

Dated: March 11, 2003.

**John R. Caylor,**

*Deputy Assistant Secretary of Labor for Mine Safety and Health.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR 206

#### RIN 1010-AC59

### Geothermal Resources: Proposal To Convene Discussions To Develop Consensus on Royalty Valuation Approaches

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Request for comments, solicitation of interest.

**SUMMARY:** In conjunction with the President's National Energy Policy on renewable energy resources, MMS proposes to convene discussions with geothermal producers and other stakeholders to explore the possibility of developing a consensus on geothermal royalty valuation approaches. The discussions will be in the form of public workshops and written comments and will be open for both electrical generation and direct-use valuation. MMS wishes to gauge the extent to which geothermal producers and other stakeholders desire new or modified royalty valuation approaches. Accordingly, MMS at this time requests the following information: Comments on the need for new or modified valuation procedures; an expression of interest in holding workshops to discuss alternative valuation procedures, with the goal of developing a consensus on new or modified approaches; and suggestions for alternatives or modifications to the existing procedures, with the objective of maintaining royalty neutrality.

**DATES:** You must submit comments on or before April 16, 2003.

**ADDRESSES:** Address your comments and suggestions regarding this proposal to Paul Knueven, Manager, Records and Information Management Team.

*By regular U.S. mail:* Center for Excellence, Minerals Revenue Management, Minerals Management Service, P.O. Box 25165, MS 320B2, Denver, Colorado 80225-0165; or

*By overnight mail or courier:* Center for Excellence, Minerals Revenue Management, Minerals Management Service, Building 85, Room F421,

Denver Federal Center, Denver, Colorado 80225-0165; or

*By email:* [MRM.comments@mms.gov](mailto:MRM.comments@mms.gov). Please submit Internet comments as an ASCII file and avoid the use of special characters and any form of encryption. Also, please include "Attn: Geothermal Proposal 2003" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, call the contact person listed below.

#### FOR FURTHER INFORMATION CONTACT:

Sharron L. Gebhardt at telephone (303) 231-3211, fax (303) 231-3781, email [sharron.gebhardt@mms.gov](mailto:sharron.gebhardt@mms.gov), or PO Box 25165, MS 320B2, Denver Federal Center, Denver, Colorado 80225-0165.

#### SUPPLEMENTARY INFORMATION:

*I. Background:* The current geothermal valuation rules (30 CFR 206.350 *et seq.*) have been in effect since January 1, 1992. One of the primary reasons for promulgating the current rules was to establish procedures to value the increasing volume of geothermal production used by lessees in their own power plants or direct-use facilities; that is, production not subject to sales transactions, or the so-called "no-sales" resources. After considering all the comments, MMS adopted the netback procedure for valuing the no-sales electrical generation resources and the alternative fuel method for valuing the no-sales direct-use resources (56 FR 57256, November 8, 1991). These two procedures have now become the predominant methods of valuing geothermal production from Federal leases for royalty purposes.

In response to concerns raised by stakeholders over declining royalties in 1999, MMS reopened the geothermal valuation rules to public comment to consider alternatives to both the netback procedure and the alternative fuel method (Advance Notice of Proposed Rulemaking, 64 FR 45213, August 19, 1999). However, owing to successful resolution of the concerns that prompted this action, as well as no clear consensus from industry to alter the existing rules, MMS withdrew the proposed rulemaking (65 FR 49957, August 16, 2000).

On May 17, 2001, the President released his National Energy Policy (NEP) that emphasized the importance of renewable energy in contributing to the nation's electricity supply. In response to recommendations in the NEP, the Departments of the Interior and Energy co-sponsored a national conference in Washington, DC, on November 28, 2001, to hear testimony on opportunities to expand renewable energy production from public lands. A

follow-up conference was held in Palm Springs, California, on February 27, 2002, for more in-depth discussions of the issues raised in November. Few industry representatives at either conference commented on the current Federal geothermal valuation methods. However, those representatives who did speak raised concerns about the effects of royalty valuation on project costs.

*II. Proposal and Request:* In response to the comments made at the conferences, and to further the NEP's goal of increasing production of renewable energy on public lands, MMS proposes to convene informal discussions among geothermal producers and other stakeholders to explore the possibility of developing a consensus on geothermal royalty valuation approaches for the no-sales resources. The discussions will be in the form of public workshops and written comments. Additionally, valuation of both electrical generation and direct-use resources will be open to discussion.

MMS wishes to gauge the extent to which geothermal producers and other stakeholders desire new or modified royalty valuation approaches. In this regard we request responses to the following questions:

1. Is there a need for new or modified geothermal royalty valuation approaches, especially for the no-sales resources? Why or why not.

2. Are you interested and would you participate in public workshops to discuss alternative valuation procedures, with the goal of developing a consensus on new or modified approaches?

3. What alternatives or modifications to the existing valuation procedures do you propose? (See further discussion under "Goals of Valuation Alternatives" below.)

Depending on the responses to questions 1 and 2, MMS will schedule public workshops in the spring or summer of 2003. MMS proposes two workshops, one in Denver, Colorado, and the other in either Sacramento, California, or Reno, Nevada. Please indicate your preference. We will consider other locations if there is enough interest.

*III. Goals of Valuation Alternatives:* The goals of any proposed alternatives to the current valuation procedures, particularly with respect to the no-sales resources, should be threefold. First, the proposed method should derive a value of the resource that reflects its market value. Second, the proposed method should be easy to apply and readily verifiable. Third, the proposed method should not cause a significant royalty reduction for both present and future

production; that is, it should be relatively revenue neutral.

If you propose an alternative valuation method, please describe it in sufficient detail to provide an understanding of its workings and effects. Please use examples where possible.

Dated: February 13, 2003.

**Lucy Querques Denett,**

*Associate Director for Minerals Revenue Management.*

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 402

[Docket No. SLSDC 2003-14687]

RIN 2135-AA17

#### Tariff of Tolls

**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC will be revising its regulations to reflect the fees and charges charged by the SLSMC in Canada starting in the 2003 navigation season, which are effective only in Canada. The SLSDC also proposes an amendment to increase the minimum charge per lock transited for full or partial transit of the Seaway to be charged by the SLSDC for transit through the U.S. locks of vessels that are not pleasure craft or vessels subject in Canada to the tolls under items 1 and 2 of the Tariff. Since this latter proposed amendment would be of applicability in the United States, comments are invited on only on this. (See **SUPPLEMENTARY INFORMATION.**)

**DATES:** Any party wishing to present views on the proposed amendment may file comments with the Corporation on or before April 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Marc C. Owen, Chief Counsel, Saint

Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-6823.

**SUPPLEMENTARY INFORMATION:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. (The Tariff is called the Schedule of Fees and Charges in Canada.) The proposed amendments are described in the following summary.

The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising § 402.8, "Schedule of Tolls," to reflect the fees and charges charged by the SLSMC in Canada starting in the 2003 navigation season. With one exception, the changes affect the tolls for commercial vessels and are applicable only in Canada as the collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)). Accordingly, no notice and comment is necessary on these amendments. The SLSDC also proposes an amendment to increase the minimum charge per lock transited for full or partial transit of the Seaway to be charged by the SLSDC for transit through the U.S. locks of vessels that are not pleasure craft or vessels subject in Canada to the tolls under items 1 and 2 of the Tariff. Since only this latter proposed amendment would be of applicability in the United States, comments are invited on only on this.

The specific change proposed is to amend § 402.8, "Schedule of Tolls", to increase the per lock charge for transit through a U.S. lock from \$16.24 to \$16.44. This increase is due to higher operating costs at the locks. The footnote to § 402.8 would also be amended to clarify that this charge will be collected by the SLSDC for the U.S. locks in U.S. funds instead of at par.

#### Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

#### Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation will not have a significant economic impact on a

substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relates to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

#### Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major Federal action significantly affecting the quality of human environment.

#### Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that it does not have sufficient federalism implications to warrant a Federalism Assessment.

#### Unfunded Mandates

The Corporation has analyzed this proposed rule under title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

#### Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

#### List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 402, Tariff of Tolls, as follows:

#### PART 402—TARIFF OF TOLLS

1. The authority citation for part 402 would continue to read as follows:

**Authority:** 33 U.S.C. 983(a), 984(a)(4), and 988, as amended; 49 CFR 1.52.

2. Section 402.8 would be revised to read as follows:

#### § 402.8 Schedule of tolls.