

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 211****RIN 0596-AB63****Administration; Cooperative Funding****AGENCY:** Forest Service, USDA.**ACTION:** Proposed rule; request for comments.

SUMMARY: The Forest Service proposes to amend current regulations to establish minimum requirements applicable to written agreements between cooperators, such as individuals, States and local governments, and other non-Federal entities, and the Forest Service. This rulemaking implements amendments to the Act of June 30, 1914, which expand the basis for accepting contributions for cooperative work, allow reimbursable payments by cooperators, and adequately protect the Government's interest. The intended effect is to fully implement the new statutory provisions.

DATES: Comments must be received in writing by July 17, 1998.

ADDRESSES: Send written comments to Director, Wildlife, Fish and Rare Plants (MAIL STOP 1121), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this proposed rule in the office of the Director, Wildlife, Fish, and Rare Plants Staff, Forest Service, USDA, Cellar Central, Auditor's Building, 201 14th St., SW., Washington, DC 20250 between the hours of 8:30 a.m. and 4:30 p.m. All comments, including name and address when provided, will become a matter of public record and are available for inspection. Those wishing to inspect comments are encouraged to call ahead at (202) 205-1205 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Debbie Pressman, Wildlife, Fish and Rare Plants Staff, at (202) 205-1205.

SUPPLEMENTARY INFORMATION:**Background**

Eighty-four years ago, Congress passed the Act of June 30, 1914. This legislation authorized the Forest Service to receive money as contributions toward cooperative work in forest investigations or for the protection and improvement of the national forests.

Since passage of the Act of June 30, 1914, the public has become increasingly interested in the management of National Forest System lands. These lands offer unparalleled

recreational opportunities, contain a spectacular array of wild animals and plants, possess magnificent scenery, and provide social, ecological, and economic benefits to the Nation. In addition to increased interest in the management of these national resources, the public also is demanding more services and benefits from National Forest System lands. While the Forest Service mission includes providing services and benefits to the public in addition to managing National Forest System lands, the agency recognizes it cannot meet the public's increased demands for services and benefits without seeking innovative ways of accomplishing its mission. To that end, the Forest Service is building important cooperative relationships with numerous groups, individuals, and private and public agencies to help accomplish projects within the National Forest System.

There have been impediments, however, to cooperative opportunities. The Act of June 30, 1914, as amended, has been interpreted to restrict the use of contributions for cooperative work to only projects on national forest lands. Such an interpretation prevented the completion of cooperative projects on other portions of the National Forest System, including national grasslands, land utilization projects, administrative sites and other lands. Additionally, if the Forest Service were to pay the entire cost of cooperative work from appropriated funds, under law, there was no lawful means to reimburse the Forest Service appropriation from cooperator funds. Therefore, the Forest Service required cooperators to contribute funds in advance of any work to be accomplished. However, projects for which cooperators have already contributed funds, such as habitat enhancement, may be subject to delay and uncertainty for a variety of reasons, including the development of new information or controversy. Requiring contributions prior to the start of work often creates difficulties for cooperators by tying up their funds, sometimes for lengthy periods, with a corresponding loss of interest income. Additionally, some cooperators have policies requiring work to be completed before their shares are paid, which directly conflict with the Government requirement to receive a cooperator's money in advance of the start of work.

Delays in project completion are also costly to the Forest Service in that records of funds contributed prior to the start of work must be maintained from receipt through expenditure, as well as subsequent refund of any unspent funds.

Summary of Proposed Rule

On April 4, 1996, Congress enacted amendments to the Act of June 30, 1914, which eliminate these impediments. The amendments provide authority to use contributions for cooperative work on the entire National Forest System. Clarifying language adds "management" to the list of activities for which contributions for cooperative work may be accepted, and specific authority is provided to accomplish cooperative work using Forest Service funds prior to reimbursement by the cooperator pursuant to a written agreement.

This proposed rule is intended to implement these recent amendments to the Act of June 30, 1914. The provisions would be set out at a new § 211.6 of Title 36 of the Code of Federal Regulations.

Proposed paragraph (a), Purpose and scope, restates the statutory authority for Forest Officers to enter into written agreements with cooperators to receive monies as contributions toward cooperative work in forest investigations or the protection, management and improvement of the National Forest System, which now includes such work as planning, analysis, and related studies, as well as resource activities.

Proposed paragraph (b), Reimbursements and bonding, states that, when a written agreement so provides, projects may be planned and completed using Forest Service funds available for similar type work with subsequent reimbursement from a cooperator to be completed in the same fiscal year as Forest Service expenditures. This proposed rule restates the statute, which permits the Forest Service to bill cooperators after work is completed. This proposed provision will allow cooperators to have access to their funds or to keep their funds in interest-bearing accounts until after the work is completed. Also, as previously noted, this provision is consistent with the policy requirements of some cooperators that work be completed before their funds are contributed to the Forest Service.

Proposed paragraph (b) also protects the interests of the Government by requiring, as part of the written agreement with the cooperator, a payment bond when a non-Government cooperator agrees to contribute \$25,000 or more on a reimbursable basis. Historically, the Federal Government has required payment bonds for certain projects with values exceeding \$25,000. Acceptable security for payment bonds includes Department of the Treasury approved corporate sureties, Federal Government obligations, and irrevocable

letters of credit. Government cooperators are not required to execute a payment bond.

Proposed paragraph (c), Avoiding conflict of interest, of the proposed rule fulfills the statutory direction to protect the agency from conflict of interest in these cooperative funding situations. The proposed rule does not attempt to promulgate new conflict of interest regulations, because conflict of interest statutes and regulations at 18 U.S.C. 201–209 and 5 CFR Part 2635 are sufficient. Accordingly, proposed paragraph (c) provides that the Forest Service shall be guided by provisions of 18 U.S.C. 201–209, 5 CFR Part 2635, and applicable Department of Agriculture regulations, in determining if a conflict of interest or an appearance of a conflict of interest, exists in a proposed cooperative effort. Forest Service ethics officials or the designated Department of Agriculture ethics official should be consulted on conflict of interest issues.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This proposed rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to OMB review under Executive Order 12866.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule does not compel any expenditure of funds by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Environmental Impact

This proposed rule affects the administrative requirements for reimbursement payments to the agency by cooperators. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement “rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.” The agency’s preliminary assessment is that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed rule does not pose the risk of a taking of constitutionally-protected private property since it sets forth administrative requirements regarding the deposit of cooperator funds for forest investigations or the protection, management, and improvement of the National Forest System.

Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all State and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR 1320 do not apply.

Conclusion

The proposed rule implements the statutory amendments to the Act of June 30, 1914, and expands the basis for

accepting contributions for cooperative work between the Forest Service and cooperators. The proposed rule also provides for the planning and completion of projects using Forest Service funds with subsequent reimbursement from cooperators. The Government’s interests are protected in the proposed rule by securing reimbursement payments from cooperators with payment bonds when such payments are \$25,000 or more. Government cooperators are not required to execute payment bonds. The proposed rule also addresses concerns about conflicts of interest by referring Forest Service officials and employees to existing statutes and regulations, as well as Forest Service and Department of Agriculture ethics officials, concerning a conflict of interest or the appearance of a conflict of interest.

The Forest Service invites comments on this proposal, which would permit the agency to bill cooperators upon completion of a project and to require non-Government cooperators to execute a payment bond as part of the written agreement between the Cooperator and the Forest Service, when cooperators have entered into an agreement to provide \$25,000 or more for a project on a reimbursable basis.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure, Intergovernmental relations and national forests.

Therefore, for the reasons set forth in the preamble, it is proposed to amend Part 211 of Title 36 of the Code of Federal Regulations as follows:

PART 211—ADMINISTRATION

1. The authority citation for Part 211 is revised to read as follows:

Authority: 16 U.S.C. 472, 498, 551.

Subpart A—Cooperation

2. Revise the heading for subpart A to read as set out above.

3. Add a new section 211.6 to Subpart A to read as follows:

§211.6 Cooperation in forest investigations or the protection, management, and improvement of the National Forest System.

(a) *Purpose and scope.* In accordance with the Act of June 30, 1914, as amended (16 U.S.C. 498), forest officers may enter into written agreements with cooperators to receive monies as contributions toward cooperative work in forest investigations or for the protection, management, and improvement of the National Forest System. Management may include such

work as planning, analysis, and related studies, as well as resource activities.

(b) *Reimbursements and Bonding.* Agency expenditures for work in accordance with this section may be made from Forest Service appropriations available for similar type work, with subsequent reimbursement from the cooperator, when a written agreement so provides. Reimbursement from the cooperator must occur in the same fiscal year as Forest Service expenditures. When a non-Government cooperator agrees to contribute \$25,000 or more to the Forest Service on a reimbursable basis, the authorized officer must require, as part of the written agreement with the cooperator, a payment bond to guarantee the reimbursement payment, thereby ensuring the public interests are protected. Acceptable security for the payment bond includes Department of the Treasury approved corporate sureties, Federal Government obligations, and irrevocable letters of credit.

(c) *Avoiding conflict of interest.* Forest officers shall avoid acceptance of contributions from cooperators, when such contributions would reflect unfavorably upon the ability of the Forest Service to carry out its responsibilities and duties. Forest officers shall be guided by the provisions of 18 U.S.C. 201-209, 5 CFR 2635, and applicable Department of Agriculture regulations, in determining if a conflict of interest or potential conflict of interest exists in a proposed cooperative effort. Forest Service ethics officials or the designated Department of Agriculture ethics official should be consulted on conflict of interest issues.

Dated: April 15, 1998.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 98-13037 Filed 5-15-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6015-2]

National Emission Standards for Hazardous Air Pollutants; Proposed Standards for Hazardous Air Pollutants Emissions for the Portland Cement Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The EPA is extending the public comment period on the Notice of Proposed Rulemaking (NPRM) for hazardous air pollutants emissions for the portland cement manufacturing industry, which was published in the **Federal Register** on March 24, 1998 (63 FR 14182). The purpose of this notice is to extend the comment period from May 26, 1998 to June 26, 1998, in order to provide commenters adequate time to review the NPRM and extensive supporting materials.

DATES: The EPA will accept comments on the NPRM until June 26, 1998.

ADDRESSES: Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-92-53, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (Mr. Joseph Wood). The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the NPRM, contact Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5446; electronic mail address wood.joe@epamail.epa.gov.

Dated: May 12, 1998.

Richard D. Wilson,

Acting Assistant Administrator.

[FR Doc. 98-13124 Filed 5-15-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-6014-3]

Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the identification of additional ozone areas attaining the 1-hour standard and to which the 1-hour standard is no longer applicable. Thus, upon finalization of this proposed action, the Code of Federal Regulations for ozone will be amended to reflect such changes.

Today's action is being proposed in direct response to the President's memorandum of July 16, 1997. The President's memorandum directed EPA to publish an action identifying ozone areas to which the 1-hour standard will cease to apply because they have not measured a current violation of the 1-hour standard. For all other areas, the 1-hour standard will continue to apply. Furthermore, this action is being taken as indicated in the direct final rule published on January 16, 1998, which due to the receipt of adverse comments, was subsequently converted to a proposal and was withdrawn on March 16, 1998. According to the direct final rule, the Agency intended to publish, in early 1998, a subsequent document which takes similar action to revoke the 1-hour standard in additional areas that have air quality that does not violate the 1-hour standard. Today's proposed action identifies six additional areas where the 1-hour standard will no longer apply. The additional proposed areas are: Dayton-Springfield, Ohio; Detroit-Ann Arbor, Michigan; Warrick County, Indiana; Grand Rapids, Michigan; Poughkeepsie, New York, and Morgan County, Kentucky.

DATES: To be considered, comments must be received on or before June 17, 1998.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6101), Attention: Docket No. A-98-19, U.S. Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460, telephone (202) 260-7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under

SUPPLEMENTARY INFORMATION OF THIS DOCUMENT. NO CONFIDENTIAL BUSINESS INFORMATION (CBI) SHOULD BE SUBMITTED THROUGH E-MAIL.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5246/5238. In addition, the following Regional contacts may be called for individual information regarding monitoring data and policy matters specific for each Regional Office's geographic area: