States, Tribes or local governments may make to their beach monitoring and notification programs. States, Tribes or local governments must report to EPA any changes to either the extent of their beaches or similar points of access, or to the extent of their beaches that are monitored.

How Much Funding Is Available?

For fiscal year 2010, the total available for BEACH Act grants is expected to be \$9,900,000. EPA expects to award all but \$100,000 to eligible States for implementation grants. EPA intends to award the remaining \$100,000 to eligible Tribes. If EPA does not award any grants to eligible Tribes, EPA will redistribute the money to eligible States using the base allocation formula described below.

How Will the Funding for States Be Allocated?

For fiscal year 2010, EPA expects to award grants to all eligible States who apply for funding based on a new grant allocation formula that combines the formula that the Agency originally developed in 2002 (“base allocation

formula”) with a new allocation formula (the “supplemental allocation formula”). In an August 13, 2008, **Federal Register** notice, EPA announced that it was considering this change to the allocation formula and that the Agency expected that the change would be effective with the award of the 2010 BEACH Act grants (73 FR 47154). Because EPA developed the supplemental formula with substantial input from more than 25 States over a 12-month period and received very few comments on that notice, the Agency decided not to reconvene the workgroup that discussed changes to the formula. Instead, EPA notified all the States receiving implementation grants of the Agency’s intention to proceed with the formula as described in the August 13, 2008, notice, with one change. The agency reviewed State spending from 2001 to 2006, not to 2007 as incorrectly described in the 2008 notice. This gives States and territories a three-year cushion to account for differences in the way they fund their beach-related activities consistent with the intention stated in the notice. The base allocation formula is used for the first \$10 million of BEACH Act grants and uses three factors: (1) Beach season length, (2) shoreline miles, and (3) coastal county population. The supplemental allocation formula uses two factors: (1) Beach miles and (2) beach use.

What Is the Base Allocation Formula?

The base allocation formula sums three parts. The first part varies with the length of the beach season. This amount is scaled in \$50,000 increments from \$150,000 for States with the shortest beach seasons to \$300,000 for those with the longest beach seasons. States and territories with long seasons are allotted two times the base amount of grant funds as those with short beach seasons (Table 1). The second part of the formula allocates half of the total remaining funds (*i.e.*, what is left after subtracting the total base amount) on the basis of the ratio of shoreline miles in a State or territory to the total length of shoreline miles across the entire United States. For example, if a State has 4 percent of the total coastal and Great Lakes shoreline, that State would receive 4 percent of 50 percent (or 2 percent of 100 percent) of total funds remaining after the Agency allotted the base amount (*i.e.*, part one of the formula) to all States and territories. The third part of the formula allocates the remaining funds on the basis of the ratio of coastal population in a State or territory to the total coastal population. For example, if a State has 2 percent of the total coastal and Great Lakes

population, that State would receive 2 percent of 50 percent (or 1 percent of 100 percent) of the total funds

remaining after the Agency allotted the funds for the first two parts. The

following table summarizes the base allocation formula:

TABLE 1—BEACH ACT GRANT BASE ALLOCATION FACTORS

For the factor—	The part of the allocation is—
Beach season length	< 3 months: \$150,000 (States and territories with a season < 3 months receive season-based funding only.) 3–4 months: \$200,000. 5–6 months: \$250,000. > 6 months: \$300,000.
Shoreline miles	50% of funds remaining after allocation of season-based funding.
Coastal population	50% of funds remaining after allocation of season-based funding.

How Have the Base Allocation Factors Changed Since the FY 2009 BEACH Act Grants Availability Notice?

In 2009 and earlier years EPA used shoreline miles and coastal county population as surrogates for beach miles and beach use, respectively, in the BEACH Act grant allocation formula. Based on discussions with States through the allocation formula workgroup, beginning with the award of fiscal 2010 grants, the Agency is using shoreline miles and coastal county population as factors in the base allocation formula and not surrogates for beach mileage and beach use. Both factors provide a stable foundation for

States in determining the resources available through BEACH Act grant funding for their beach monitoring and public notification programs. EPA is making beach miles and beach use factors in the supplemental allocation formula.

How Are the Factors in the Base Allocation Formula Quantified?

1. Beach Season Length

EPA selected beach season length as a factor because it represents the amount of time in a year when a government would conduct its monitoring and notification program. The longer the beach season, the more

resources a government would need to conduct monitoring and notification. The Agency obtained the information on the length of a beach season from information collected through the *National Health Protection Survey of Beaches* (EPA 823–F–00–0003, December 2000) for the States or territories that submitted a completed survey. However, because Alaska was not included in the survey, EPA estimated the beach season length for Alaska on the basis of air and water temperature, available information on recreation activities. EPA then grouped the States and territories into four categories of beach season lengths as shown in Table 2.

TABLE 2—DISTRIBUTION OF STATES BY BEACH SEASON CATEGORY

For beaches in—	The beach season category is—
Alaska	< 3 months.
Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, Wisconsin, Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina	3–4 months.
American Samoa, California, Florida, Guam, Hawaii, Northern Mariana, Puerto Rico, Texas, U.S. Virgin Islands.	5–6 months.
	9–12 months.

2. Shoreline Miles

Shoreline miles data represent a reasonable estimate of the geographic extent over which a government would be expected to conduct monitoring. EPA used the National Oceanic and Atmospheric Administration (NOAA) publication, *The Coastline of the United States* (NOAA/PA 71046), to quantify shoreline miles.

3. Coastal County Population

EPA presently uses the coastal population of counties (from the 2000 Census data) to quantify the coastal population that is wholly or partially within the State’s or territory’s legally-defined coastal zone. EPA intends to use data from the 2010 census when it becomes available.

What Is the Supplemental Allocation Formula?

The supplemental allocation formula is a formula for allocating funds beyond those allocated using the base allocation formula. The supplemental allocation formula will be used only for two purposes: (1) To allocate BEACH Act grant funds (beyond the first \$10 million) when the amount of funds appropriated for BEACH Act grants for a given fiscal year exceeds \$10 million; and (2) to reallocate BEACH Act grant funds older than three years left unspent by States and territories. To determine the total amount of funds available for reallocation, EPA explained in the August 13, 2008, notice that it would evaluate State and territorial spending and reduce a State’s or territory’s 2010 grant award by an amount equal to the

amount of unexpended funds more than three years old. With today’s notice, EPA is implementing the approach the Agency outlined in the August 13, 2008, notice for 2010 and future years.

The supplemental allocation formula sums two parts: beach length and beach use. Each part is weighted equally. The first part of the formula allocates half of the available funds on the basis of the ratio of beach miles in a State or territory to the total length of beach miles across the entire United States. The second part of the formula allocates the other half of the available funds on the basis of the ratio of beach use in a State or territory to the total beach use across the entire United States. For 2010, EPA expects the amount available for the supplemental allocation formula to be \$63,674. Table 3 summarizes the supplemental allocation formula:

TABLE 3—BEACH ACT GRANT SUPPLEMENTAL ALLOCATION FACTORS

For the factor—	The part of the allocation is—
Beach miles	50% of funds available for the supplemental allocation formula.
Beach use	50% of funds available for the supplemental allocation formula.

Why Is EPA Adding a Supplemental Formula?

Over the last three years, EPA reviewed the original BEACH Act grant allocation formula and recognized issues and some imbalance in the allocation of grant funds among States and territories. EPA sought input from the States by having them participate in a workgroup formed to review the allocation formula. EPA and the State workgroup subsequently identified and reviewed a range of options for improving the formula. The Agency outlined this process in the **Federal Register** notice published on August 13, 2008 (73 FR 47154).

EPA reviewed the data on the allocation and expenditure of grant funds and available options and concluded that some modest changes to how EPA allocates funds are appropriate. Based on its review, EPA has decided to make changes to the grant allocation formula using an incremental process, starting with modest changes to address outstanding needs. The first step in adjusting the grant formula uses two approaches: (1) Re-allocating older unused grant funds and (2) making changes to the formula elements that would be factored in for any appropriated funds for BEACH Act grants that exceed \$10 million per fiscal year.

How Are the Factors in the Supplemental Allocation Formula Quantified?

1. Beach Miles

EPA selected miles of beach as a factor because it determines the geographical extent over which a government would conduct monitoring if it monitored all its beaches. The more miles of beaches, the more resources a government would need to conduct monitoring. EPA has completed quality assurance testing of its beach mileage data on all but six of the 37 BEACH Act States and Tribes. For those States and Tribes for which EPA does not have data assessed for quality, the Agency estimated the length of beach miles based on data submitted by the affected jurisdictions.

2. Beach Use

EPA selected beach use as a factor because it reflects the magnitude of potential human exposure to pathogens at recreational beaches. Greater use of beaches makes it more likely that a government would need to increase monitoring frequency due to the larger number of people potentially exposed to pathogens. EPA used the 2001 NOAA publication, *Current Recreation Patterns in Marine Recreation* (Leeworthy, V.R. and P.C. Wiley, 2001), to obtain data on beach use in marine States. For Great Lakes States and the territories EPA

estimated beach use based on the ratio of beach use to coastal county population in marine States in similar latitudes. This approach was first used in *America's North Coast: A benefit-cost analysis of a program to protect and restore the Great Lakes*, published in 2007 by the Great Lakes Coalition. EPA continues to work with NOAA and the United States Forest Service to survey Great Lakes beach use for its next update of the report, *Current Recreation Patterns in Marine Recreation*. When those data are available, EPA will use that instead of its current estimates.

How Does EPA Expect To Allocate 2010 BEACH Act Grant Funds?

For 2010, the total available for BEACH Act grants is expected to be \$9,900,000. Two Tribes, the Grand Portage Band of Chippewa (Minnesota) and the Makah Indian Nation, are expected to receive grants of \$50,000 each, leaving \$9,800,000 for grants to States and territories, \$63,674 of which will be allocated using the supplemental allocation formula. Assuming all 35 States with coastal recreation waters apply and meet the statutory eligibility requirements for implementation grants (and have met the statutory grant conditions applicable to previously awarded section 406 grants), the distribution of the funds for year 2010 is expected to be:

For the State or territory of:	The year 2010 allocation is expected to be:	Portion of the total that is the supplemental allocation
Alabama	\$264,000	\$1,733
Alaska	86,000	0
American Samoa	303,000	1,297
California	520,000	3,035
Connecticut	225,000	1,302
Delaware	212,000	1,733
Florida	531,000	3,465
Georgia	288,000	2,163
Guam	304,000	1,297
Hawaii	326,000	2,599
Illinois	245,000	1,739
Indiana	207,000	866
Louisiana	323,000	866
Maine	256,000	1,733
Maryland	271,000	2,169
Massachusetts	257,000	2,599
Michigan	281,000	3,029
Minnesota	206,000	1,297
Mississippi	259,000	1,297
New Hampshire	206,000	1,302
New Jersey	280,000	2,169
New York	351,000	2,599

For the State or territory of:	The year 2010 allocation is expected to be:	Portion of the total that is the supplemental allocation
North Carolina	305,000	2,599
Northern Marianas	304,000	866
Ohio	225,000	1,302
Oregon	230,000	1,727
Pennsylvania	224,000	1,302
Puerto Rico	330,000	1,739
Rhode Island	215,000	2,163
South Carolina	299,000	2,599
Texas	386,000	2,599
U.S. Virgin Islands	304,000	866
Virginia	278,000	1,733
Washington	272,000	2,157
Wisconsin	227,000	1,733

What if a State Does Not Apply or Does Not Qualify for Funding?

EPA expects that all 35 States and territories will apply for a grant. If fewer than 35 States apply for the allocated amount, or if any applicant fails to meet the statutory eligibility requirements (or the statutory conditions applicable to previously awarded section 406 grants), then EPA will distribute available grant funds to eligible States in the following order:

(1) States that meet the eligibility requirements for implementation grants and that have met the statutory conditions applicable to previously awarded section 406 grants will be awarded the full amount of funds allocated to the State under the formula described above.

(2) EPA may award program implementation grants to local governments in States that the Agency determines have not met the requirements for implementation grants.

(3) Consistent with CWA section 406(h), EPA will use grant funds to conduct a beach monitoring and notification program in the case of a State that has no program for monitoring and notification that is consistent with EPA's grant performance criteria.

What if a State or Tribe Cannot Use All of Its Allocation?

If a State or Tribe cannot use all of its allocation, the Regional Administrator may award the unused funds to any eligible coastal or Great Lake grant recipient in the Region for the continued development or implementation of its coastal recreation water monitoring and notification program. If, after re-allocation, there are still unused funds within the Region, EPA Headquarters will redistribute these funds to any eligible coastal or Great Lake BEACH Act grant recipient according to the supplemental formula described above.

How Will the Funding for Tribes Be Allocated?

EPA expects to apportion the funds set aside for Tribal grants evenly among all eligible Tribes that apply for funding.

What Is the Expected Duration of Funding and Projects?

The expected funding and project periods for implementation grants awarded in fiscal year 2010 is one year.

Does EPA Require Matching Funds?

Recipients do not have to provide matching funds for BEACH Act grants. EPA may establish a match requirement in the future based on a review of State program activity and funding levels.

III. Eligible Activities

Recipients of implementation grants may use funds for activities to support implementing a beach monitoring and notification program that is consistent with the required performance criteria for grants specified in the document, *National Beach Guidance and Required Performance Criteria for Grants* (EPA-823-B-02-004). Recipients of development grants may use the funds to develop a beach monitoring and notification program consistent with the performance criteria.

IV. Selection Process

EPA Regional Offices will award CWA section 406 grants through a non-competitive process. EPA expects to award grants to all eligible State, Tribal, and territorial applicants that meet the applicable requirements described in this notice.

Who Has the Authority To Award BEACH Act Grants?

The Administrator has delegated the authority to award BEACH Act grants to the Regional Administrators.

V. Application Procedure

What Is the Catalog of Federal Domestic Assistance (CFDA) Number for the BEACH Monitoring and Notification Program Implementation Grants?

The number assigned to the BEACH Act grants is 66.472, Program Code CU.

Can BEACH Act Grant Funds Be Included in a Performance Partnership Grant?

For fiscal year 2010, BEACH Act grants cannot be included in a Performance Partnership Grant.

What Is the Application Process?

Your application package should contain completed:

- EPA SF-424 Application for Federal Assistance, and
- Program Summary.

In order for EPA to determine that a State or local government is eligible for an implementation grant, the applicant must submit documentation with its application to demonstrate that its program is consistent with the performance criteria. The Program Summary must contain sufficient technical detail for EPA to confirm that a program meets the statutory eligibility requirements and statutory grant conditions for previously awarded CWA section 406 grants listed in Section II (Funding and Eligibility) of this notice. The Program Summary must also describe how the State or local government used BEACH Act grant funds to develop and implement the beach monitoring and notification program, and how the program is consistent with the nine performance criteria in *National Beach Guidance and Required Performance Criteria for Grants* (EPA-823-B-02-004) which is found at <http://www.epa.gov/waterscience/beaches/grants/guidance/index.html>. The Program Summary should also describe the State or local program's objectives for the grant year.

States, Erie County, and Tribes that have previously been awarded BEACH Act grants must submit application packages to the appropriate EPA Regional Office by March 12, 2010. EPA will make an award after the Agency reviews the documentation and confirms that the program meets the applicable requirements. The Office of Management and Budget has authorized EPA to collect this information (BEACH Act Grant Information Collection Request, OMB control number 2040-0244). Please contact the appropriate EPA Regional Office for a complete application package. See Section VI for a list of EPA Regional Grant Coordinators or visit the EPA Beaches Web site at <http://www.epa.gov/waterscience/beaches/contact.html> on the Internet.

What Should a Tribe's Notice of Interest Contain?

The Notice of Interest should include the Tribe's name and the name and telephone number of a contact person.

Are Quality Assurance and Quality Control (QA/QC) Required for Application?

Yes. Three specific QA/QC requirements must be met to comply with EPA's performance criteria for grants:

(1) Applicants must submit documentation that describes the quality system implemented by the State, territory, Tribe, or local government. Documentation may be in the form of a Quality Management Plan or equivalent documentation.

(2) Applicants must submit a quality assurance project plan (QAPP) or equivalent documentation.

(3) Applicants are responsible for submitting documentation of the quality system and QAPP for review and approval by the EPA Quality Assurance Officer or his designee before they take primary or secondary environmental measurements. More information about the required QA/QC procedures is available in Chapter Four and Appendix H of *National Beach Guidance and Required Performance Criteria for Grants* (EPA-823-B-02-004).

Are There Reporting Requirements?

Recipients must submit annual performance reports and financial reports as required in 40 CFR 31.40 and 31.41. The annual performance report explains changes to the beach monitoring and notification program during the grant year. It also describes how the grant funds were used to implement the program to meet the performance criteria listed in *National*

Beach Guidance and Required Performance Criteria for Grants (EPA-823-B-02-004). The annual performance report required under 40 CFR 31.40 is due no later than 90 days after the grant year ends. Recipients must also submit annual monitoring and notification reports required by the *National Beach Guidance and Required Performance Criteria for Grants* (EPA-823-B-02-004). Sections 2.2.3 and 4.3 of the document contain the performance criterion requiring an annual monitoring report, and sections 2.2.8 and 5.4 contain the performance criterion requiring an annual notification report. This document can be found at <http://www.epa.gov/waterscience/beaches/grants/>. These reports, required to be submitted to EPA under CWA section 406(b)(3)(A) and the *National Beach Guidance and Required Performance Criteria for Grants*, include data collected as part of a monitoring and notification program. As a condition of award of an implementation grant, EPA requires that the monitoring report and the notification report for any beach season be submitted not later than January 31 of the year following the beach season. (See Section II, Funding and Eligibility, above.)

What Regulations and OMB Cost Circular Apply to the Award and Administration of These Grants?

The regulations at 40 CFR Part 31 govern the award and administration of grants to States, Tribes, local governments, and territories under CWA section 406(b). Allowable costs will be determined according to the cost principles outlined in 2 CFR Part 225.

VI. Grant Coordinators

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Dated: January 4, 2010.

Peter S. Silva,

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9101-7]

Clean Air Act Advisory Committee (CAAAC): Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with