



King County Executive
RON SIMS

January 16, 2002

D. Robert Lohn, Regional Administrator
National Marine Fisheries Service, Northwest Region
7600 Sandpoint Way NE
Seattle, WA 98115

Dear Mr. Lohn:

King County is pleased that notice of the Regional Road Maintenance Endangered Species Act (ESA) Program will be published on January 18, 2002, in the Federal Register for a 30-day public comment period. This is an important and long-awaited milestone in the process to approve this program under the Puget Sound Chinook 4(d) Rule, Limit 10.

We believe that the Regional Road Maintenance ESA Program will substantially improve salmon habitat protection as jurisdictions throughout Washington State implement this program. The program's best management practices will help minimize erosion and sediment releases, contain pollutants and protect habitat while maintenance work is performed on roadways. Furthermore, we are pleased to report that there are over 10,000 requests for the program's training sessions to train workers in many local Washington jurisdictions to properly apply these practices in the field.

This letter conveys our commitment to the National Marine Fisheries Services (NMFS) that King County will implement the measures and abide by the commitment made in this Part 3 Application. As such, we will fully implement all ten elements of the program. In addition, we will work closely with NMFS as we evaluate and adjust the Regional Road Maintenance ESA Program through its adaptive management element. King County is committed to being a partner with NMFS and the other jurisdictions participating in the Regional Road Maintenance ESA Program and will be an active participant in the Regional Forum.

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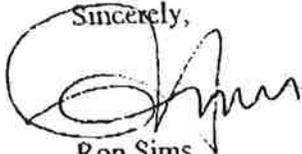
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I want to personally thank you and your staff for your assistance in helping to expedite the Federal Register publication of the Regional Road Maintenance ESA Program. If you need additional information or have any questions, please feel free to contact Kathy Brown, Assistant Operations Manager, King County Department of Transportation, at (206) 296-8138.

Sincerely,



Ron Sims
King County Executive

Enclosure

cc: Bob Turner, National Marine Fisheries Services (NMFS)
Steve Landino, NMFS
Laura Hamilton, NMFS
David Hirsch, NMFS
Calvin Hoggard, Chief of Staff, King County Executive Office
Paul Toliver, Director, Department of Transportation (DOT)
Harold Taniguchi, Deputy Director, DOT
Linda Dougherty, Manager, Road Services Division (RSD), DOT
Rod Matsuno, Manager, Road Maintenance Section (RMS), DOT
Kathy Brown, Assistant Operations Manager, RMS, DOT
Jackie Kirn, Manager, ESA Policy Coordination Office

Section 2

King County Commitment to Part 1 and Part 2 of the Regional Program

Element 1. Regional Forum: A Regional Forum has been created from participating agencies. The Regional Forum provides a regional meeting for program discussion, coordination, and adaptive management.

Regional Action

The King County Department of Transportation Assistant Operations Manager or designee will be appointed as the Regional Forum member, representing King County. The appointed member will have the authority, maintenance knowledge and technical expertise to review the Regional Program, review adaptive management results, recommend program changes, request funding, and brief policy makers for their review and approval of the program. King County Roads Maintenance Section (RMS) and Water and Land Resources Division staff will participate in the Regional Forum subcommittee discussions and activities as they pertain to the Regional Program.

Local Action

The King County RMS has an ESA team that meets regularly. The team consists of assigned maintenance and operation supervisors and maintenance environmental personnel. The King County RMS team will implement the Regional Program, develop and update the King County RMS Part 3 application for King County RMS manager's review and approval. The team will also coordinate implementation of the King County RMS Part 3, which includes review, discussion, coordination, and adaptive management. The team will recommend program changes that evolve from adaptive management to improve the regional program and the King County RMS program. The team will prepare a quarterly Adaptive Management report for the Regional Forum meetings. This report will provide an overview of the implementation of the program. The Adaptive Management report will also recommend potential revisions to the Regional Program based on new information.

Element 2. Program Review and Approval: The program review and approval process will require that each agency participating in the Regional Program comply with the ten program elements. Each agency's Part 3 Application will be reviewed by the Washington State Department of Transportation (WSDOT) Highways and Local Program (H&LP), to ensure that all ten program elements are included in the Part 3 Application. National Marine Fisheries Service and United States Fish and Wildlife Service (the Services) will issue approval for each agency to receive a take limit.

Regional Action:

The Regional Forum has developed, in cooperation with the Washington State Department of Transportation (WSDOT) H&LP, and with the approval of the Services, a process for road maintenance Part 3 Application review. This review and

approval process serves as an agency's commitment to comply with the approved program (Part 1 and Part 2). The King County RMS, as part of the Regional Forum, will work with WSDOT H&LP and the Services in the evaluation of the process for reviewing local agency Part 3 Application as they relate to the Regional Program.

Local Action:

The King County RMS team will work to develop the King County RMS's Part 3 Application and implement the Regional Program. The team will review the following documents: letter of commitment, commitment to the ten program elements, organization structure, activity selection process, selecting/implementing the BMP process, the checklist process, and any local program exceptions from the regional program. The team will review the Part 3 application to ensure it meets the requirements of the Regional Program and seeks a take limit under the 4(d) rule from the Services.

Element 3. Training: Courses will include the topics of basic ESA, design, biological review, permit, maintenance BMPs, and monitoring work activities. The WSDOT Technology Transfer (T2) Center, in conjunction with the Regional Forum, will develop a curriculum for formal training of road maintenance employees in the implementation of the Regional Program. The curriculum may be taught by T2 instructors or other trainers that have passed the train-the-trainer course. The training program will be approved by the Services.

Regional Action:

The Regional Forum has, in cooperation with the WSDOT T2 Center, developed a program for formal training of road maintenance employees in the implementation of the regional program. The King County RMS will participate in the Regional Forum discussions as they pertain to Program Element 3 training activities.

The King County RMS will participate in the Training Subcommittee, working with WSDOT (T2) and the University of Washington (*TRANSPEED*) to develop and implement the training curriculum as outlined in the *Regional Road Maintenance ESA Program Guidelines*. The King County RMS will support an adaptive management approach to training by reviewing course curriculum and proposing changes to incorporate science based new information into the program.

The Services will review and approve the training curriculum.

Local Action

The King County RMS will require maintenance employees to attend training courses relevant to their position within the organization as courses are developed and become available. New maintenance employees will be trained on relevant Regional Program courses within a reasonable amount of time.

The King County RMS team will review and recommend updates to the Regional Program training through adaptive management activities by reviewing course curriculum and implementation of the training program.

Element 4. Compliance Monitoring: Compliance monitoring will take place at a number of levels: local agency supervisory staff and local, state and federal agency permitting authorities. Each local jurisdiction will establish a formal compliance monitoring program for monitoring BMP outcomes and monitoring that takes place as part of various research projects.

Regional Action:

The King County RMS will participate in the Regional Forum to review the compliance monitoring activities as they pertain to the *Regional Road Maintenance ESA Program Guidelines*. The Regional Forum process includes program implementation, adaptive management, planning process, performance assessments process, outcome assessments process and coordination with resource agencies.

Local Action

The King County RMS team will review implementation of the King County RMS's program and through adaptive management recommend changes to the program if needed. The team will conduct planning meetings with environmental staff to identify maintenance activities, to review permits, BMPs, and in-water work requirements. The team will conduct performance assessments on selected BMPs. Performance assessment will involve site visits with environmental staff, supervisors, or resource agencies through the permit process. Monitoring will be done on a routine basis by crew leads, supervisors, maintenance inspectors, or environmental staff. Monitoring may include adequacy of BMPs, development or implementation of checklists, review of implemented BMPs, and their effectiveness. The team will evaluate BMP implementation, and, through adaptive management, evaluate performance. The team will then review new information on BMPs and recommend for incorporation in the Regional Program. The team will coordinate with resource agencies, to develop communication to improve the adaptive management processes.

Element 5. Scientific Research: Case studies in the field, as well as literature review, are included in this program element. The research will serve to verify effectiveness of BMPs and to recommend changes to BMPs based on the latest technologies.

Regional Action:

The Regional Forum has a Scientific Research Subcommittee to coordinate cooperative research, professional maintenance interaction, information sharing and adaptive management. The research to be performed by the Regional Forum will be specific to road maintenance activities to address water quality and habitat within the road maintenance right-of-way. Case studies and literature review may be performed both locally and regionally. The information gained may be shared through the

Regional Forum. The King County RMS will participate in the Regional Forum discussions as they pertain to scientific research activities and shared experiences.

Local Action

The King County RMS Team will analyze specific road maintenance BMPs and jointly work with or support development of the Scientific Research Subcommittee.

Element 6. Adaptive Management: The adaptive management philosophy will apply to all elements of the Regional Road Maintenance ESA Program. The training, research, biological data collection, and program monitoring elements are the basis for adaptive management.

Regional Action:

The Regional Forum provides a forum for adaptive management of the Regional Program. Adaptive management will apply to all elements of the Regional Program. Compliance monitoring, BMP effectiveness monitoring, review of the Regional Program, and scientific research shall provide some of the basis for adaptive management. Information gained from these elements, will be shared at the Regional Forum to provide the basis for adaptive management decisions. Adaptive management will allow new information and science based technology to be incorporated into recommended changes to the *Regional Road Maintenance ESA Program Guidelines*. The King County RMS will participate in the Regional Forum discussions as they pertain to adaptive management.

Local Action:

The King County RMS team will implement the program elements of the *Regional Road Maintenance ESA Program Guidelines* and apply adaptive management to the ten program elements. The team will implement a compliance monitoring effort to evaluate the effectiveness of selected BMPs used within program activities. The team will discuss BMPs as part of their routine meetings and make recommendations on incorporating new information, and changes to the Regional Forum.

Element 7. Emergency Response: This element provides a framework under which road maintenance agencies can operate during emergencies.

Regional Action:

Regional Program includes guidance on emergency response for road maintenance agencies. Emergency response is defined as actions undertaken to avoid imminent threat to public health and safety, public or private property, or serious environmental degradation.

The King County RMS will participate in Regional Forum discussions as they pertain to emergency response activities and share experiences and actions encountered in previous response activities.

Local Action

The King County RMS will respond to emergency road maintenance situations and stabilize the situation. Sites will be reviewed with regulatory agencies (as required), and appropriate permits applied for following site stabilization. The King County RMS will develop a phone tree for resource contacts to be called during an emergency response. Where possible the emergency maintenance activities will employ the same BMPs as routine maintenance activities.

Element 8. Biological Data Collection: This element includes habitat location information within the right-of-way and development of a process to train and alert staff where these guidelines need to be utilized.

Regional Action:

The King County RMS will participate in the Regional Forum discussions as they pertain to the biological data collection activities and share experiences or actions encountered.

Local Action:

The King County RMS team will work to identify habitat locations within the road maintenance right-of-way. The team will develop a process and train staff when and where to use the BMPs.

Element 9. Biennial Reports: The Regional Forum will provide biennial (every two years) reports to the Services. Biennial reports will include a review of the ten program elements, updates on research, recommended BMP changes, and recommended updates to the program elements.

Regional Action:

As a member of the Regional Forum, the King County RMS will participate in providing the Services biennial reports on the progress of the ten program elements of the *Regional Road Maintenance ESA Program Guidelines*. This report will include a status report and updates on each program element, review of the training program, review of scientific research, review program implementation, and implementation of adaptive management, including recommended changes. The Services will be provided a copy of the quarterly newsletter. The biennial report will be provided to others upon request.

Local Action:

The King County RMS will provide quarterly and biennial report to the Regional Forum for use in compiling its biennial report on implementation of the Regional Program. This report will address implementation and progress of the King County RMS's Part 3 Application and activities as they relate to the implementation of the ten program elements of the *Regional Road Maintenance ESA Program Guidelines*.

Element 10. Best Management Practices (BMPs) and Conservation

Outcomes: BMPs and desired conservation outcomes have been developed for road

maintenance activities. The Regional Forum will annually review and update the BMPs. Local agencies and the Services will review whatever changes the Regional Forum recommends for adoption.

Regional Action:

The Regional Forum will provide a forum for review and update of the BMPs, and the development of a training program outlined in Program Element 3. The Regional Forum will evaluate the training program and through adaptive management recommend changes to incorporate new information as needed. The King County RMS may participate in the Regional Forum discussions and activities as they pertain to the Regional Program.

Local Action:

The King County RMS team will implement the Regional Program. As the training program is developed and made available, the training program will be implemented. The team will develop a decision process to identify when environmental staff is to be consulted. The implementation of Program Element 10, BMPs and Conservation Outcomes, will be reviewed and updated annually.

Section 3

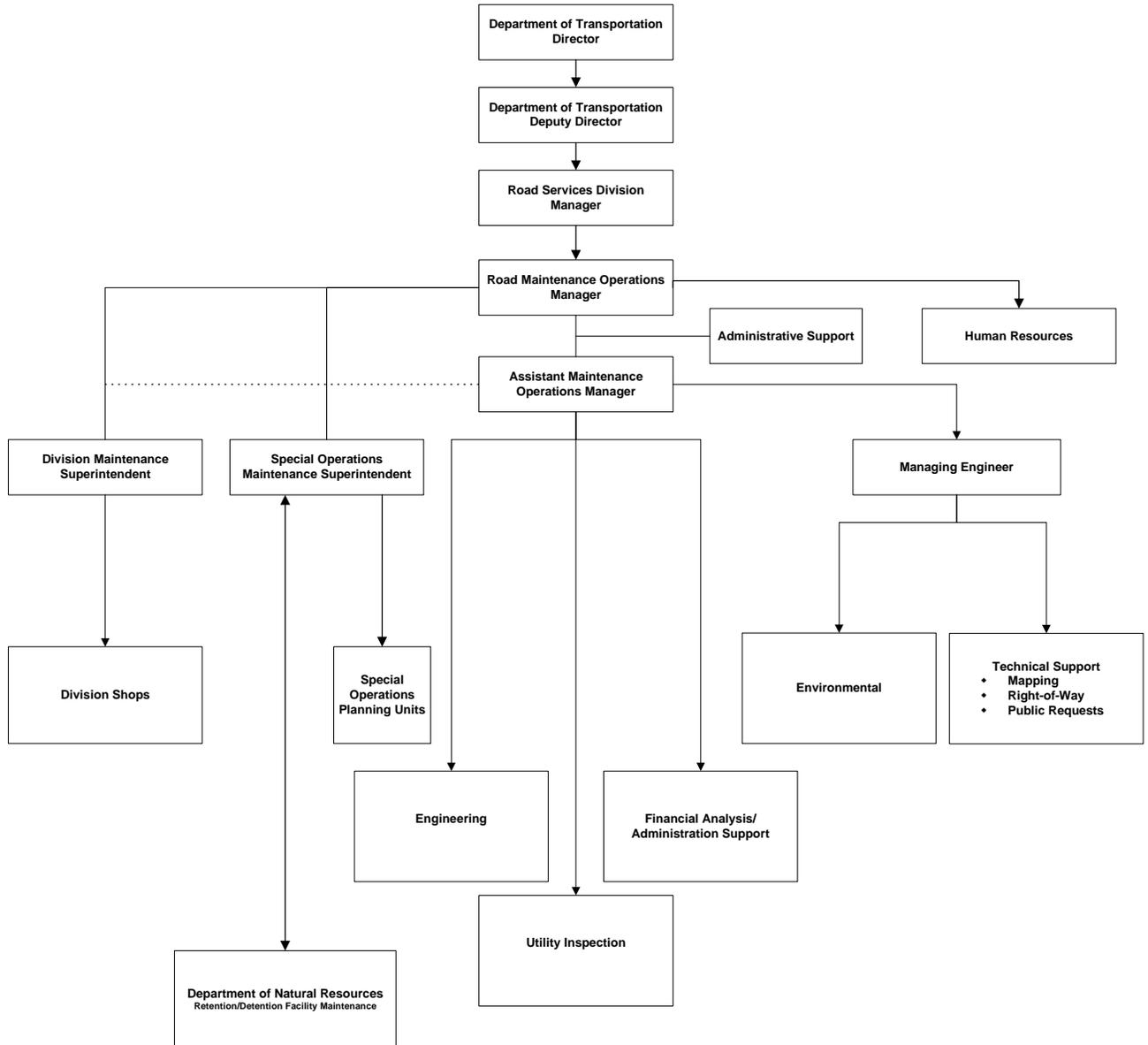
King County RMS General Procedures

General Procedures Materials

- 3a** Organizational Structure
- 3b** Maintenance Activity/Project Selection Process
 - Classification responsible for making decisions
 - Biological oversight/support
- 3c** Selecting/Implementing the BMP Process
- 3d** Checklist Process
- 3e** Internal Process for Adaptive Management

3a

KING COUNTY ROAD MAINTENANCE PROGRAM ORGANIZATIONAL STRUCTURE



3b

KING COUNTY RMS MAINTENANCE ACTIVITY/PROJECT SELECTION
AND
AUTHORIZATION PROCESS

Input for Activity or Project may include, but are not limited to, the following:

- Management Team
- King County Executive
- King County Council
- Customer Request
- Inspection
- Environmental Planner/Permit Coordinator

Selection for Activity or Project may include, but are not limited to, the following:

- Management Team
- Superintendents/Supervisors

Conceptual Planning for Activity or Project may include, but are not limited to, the following:

- Design Engineers/Consultant
- Superintendents/Supervisors/Crew Chiefs
- Environmental Unit Staff

Budget for Activity or Project may include, but are not limited to the following:

- King County Executive
- King County Council
- Director
- Management Team
- Superintendent

Schedule for Activity or Project may include, but are not limited to, the following:

- Management Team
- Superintendents/supervisors
- Environmental Unit Staff

Environmental Support for Activity or Project may include, but are not limited to, the following:

- RMS Environmental Unit
- King County Department of Natural Resources
- King County Department of Development and Environmental Services
- USFWS
- NMFS
- WSDFW
- Consultants

3C KING COUNTY RMS BMP SELECTION AND IMPLEMENTATION PROCESS

Regional Program BMP Selection and Implementation Process

- Use checklists in Appendix D of the Guidelines or develop and use your own checklists as defined in Section 4 of your Part 3 Application.
- Become familiar with the *Guidelines*.
- Identify the “Maintenance Category (ies)” to be performed and BMP categories.
- Define the activity, scope and limits.
- Conduct a site visit.
- Review the BMP options.
- List those BMPs (both part 1 and Part2) applicable to the Maintenance Category or Categories.
- Select the BMP(s) that will meet the desired outcome.
- Secure permits.
- Prepare a maintenance, sequence and/or schedule.
- Conduct a pre-maintenance/pre-construction meeting to go over the activity, roles and responsibilities, and BMP(s) installation, monitoring/maintenance, and removal.
- Gather the necessary crew(s), equipment and material.
- Implement the BMP(s) by following the *Guidelines*’ instructions, permits or plans.
- Ask for help (if required).

3d CHECKLIST PROCESS

3d (1) Activity or BMP Planning and Selection Checklist

1. Make site visit before starting work.
2. Define activity, scope and limits.
3. Identify sensitive areas and drainage features.
4. Is Environmental staff required to review plans or provide crew support?
5. Are fish present (or likely to be present) in the work area or activity impact area? (If yes, contact environmental support staff or WSDFW.)
6. Will fish exclusion be required? (If yes, coordinate with designated staff or agency.)
7. Review Maintenance Category BMP options related to site-specific conditions.
8. Select applicable BMP(s) from Part 1 & 2 of the *Guidelines*.
9. Secure permits.
10. Read and understand permit conditions. Resolve permit conditions before moving forward.
11. Prepare construction or maintenance sequence (including installation, monitoring/maintaining and removing BMP(s)).
12. Schedule a pre-maintenance or a pre-construction meeting as necessary.
13. Review activity as possible model for training and/or adaptive management discussions.

3d (2) Pre-Construction or Pre-Maintenance Meeting Checklist

1. Invite appropriate personnel and/or agencies.
2. Prepare agenda and attendance/sign in form.
3. Outline construction/maintenance, schedule, and/or sequence (including installation, monitoring and maintaining and removing BMP(s)).
4. Identify sensitive areas and drainage features.
5. If fish exclusion required, follow Fish Exclusion Protocol in Appendix E.
6. Clarify roles and responsibilities of personnel and agencies related to aspects of the activity.
7. Discuss permits and approvals.
8. If environmental staff is required to be onsite during work activities: introduce personnel and their role(s).

3d (3) Activity or BMP Installation, Monitoring, Maintaining and Removal Checklist

1. Identify/mark work area and location of BMP(s).
2. Arrange for delivery of BMP(s) products.
3. Environmental staff support as appropriate.
4. Make sure BMP(s) are installed in accordance with *Guidelines*, permit conditions and/or specifications.

5. Monitor/check BMP(s) routinely to make sure BMP outcomes are achieved, and make repairs, adjustments, and/or additions as necessary.
6. Remove BMP(s) and re-vegetate in accordance with the *Guidelines*.

3e INTERNAL PROCESS FOR ADAPTIVE MANAGEMENT

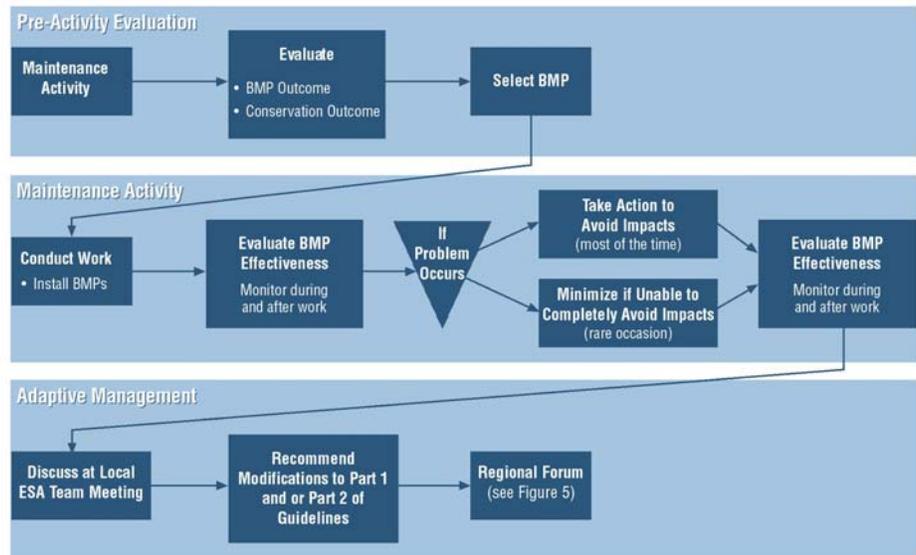
King County RMS staff will participate in the Regional Forum, described in Part 1 of the *Regional Program Guidelines*.

King County RMS will develop a team in which information and experiences can be shared and reviewed to improve the implementation of the Regional Program. The team will do the following:

- Share information.
- Review and evaluate the implementation progress of each Regional Program element.
- Gather and analyze information in order to develop and implement alternatives to correct unproductive BMP(s).
- Review and evaluate new information for possible incorporation into the Program.
- Any Program modifications will be reviewed/approved by *King County RMS* policy makers.

The figure on the right shows the local agency adaptive management process:

 **Agency Adaptive Management**
Figure 11



Section 4

Exceptions from Regional Program

- Any exceptions to the Regional Program may require a full program review and negotiation. The Services will determine the level of review. This review could include any or all of the following:
 - Biological review.
 - Negotiations with the Services.
 - Public notice.
 - Comment period.
- Highlight any changes or additions to the Regional Program under the proper headings below:
- If agency has no exceptions, check box

General Procedures

4a Describe any local program elements not included in the Regional Program.

4b Describe any deviations from the Regional Program.

4c Additional Maintenance Categories/Activities, not listed in Parts 1 and 2 of the *Guidelines*.

4d Agency-specific checklists, if different from those in Part 1 of the *Guidelines*.

4e Other additions or changes.