

List of Subjects in 32 CFR Part 776

Conflict of interests, Lawyers, Legal services, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of the Navy amends 32 CFR part 776 as follows:

PART 776—PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL

1. Section 776.20 is revised to read as follows:

§ 776.20 Competence.

(a) *Competence.* A covered attorney shall provide competent, diligent, and prompt representation to a client. Competent representation requires the legal knowledge, skill, access to evidence, thoroughness, and expeditious preparation reasonably necessary for representation. Initial determinations as to competence of a covered USG attorney for a particular assignment shall be made by a supervising attorney before case or issue assignments; however, assigned attorneys may consult with supervisors concerning competence in a particular case.

(b) [Reserved]

2. Section 776.53 is amended by revising paragraph (a)(4) to read as follows:

§ 776.53 Responsibilities of the Judge Advocate General and supervisory attorneys.

(a) * * *

(4) A supervisory attorney is responsible for ensuring that the subordinate covered attorney is properly trained, is competent to perform the duties and has all appropriate credentials, including security clearances, to perform the duties to which the subordinate covered attorney is assigned.

J.T. Baltimore,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 02-29566 Filed 11-20-02; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117**

[CGD07-02-112]

Drawbridge Operation Regulations; US17 Highway Bridges, Ashley River, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the US17 highway bridges across the Ashley River, miles 2.4 and 2.5, at Charleston, South Carolina. This deviation allows both bridges to provide single-leaf openings, upon proper signal, from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002. This temporary deviation is necessary to allow the bridge owner to safely complete repairs to the bridge structures.

DATES: This deviation is effective from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07-02-112] will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Branch at (305) 415-6744.

SUPPLEMENTARY INFORMATION: The existing regulations in 33 CFR 117.915(a) govern the operation of the US17 highway bridges across the Ashley River. Those regulations require the bridges to open on signal; except that from 7 a.m. to 9 a.m., Monday through Friday and from 4 p.m. to 7 p.m. daily, the draws need only open if at least 12 hours notice is given. The draws of either bridge shall open as soon as possible for the passage of vessels in an emergency involving danger to life or property.

The US17 bridges across the Ashley River, miles 2.4 and 2.5, are both twin double-leaf bascule bridges with vertical clearances of 14 feet at mean high water and horizontal clearances of 100 feet between the fenders. On July 8, 2002,

the Industrial Company (TLC), representing the South Carolina Department of Transportation, requested a temporary deviation from the existing regulations governing the US17 bridges to facilitate repairs to the bridge structures. The Industrial Company requested permission to be able to keep one span of each bridge in the closed position for a period to facilitate repairs. This temporary deviation allows the US17 bridges to only open a single leaf of each bridge from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002. The single leaf openings will still provide a horizontal clearance of 50 feet. The Coast Guard is unaware of any vessel that will be unable to pass through this 50-foot horizontal clearance.

The Commander, Seventh Coast Guard District has granted a temporary deviation from the operating requirements listed in 33 CFR 117.915(a) to allow the US17 bridges to only open a single leaf of each bridge from 7 a.m. on November 8, 2002 until 7 p.m. on December 30, 2002.

Dated: November 6, 2002.

Greg Shapley,

Chief, Bridge Administration Branch, Seventh Coast Guard District.

[FR Doc. 02-29653 Filed 11-20-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 223**

RIN 0596-AB48

Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Facilitate Urgent Timber Removal From Other Lands

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: The Forest Service is proceeding with an interim rule to provide authority for Regional Foresters to authorize Contracting Officers to extend the contract performance time on certain National Forest System timber sale contracts to facilitate the harvest of damaged timber from private or other non-National Forest System lands. These contract extensions will allow the expeditious removal of timber in other ownerships damaged by catastrophic events beyond the landowner's control. Catastrophic events include, but are not limited to, severe wildfire, flood, insect and disease infestations, drought, and

windthrow. This interim rule also provides for adjustment of future periodic payment determination dates as an element of these contract extensions.

The purposes of this interim rule are to save volume and value of damaged non-National Forest System timber, to improve protection of National Forest System lands from fire and disease that could otherwise develop on these damaged lands, to reduce the threat to public safety and property due to fire and hazardous dead trees, and to promote the wise use and conservation of the Nation's natural resources. An urgent removal extension will not be approved for any National Forest System timber sale contracts that contain dead or dying timber subject to rapid deterioration.

DATES: This interim rule is effective November 21, 2002. Comments must be received in writing by January 21, 2003.

ADDRESSES: Send written comments to the Director of Forest and Rangeland Management, via the U.S. Postal Service to MAIL STOP 1105, Forest Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250-1105; via e-mail to rbaumback@fs.fed.us; or via facsimile to 202-205-1045. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this interim rule in the office of the Director of Forest and Rangeland Management, Third Floor, Northwest Wing, Yates Building, 201 14th Street, SW., Washington, DC. Visitors are encouraged to call ahead to (202) 205-0893 to facilitate entry into the building. **FOR FURTHER INFORMATION CONTACT:** Rex Baumbach, Forest and Rangeland Management, (202) 205-0855.

SUPPLEMENTARY INFORMATION:

Background

Periodically, catastrophic events such as severe drought conditions, insect and disease outbreaks, wildfires, floods, and windthrow occur on forested lands within, or near, National Forest System (NFS) lands. As a result of such catastrophic events, substantial amounts of private and other public timber may be severely damaged. This damaged timber must be harvested within a relatively short time period to avoid substantial losses in both the quantity and quality of the timber due to deterioration. The critical time period available for harvesting this damaged timber and avoiding substantial deterioration varies with the season of the year, the species of timber, the

damaging agent, and the location of the damaged timber. In most cases, substantial deterioration can be avoided if the damaged timber is harvested within 1 year of the catastrophic event. The number of wildfires and the extent of damage experienced in the last few years has resulted in renewed requests by forest products companies and forest industry associations for the Forest Service to adjust its contracting procedures to support expeditious removal of damaged timber on non-National Forest System lands.

Regulatory and Administrative Framework

The National Forest Management Act of 1976 (16 U.S.C. 472a(c)) provides that timber sale contracts with an original term of 2 years or more may not be extended unless there is a finding that substantial overriding public interest justifies an extension. Section 223.115 of Title 36 of the Code of Federal Regulations delegates the authority to make extensions of timber sale contracts to Contracting Officers once a substantial overriding public interest finding has been made.

The Forest Service timber sale contract provides authority to allow additional contract time on undamaged (green) NFS timber sale contracts in order to harvest damaged timber outside the sale area on NFS lands. However, the Forest Service does not have the current authority to allow additional contract time on NFS timber sale contracts for the harvest of damaged timber from private or other non-National Forest System (non-NFS) lands.

Impediments to Timely Harvest

When significant catastrophic events occur on non-NFS lands, timber sale purchasers often do not have the personnel, equipment, or mill capacity to take on new contracts. Thus, landowners who have suffered from catastrophic events may find themselves competing for available loggers, buyers, and mill capacity to get damaged timber removed before deterioration occurs. If a purchaser has an opportunity to contract for timber on non-NFS land that is now damaged and also holds an NFS timber sale contract for undamaged (green) timber, that purchaser may face three choices: (1) Declining to bid on the contract for harvest of damaged timber from non-NFS lands, and harvesting the NFS undamaged (green) timber contract, thus allowing the damaged non-NFS timber to deteriorate; (2) harvesting both the NFS undamaged (green) timber and the damaged non-NFS timber under the terms and deadlines of the applicable

contracts; (3) or harvesting only the damaged, non-NFS timber and potentially breaching the NFS undamaged (green) timber sale contract. If a purchaser already has a non-NFS timber sale contract, which now must be operated more quickly than anticipated because of catastrophic damages, that purchaser also faces difficult and costly choices.

Even if the purchaser has personnel and equipment to handle NFS and non-NFS timber sale contracts, a purchaser may face significant additional costs arising from stockpiling the undamaged (green) NFS timber, if manufacturing capacity is not available. The additional costs incurred in this scenario include the cost of carrying inventories, logging expenses, stumpage payments, and other payments required under the NFS contract terms. If log-decking space is not available, stockpiling inventory may not be possible. If logging equipment is scarce, a purchaser may have little to no opportunity to remove the damaged non-NFS timber in a timely manner.

Risks and Benefits Associated With Removal of Damaged Timber

Damaged timber can provide a source of highly flammable fuel for future wildfires, with inherent risks to public safety and property as well as to resource values of any nearby NFS lands. Damaged timber also can provide a habitat conducive to the development of insect infestations and subsequent diseases that could threaten nearby undamaged (green) timber stands on private, NFS, or other public land.

The overriding public benefit and justification for extending certain NFS timber sale contracts to allow the harvest of damaged timber requiring expeditious removal from non-NFS lands is the improved protection of nearby NFS lands from loss due to fire and/or insect and disease outbreaks, reduction of the threat to public safety and property from such catastrophic events, and promotion of wise use and conservation of the natural resources of the Nation by utilizing rather than wasting damaged timber. In addition, expeditiously harvesting the damaged non-NFS timber before it deteriorates provides private and other public landowners direct economic benefits from the utilization of the resource through revenues received through sale of the timber and indirect benefits as a result of the employment generated by converting the raw salvage timber into marketable products.

Finding of Substantial Overriding Public Interest

Having considered (1) the plight of private and other non-NFS landowners whose timber has been damaged by wildfire and other catastrophes this year; (2) the Forest Service statutory and regulatory framework for adjusting contracts; (3) the need for purchasers to plan their operation and to enter into contracts for the timely removal of damaged timber, and (4) the ability to protect the U.S. taxpayer from any losses associated with Forest Service contract extensions or loss of valuable timber; the Chief of the Forest Service has found there is substantial overriding public interest in extending NFS timber sale contracts for the harvest of undamaged (green) timber not requiring expeditious removal, when such an extension will expedite the rapid harvest of damaged timber requiring expeditious removal from private or other non-NFS lands. Extensions of undamaged (green) NFS timber sale contracts will only be approved if the delay of harvesting will not cause resource damage, delay the completion of needed projects, delay the harvest of damaged NFS timber, or in any other manner adversely impact the management of National Forest System lands. Highest priority consideration will be given to requests for extensions that involve damaged non-NFS timber adjacent to National Forest System lands.

Changes to 36 CFR Part 223, Subpart B

Section 223.53 Urgent Removal Extensions. This interim rule adds a new § 223.53. Paragraph (a) of this new section documents the Chief's finding that there is substantial, overriding public interest in extending NFS timber sale contracts to facilitate expeditious removal of timber on non-NFS lands damaged by a specific catastrophic event.

Paragraph (b) requires that the Regional Forester make a written determination on whether cause for an urgent removal extension exists. It also sets out the criteria that Regional Foresters must apply when making this determination. The rule provides that, in making this determination, the Regional Forester must document that the specific conditions, listed in paragraph (b), items 1 through 4, exist and that an extension of NFS timber sale contracts for the expeditious removal of damaged timber from non-NFS land is in the public interest.

Paragraph (c) lists the required documentation that purchasers must provide to the Contracting Officer when

requesting urgent removal extensions of undamaged (green) NFS timber sale contracts to expedite salvage operations of catastrophically damaged timber on non-NFS lands. The agency has limited this information to only that essential to determine that expeditious removal is in the public interest. A full disclosure of the information required is set out later in this document under the heading "Controlling Paperwork Burdens on the Public."

Paragraph (d) assigns Contracting Officers the authority to grant an urgent removal extension on an individual sale, up to a maximum of one year, for the purpose of expeditious removal of damaged non-NFS timber.

Paragraph (e) sets forth terms and conditions that must be included in a mutual contract modification before a Contracting Officer may grant an extension of an NFS timber sale contract. A formula is provided in this paragraph that must be used to determine the amount that purchasers must pay at the time of a contract modification in consideration for the additional contract term. This payment would be in keeping with the Comptroller General's long-standing rule that no officer or agent of the Government has the authority to waive contractual rights which have accrued to the United States or to modify existing contracts to the detriment of the Government without legal consideration (44 Comp. Gen. 746, 749 (1965); 5 Comp. Gen. 605 (1926)).

Purchasers are also required by paragraph (e) to make payment to cover the cost of re-marking timber, if necessary. Such a payment is consistent with the Comptroller General's rule requiring reimbursement to the Government for costs incurred if remarking of the timber or reestablishing cutting unit boundaries is required due to the extension. This payment is also a standard requirement for other NFS contract extensions under the terms of the timber sale contract (contract provision B/BT8.23).

Paragraph (f) states that the information purchasers are required to provide, as outlined in paragraph (c), constitutes a new information collection and cites the Office of Management and Budget's control number.

Section 223.50 Periodic Payments. Establishment of a contract extension for the purposes of expeditious removal at § 223.53 requires a conforming amendment to § 223.50. The interim rule revises paragraph (e) of this section to authorize adjustments of dates for determining future periodic payment date(s) when an urgent removal extension is granted under the new rule

and when contract term extensions are granted under the general authority of § 223.115(b).

The current text, at § 223.50(e), provides for adjustment of future periodic payment determination dates when contract term adjustments are granted under § 223.46 or when market-related contract term additions are granted under § 223.52, but explicitly prohibits a similar adjustment when contract term extensions are granted under the general authority of § 223.115.

Therefore, the adjustment of periodic payment determination date(s) is necessary to allow purchasers to transfer their financial resources from an NFS contract to facilitate harvesting of non-NFS timber needing expeditious removal.

Conclusion

By adoption of this interim rule, the Chief of the Forest Service is making a finding that there is substantial overriding public interest in extending NFS timber sale contracts when such an extension will facilitate the expeditious removal of timber damaged by catastrophic events on non-NFS lands, thus reducing the threat to public safety and property and promoting the wise use and conservation of the Nation's natural resources. An urgent removal extension will not be approved for an NFS timber sale contract that contains dead or dying timber subject to rapid deterioration.

Good Cause Statement

The 2002 fire season is on pace to be more damaging than that seen in 1988, 1994, and 2000. These fire seasons are considered to be some of the more noteworthy in modern times. Over 6.7 million acres have been burned this year, nearly doubling the 10-year average. Two-thirds of the acreage burned, 4.5 million acres, has been on private or other non-NFS lands. This interim rule is necessary because burned timber not harvested promptly will deteriorate and lose volume and value, making harvest and utilization of the damaged timber uneconomical. Without prompt removal of damaged timber, nearby NFS lands will be more likely to experience fire or insect and disease outbreaks, the threat to public safety and property from such catastrophic events will be higher, and affected landowners would not be able to achieve wise use and conservation of the natural resources on their lands. Further, without prompt harvest, private and other public landowners will be unable to obtain the economic benefits and revenues from the utilization of the resource and the public will lose the

indirect benefits that will result from the employment generated by converting the raw salvage timber into marketable products.

This interim rule will assist timber sale purchasers who, with limited processing or manufacturing capacity or limited logging equipment capacity, must make immediate decisions on whether to meet their contract requirements by harvesting undamaged (green) NFS timber under contract or to purchase and harvest salvage timber burned during the summer of 2002 on private, tribal, State, or other Federal land. Under these circumstances, the Department has determined that prior notice and opportunity for public comment are not practicable and are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective immediately after publication in the **Federal Register**.

Comments received on this interim rule will be considered in adoption of a final rule, notice of which will be published in the **Federal Register**. The final rule will include a response to comments received and identify any revisions made to the rule as a result of the comments.

Regulatory Certifications

Regulatory Impact

This interim rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. OMB has 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, nor State or local governments. This 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 interim rule is not subject to OMB review under Executive Order 12866.

Moreover, this interim 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 rule will not have a significant economic impact on a substantial number of small entities. The interim rule imposes minimal additional requirements on all timber purchasers for the purpose of validating the need for such extensions and to determine whether or not to approve the requested extension. The

information required is easily within the capability of small entities to produce. All businesses that desire an urgent removal extension must show that the extension is needed in order to harvest and salvage deteriorating non-NFS timber, while avoiding contract default on NFS timber.

Environmental Impact

This interim rule establishes uniform criteria to be followed when consideration is being given to extending an NFS timber sale contract because of the need for expeditious removal of damaged non-NFS timber. 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" that do not significantly affect the quality of the human environment. The agency's preliminary assessment is that this 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. The intent of this interim rule is to provide authority to allow additional contract time on NFS timber sale contracts for the harvest of damaged timber from private or other non-NFS lands, thus saving valuable resources from deterioration. No change in resources on NFS land would occur from implementation of this rule except to defer operations on an NFS timber sale. A final determination will be made upon adoption of a final rule.

Controlling Paperwork Burdens on the Public

This interim rule represents a new information requirement as defined in 5 CFR Part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1995 as amended (44 U.S.C. 3501, *et seq.*), the Forest Service has requested emergency approval from the Office of Management and Budget for this new information collection.

The information to be collected from purchasers applying for an urgent removal extension (para. c of § 223.53) is the minimum needed for the Contracting Officer to make an informed decision on whether good cause exists to grant an extension.

Description of Information Collection

Title: Contract Extension Request to Harvest Damaged Non-National Forest System Timber.

OMB Number: 0596-0167.

Expiration Date of Approval: April 30, 2003.

Type of Request: The following collection requirements are new and have not previously received approval by the Office of Management and Budget.

Abstract: This collection requires a purchaser to provide information needed to grant an extension of NFS timber sale contracts to allow the harvest of damaged timber, located on private or other public lands, which is in need of expeditious removal because of catastrophic events beyond the control of the landowner. Catastrophic events, which may result in the need for expeditious removal of damaged timber, include, but are not limited to, severe wildfire, flood, insect and disease infestations, drought, and windthrow. Specifically, purchasers applying for an extension would be required to provide:

(1) An explanation of how the harvest of the damaged non-NFS timber in need of expeditious removal affects or prevents the removal of undamaged (green) NFS timber within the term of the existing NFS contract(s);

(2) Documentation that the manufacturing facilities or logging equipment capacity available to a purchaser would be insufficient to provide for both the rapid salvage of damaged non-NFS timber in need of expeditious removal and continued harvest of undamaged (green) NFS timber under contract with the Forest Service; and

(3) A notarized statement that the purchaser will not hold the Forest Service liable for any damages or lost time incurred on the non-NFS and NFS contracts in the event that a request for an extension is delayed or denied, or for any damages under NFS contracts due to delay, suspension, modification, or cancellation (in whole or in part) subsequent to or during the extension.

Estimate of Burden: The public reporting burden to provide information when requesting a timber sale contract extension is estimated to average 2 hours per response.

Respondents: Individuals, large and small businesses, and corporations purchasing NFS timber sales.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 1 response per year.

Estimated Total Annual Burden on Respondents: 50 hours.

Comments are Invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; (b) the accuracy of this agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Use of Comments: All comments received in response to this information collection will be summarized and included in the request for final OMB approval. All comments, including names and addresses when provided, will become a matter of public record.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This interim rule does not compel the expenditure of \$100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

List of Subjects in 36 CFR Part 223

Administrative practices and procedures, Exports, Government contracts, Forests and forest products, National forests, Reporting and recordkeeping requirements.

Therefore, for the reasons set forth in the preamble, Part 223 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for Part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; 104 Stat. 714–726, 16 U.S.C. 620–620j, unless otherwise noted.

Subpart B—Timber Sale Contracts

2. Revise paragraph (e) of § 223.50 to read as follows:

§ 223.50 Periodic payments.

* * * * *

(e) Dates for determining future periodic payments shall be adjusted as follows:

- (1) When contract term adjustments are granted under § 223.46,
- (2) When market-related contract term additions are granted under § 223.52,
- (3) When urgent removal extensions are granted under § 223.53, or

(4) When extensions in the substantial overriding public interest are granted under § 223.115(b). Periodic payment determination dates shall not be adjusted when a contract term extension is granted under the general authority of § 223.115(a).

* * * * *

3. Add a new § 223.53 under the undesignated center heading “Contract Conditions and Provisions” to read as follows:

§ 223.53 Urgent removal contract extensions.

(a) *Finding.* There is substantial, overriding public interest in extending National Forest System timber sale contracts for undamaged (green) timber not requiring expeditious removal in order to facilitate the rapid harvest of catastrophically damaged timber requiring expeditious removal on private or other non-National Forest System lands. Such an extension may be granted when a specific catastrophic event beyond the control of the landowner occurs on non-National Forest System lands that poses a threat to general forest health, public safety, and property. Catastrophic events include, but are not limited to, severe wildfire, wind, floods, insects and disease infestation, and drought.

(b) *Regional Forester determination.* If the Regional Forester determines that adequate cause for urgent removal extensions exists, Contracting Officers may extend a National Forest System timber sale contract, up to a maximum of 1 year, for the estimated amount of time required to harvest and process the damaged timber on non-National Forest System lands. The Contracting Officer may grant an urgent removal extension only when the Regional Forester verifies in writing that:

- (1) A specific catastrophe occurred on the particular geographic area for which urgent removal extensions may be granted;
- (2) There is a high risk that substantial timber quantities or values of the damaged non-National Forest System timber in the affected geographic area would deteriorate unless expeditiously removed;
- (3) The manufacturing facilities or logging equipment capacity available to purchasers are insufficient to provide for both the rapid harvest of damaged non-National Forest System timber in need of expeditious removal and the continued harvest of undamaged (green) timber under contract with the Forest Service; and
- (4) Failure to harvest the damaged non-National Forest System timber promptly could result in the following:

- (i) Significant private or other public resource loss,
- (ii) Pose a threat to public safety, or
- (iii) Create a threat of an insect or disease epidemic to National Forest System or other lands or resources.

(c) *Purchaser request.* In order to obtain an urgent removal extension on a National Forest System timber sale contract, a purchaser must make a written request to the Contracting Officer, which includes the following:

(1) An explanation of why the harvest of the damaged non-National Forest System timber in need of expeditious removal will prevent or otherwise impede the removal of undamaged (green) National Forest System timber within the term of the existing National Forest System contract(s);

(2) Documentation that the manufacturing facilities or logging equipment capacity available to a purchaser would be insufficient to provide for both the rapid salvage of damaged non-National Forest System timber in need of expeditious removal and continued harvest of undamaged (green) National Forest System timber under contract with the Forest Service; and

(3) A notarized statement that the purchaser will not hold the Forest Service liable for any damages or lost time incurred on the non-National Forest System and National Forest System contracts in the event that a request for an extension is delayed or denied, or for any damages under National Forest System contracts due to delay, suspension, modification, or cancellation (in whole or in part) subsequent to or during the extension.

(d) *Contracting Officer determination.* In order to grant an urgent removal extension, the timber sale Contracting Officer must verify the following:

- (1) That it is likely that the undamaged (green) timber from National Forest System land would be delivered to the same manufacturing facilities as are needed to process the damaged non-National Forest System timber or the National Forest System timber sale contract would require the use of the same logging equipment as is needed to remove the damaged non-National Forest System timber from the area affected by the catastrophe;
- (2) That extension of the National Forest System contract will not be injurious to the United States and will protect, to the extent possible, the health of the National Forest System lands;
- (3) That the urgent removal extension does not adversely affect other resource management objectives to be

implemented by the National Forest System timber sale being extended;

(4) That the National Forest System timber sale contract to be extended is not a sale containing damaged, dead, or dying timber subject to rapid deterioration;

(5) That the National Forest System timber sale contract at issue has not been granted a previous urgent removal extension;

(6) That the revised National Forest System timber sale contract term will not exceed 10 years from the date the National Forest System contract was awarded;

(7) That the National Forest System contract is not in breach, and all work items, payments, and deposits are current; and

(8) That the purchaser has signed and had notarized the following statement:

By submission of this request, I release, waive, and abandon any and all claims against the United States for delay in the processing or denial of this request for an urgent removal extension of my National Forest System timber sale(s), contract number(s) _____, including, but not limited to, all claims for costs, expenses, attorney fees, compensatory damages, and exemplary damages arising out of or related to any non-National Forest System timber sale contract(s) and the National Forest System timber sale(s) contract(s) identified above. Should my request be granted, I release, waive, and abandon any and all claims against the United States due to delay, suspension, modification, or cancellation (in whole or in part) of the extended National Forest System timber sale contract(s), including, but not limited to, all claims for costs, expenses, attorney fees, compensatory damages, and exemplary damages. This liability limitation supersedes any other compensation or liability provisions set forth in the timber sale contract, Federal regulation, or the common law.

(e) *Execution of contract extension.* An urgent removal extension of a National Forest System timber sale contract is executed through a mutual agreement contract modification pursuant to § 223.112, which must include specific contract provisions. An agreement to modify a contract must identify the specific provision(s) of the contract being modified and must include the following terms and conditions:

(1) Purchasers must make cash payment to the Forest Service at the time of modification granting an urgent removal extension in consideration for the additional contract term. Such payment (P) shall be equal to interest on the difference between current contract value (CCV) at the time of the modification and the credit balance of any deposits (D). The interest rate (i)

shall be the prevailing U.S. Department of the Treasury current value of funds rate in effect at time of modification.

The time period (t) to be used in the calculation of interest shall be the number of months of contract extension granted. Payments so made shall not be refunded as excess cash deposits. This calculation is expressed by the following formula:

$$P = i(\text{CCV} - D)(t/12)$$

(2) Purchasers must make cash payment to cover the costs of remarking timber on the sale area or reestablishing cutting unit boundaries if the Contracting Officer determines such work is necessary.

(3) For sales subject to stumpage rate adjustment, future adjustment of tentative rates will not result in rates less than the current contract rates at the time of the extension.

(f) *Information collection.* The information required of a purchaser to request an extension of an National Forest System timber sale contract, as outlined in paragraph (c) of this section, to facilitate expeditious removal of timber from non-National Forest System lands constitutes an information collection requirement as defined in 5 CFR Part 1320 and has been assigned Office of Management and Budget control number 0596-0167.

Dated: November 13, 2002.

David P. Tenny,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 02-29542 Filed 11-20-02; 8:45 am]

BILLING CODE 3410-11-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[FRL-7411-4]

Delegation of Authority to the States of Iowa; Kansas; Missouri; Nebraska; Lincoln-Lancaster County, Nebraska; and City of Omaha, Nebraska, for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP); and Maximum Achievable Control Technology (MACT) Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The states of Iowa, Kansas, Missouri, Nebraska, and the local agencies of Lincoln-Lancaster County, Nebraska, and city of Omaha, Nebraska, have submitted updated regulations for

delegation of EPA authority for implementation and enforcement of NSPS, NESHAP, and MACT. The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated. EPA's review of the pertinent regulations shows that they contain adequate and effective procedures for the implementation and enforcement of these Federal standards. This action informs the public of delegations to the above-mentioned agencies.

DATES: This rule is effective on December 23, 2002. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 N 5th Street, Kansas City, Kansas 66101.

Effective immediately, all notifications, applications, reports, and other correspondence required pursuant to the newly delegated standards and revisions identified in this document should be submitted to the Region 7 office, and, with respect to sources located in the jurisdictions identified in this document, to the following addresses:

Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Urbandale, Iowa 50322.

Kansas Department of Health and Environment, Bureau of Air and Radiation, 1000 SW., Jackson, Suite 310, Topeka, Kansas 66612.

Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, P.O. Box 176, Jefferson City, Missouri 65102.

Nebraska Department of Environmental Quality, Air and Waste Management Division, P.O. Box 98922, Statehouse Station, Lincoln, Nebraska 68509.

Lincoln-Lancaster County Division of Environmental Health, Air Pollution Control Agency, 3140 "N" Street, Lincoln, Nebraska 68510.

City of Omaha, Public Works Department, Air Quality Control Division, 5600 South 10th Street, Omaha, Nebraska 68107.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551-7603.

SUPPLEMENTARY INFORMATION: The supplementary information is organized in the following order: