corporation to its shareholders, the adjustments to the basis of stock of the shareholders, and the treatment of distributions by an S corporation.

DATES: The public hearing originally scheduled for Tuesday, December 15, 1998, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Michael L. Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Tuesday, August 18, 1998 (63 FR 44181), announced that a public hearing was scheduled for Tuesday, December 15, 1998, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 1366, 1367 and 1368 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Monday, November 16, 1998.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of December 2, 1998, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, December 15, 1998, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–32467 Filed 12–7–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 59

RIN 1024–AC68

Land and Water Conservation Fund Program of Assistance to States: Post Completion Compliance Responsibilities

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify Land and Water Conservation Fund (L&WCF) post-completion requirements by clarifying the state planning prerequisite for conversion approval, allowing the recipients of a L&WCF grant to use non-recreation land they currently own, or non-recreation land that is transferred from one public agency to another without payment, to satisfy the replacement requirement when land acquired with L&WCF assistance is proposed for conversion to other than public outdoor recreation uses, assuming all other eligibility criteria are met, eliminating the requirement that the National Park Service be notified of all instances of obsolescence and facility use changes, and establishing standards for resolving premature conversions to ensure their timely resolution. These changes are necessary to implement the recommendations of the park protection and stewardship task force which was established by the NPS to reengineer the post-completion compliance functions of the program and to address the recommendations of the Department of the Interior's Office of Inspector General.

DATES: Written comments will be accepted until February 8, 1999.

ADDRESSES: Comments should be sent to the Chief, Recreation Programs Division, National Park Service, Department of the Interior, 1849 ''C'' St., NW., Room 3624, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Strum (202–565–1129) or Mr. Kenneth R. Compton (202–565–1140).

SUPPLEMENTARY INFORMATION:

Background

Section 6(f)(3) of the L&WCF Act of 1965 stipulates that changes in use to other than public outdoor recreation at assisted sites may only be made with the approval of the Secretary of the Interior if such a conversion is in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and only if a converted property is replaced by substitute property of at least equal fair market value and of reasonably equivalent location and usefulness. On September 25, 1986, NPS published a final rule describing the post-completion compliance responsibilities for recipients of grants under the L&WCF grant-in-aid program. The regulations were subsequently amended on June 15, 1987 (52 FR 22747), to implement section 303 of the Emergency Wetlands Resources Act of 1986 which clarifies the equivalent usefulness criterion. The conversion requirements are codified at 36 CFR 59.3.

As part of the Vice President's National Performance Review, NPS established a park protection and stewardship task force to examine how local, State, and Federal governments could work together to better protect the public recreation estate created by L&WCF grant-in-aid program from the twin challenges of increasing development and shrinking manpower and financial resources at all levels of government. The goal of the task force members was to simplify and streamline the conversion review and approval process in 36 CFR part 59 without compromising the integrity of the recreation estate established through the L&WCF State grant program. The task force report, ''Protecting the Legacy,'' issued in November 1996, included several recommendations which will lighten the burden of the 56 States and Territories, the primary recipients of L&WCF grant assistance, as well as thousands of pass-through recipients at the local level. Some recommendations can be implemented administratively. However, three of the recommendations require revisions or amendments to the published regulations. This rulemaking is also being used to clarify language in the preamble to the 1986 rulemaking regarding the role of the SCORP in the conversion review and approval process.

Every State must have a SCORP which has been reviewed and accepted by NPS before it can apply for and receive grants under the L&WCF program. In addition, the prerequisites for conversion approval found in § 59.3(b) include the requirement that a conversion and substitution must be in accord with the then-existing SCORP or equivalent recreation plans. In the discussion of public comments found in the preamble to the 1986 final rule (51 FR 34182), equivalent recreation plans are described as whatever planning effort exists after program funding ends which most closely compares with that of the SCORP and which the State would maintain at the impetus of State law or for some other appropriate reason. It is possible that this language could be misinterpreted to preclude any conversion request unless justified by a single plan, statewide in scope and maintained by the State. The intent of the equivalent recreation plans language was to give the States and local project sponsors the flexibility to pursue legitimate conversion requests in the absence of a formal SCORP as long as a suitable planning alternative was available—whether a recreation plan developed by a State as part of its own comprehensive planning efforts or any local or regional plan(s) acceptable to the State for the purpose of complying with section 6(f)(3). Such a plan may be considered as equivalent and could serve in lieu of an official SCORP to support (or reject) a conversion request but only if it has been formulated with

benefit of public input and the existing SCORP has expired and L&WCF grant funding has ceased.

Subsection 59.3(b)(4)(iv) of the regulation prohibits land which is currently in public ownership from being used as replacement for land acquired as part of a L&WCF project. This prohibition includes land acquired from another public agency unless the selling agency is required by law to receive payment for the land.

Before 1982, program policy dictated that replacement real property must be newly acquired land and meet the standards for new acquisition projects. Therefore, replacement property could not be rededicated publicly owned lands regardless of whether the original project was for the acquisition of land or the development of facilities. However, in January 1982, NPS implemented a policy change which permitted rededicated public land not currently used or dedicated to public recreation/conservation, to be used as replacement land when a section 6(f)(3) conversion occurs within the boundaries of a L&WCF-assisted development project.

The task force concluded that this policy could apply equally well to acquisition projects, that there would be no diminution of the recreation estate if project sponsors were allowed to use non-recreation land it currently owns (or nonrecreation land that is transferred from one public agency to another without payment) to satisfy the replacement requirement on acquisition projects. Since public recreation is being protected in perpetuity, the other requirements of the L&WCF Act must still be met and the approval of a conversion proposal remains subject to the Secretary's approval authority, NPS concurs in the recommendation of the task force and proposes that this subsection be removed.

Existing § 59.3(d) requires NPS approval for any facility use change which would significantly contravene the intended recreation use of the area when the L&WCF assistance was provided. Although it does not require NPS approval for each and every facility use change or every time the maintenance of a park structure or use of an improvement funded with L&WCF assistance is discontinued after outliving its useful life (obsolescence), current regulations do require that NPS be notified of *all* proposed changes in advance of their occurrence regardless of cause. The intent of this review requirement was to ensure that no significant change occurs, or conversion of use takes place, without proper review and approval.

The task force recommended and NPS agreed that notification for every facility use change or every instance of facility obsolescence or deterioration of a L&WCF-assisted improvement requiring its removal or replacement was an unnecessary burden on L&WCF project sponsors. Therefore, in proposed § 59.3(d), this notification requirement for instances of obsolescence has been deleted except in the following two situations: (1) determinations of obsolescence which occur during the first five years after project closeout (to ensure contract compliance and to monitor fraud, waste and abuse), and (2) any instance of obsolescence which triggers a significant change of use. The State will continue to maintain a record for determinations of obsolescence after the five year period.

Facility use changes are addressed separately in new § 59.3(e). This section sets forth the requirement that NPS approval is required only for proposed changes to an otherwise eligible facility use which would significantly contravene the intended recreation use of the area when the L&WCF assistance was provided. In determining whether NPS approval is required, recipients are encouraged to review the original project application, agreement, amendments and any other related project documentation that would clarify the intended use of the park. The recipient should also view the project area in the context of its overall use and the area should be monitored in this context, e.g., a change from developed sports and play fields to a natural area, or vice versa, would require NPS review and approval. In addition, local recipients may wish to consult with the State administering agency for advice and counsel in determining the significance of a facility use change. All changes of use, whether significant or not, must nonetheless be public outdoor recreation uses otherwise eligible under the L&WCF program. Changes to other than eligible public outdoor recreation uses will constitute a conversion of use.

Conversions of L&WCF-assisted projects to other than public outdoor recreation use which are underway or which have been completed without the prior approval of the State and NPS are still subject to the statutory requirements for conversion review including the provision of suitable replacement property if subsequently approved; and the responsibility for resolving these premature conversion actions has and continues to rest with the agency responsible for administering the L&WCF program at the State level. However, internal audits have noted that there are no guidelines or standards for insuring that premature conversions (including the identification of suitable replacement property) are resolved in a timely manner. Therefore a new § 59.3(f), is added which establishes a 120-day time period from the date of conversion discovery, before the expiration of which the State is required to notify NPS of the actions it has taken or proposes to take to bring the project back into compliance with the grant agreement. It is important to note that approval of such conversions is not guaranteed unless all the prerequisites for a conversion set forth in § 59.3(b) are fulfilled including conclusively demonstrating that all practical alternatives which existed prior to taking the unauthorized action were taken into consideration.

Drafting Information

The primary author of this rule is Wayne Strum, Recreation Programs Division, National Park Service, Washington, DC 20240.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of this rulemaking. The NPS will review all comments and consider making changes to the rule based upon analysis of the comments.

Compliance With Other Laws

1. Regulatory Planning and Review

This rule is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(a) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

(b) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The changes proposed will only affect NPS and its grant recipients.

(c) This rule does alter the budgetary effects or entitlements, grants, user fees, or loan program or the rights or obligations of their recipients. Grant recipients will benefit by reduced reporting requirements and increased flexibility in identifying eligible replacement property.

(d) This rule does not raise novel legal issues. That portion involving eligibility

of replacement property represents a revision to existing policy.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The procedural changes have no economic impact; the change in the eligibility of replacement land for conversions will have little effect since the value of conversions involving recipients of all types of entities (State governments, counties, cities and small communities) totaled only $6.5 million annually for the past three fiscal years.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. It *clarifies* a state planning requirement, *eliminates* a reporting requirement, *establishes* a time standard for timely resolution of after-the-fact conversions, and gives States and local units of government increased *flexibility* in the identification of suitable replacement property. The latter will result in a cost savings to the grant recipient but as indicated above, the impact is far less than the $100 million threshold.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. To the contrary, State and local governments will realize some cost savings in those instances when land already in public ownership may be used as replacement.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rulemaking affects only the relationship between the National Park Service and its State and local partners under the L&WCF grant program, not U.S. commerce.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It imposes no new requirements in addition to those set forth in the grant contract and the existing regulations, and, in fact, facilitates contract compliance by the recipient (States) and sub-recipients (local units of government).

5. Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. This will reduce the number of replacement acquisitions required and therefore result in less interference with the use of private property.

6. Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism effects. The States are the primary recipients of L&WCF grant assistance and have been consulted during the development of the task force report referenced above, and as a result of the rulemaking, States and local units of government will realize increased flexibility in the conversion process.

7. Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

This regulation does not require any new information collection requirements from 10 or more parties and a submission under the Paperwork Reduction Act is not required.

9. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. As a regulation of an administrative nature, the environmental effects of which are too broad, speculative or conjectural to lend them themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case, this rule is categorically excluded from the NEPA process pursuant to 516 DM 2, Appendix 1 of the Departmental Manual.

10. Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the rule in the Supplementary Information section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to his address: Exsec@ios.doi.gov

List of Subjects in 36 CFR Part 59

Grant programs—recreation, Recreation and recreation areas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, NPS proposes to amend 36 CFR part 59 as follows:

PART 59—LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

1. The authority citation for part 59 is revised to read as follows:

Authority: Sec. 6, Pub. L. 88–578, 78 Stat. 897 (16 U.S.C. 460l–4 *et seq.*).

2. Amend § 59.3 by removing paragraph (b)(4)(iv), revising paragraph (d), and adding new paragraphs (e) and (f), to read as follows:

§ 59.3 Conversion requirements.

* * * * *

(d) *Does the perpetual use requirement mean that an obsolete facility or improvement must continue to remain available for public recreation use?* (1) Recipients are not required to continue operation of a Fund-assisted facility or improvement beyond its useful life.

(2) It is normally not necessary for the recipient to notify NPS or seek approval to determine that a facility or improvements is obsolete. However, NPS approval is required and must be requested in writing by the State for any proposed obsolete facility determination which occurs during the first 5 years after project closeout or results in a significant change in the use of the project area from what was intended in the original project agreement and amendments. The latter will require review and approval in accordance with paragraph (e) of this section.

(3) The project sponsor must maintain the entire area acquired or developed with Fund assistance for public outdoor recreation following discontinuance of the assisted facility or improvement.

Failure to do this is considered to be a conversion and requires NPS approval and the substitution of replacement land in accordance with section 6(f)(3) of the L&WCF Act and paragraphs (a) through (c) of this section.

(e) *Is NPS approval required for every change of use?* (1) Recipients are not required to notify or seek NPS approval for every change in facility use.

(2) A State must request NPS approval in writing when there is a proposed change to another otherwise eligible facility use at the same site which will significantly contravene the original project agreement, amendments and other project documentation. A project area should be viewed in the context of overall use and should be monitored in this context.

(3) In reviewing a request for changes in use, NPS will consider the proposal's consistency with the Statewide Comprehensive Outdoor Recreation Plan or equivalent recreation plan.

(4) Any facility use change to other than a public outdoor recreation use is considered to be a conversion and will require NPS approval and the substitution of replacement land in accordance with section 6(f)(3) of the L&WCF Act and paragraphs (a) through (c) of this section.

(f) *Must conversions which have taken place prematurely satisfy the same tests as those which have not yet occurred?* Conversions of Fund-assisted projects to other than public outdoor recreation use which are underway or which have been completed without the prior approval of the State and NPS are still subject to the statutory requirements for conversion review, including the provision of suitable replacement property if approved. To ensure that premature conversions are resolved in a timely manner (including the identification of suitable replacement property if retroactively approved), the State, within 120 days from the date of conversion discovery, must notify NPS of the corrective actions it has taken or proposes take to bring the project back into compliance with the terms of the grant agreement and paragraphs (a) through (c) of this section. The notice must include a schedule for the actions to be taken through completion of this process.

Dated: August 13, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–32385 Filed 12–7–98; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–6987b; A–1–FRL–6192–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; 15 Percent Rate-of-Progress and Contingency Plans; Revisions to 1990 Ozone Emission Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. The SIP revisions consist of the State's 15 percent rate of progress (ROP) plan and contingency plans, and minor revisions to the State's 1990 ozone emission inventory. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before January 7, 1999.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and at the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Robert F. McConnell, (617) 565–9266.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: November 13, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98–32416 Filed 12–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–106–102–9903b; FRL–6191–9]

Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Kentucky 15 Percent Plan, the automobile inspection and maintenance (I/M) program and the 1990 baseline emissions inventory submitted by the Commonwealth of Kentucky through the Kentucky Natural Resources Environmental Protection Cabinet on September 11, 1998. The adoption of a 15 Percent Plan, an I/M program and a baseline emissions inventory are required by the 1990 Clean Air Act Amendments for the Northern Kentucky Counties of Boone, Campbell, and Kenton, which are a part of the Cincinnati-Hamilton moderate nonattainment area for the one-hour ozone National Ambient Air Quality Standard (NAAQS). In addition, EPA proposes to approve revisions to the Kentucky State Implementation Plan (SIP) submitted on February 3, 1998, for the implementation of the rule regarding Stage II control at gasoline dispensing facilities and revisions to the existing open burning rule which provide a portion of the emission reductions included in the 15 Percent Plan.

In the final rules section of this **Federal Register**, the EPA is approving Kentucky's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA