

# Proposed Rules

Federal Register

Vol. 70, No. 10

Friday, January 14, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 360

[Docket No. 04-037-2]

#### Noxious Weeds; Notice of Availability of Petitions To Regulate *Caulerpa*

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Petition and request for comments; reopening of comment period.

**SUMMARY:** We are reopening the comment period for our notice announcing the receipt of two petitions requesting that additional aquatic plants of the genus *Caulerpa* be added to the list of noxious weeds. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We will consider all comments that we receive on or before January 26, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- **EDOCKET:** Go to <http://www.epa.gov/feddoCKET> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate Docket 04-037-1.

- **Postal Mail/Commercial Delivery:** Please send four copies of your comment (an original and three copies) to Docket No. 04-037-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 04-037-1.

- **E-mail:** Address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and

address in your message and "Docket No. 04-037-1" on the subject line.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

**Petitions:** The petitions discussed in this document are available on the APHIS Web site at <http://www.aphis.usda.gov/ppq/weeds/> or from the individual listed as the contact for further information.

**Reading Room:** You may read any comments that we receive on Docket 04-037-1 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

**Other Information:** You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan V. Tasker, Noxious Weeds Program Coordinator, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1237; (301) 734-5225.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 26, 2004, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** (69 FR 62419-62421, Docket No. 04-037-1) a notice in which we announced the receipt of, and requested comments on, two petitions from the International Center for Technology Assessment. The first petition requested that APHIS add the entire genus *Caulerpa* to the list of noxious weeds. The second petition requested, in the case that the first petition was denied, that all varieties of the species *C. taxifolia* be added to the list of noxious weeds.

Comments on the petitions were required to be received on or before December 27, 2004. We are reopening the comment period on Docket No. 04-037-1 for an additional 30 days from the original close of the comment period.

This action will allow interested persons additional time to prepare and submit comments. We will consider all comments received between December 28, 2004 (the day after the close of the original comment period) and the date of this notice.

**Authority:** 7 U.S.C. 7711-7714, 7718, 7731, 7751, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of January 2005.

**Elizabeth E. Gaston,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05-801 Filed 1-13-05; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 923

[Docket Nos. AO-F&V-923-3; FV03-923-01]

#### Sweet Cherries Grown in Designated Counties in Washington; Secretary's Decision and Referendum Order on Proposed Amendments to Marketing Agreement and Order No. 923

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule and referendum order.

**SUMMARY:** This decision proposes amending the marketing agreement and order (order) for sweet cherries grown in Washington, and provides growers with the opportunity to vote in a referendum to determine if they favor the changes. The amendments are based on those proposed by the Washington Cherry Marketing Committee (Committee), which is responsible for local administration of the order. The amendments include: adding authority for promotion, including paid advertising, and production research projects; adding authority for supplemental rates of assessment for individual varieties of cherries; adding authority for the Committee to accept voluntary contributions for research and promotion; and, adding a public member to the Committee. Two additional amendments are based on those proposed by the Agricultural Marketing Service: Establishing tenure limitations for Committee members and, requiring that continuance referenda be

conducted every 6 years. The proposed amendments are intended to improve the operation and functioning of the sweet cherry marketing order program.

**DATES:** The referendum will be conducted from March 1 through March 21, 2005. The representative period for the purpose of the referendum is April 1, 2003 through March 31, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Post Office Box 1035, Moab, UT 84532, telephone: (435) 259-7988, fax: (435) 259-4945.

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, fax: (202) 720-8938.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding include: a Notice of Hearing issued on October 6, 2003, and published in the October 10, 2003, issue of the **Federal Register** (68 FR 58636), and a Recommended Decision issued on September 29, 2004 and published in the October 5, 2004 issue of the **Federal Register** (69 FR 59551).

This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

**Preliminary Statement**

The amendments are based on the record of a public hearing held November 18, 2003, in Yakima, Washington. The hearing was held to consider the proposed amendment of Marketing Agreement and Order No. 923, regulating the handling of sweet cherries grown in the State of Washington, hereinafter referred to as the "order". The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained numerous proposals submitted by the Committee and two proposals by the Agricultural Marketing Committee (AMS).

The amendments included in this decision would: (1) Add the authority for promotion, including paid advertising, and production research

projects; (2) add the authority for supplemental rates of assessment for individual varieties of cherries; (3) add the authority for the Committee to accept voluntary contributions for marketing research and promotion, including paid advertising, and production research projects; and (4) add a public member and alternate public member to the Committee.

The Fruit and Vegetable Programs of AMS proposed to establish tenure limitations for Committee members and to require that continuance referenda be conducted on a periodic basis to ascertain grower support for the order. In addition, AMS proposed to allow such changes as may be necessary to the order, if any of the proposed changes are adopted, so that all of the order's provisions conform to the effectuated amendments.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on October 4, 2004, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by November 4, 2004. That document also announced AMS's intent to request approval of new information collection requirements to implement the program. Written comments on the proposed information collection requirements were due by November 4, 2004. None were filed.

**Small Business Considerations**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Small agricultural growers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms are defined as those with annual receipts of less than \$5,000,000.

The record shows that there are approximately 1,500 growers of sweet cherries in the production area and approximately 62 handlers subject to regulation under the order. The average production of sweet cherries in Washington State for the last three years is 64,676 tons with an average grower price of \$1,943 per ton. Using this number, the average annual grower revenue is calculated to be

approximately \$83,777, thus indicating that the average Washington sweet cherry grower would qualify as a small entity according to the SBA definition.

Using Committee data regarding each individual handler's total shipments during the 2002 marketing year, and an estimated average FOB price of \$24 per 20-pound container, 79 percent of the Washington sweet cherry handlers shipped under \$5 million worth of sweet cherries, and 21 percent shipped over \$5 million worth of sweet cherries. Therefore, the majority of Washington sweet cherry handlers may be classified as small entities.

The Committee is currently comprised of 10 growers and 6 handlers. Both small and large growers and handlers are members and member alternates on the Committee. Committee meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and all other interested persons, who are encouraged to participate in the deliberations and voice their opinions on topics under discussion.

At a May 22, 2003, full Committee meeting, all industry representatives present could present their views concerning the recommended amendments. Both large and small businesses were represented. The Committee believes that small and large entities would benefit equally from the proposed amendments.

Testimony indicates that the proposal to include paid advertising and production research under the order would assist both small and large growers and handlers in marketing Washington sweet cherry crops. While addition of this authority could result in increased assessments under the order, witnesses stated that the benefits arising from these activities, as evidenced by similar activities under the Commission, would outweigh the costs.

Similarly, the proposal to add authority for supplemental varietal assessments could require additional payments per individual variety of sweet cherry. However, witnesses stated that they believed the benefits of those research and promotion activities would outweigh the costs.

Witnesses used the example of recent Commission activities as evidence that research and promotion activities would lead to increased grower returns and market stability by providing tools to the industry to address expanding production and evolving consumer trends in the industry. Witnesses were unanimous in their belief that the benefits of the Commission's activities

more than outweigh the costs of these programs. They stated that the same results would be expected from any such activities conducted under the order.

The proposal to add authority for the Committee to accept voluntary contributions would not result in any increased costs or burdens to the industry. In fact, witnesses stated that this authority would benefit the industry greatly as it could provide for additional funding sources of research and promotional activities. Safeguards against donor control over the use of voluntary contributions would ensure that these funds would be used in the best interest of the industry. The Committee would decide how to use those funds, and the decision-making process would be open to industry input and feedback.

The proposal to add a public member and alternate public member to the Committee is not expected to result in any substantial cost increases. While the new members would be entitled to reimbursement for their expenses, the additional cost would be minimal. Additionally, the benefit of adding a non-industry, consumer perspective to Committee deliberations and decision-making could prove very beneficial. Witnesses stated that this additional perspective would improve the Committee's understanding of the consumer in the marketplace and could enhance Committee activities aimed at increasing consumer demand for Washington sweet cherries.

The proposed amendment to add tenure requirements for Committee members would allow more persons the opportunity to serve as members of the Committee. It would provide for more diverse membership, provide the Committee with new perspectives and ideas, and increase the number of individuals in the industry with Committee experience.

The proposal to require continuance referenda on a periodic basis to ascertain grower support for the order would allow growers to vote on whether to continue the operation of the program. The referenda would be conducted by USDA.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impacts of the proposed amendments to the order on small entities. The record evidence is that while some minimal costs may occur, those costs would be outweighed by the benefits expected to accrue to the sweet cherry industry in designated counties of Washington.

The Department has not identified any relevant Federal rules that

duplicate, overlap or conflict with this proposed rule. All of the amendments are designed to enhance the administration and functioning of the program to the benefit of Washington cherry growers and handlers.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS has submitted a request to OMB for approval of the increase in information collection burden for the Washington Cherry marketing order.

This decision adds a public member and alternate public member to the Committee. A confidential qualification and acceptance statement would be used to nominate and appoint the public and alternate public committee members. This form is based on the currently approved Confidential Background Statement for the Washington Cherry Marketing Committee. If this proposal is implemented the form would only be used after approval by OMB.

#### **Civil Justice Reform**

The amendments to Marketing Order 923 proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Department a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted there from. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Department's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

#### **Findings and Conclusions**

The material issues, findings and conclusions, rulings, and general findings and determinations included in

the Recommended Decision set forth in the October 5, 2004, issue of the **Federal Register** are hereby approved and adopted.

#### **Marketing Agreement and Order**

Annexed hereto and made a part hereof is the document entitled "Order Amending the Order Regulating the Handling of Sweet Cherries Grown in Washington." This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

*It is hereby ordered,* That this entire decision be published in the **Federal Register**.

#### **Referendum Order**

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400 *et seq.*) to determine whether the annexed order amending the order regulating the handling of sweet cherries grown in Washington is approved or favored by growers, as defined under the terms of the order, who during the representative period were engaged in the production of sweet cherries in the production area.

The representative period for the conduct of such referendum is hereby determined to be April 1, 2004, through February 28, 2005.

The agent of the Secretary to conduct such referendum is hereby designated to be Robert Curry and Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Room 369, Portland, Oregon 97204; telephone (503) 326-2724.

#### **List of Subjects in 7 CFR Part 923**

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

Dated: January 11, 2005.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

#### **Order Amending the Order Regulating the Handling of Sweet Cherries Grown in Washington<sup>1</sup>**

##### *Findings and Determinations*

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing agreement and order; and

<sup>1</sup> This order shall not become effective unless and until the requirements of §900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

*(a) Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to the Marketing Agreement and Order No. 923 (7 CFR part 927), regulating the handling of sweet cherries grown in Washington. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of sweet cherries grown in the production area in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of sweet cherries grown in the production area; and

(5) All handling of sweet cherries grown in the production area as defined in the marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

## Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of sweet cherries grown in Washington shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the Recommended Decision issued by the Administrator on September 29, 2004, and published in the **Federal Register** on October 5, 2004, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

## PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 923 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 923.20 is revised to read as follows:

### § 923.20 Establishment and membership.

There is hereby established a Washington Cherry Marketing Committee consisting of seventeen members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Ten members and their respective alternates shall be growers or officers or employees of corporate growers. Six of the members and their respective alternates shall be handlers, or officers or employees of handlers. One member and his or her respective alternate shall be a public member who is neither a grower nor a handler. The ten members of the committee who are growers or employees or officers of corporate growers are referred to in this part as “grower members” of the committee; and six members of the committee who shall be handlers, or officers or employees of handlers are referred to in this part as “handler members” of the committee. Five of the grower members and their respective alternates shall be growers of cherries in District 1, and five of the grower members and their respective alternates shall be growers of cherries in District 2. Three of the handler members and their respective alternates shall be handlers of cherries in District 1, and three of the handler members and their representative alternates shall be handlers of cherries in District 2.

3. Revise § 923.21 to read as follows:

### § 923.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years beginning April 1 and ending March 31. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms must leave the committee for at least one year before becoming eligible to serve again.

4. Amend § 923.22 by adding a new paragraph (b)(4) to read as follows:

### § 923.22 Nomination.

\* \* \* \* \*

(b) \* \* \*

(4) The grower and handler members of the committee shall nominate the public member and alternate public member at the first meeting following the selection of members for a new term of office.

5. In § 923.41, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

### § 923.41 Assessments.

\* \* \* \* \*

(c) Based upon a recommendation of the committee or other available information, the Secretary shall fix the rate of assessment that handlers shall pay on all cherries handled during each fiscal period, and may also fix supplemental rates of assessment on individual varieties or subvarieties to secure sufficient funds to provide for projects authorized under § 923.45. At any time during the fiscal period when it is determined on the basis of a committee recommendation or other information that a different rate is necessary for all cherries or for any varieties or subvarieties, the Secretary may modify a rate of assessment and such new rate shall apply to any or all varieties or subvarieties that are shipped during the fiscal period.

\* \* \* \* \*

6. A new § 923.43 is added to read as follows:

### § 923.43 Contributions.

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 923.45. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

7. Section 923.45 is revised to read as follows:

**§ 923.45 Production and marketing research, promotion and market development.**

The committee, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of cherries. The expense of such projects shall be paid from funds collected pursuant to §§ 923.41 and 923.43.

8. Section 923.64 is amended by:

A. Revising paragraph (c).

B. Redesignating paragraph (d) as paragraph (e).

C. Adding a new paragraph (d).

The revision and addition read as follows:

**§ 923.64 Termination.**

\* \* \* \* \*

(c) The Secretary shall terminate the provisions of this part whenever it is found that such termination is favored by a majority of growers who, during a representative period, have been engaged in the production of cherries: *Provided*, that such majority has, during such representative period, produced for market more than 50 percent of the volume of such cherries produced for market.

(d) The Secretary shall conduct a referendum six years after the effective date of this section and every sixth year thereafter, to ascertain whether continuance of this subpart is favored by growers. The Secretary may terminate the provisions of this subpart at the end of any fiscal period in which the Secretary has found that continuance of this subpart is not favored by growers who, during a representative period determined by the Secretary, have been engaged in the production of cherries in the production area.

\* \* \* \* \*

[FR Doc. 05-825 Filed 1-13-05; 8:45 am]

BILLING CODE 3410-02-P

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 20**

[Docket No. PRM-20-25]

**Sander C. Perle, ICN Worldwide Dosimetry; Denial of Petition for Rulemaking**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; Denial.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking submitted by Sander C. Perle, ICN Worldwide Dosimetry (now Global Dosimetry Solutions, Inc.) (PRM-20-25). The petitioner requested that the NRC amend its regulations to require that any dosimeter, without exception, that is used to report dose of record and demonstrate compliance with the dose limits specified in the Commission's regulations be processed and evaluated by a dosimetry processor holding accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; the definition of "Individual monitoring devices" (individual monitoring equipment) be revised to mean any device used by licensees to show compliance with the Commission's regulations; and "electronic dosimeters and optically stimulated dosimeters" be added as additional examples of individual monitoring devices.

**ADDRESSES:** Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection and/or copying in the NRC Public Document room, 11555 Rockville Pike, Rockville, Maryland. These same documents are also available on the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. For information about the interactive rulemaking Web site, contact Carol Gallagher, (301) 415-5905, e-mail: [CAG@nrc.gov](mailto:CAG@nrc.gov).

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). Note: Public access to documents, including access via

ADAMS and the PDR, has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. However, access to the documents identified in this **Federal Register** continues to be available through the rulemaking Web site at <http://ruleforum.llnl.gov>, which was not affected by the ADAMS shutdown. Please check with the listed NRC contact concerning any issues related to document availability.

**FOR FURTHER INFORMATION CONTACT:** Torre Taylor, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: (301) 415-7900; e-mail: [tmt@nrc.gov](mailto:tmt@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**The Petition**

On May 5, 2003 (68 FR 23618), the NRC published a notice of receipt of a petition for rulemaking filed by Sander C. Perle, ICN Worldwide Dosimetry (now Global Dosimetry Solutions, Inc.). The petitioner requested that the NRC amend its regulations to require that any dosimeter, without exception, that is used to report dose of record and demonstrate compliance with the dose limits specified in the Commission's regulations be processed and evaluated by a dosimetry processor holding accreditation from NVLAP; the definition of "Individual monitoring devices" [in 10 CFR 20.1003] (hereafter, "10 CFR Section" referred to as §) (individual monitoring equipment) be revised to mean any device used by licensees to show compliance with § 20.1201; and "electronic dosimeters and optically stimulated dosimeters" be added as additional examples of individual monitoring devices in the definition of "Individual monitoring devices."

The petitioner stated that the current wording of § 20.1501(c) precludes testing and accreditation requirements for an electronic dosimeter. The petitioner also stated that today's electronic dosimeters use multiple microprocessors that include many complex user input parameters that ultimately affect the final dose and/or dose rate reported. The dose determined from an electronic dosimeter is a "processed" dose. The electronic dosimeter requires that the licensee program the dosimeter to respond to various spectra, based on the calibration and other licensee set parameters. According to the petitioner, the NRC's position is that, because the current § 20.1501(c) does not appear to include