

Notices

Federal Register

Vol. 69, No. 190

Friday, October 1, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV-04-311]

United States Standards for Grades of Kale

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS), prior to undertaking research and other work associated with revising official grade standards, is soliciting comments on the possible revisions to the United States Standards for Grades of Kale. At a 2003 meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to review all the fresh fruit and vegetable grade standards for usefulness in serving the industry. As a result, AMS has identified that the current standard may need to be modified to allow that percentages are determined by count and not weight. Additionally, AMS is seeking comments regarding any other revisions that may be necessary to better serve the industry.

DATES: Comments must be received by November 30, 2004.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 1661 South Building, Stop 0240, Washington, DC 20250-0240; Fax (202) 720-8871, e-mail

FPB.DocketClerk@usda.gov. Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. The United States Standards for Grades of Kale are available either through the

address cited above or by accessing the Fresh Products Branch Web site at <http://www.ams.usda.gov/standards/stanfrrfv.htm>.

FOR FURTHER INFORMATION CONTACT:

David L. Priester, at the above address or call (202) 720-2185; e-mail *David.Priester@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

At a 2003 meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to review all the fresh fruit and vegetable grade standards for usefulness in serving the industry. AMS has identified the United States Standards for Grades of Kale for a possible revision. These standards were last revised in 1934. As a result, AMS has identified that industry marketing practices indicate the need to modify the current standards to allow the percentages to be determined by count and not weight. However, prior to undertaking detailed work to develop proposed revisions to the standards, AMS is soliciting comments on the possible revision to the standards and the probable impact on distributors, processors, and growers. Additionally, AMS is seeking comments regarding any other revisions that may be necessary to better serve the industry.

This notice provides for a 60-day comment period for interested parties to comment on changes to the standards. Should AMS conclude that there is a need for the revisions of the standards, the proposed revisions will be published in the **Federal Register** with a request for comments in accordance with 7 CFR Part 36.

Authority: 7 U.S.C. 1621-1627.

Dated: September 28, 2004.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04-22058 Filed 9-30-04; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Environmental Impact Statement on Watershed Planning and Implementation of Resource Protection Measures for the Marmaton Watershed Located in Allen, Bourbon, and Crawford Counties, KS

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of intent (NOI).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Kansas State Office, announces its intention to prepare an environmental impact statement (EIS) to evaluate the impacts of resource protection measures that would be employed under potential alternatives within a watershed plan in the Marmaton Watershed (located in Allen County, Bourbon County and Crawford County, all in Kansas). A plan would be developed to reduce risks to life and property caused by frequent flooding of communities and agricultural lands, improve water quality, and address watershed protection needs. The EIS will analyze the potential environmental and socioeconomic impacts of alternatives in a watershed plan, as identified in the watershed planning/NEPA process, including any structural and non-structural measures that would address resource concerns in the Marmaton Watershed.

The purpose of this notice is to request participation and invite comments from all those individuals and organizations interested in the development of the EIS.

Under a watershed plan, the NRCS would provide financial and technical assistance to sponsoring local organizations, including the Allen County Conservation District, the Bourbon County Conservation District, the Crawford County Conservation District, and the Marmaton Watershed District, for installation of structural and/or non-structural measures to prevent flooding, improve water quality, and protect the watershed throughout the described area. The EIS analysis will incorporate mitigation measures the NRCS would use to minimize, to the greatest extent practicable, any potential adverse environmental or

socioeconomic impacts. Such measures are authorized under the Watershed Protection and Flood Prevention Act of 1954, Public Law 83-566 (P.L.-566).

Public Participation: The NRCS invites full public participation to promote open communication and better decision making. All persons and organizations that have an interest in the Marmaton River and its tributaries with flooding problems and natural resource issues within the Marmaton Watershed as they affect Allen, Crawford, and Bourbon Counties are urged to participate in the NEPA environmental analysis process. Assistance will be provided as necessary to anyone having difficulty in determining how to participate. A public participation plan has been developed and will be followed.

Public comments are welcomed throughout the NEPA process. Opportunities for public participation include: (1) The EIS scoping period when comments on the NRCS proposal will be solicited through various media and at a public meeting to be held in Uniontown, Kansas, November 4, 2004; (2) the 45-day review and comment period for the published Draft EIS; and (3) for 30 days after publication of the Final EIS.

Scoping Process: Public participation is requested throughout the scoping process. The NRCS is soliciting comments from the public indicating what issues and impacts the public believes should be encompassed within the scope of the EIS analysis, voicing any concerns they might have about the identified resource protection measures, and submitting any ideas they might have for addressing risks to life and property in the Marmaton Watershed. Other opportunities for public input include: (1) once the Notice of Availability (NOA) of the Draft EIS is published in the **Federal Register**, comments will be accepted on the Draft EIS for a period of not less than 45 days, and (2) once the Final EIS is published in the **Federal Register**, comments will be accepted for a period of not less than 30 days. The NRCS will provide a written response to each comment provided and will evaluate the issues presented for study and possible inclusion in the EIS. The public participation plan describes responsibilities and outreach opportunities in this process.

Date Scoping Comments are Due: Comments may be submitted by regular mail, telephone, facsimile, or e-mail until 5 p.m. CST, November 19, 2004. Written comments submitted by regular mail should be postmarked by November 19, 2004, to ensure full

consideration. (**Note:** scoping period will continue for a period of 45 calendar days after issuance date of this NOI.) Comments postmarked after this date will be considered to the extent practicable.

ADDRESSES: Comments on what the public wishes to be analyzed or addressed within the Draft EIS should be mailed to: Dean Krehbiel, Marmaton Watershed EIS, 760 South Broadway, Salina, Kansas 67401-4604.

Comments may also be submitted by calling (785) 823-4551, by sending a facsimile to (785) 823-4540, or by e-mail to dean.krehbiel@ks.usda.gov. Respondents should provide mailing address information and indication of wanting to be included on the EIS mailing list. All individuals on the mailing list will receive a copy of the Draft EIS.

Scoping Meeting: A public scoping meeting will be held November 4, 2004, to provide information on the watershed and planning activities performed to date, to give the opportunity to discuss the issues and alternatives that should be covered in the Draft EIS, and to receive oral and written comments. The meeting will be held from 1 p.m. to 3 p.m. at the Uniontown Community Center, Uniontown, Kansas.

FOR FURTHER INFORMATION CONTACT: An information package providing additional details about the watershed and proposed project is available upon request. Requests should be directed to the same mailing address, telephone number, facsimile number, or e-mail address noted above under **ADDRESSES**. The NRCS and the Marmaton Watershed District plan to publish a newsletter to keep interested parties up to date on the project. Requests to be included on the newsletter mailing list should be made to the same addresses noted above; please include an e-mail address if wanting electronic transmission. Information may also be obtained from the Kansas NRCS Web site at: <http://www.ks.nrcs.usda.gov>.

Responsible Official: Harold L. Klaege, State Conservationist, NRCS, Salina, Kansas, is the responsible official for this action.

Decisions to be Made: The responsible NRCS official will decide whether to approve an alternative action or no action.

SUPPLEMENTARY INFORMATION:

Background: The Marmaton River is a permanent stream within the Marais de Cygnes river basin in eastern Kansas. The Marmaton River flows eastwardly from its origins near Moran, Kansas, through the community of Fort Scott, Kansas, to its confluence with Dry

Wood Creek near Deerfield, Missouri. The Marmaton Watershed encompasses 210,001 acres, which includes all of the Marmaton River drainage above the Mill Creek confluence near Fort Scott, Kansas. This drainage area lies within the Cherokee Prairies and the Scarped Osage Plains land resource areas. This area consists of slightly dissected plains interrupted by a series of low ridges formed by east-facing escarpments ranging from 770 feet above mean sea level to 1,110 feet at its headwaters. Between the escarpments are flat to rolling plains as a result of the differential weathering of shale and limestone.

The major water resource problems in the Marmaton Watershed can be summarized as serious flooding, water quality, and water quantity conditions. Total annual rainfall in the watershed averages about 40 inches. Two years in 10 will have less than 31 inches or more than 46 inches. Frequent floods are common, occurring two and one-half to three times per year. Major flood events in October 1986 and in October 1998 each caused damages in excess of \$5.5 million. Included in these damages are \$2.3 million to agricultural land and buildings, rural roads and bridges, and scour within the boundaries of the Marmaton Watershed District. Outside the district boundaries, urban damages to Fort Scott, Kansas, were in excess of \$3.2 million from each flood. Although Fort Scott has been re-zoned to reduce flood damages since the 1998 flood, flooding remains a concern to the citizens of that community. Other concerns identified in planning include deterioration of cropland soil quality, deterioration of grazing land condition and productivity, degradation of riparian woodland and wetland, and nutrient and pesticide management issues.

In 1992, sponsoring local organizations (Allen County Conservation District, Bourbon County Conservation District, Crawford County Conservation District, and the Marmaton Watershed District) requested assistance from the NRCS in development of a Soil and Water Resources Plan for the Marmaton Watershed, with major emphasis on providing flood protection for agriculture, businesses, homes, and roads located along the floodplain. A preliminary ecosystem-based resource plan (preliminary watershed plan) developed in 1999, described existing floodwater damages, additional resource concerns, and two alternatives for addressing these concerns.

In 2004, NRCS representatives met with local sponsors and public officials

to discuss planning efforts to detail a flood protection analysis, watershed protection strategies, and water quality improvements. The resource protection measures within the Draft EIS will include those structures evaluated in the 1999 report that provided substantial flood protection and also met applicable benefit-cost criteria, as well as other non-structural alternatives that will address local environmental, social, and economic needs.

P.L.-566 authorizes the NRCS to provide financial and technical assistance to local sponsors to address local flooding problems and implement watershed protection measures. Under the agency proposal for the Marmaton Watershed, the NRCS would provide financial and technical assistance to the sponsors to install measures that will address resource concerns within the watershed. The sponsors would be responsible for operation and maintenance of those works of improvements.

Need for the Proposal: The proposal is needed to address the problems associated with recurrent flooding, water quality, water quantity, and other natural resources. Recurrent flooding due to periodic intense rainstorm events within the Marmaton Watershed continue to pose a hazard to human safety and cause extensive flood damage to properties along the river.

Purpose of the Proposal: The purpose of the proposal is to assist the local community in taking appropriate measures to assure public safety and protect property in the face of the recurrent flooding problems, improve water quality concerns, and address watershed protection concerns within the watershed.

Preliminary Issues: Among the issues that the NRCS plans to consider in the scope of the EIS analysis are:

- Environmental, economic, and social impacts of the alternatives.
- Environmental issues dealing with water quality that might be affected.
- Environmental integrity of the any works of improvement.
- Costs and benefits of the alternatives.

Preliminary Alternatives: The EIS will analyze the potential environmental and socioeconomic impacts of a range of alternatives, including structural and non-structural measures, for reducing risks to life and property presented by Marmaton River flooding and other watershed protection concerns. This analysis will be summarized in a Draft EIS. The preliminary list of alternatives for the Draft EIS includes: (1) Constructing 48 flood-retarding dams in the watershed; (2) using non-structural

flood protection measures to reduce the potential for damage and address resource concerns; (3) using land treatment measures to control flooding, reduce damages, and address resource concerns; and (4) taking "No Action"—making no improvements for flood protection. The alternatives will be refined and supplemented, as appropriate, based on input by the public and agencies during the public scoping process.

Alternative 1—Evaluate Installation of 48 Flood-Retarding Structures (FRS)

Under this alternative, the NRCS would evaluate the construction of 48 earthen dams on tributaries of the Marmaton River. The FRS would be located throughout the watershed on intermittent streams.

Alternative 2—Employ Non-Structural Flood Protection Measures

Under this alternative, the NRCS would evaluate non-structural measures that would reduce the potential for damage by controlling flooding, protection or removal of affected structures, and addressing watershed protection concerns.

Alternative 3—Employ Land Treatment Measures

Under this alternative, the NRCS will evaluate the effect of land treatment on the watershed to determine what practices and management will be needed to control flooding and address watershed protection concerns.

Alternative 4—"No Action" Alternative

Under this alternative, the NRCS would provide no financial or technical assistance to sponsoring local organizations for flood protection measures in the Marmaton Watershed. Federal agencies are required to evaluate the impacts of a "No Action" alternative in preparing an EIS, even though the alternative would not meet the agency's purpose and need.

Permits or Licenses Required: Construction of flood retarding structures is authorized under P.L.-566 administered by the NRCS. A permit would be required from the U.S. Army Corps of Engineers under the Clean Water Act (CWA), Section 404 for any project that would impede the flow of waters of the United States or that would affect any wetlands. A permit would be required from the State of Kansas, Division of Water Resources, for any dam structures or structural works installed in the flood plain. The State of Kansas, Department of Health and Environment would require a Construction Stormwater Permit and

subsequent stormwater pollution prevention plan. A structural project may also require a National Pollution and Discharge Elimination System (NPDES) water quality certification by the State under CWA, Section 401, which could be issued in conjunction with the CWA 404 permit. Approval from the State Historic Preservation Office would be required if any National Register-eligible historic properties would be affected. Consultation with the U.S. Fish and Wildlife Service would be required if the proposal may affect any species listed as threatened or endangered under the Endangered Species Act.

Estimated Dates for Draft EIS and Final EIS: The NRCS expects to file the Draft EIS with the Environmental Protection Agency (EPA) and to have it available for public review and comment during the fall or winter of 2005–2006. At that time, EPA will publish a Notice of Availability (NOA) of the Draft EIS in the **Federal Register**. The public comment period on the Draft EIS will be a minimum of 45 days from the date the EPA publishes the NOA.

The NRCS and the sponsors believe, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the Draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns (*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)). In addition, environmental objections that could be raised at the Draft EIS stage, but are not raised until after completion of the Final EIS, may be waived or dismissed by the courts (*City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this project participate by the close of the Draft EIS review period, so that substantive comments are made available to the NRCS at a time when the comments can be meaningfully considered in the Final EIS.

To assist the NRCS and the sponsors in identifying and considering issues and concerns on the proposed alternatives, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the Draft EIS. Reviewers may wish to refer to the Council on

Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 153.3 in addressing these points.

After the comment period on the Draft EIS ends, the comments will be analyzed, considered, and responded to by the NRCS in preparing the Final EIS. The Final EIS is scheduled for completion by the spring of 2006. The responsible officials will consider the comments, responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies in making a decision regarding this proposed action. The responsible officials will document the decisions and reasons for the decisions in a Record of Decision. That decision will be subject to appeal in accordance with 36 CFR part 215.

Dated: September 24, 2004.

Harold L. Klaege,

State Conservationist.

[FR Doc. 04-22029 Filed 9-30-04; 8:45 am]

BILLING CODE 3410-16-P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Cane Creek Watershed, Lauderdale County, TN

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of availability of record of decision.

SUMMARY: James W. Ford, responsible Federal official for projects administered under the provisions of Public Law 83-566, 16 U.S.C. 1001-1008, in the State of Tennessee, is hereby providing notification that a record of decision to proceed with the installation of the Cane Creek Watershed Remedial project is available. Single copies of this record of decision may be obtained from James W. Ford at the address shown below.

FOR FURTHER INFORMATION CONTACT: James W. Ford, State Conservationist, Natural Resources Conservation Service, 675 U. S. Courthouse, 801 Broadway, Nashville, Tennessee 37203, telephone (615) 277-2531.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Dated: September 23, 2004.

James W. Ford,

State Conservationist.

[FR Doc. 04-22030 Filed 9-30-04; 8:45 am]

BILLING CODE 3410-16-P

ARCTIC RESEARCH COMMISSION

Notice of Meeting

Notice is hereby given that the U.S. Arctic Research Commission will hold its 73rd Meeting in Durham, NH, on October 5-8, 2004. The Business Session open to the public will convene at 9 a.m. Tuesday, October 5; the Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the Minutes of the 72nd Meeting.

(3) Reports from Congressional Liaisons.

(4) Agency Reports.

The focus of the Meeting will be reports and updates on programs and research projects affecting the U.S. Arctic. Presentations include a review of the research needs for civil infrastructure in Alaska.

The Business Session will reconvene at 9 a.m. Wednesday, October 6, 2004. An Executive Session will follow adjournment of the Business Session.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters must inform the Commission in advance of those needs.

FOR FURTHER INFORMATION CONTACT: Dr. Garrett W. Brass, Executive Director, Arctic Research Commission, (703) 525-0111 or TDD (703) 306-0090.

Garrett W. Brass,

Executive Director.

[FR Doc. 04-22037 Filed 9-30-04; 8:45 am]

BILLING CODE 7555-01-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: October 31, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions. If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Laser Labels

7530-01-289-8190—White label size—1" × 4"

7530-01-289-8191—White label size—1" × 2 5/8"

7530-01-302-5504—White label size—1 1/3" × 4"

7530-01-336-0540—White label size—2" × 4"

7530-01-349-4463—White label size—8 1/2" × 11"