

other, secondary benefits, including benefits to natural systems (e.g., air, water) and local economies. All of these benefits are widely distributed and are not likely to be significant in any single location. It is likely that some residents where projects are initiated will experience some level of benefit, but quantifying these effects at this time is not possible. We do not expect the sum of all the benefits from this program, however, to have an annual effect on the economy of \$100 million or more.

2. We do not believe the TWG program would create inconsistencies with other agencies' actions. Congress has given the Service the responsibility to administer this program.

3. As a new grant program, the TWG program would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of their recipients. This policy document establishes a new grant program, authorized by Pub. L. 107-63, which should make greater resources available to applicants. The submission of grant proposals is completely voluntary, but necessary to receive benefits. When an applicant decides to submit a grant proposal, the proposed eligibility criteria and selection factors identified in this policy can be construed as requirements placed on the awarding of the grants. Additionally, we will place further requirements on grantees that are selected to receive funding under the TWG program in order to obtain and retain the benefit they are seeking. These requirements include specific Federal financial management and reporting requirements as well as specific habitat improvements or other management activities described in the applicant's grant proposal.

4. OMB has determined that this policy raises novel legal or policy issues, and, as a result, this document has undergone OMB review.

#### *B. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., as amended, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (e.g., small businesses, small organizations, and small government jurisdictions). Indian tribes are not considered to be small entities for purposes of the Act and, consequently, no regulatory flexibility analysis has been done.

#### *C. Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996*

This implementation guidance is not considered a major rule under the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 804(2)) because it does not have an annual effect on the economy of \$100 million or more. The yearly amount of TWG program funds is limited to \$5 million in FY 2002 and \$4,967,500 in FY 2003.

This implementation guidance will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this implementation guidance will distribute Federal funds to Indian tribal governments and tribal entities for purposes consistent with activities similar to programs under the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act.

This implementation guidance does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

#### *D. Unfunded Mandates Reform Act*

This implementation guidance would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This guidance will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532).

#### *E. Takings Implication Assessment (Executive Order 12630)*

This implementation guidance does not have significant "takings" implications. This implementation guidance does not pertain to "taking" of private property interests, nor does it impact private property.

#### *F. Executive Order 13211CEnergy Effects*

On May 18, 2001, the President issued Executive Order 13211, which speaks to regulations that significantly affect energy supply, distribution, and use. The Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This implementation guidance is not expected to significantly affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects has been prepared.

#### *G. Executive Order 13132CFederalism*

This implementation guidance does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of States.

#### *H. Civil Justice Reform (Executive Order 12988)*

This implementation guidance does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of the Executive Order 12988.

#### *I. National Environmental Policy Act (NEPA)*

This implementation guidance does not constitute a Federal action significantly affecting the quality of the human environment. The Service has determined that the issuance of the implementation guidance is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1, and 516 DM 6, Appendix 1. The Service will be responsible for ensuring that grants funded through the TWG program are in compliance with NEPA.

#### *J. Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)*

Pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," we have committed to consulting with tribal representatives in the finalization of the implementation guidance for the TWG program. We have evaluated any potential effects on federally recognized Indian tribes and have determined that there are no potential adverse effects. This guidance expands tribal participation in Service programs and allows for opportunities for tribal wildlife management and conservation initiatives across Indian Country. We will continue to consult with tribal governments and tribal entities as a part of the policymaking process and beyond in furthering our mutual goals for the TWG program.

#### *K. Paperwork Reduction Act (44 U.S.C. 3501)*

The information collection requirements of this program will be largely met through the Federal Aid Grants Application Booklet. Federal Aid has OMB approval for this information collection under Control Number 1018-1019. This approval applies to grants managed by the Division of Federal Aid, even if these grants are for other Divisions of the Service. We are collecting this information relevant to