

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, Georgia 30635-6711. Proposed Rate Schedules SOCO-1-B, SOCO-2-B, SOCO-3-B, SOCO-4-B, ALA-1-K, MISS-1-K, Duke-1-B, Duke-2-B, Duke-3-B, Duke-4-B, Santee-1-B, Santee-2-B, Santee-3-B, Santee-4-B, SCE&G-1-B, SCE&G-2-B, SCE&G-3-B, SCE&G-4-B, Pump-1-A, Pump-2, Regulation-1, and Replacement-1 are also available.

Dated: March 28, 2003.

**Charles A. Borchardt,**  
Administration.

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## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Collections from Central Valley Project Power Contractors to Carry Out the Restoration, Improvement, and Acquisition of Environmental Habitat Provisions of the Central Valley Project Improvement Act of 1992

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of final procedures.

**SUMMARY:** The Western Area Power Administration (Western), by publication of this notice, announces final procedures for the collection of the Restoration Fund. Western published the proposed procedures in the **Federal Register** on October 29, 2002. Included in this notice is a discussion of the comments on the proposed procedures. These procedures supersede the procedures published in the **Federal Register** on August 4, 1998.

**DATES:** The final procedures will become effective January 1, 2005, and will remain in effect until superseded.

**ADDRESSES:** Information regarding the final procedures, including comments, letters, and other supporting documents made or kept by Western to develop these final procedures, is available for public inspection and copying at the Sierra Nevada Region Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melinda C. Grow, Public Utilities Specialist, Rates Division, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630-4710, telephone (916) 353-4443, e-mail [grow@wapa.gov](mailto:grow@wapa.gov).

**SUPPLEMENTARY INFORMATION:** Section 3407 of the Central Valley Project Improvement Act (CVPIA) (Pub. L. 102-575, Stat. 4706, 4726) establishes in the Treasury of the United States the Central Valley Project (CVP) Restoration Fund (Restoration Fund) to carry out the habitat restoration, improvement, and acquisition provisions of the CVPIA. The CVPIA further requires the Secretary of the Interior to assess and collect annual mitigation and restoration payments from CVP Water and Power Contractors (Restoration Payments). The Secretary of the Interior, through the Bureau of Reclamation (Reclamation), is responsible for determining and collecting CVP Water and Power Contractors' share of the annual Total Restoration Fund Payment Obligation.

Because Western markets and transmits CVP power and maintains all CVP power contracts, Western agreed to collect the Restoration Payments from CVP Power Contractors. Western executed a letter of agreement with Reclamation to establish procedures for depositing collections from CVP Power Contractors into the Restoration Fund.

Through an open and public process, the existing procedures became effective on September 3, 1998, and remain in effect until superseded (63 FR 41561, August 4, 1998). Western indicated that it would review the procedures associated with the assessment and collection of the Restoration Payments from CVP Power Contractors every 5 years or if one of the following occurs: (1) If there is a significant change to or suspension of the legislation, (2) if a material issue arises, (3) if an apparent inequity in the procedures is discovered, or (4) if any significant change occurs that affects the procedures.

Western published a new marketing plan (2004 Power Marketing Plan) in the **Federal Register** on June 25, 1999. The 2004 Power Marketing Plan specifies the terms and conditions under which Western will market power from CVP and the Washoe Project beginning January 1, 2005 (64 FR 34417). Since the current method to assess and collect Restoration Fund payments from CVP Power Contractors is tied to the 1994 Marketing Plan (57 FR 45782, October 5, 1992) and long-term firm CVP power contracts will expire on December 31, 2004, it is necessary to change the method of assessing and collecting Restoration Payments from CVP Power Contractors.

Western will prorate and assess to CVP Power Contractors the annual Power Restoration Payment Obligation (PRPO), as determined by Reclamation.

Western will issue each CVP Power Contractor a monthly Restoration Fund Bill reflecting its share of the PRPO. The CVP Power Contractors will pay that amount to Western. Western will transfer all amounts collected from CVP Power Contractors to Reclamation for deposit into the Restoration Fund.

### Public Notice and Comment

Summarized below is the process Western used to ensure involvement of interested parties in the development of the final procedures for the assessment and collection of Restoration Fund payments from CVP Power Contractors.

1. Western published a notice in the **Federal Register** (67 FR 65974) on October 29, 2002. This notice officially announced the proposed procedures, initiated the public consultation and comment period, and announced the public information and comment forums.

2. Western sent letters on November 1, 2002, to all CVP preference customers and interested parties transmitting the **Federal Register** notice dated October 29, 2002, and announcing the times and locations for two public forums.

3. Western held public information and comment forums on November 20, 2002, at its Sierra Nevada Region office in Folsom, California. At the public information forum, Western explained the proposed procedures and answered questions. Western held the public comment forum after the public information forum to give the public the opportunity to comment for the record. Three representatives from the following organizations made oral comments.

Northern California Power Agency (California).  
Navigant Consulting Inc., on behalf of the Sacramento Municipal Utility District (California).  
City of Palo Alto (California).

4. Western received six comment letters during the public consultation and comment period. Western reviewed and considered all comments received by the end of the public consultation and comment period, December 30, 2002, in developing the final procedures.

Western received written comments from the following organizations:  
Sacramento Municipal Utility District (California).  
Northern California Power Agency (California).  
Tuolumne Public Power Agency (California).  
Calaveras Public Power Agency (California).  
Silicon Valley Power—City of Santa Clara (California).

Trinity Public Utility District  
(California).

Below are the paraphrased comments Western received and Western's responses to those comments. Specific comments are used for clarification when necessary.

#### A. Definition and Usage of the Terms

*Comment:* There was some confusion with respect to the definition and usage of the term "Total Power Restoration Fund Payment Obligation" as articulated in the proposed procedures. The definition intended to describe the payments collected from both Water and Power Contractors and yet the definition title only included power. Further, the use of this term confuses the meaning of the first section of the proposed procedures as to when Western is referring to the Water and Power contractors. The commentor requested clarification on the use of this term.

*Response:* Western evaluated the use of this term throughout the proposed procedures. The definition, as well as the usage of this term, was changed to clarify its usage and is reflected in the final procedures.

*Comment:* The commentor requested the inclusion of the ancillary service, regulation, in the definition of the Base Resource. Western should consider defining the Base Resource as only those resources that produce power from CVP and Washoe operations, as well as the Enron contract, and that no other products will be considered as part of the 2004 Power Marketing Plan Base Resource.

*Response:* The 2004 Marketing Plan (64 FR 34417) as well as the Base Resource Contracts have consistently defined the Base Resource " \* \* \* as the CVP and Washoe Project power output and any additional purchases (as determined by Western) to be available for marketing after meeting the requirements of Project Use and First Preference customers and any other adjustments required for maintenance, reserves, transformation losses and [certain] ancillary services." While the Base Resource contracts do include the term "regulation" in this definition, Western believes that this service is covered by the 2004 Marketing Plan's definition under " \* \* \* certain ancillary services." Western proposes to change the method for Restoration Fund collections due to the publication of the 2004 Marketing Plan. Western wishes to maintain definition consistency and, therefore, intends to use the same definition for Base Resource as indicated in the 2004 Marketing Plan and the Base Resource Contracts.

#### B. Inclusion of the PRPO in Western's Power Rate

*Comment:* Western should consider including the PRPO as part of the CVP revenue requirement and include it in the power rates.

*Response:* The Secretary of the Interior, through Reclamation, is responsible for assessing and collecting the mitigation and restoration payments from CVP Power and Water contractors. Since Reclamation does not have a formal business relationship with CVP Power Contractors, Western entered into a written agreement with Reclamation that establishes procedures to deposit the Restoration Fund Payments collected from CVP Power Contractors into the Restoration Fund. With regard to Restoration Fund collections, Western acts only as a billing agent on behalf of Reclamation. However, Western does not assume any financial liability for balances which are not collected from the CVP Power Contractors. All legal actions for the collection of Restoration Payments owed by Power Contractors will be initiated by Reclamation in cooperation with Western. Therefore, Western believes it is inappropriate to include the PRPO in the CVP power rate.

#### C. Allocating the PRPO

*Comment:* The 2004 Marketing Plan allocates power to the Power Contractors as the Base Resource only after meeting the requirements of Project Use and the First Preference Customers and any adjustments for maintenance, reserves, transformation losses, and certain ancillary services. Depending on reservoir levels, hydrology and water conditions, and Reclamation's water deliveries, there could be times when the Power Contractors receive little or no power benefit from CVP. The commentor stated that during these times, the only beneficiaries of CVP power are the water contractors, and they should pay the full burden of the Restoration Fund. The commentor suggested that instead of using the Power Contractor's Base Resource Percentage as the determinant for assessing an individual Power Contractor, Western should use the actual energy used by the Power Contractor.

*Response:* The PRPO due from the Power Contractors each year is assessed by Reclamation. Through the Letter of Agreement, Western has agreed to collect the PRPO from the Power Contractors regardless of the amount of power received from CVP resources. Therefore, even if Western were to base a Power Contractor's PRPO obligation

on power deliveries, which is similar to the methodology used by Western in the 1998 procedures, Western would have to reduce the billing determinants and increase the Restoration Fund multipliers in order to collect the full PRPO. The end result would be the same. As a billing agent for Reclamation, this role does not afford Western the authority, nor the right, to change the amount assessed to CVP Water customers from the Total Restoration Fund Payment Obligation. Given these circumstances and in an effort to stabilize the Power Contractors' payments, Western proposed a method of calculation based on the Power Contractor's individual Base Resource percentages multiplied by the PRPO.

*Comment:* Several commentors advocated support of the proposed methodology to use a Power Contractor's Base Resource percentage as the basis for Restoration Fund payments.

*Response:* Western considered the comments provided on the allocation methodology and agrees with using the Base Resource percentage in the final procedures.

#### D. Year-end Reconciliation Process

*Comment:* Western should provide further clarification on the program year and billing months for the year-end reconciliation process as it relates to the Exchange Program. One commentor suggested changing the computation to include exchanges for all 12 months of the fiscal year, rather than exchanges that occur from October through July.

*Response:* Western intends the year-end reconciliation process to assist in rectifying underpayment made by recipients of exchange energy and overpayments by other Power Contractors. Throughout the year, after Western prepares the monthly power bills, Western will track the amount of exchange energy used and given up by respective Power Contractors. In a typical year, this tracking system will begin with power deliveries for a 12-month period from the July to June service months. In the first year of implementation, the transition year, the tracking system will capture exchange energy associated with power deliveries during the January 1, 2005, through the June 2005 service period. This tracking system will culminate in a year-end reconciliation process that will result in a true-up on August's Restoration Fund bills. Depending on a Power Contractor's net usage of the Exchange Program, there will be either an additional charge or a credit applied to August's Restoration Fund bill. Western considered conducting a monthly

reconciliation as suggested, but due to time and resource limitations, Western decided to use the annual true-up instead. Western provided further clarification on these annual reconciliation procedures in the final procedures.

#### *E. Third-Party Payment*

*Comment:* Western should ensure that billing and payment procedures are flexible enough to accept payments from third-party billing agents, such as the recently created CVP Business Corporation.

*Response:* Western understands that some Power Contractors may wish to use a third-party for payment of their share of the PRPO. Although such a business arrangement does not transfer the Power Contractor's obligation to make payment, Western understands that the Power Contractor might wish to use a third-party agent. As such, Western has ensured that the final procedures allow for third-party agents to make payments on behalf of the Power Contractors.

#### *F. First Preference Customer Exclusion*

*Comment:* Several commentors supported Western's proposal to exempt First Preference customers from payments to the Restoration Fund in recognition of the contributions these counties have made toward restoration programs.

*Response:* Western proposed excluding all First Preference customers as a result of the significant environmental contributions of the Trinity River Division and New Melones projects toward CVPIA Restoration Fund programs. After evaluating comments provided during the comment period and reviewing documents that support these environmental benefits, Western plans to maintain the position of exclusion for this subset of customers and document this in the final procedures.

*Comment:* Several commentors opposed the exclusion of the First Preference customers from Restoration Fund payments. Comments stated that the Trinity Public Utility District (TPUD) has already been receiving an increase in the payments of in-lieu-of (ILO) taxes for impacts of the CVP on Trinity County. This increase of ILO taxes, coupled with the temporary exclusion granted to TPUD for Restoration Fund collections, provides more than appropriate compensation for the impacts experienced by Trinity County as a result of the construction of Trinity Dam. Similarly, other comments questioned Western's intent to include Calaveras and Tuolumne counties in the

exclusion. The comment indicated that these two counties already benefit from Western's new marketing plan proposal to deliver firm load factor energy to them, even though New Melones may not generate power for months.

*Response:* Western's rationale for excluding First Preference customers from post-2004 Restoration Fund collections is based on the contributions the Trinity and New Melones Dam projects and their operation have had toward environmental efforts in the areas of mitigation and restoration as they apply to CVPIA and other legislation.

Western considered the environmental contributions of the Trinity River Division (TRD) and New Melones Project as the basis for excluding First Preference customers. Western did not base this decision on the financial impacts upon the individual First Preference customers. Some customers commented or inferred that this was necessary for Western to base its decision. Western examined this financial data as requested by the customers; however, these calculations do not provide a full representation of the benefits and/or burdens experienced by the First Preference customers. There are other intangible benefits provided by the TRD and New Melones Project that either directly or indirectly provide environmental mitigation in support of CVPIA and/or projects supported by the CVPIA Restoration Fund. Since the First Preference customers' energy entitlements are limited to a mathematical calculation associated with the generation of each respective dam, any change to the generation output or reoperation directly affects the calculation of the First Preference customers' energy entitlement. This concept is a necessary basis for Western's decision to exclude First Preference customers from future Restoration Fund collections.

*Comment:* One commentor disagreed with Western including the Sierra Conservation Center (SCC) in the exclusion, believing that the construction of the New Melones Dam had no impact on SCC.

*Response:* The authorizing legislation of the TRD and the New Melones Project (Pub L. 69-386 (Trinity), Pub. L. 87-874 (New Melones)) does not discriminate among First Preference customers within the counties of origin. In the interest of consistency and equity, all preference customers within the counties will be treated the same. The basis for Western's rationale for exclusion is contingent on the benefit or contribution that the Trinity and New Melones project operations have had on

CVPIA environmental mitigation and restoration.

*Comment:* Western should consider limiting the period of exclusion to no longer than 5 years, as circumstances regarding the rationale for exclusion change periodically.

*Response:* Western reviewed the procedures and agrees to include a provision in the final procedures that provides for a review process every 5 years or earlier if certain conditions are met.

#### *Acronyms and Definitions*

As used throughout the remainder of this notice, the following acronyms and definitions when used with initial capitalization, whether singular or plural, have the following meanings:

*2004 Power Marketing Plan:* The final marketing program for power marketed by the Sierra Nevada Region after 2004 established through a public process and published in the June 25, 1999, **Federal Register** (64 FR 34417).

*Administrator:* The Administrator of the Western Area Power Administration.

*Base Resource:* CVP and Washoe Project power output and existing power purchase contracts extending beyond 2004 determined by Western to be available for marketing, after meeting the requirements of Project Use and First Preference Customers, and any adjustments for maintenance, reserves, transformation losses, and certain ancillary services.

*Billing Month:* The month CVP Power Contractors will be billed for the Restoration Payments.

*Billing Year:* The period, September through August, that represents the annual Restoration Fund billing cycle.

*Central Valley Project (CVP):* The multipurpose Federal water and power project extending from the Cascade Range in northern California to the plains along the Kern River south of the city of Bakersfield.

*CVP Improvement Act of 1992 (CVPIA):* Title 34 of Pub. L. 102-575, 106 Stat. 4706 *et seq.* A legislative act, enacted on October 30, 1992, that defines provisions for habitat restoration, improvement and acquisition, and other fish and wildlife restoration activities in the CVP area of California.

*DOE:* United States Department of Energy.

*Exchange Program:* A program established in accordance with the 2004 Power Marketing Plan and intended to allow customers to more effectively use their power allocations.

*First Preference Customer:* A customer wholly located in Trinity, Calaveras, or

Tuolumne counties, California, as specified under the Trinity River Division Act (69 Stat. 719) and the New Melones provisions of the Flood Control Act of 1962 (76 Stat. 1173, 1191–1192).

*Fiscal Year (FY):* The Federal fiscal year that currently begins October 1 and ends September 30.

*Interior:* United States Department of the Interior.

*kW:* Kilowatt, the electrical unit of capacity that equals 1,000 watts.

*kWh:* Kilowatthour, the electrical unit of energy that equals the generation of 1,000 watts over 1 hour.

*Letter of Agreement:* Letter of Agreement No. 93–SAO–10156, a written agreement between Reclamation and Western that establishes procedures to deposit the Restoration Payments collected from CVP Power Contractors into the Restoration Fund.

*Midyear Adjustment:* The adjustment to the annual PRPO as determined by Reclamation on or about April 1 of each year.

*Power:* Capacity and energy.

*Power Contractor:* An entity purchasing CVP power from Western under a contract with a term in excess of 1 year.

*Power Restoration Payment Obligation (PRPO):* The portion of the Total Restoration Payment Obligation calculated and assigned annually to CVP Power Contractors by Reclamation.

*Project Use:* The power used to operate CVP or Washoe Project facilities in accordance with authorized purposes and pursuant to Reclamation law.

*Reclamation:* United States Department of the Interior, Bureau of Reclamation.

*Restoration Fund:* The CVP Restoration Fund, established by section 3407 of the CVPIA, into which revenues provided by the CVPIA are deposited and from which funds are appropriated by the Secretary to carry out the habitat restoration, improvement, and acquisition provisions of the CVPIA.

*Restoration Fund Bill(s):* The instrument prepared and issued monthly as a mechanism for collecting the Restoration Payments from CVP Power Contractors.

*Restoration Payment(s):* The amount(s) recorded as payable on CVP Power Contractors' Restoration Fund Bills.

*Secretary:* Secretary of DOE.

*Total Restoration Fund Payment Obligation:* The total amount of payments collected from the CVP Water and Power Contractors calculated annually by Reclamation.

*Washoe Project:* The Federal water project located in the Lahontan Basin in west-central Nevada and east-central

California, as described in Western's final 2004 Power Marketing Plan for the Sierra Nevada Region.

*Western:* United States Department of Energy, Western Area Power Administration.

### Final Procedures

#### Determination of the PRPO

Reclamation is responsible for assigning the PRPO for the CVP Power Contractors. On or about July 1 of each year, Reclamation will provide a letter to Western's Regional Manager of the Sierra Nevada Region with the determined PRPO amount and a detailed explanation of the computation for the upcoming FY. Upon receiving the letter from Reclamation, Western will notify each CVP Power Contractor of the annual PRPO and the monthly amounts to be collected from CVP Power Contractors.

#### Allocating the PRPO

Western will allocate the PRPO among CVP Power Contractors each FY. After notification by Reclamation, Western will calculate the annual obligation for each CVP Power Contractor. Western will base its calculation on the assigned Base Resource percentage for each CVP Power Contractor as specified in their power contracts. This annual obligation will be divided by the number of months in the FY; *i.e.*, twelve, or in the case of FY 2005, the number of months remaining in the FY; *i.e.*, nine, to determine the monthly obligation.

Since the 2004 Power Marketing Plan does not begin until January 1, 2005, and Restoration Fund collections for FY 2005 (October 1, 2004, through September 30, 2005) begin prior to this, FY 2005 will be a transition year for Restoration Fund collections from Power Contractors.

Western will base Restoration Fund collections from Power Contractors for October through December 2004 upon the existing collection methodology articulated in the August 4, 1998, **Federal Register**. Western intends to begin collection under these new proposed procedures beginning with January 2005 collections. As a point of clarification, Western will bill the Power Contractors for the October 2004 collection in their September 2004 bills based upon energy and capacity amounts for their June 2004 service month. A similar process will continue through the December 2004 collection.

In December 2004, Western will total the Restoration Fund collections made by the Power Contractors from October and November 2004, and the amounts

payable for December 2004, and subtract this amount from the annual PRPO to calculate the balance to collect for the remaining months of the FY. Western will multiply this total by each Power Contractor's Base Resource percentage. This amount will then be divided by nine, representing the remaining months in the FY (January through September) to determine each Power Contractor's monthly obligation.

#### Year-End Reconciliation Process

Implementation of the Exchange Program may result in some Power Contractors receiving small amounts of energy in excess of their Base Resource percentage in some months. Although recipients of this exchange energy will pay for this power, Restoration Fund obligations are based on the Power Contractors' percentage of the Base Resource excluding exchange energy. Alternatively, some Power Contractors that are not able to use all of their Base Resource and return it as exchange energy could be overpaying their Restoration Fund obligations, since their actual power usage might be less than their Base Resource percentage in a given month.

In an effort to rectify underpayment made by recipients of exchange energy and overpayments by other Power Contractors, Western will conduct a reconciliation process, otherwise known as an annual true-up, before preparing August Restoration Fund Bills. This reconciliation will require Western to identify energy amounts exchanged among individual Power Contractors on a monthly basis. Normally, with the exception of the first year of implementation, the applicable billing periods will track exchange energy associated with power deliveries from July to June service months. During the first year of implementation, the tracking system will track exchange energy from January 1, 2005, through the June 2005 service month. This information will provide the basis for determining the amount of energy exchanged during the billing year.

Western will add an additional charge, or a balloon payment, to the August Restoration Fund Bills for each Power Contractor who received exchange energy during the past year that exceeded their Base Resource percentage. Conversely, Western will also post an offsetting credit on their August bills for those Power Contractors that provided exchange energy, thus decreasing the amount of Base Resource energy received.

### Exclusion of First Preference Customers From the Power Restoration Payment Obligation

Western has discretion how the PRPO is assessed to CVP Power Contractors. As a consequence, Western reviewed the contribution the Trinity River Division and New Melones projects provide, either directly or indirectly, to environmental mitigation in support of CVPIA and/or projects supported by the CVPIA Restoration Fund.

The Trinity River Division's contribution to, and support of, environmental mitigation and restoration is many fold. The diversion of Trinity River water through the Trinity River Division's plants and tunnels benefits CVPIA related projects due to its unique characteristics. The lower temperature of Trinity River water makes the Sacramento River more conducive to spawning of endangered and threatened fish species. In addition, other benefits include the dilution effects the Trinity River water affords Spring Creek Dam releases/overflows and the substantial volume increase provided to the Sacramento River. Further, the final outcome of the Supplemental Environmental Impact Statement for the Trinity Record of Decision may make it necessary to further reoperate Trinity Dam to comply with river flow requirements. It is possible that the First Preference entitlement calculation for Trinity County may be reduced, thus effecting the energy entitlement authorized by law. The construction of the New Melones Dam, though originally intended to provide flood control protection, is now also valuable for the benefits it provides for environmental mitigation. Like the TRD, its benefit to the CVP in assisting to meet CVPIA goals and programs is unique and unlike the benefit that any other facility can provide. New Melones' water releases to the Stanislaus River, which flow ultimately into the San Joaquin River, bear the sole CVP burden of complying and supporting the Vernalis Adaptive Management Plan (VAMP) as prescribed in Water Right Decision 1641. This program was based on the Bay-Delta hearings, supports the State's Water Quality Plan, and is also contained in CVPIA legislation. This program requires that water pulse flow targets be met and maintained so that 12 years of studies are available and analyzed for use by the State Water Quality Review Board. In essence, this program has contributed toward a reoperation of New Melones in an effort to support VAMP. In addition, New Melones' water releases help to support other fish

habitat and riparian projects along the Stanislaus and San Joaquin rivers as well as water conditions in the California Delta, as required by CVPIA.

The environmental benefits of the TRD and New Melones projects toward CVPIA Restoration Fund programs are significant. Since CVPIA was enacted, these facilities have been reoperated so CVP meets the standards and guidelines set forth by CVPIA. With the reoperation of these facilities and the fact that the First Preference customers' energy entitlements are based on the generation output of these facilities, their reoperation ultimately affects these customers. These circumstances provide a basis by which to exclude Restoration Fund collections from any First Preference customers within the affected areas.

### Adjustment to the PRPO

Each FY's annual PRPO is subject to a Midyear Adjustment determined by Reclamation. The Midyear Adjustment occurs on or about April 1 of each FY, following Reclamation's annual determination of available CVP water supply for the year. Reclamation notifies Western, in writing, of the Midyear Adjustment. Upon receiving Reclamation's notification, Western will factor the Midyear Adjustment amount into the calculation for the remaining PRPO for the year. The bills for the remainder of the billing year will reflect the adjusted PRPO. Western will then notify each CVP Power Contractor of the Midyear Adjustment to the annual PRPO.

### Collection of CVP Power Contractors' Restoration Fund Payment

Each CVP Power Contractor and any applicable thirdparty agents will receive a Restoration Fund Bill each month on or about the twenty-fifth (25th ) but no later than the last day of the month. The Restoration Fund billing cycle for each FY will begin within 30 days following August 1 or the date written notification of the annual PRPO is received from Reclamation, whichever occurs later.

### Payment Due Date

All CVP Power Contractors' Restoration Payments are due and payable before the close of business twenty calendar days after each Restoration Fund Bill is issued, or the next business day thereafter, if said day is a Saturday, Sunday, or Federal holiday.

### Late Payment Charges Assessed to Delinquent Restoration Payments

Western will add a late payment charge of five hundredths percent

(0.05%) of the principal amount unpaid for each day the Restoration Fund Bill payment is delinquent. Payments received will be first applied to the charges for the late payment assessed on the principal and then to the payment of the principal.

### Deposit of CVP Power Contractors' Restoration Payments Into the Restoration Fund

On or about the twenty-seventh (27th) calendar day of the month following each Billing Month, Western will transfer all of the Restoration Payments received, including late payment charges, to Reclamation for deposit into the Restoration Fund. The thirtieth (30th) of September of each FY is the last day Western will transfer Restoration Payments, including late payment charges, to Reclamation for that FY.

### Review Process

Western will review the procedures for the assessing and collecting of Restoration Payments from the CVP Power Contractors every 5 years or if one of the following occurs: (1) If there is a significant change to or suspension of the legislation, (2) if a material issue arises, (3) if an apparent inequity in the procedures is discovered, or (4) if any significant change occurs that affects the procedures.

### Availability of Information

All studies, comments, letters, memorandums, or other documents made or kept by Western for developing the final procedures, will be made available for inspection and copying at Western's Sierra Nevada Region Office, 114 Parkshore Drive, Folsom, CA 95630-4710.

### Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities. Western has determined that this action relates to rates or services offered by Western and, therefore, is not a rule within the purview of the Act.

### Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500 through 1508), and the Integrated DOE NEPA Implementing Procedures (10 CFR part 1021), Western has determined this action is

categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

### Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866. This notice is not required to be cleared by the Office of Management and Budget.

Dated: March 27, 2003.

Michael S. HacsKaylo,  
Administrator.

[FR Doc. 03-9325 Filed 4-15-03; 8:45 am]

BILLING CODE 6450-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2003-0012; FRL-7303-8]

### Perfluorooctanoic Acid (PFOA), Fluorinated Telomers; Request for Comment, Solicitation of Interested Parties for Enforceable Consent Agreement Development, and Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has identified potential human health concerns from exposure to perfluorooctanoic acid (PFOA) and its salts, although there remains considerable scientific uncertainty regarding potential risks. EPA is requesting public comment on pertinent topics of interest, as discussed in this document, and the submission of additional data concerning these chemicals. EPA is also soliciting the identification of interested parties who want to monitor or participate in negotiations on one or more enforceable consent agreements (ECAs) under section 4 of the Toxic Substances Control Act (TSCA) concerning PFOA and fluorinated telomers which may metabolize or degrade to PFOA, and is announcing the first public meeting for these ECA negotiations.

**DATES:** Comments on this notice must be received on or before May 16, 2003.

Notify EPA in writing on or before May 16, 2003 of your desire to be accorded "interested party" status for the purpose of participating in or monitoring the negotiations for development of ECAs concerning PFOA and telomers.

A public meeting has been scheduled to initiate negotiations on an ECA for PFOA and telomers, from 1 p.m. to 5 p.m., on Friday, June 6, 2003.

**ADDRESSES:** Submit your comments, identified by docket ID number OPPT-2003-0012, online at <http://www.epa.gov/edocket/> (EPA's preferred method), or by mail to EPA Docket Center (7407), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. For additional comment submission methods and detailed instructions, go to Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Submit your notification for "interested party" status separately from any comments submitted, identified "Attention: PFOA ECA Notification" by mail to Brigitte Farren, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. To protect personal information from disclosure to the public, please submit these notifications separately from your comments and do not use any online electronic commenting system to submit this notification.

The public meeting to initiate negotiations on ECAs for PFOA and telomers will be held at the Environmental Protection Agency, EPA East Bldg., Rm. 1153, 1201 Constitution Ave., NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: Mary Dominiak, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8104; e-mail address: [dominiak.mary@epa.gov](mailto:dominiak.mary@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to manufacturers, importers, processors, exporters, distributors, and users of PFOA, fluoropolymers, fluoroelastomers, and telomer chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions

regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2003-0012. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. Additional information concerning the topics discussed in this notice can be found in Administrative Record (AR)-226: PFOS, PFOA, Telomers, and Related Chemicals, which was established by the Agency in 2000 to receive information on various fluorinated chemicals, including PFOA. These materials are also available in the EPA Docket Center. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> 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. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other