

in certain sleeping environments. Physiological abnormalities and delays in the development of vital systems can further hamper an infant's ability to react to a hazardous condition. Infants who are not placed on their backs are especially at risk for suffocation on any type of soft pillow, regardless of the type of filling.

In 1992, the American Academy of Pediatrics, in an effort to reduce the risk of SIDS, recommended that babies always be placed on their backs when put to sleep. As a result of this campaign, Sudden Infant Death Syndrome (SIDS) deaths between 1992 and 2004 in the United States decreased from 5,000 per year to 2,246 per year (based on vital statistics data of the United States). Although there has been a steady decrease in SIDS deaths, staff found there has not been a similar decrease in infant deaths associated with pillows and cushions. Even though the recommendation to place infants to sleep on their backs is being promoted, staff believes that the data indicates that there are still a significant number of people who continue to place infants to sleep in the prone position. For this reason, staff recommends increased information dissemination targeted at the population of caregivers whose infants are not placed to sleep in the supine position. Increased compliance with the recommendation for supine sleep, as well as continued vigilance in ensuring a safe sleeping environment would have benefits in reducing the risk of infant suffocation deaths caused by adult pillows, sofa cushions, and other pillows as well as further reducing incidents involving SIDS.

D. Conclusion

In light of the ongoing risks posed by infant cushions/pillows when used in the sleep environment, the Commission finds no justification for repealing the ban on infant cushions/pillows at this time. Moreover, after review of the comments, incident reports and other available information, the Commission determines there is insufficient data or product information on infant cushions/pillows or pillow-like products intended for infants, other than with respect to the Boston Billow Nursing Pillow and substantially similar nursing pillows, to proceed with further rulemaking on those products at this time. Thus, the Commission is terminating the rulemaking on infant cushions/pillows or pillow-like products, other than with respect to the Boston Billow Nursing Pillow and substantially similar nursing pillows effective upon publication in the **Federal Register** for good cause shown

in accordance with 5 U.S.C. 553(d)(3).¹ A proposed exemption from the ban for the Boston Billow Nursing Pillow and substantially similar nursing pillows appears elsewhere in this **Federal Register**.²

Dated: August 27, 2008.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E8-20282 Filed 9-2-08; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596-AC79

Sale and Disposal of National Forest Service System Timber; Timber Sale Contracts; Market-Related Contract Term Additions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; request for public comment.

SUMMARY: The Forest Service proposes amending its regulations to expand the maximum amount of additional time certain contracts may receive when there is a continuous and prolonged drastic reduction in wood product prices for 2½ years or longer. Additionally, the proposed rule modifies the procedure for selecting the producer price index to be used in establishing market-related contract term additions and emergency rate redeterminations. Finally, this proposed rule makes a change to the amount of additional market-related contract term addition time that may be added to timber sale contracts when the normal operating season specified in a contract is less than three months.

DATES: Comments must be received in writing on or before October 3, 2008.

ADDRESSES: Written comments concerning this notice should be addressed to USDA Forest Service, Director of Forest Management, 1400

¹ On February 1, 2008, Acting Chairman Nancy Nord and Commissioner Thomas Moore voted 2-0 to direct the Office of the General Counsel to prepare a notice terminating the rulemaking other than with respect to the Boston Billow Nursing Pillow and substantially similar nursing pillows.

² On February 1, 2008, Acting Chairman Nancy Nord and Commissioner Thomas Moore voted 2-0 to direct the Office of the General Counsel to prepare a notice of proposed rulemaking proposing an exemption for the Boston Billow Nursing Pillow and substantially similar nursing pillows. Acting Chairman Nord also voted to request ASTM to develop a product warning label for the product class.

Independence Avenue, SW., Mail Stop 1103, Washington, DC 20250-1103. Comments may also be sent via e-mail to mrcta@fs.fed.us, or via facsimile to Lathrop Smith at (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 at the office of the Director of Forest Management, Third Floor, Southwest Wing, Yates Building, 201 14th Street, SW., Washington, DC. Visitors are encouraged to call ahead to (202) 205-1496 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT:

Lathrop Smith, Forest Management staff, at (202) 205-0858, or Richard Fitzgerald, Forest Management staff, at (202) 205-1753.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Prior to 1980, purchasers of National Forest timber defaulted very few timber sale contracts. Cyclic fluctuations in forest products markets occurred but were of comparatively short duration and limited impact. Forest Service timber sale contract terms were often as long as the cycles making it possible to overlap the market price cycles. Prior to 1980, it also was believed that the long-term projection for forest products prices indicated a continuing trend of price increases. Under those circumstances a purchaser could usually schedule a sale's harvest for a time when the markets were good or were at least good enough that the purchaser would not lose more money operating a sale than would be lost in a default.

Beginning in 1980, the forest products market began a serious and dramatic decline, leaving a large number of purchasers with timber sales bid at prices far higher than the market was bringing. Faced with the likelihood of massive defaults and attendant adverse economic impacts on industry and dependent communities, the government began taking steps to respond to the adverse economic impacts. In 1980, 1981, and 1982, the Chief of the Forest Service granted timber sale contract term extensions based on findings of substantial overriding public interest (48 FR 38862). The intent of these extensions was to provide purchasers additional contract

time until the markets improved. Unfortunately, the adverse market conditions continued.

On October 16, 1984, the President signed into law the Federal Timber Contract Payment Modification Act (16 U.S.C. 618) (Buy-Out Act). The Buy-Out Act allowed purchasers of Federal timber to return certain sales to the government upon payment of a "buy-out charge" and, thus, avoid default. Both the Congress and the Administration viewed this legislation as an extraordinary measure to respond to a one-time crisis and recognized the need to develop mechanisms to avoid such a crisis in the future.

On November 6, 1987, the Forest Service published a proposed rule (52 FR 43020) to establish procedures for extending contract termination dates in response to adverse conditions in the timber market. This proposed Market-Related Contract Term Addition rule was published as part of a larger proposal that included rules for implementing downpayment and periodic payment procedures as required by the Federal Timber Contract Modification Act. The intent of these rules was to encourage orderly harvest of national forest timber sales, ensure the government's financial security, and avoid the need for future buyouts in periods of severe market decline.

Market declines sufficient to trigger a market-related contract term addition generally coincide with downturns in housing starts in conjunction with national economic slowdowns. In the early 1980s, such economic distress broadly affected community stability and the ability of industry to supply construction lumber and other products for public use and threatened the maintenance of plant capacity necessary to meet the Nation's needs for wood products from domestic sources.¹ Accordingly, in order to ensure the retention of a viable established industry capable of supplying the wood fiber needs of the public for housing and other products, the Chief of the Forest Service issued a final rule on December 7, 1990, finding that the substantial overriding public interest justifies market-related contract term additions whenever there is a drastic reduction in wood product prices (55 FR 50643).

The Chief's finding was based on the fact that market-related contract term additions: (1) Help purchasers avoid severe financial hardship; (2) ensure that the Federal government receives payments due from purchasers by

reducing the likelihood of default; and (3) help ensure that receipts to States and counties from timber sales are not adversely affected by contract defaults. Additionally, market-related contract term additions help promote stability in the wood products industry. This in turn helps ensure community stability, competition, employment, investment, productivity, innovation and the industry infrastructure needed by the Forest Service to accomplish land management objectives most economically done with timber sales.

In accordance with the December 7, 1990, final rule, the Forest Service monitors and uses producer price indices for wood products as prepared by the Bureau of Labor Statistics to determine when a drastic reduction in wood product prices has occurred. The Forest Service currently uses the Softwood Lumber Index (WPU0811), the Hardwood Lumber index (WPU0812) and the Wood Chips index (PCU3211133211135). Each index monitors different segments of the wood products industry. Each contract over one year in length is assigned the index that represents more than one-half of the advertised volume. When a drastic reduction in the assigned index has occurred for two consecutive quarters during the contract period, the Forest Service notifies purchasers and, upon a purchaser's written request, adds one year to the contract term. For each additional consecutive quarter a drastic reduction occurs, the Forest Service, upon a purchaser's written request, adds an additional 3 month period to the normal operating season of the contract.

Under the current rule, no more than twice the original contract length or 3 years, whichever is less, may be added to a contract's term by market-related contract term addition. Pursuant to the National Forest Management Act of 1976 (16 U.S.C. 472a(c)), total contract length cannot exceed 10 years as the result of market-related contract term addition. Further, market-related contract time may not be granted for those portions of the contract that (1) have a required completion date, (2) the Forest Service determines that the timber is in need of urgent removal, or (3) timber deterioration or resource damage will result from delay.

Since the market-related contract term addition rule was adopted, a drastic reduction in softwood lumber prices occurred for five quarters in 1994–1995, three quarters in 1998, six quarters in 2000–2001, and for 11 quarters beginning in September 2005, through March 2008. The hardwood index has also shown a drastic reduction in the first two quarters of 2008. As a result,

many purchasers requested and received additional contract time for qualifying timber sales.

The drastic decline in softwood lumber prices in the early 1980s began following a peak in the softwood lumber index in the third quarter of 1978 and bottomed out four years later in the third quarter of 1982. During that decline the index, adjusted to a constant dollar basis, lost 56 points or 36 percent of its value. By comparison, the current decline of the softwood lumber index is already greater in magnitude. The current decline began following a peak in August 2004, and by March 2008, the index, adjusted to a constant dollar basis, had lost 76 points or 48.5 percent of its value. It is unknown when the current decline will end.

The intent of the market-related contract term addition regulations are to avert massive defaults and attendant adverse economic impacts on industry and dependent communities by providing purchasers additional contract time until markets improve. Since adoption of the regulations in 1990, the three-year limit on market-related contract term additions has met that objective in the three previous periods when a drastic reduction in wood prices occurred. But, when a drastic decline in wood prices continues for over three years as it currently has and the market-related contract term additions run out before markets improve, purchasers holding high priced sales bid when the markets were stronger are likely to face severe economic hardship without some form of relief.

As of May 1, 2008, there were 1,030 non-salvage sales awarded prior to April 1, 2007, that were over one year in original contract length and with volume remaining to remove. Approximately twenty-three percent, or 239 of those sales, have received additional contract time totaling three years or more, and over half of those sales were awarded prior to the softwood index peaking in August 2004. The additional time granted in excess of the maximum market-related contract term addition time was for reasons unrelated to market conditions such as adverse weather conditions that prevented operations.

To respond to the poor market conditions and associated adverse economic impacts on industry and dependent communities, Section 8401 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651 (June 18, 2008), authorized the Forest Service to add up to four years of market-related contract term addition to contracts awarded prior to

¹ Forest Service paper Policy Alternatives for Market-Related Contract Term Additions, June 27, 1996.

January 1, 2007. While section 8401 provides immediate relief to contracts that had or were about to reach the three-year limit, the committee notes for section 8401 state *“the Managers encourage the Forest Service to revise the existing regulations within 90 days of enactment of this Act to reflect provisions of this section for future market problems.”*

In light of the managers' statement, and to address prolonged adverse market conditions in the future, the Forest Service proposes amending the market-related contract term addition regulations at 36 CFR 223.52 to allow certain contracts to receive more than three years of additional time when there is a prolonged drastic reduction in wood product prices. To be eligible for market-related contract term addition time in excess of three years, contracts must meet the conditions for market-related contract term addition in § 223.52, and the index specified in the contract must trigger for eleven consecutive quarters following the award date in the contract. The criteria of eleven consecutive quarters was selected because under the formula for granting market-related contract term additions, all sales will have reached the three year limit, prior to, but no later than, the tenth consecutive quarter (§ 223.52(c)(3)). Beginning with the eleventh consecutive qualifying quarter, and for each subsequent consecutive qualifying quarter, the contract may receive an additional three months of normal operating season time. Contracts where all biddable species were at base rates during any quarter between the original contract termination date and any adjusted termination date will not be eligible for more than three years of market-related contract term addition. The rationale for this criterion is that sales at base rates have stumpage prices as low as permitted, so additional time for market conditions to improve is not needed.

Under this proposed rule, the maximum amount of market-related contract term addition time a contract awarded after December 31, 2006, may receive will be controlled by the 10-year limit on total contract length established under the National Forest Management Act of 1976 (16 U.S.C. 472a(c)). But, pursuant to the 2008 Farm Bill, sales awarded prior to January 1, 2007, may only have the termination date adjusted by up to four calendar years as the result of market-related contract term addition.

An additional proposed amendment to the market-related contract term addition regulations at 36 CFR 223.52 will authorize contracting officers to select an index at the time certain

contracts are awarded that is different from the one identified in the sample contract. Each timber sale contract over one year in length includes one of three producer price indices (softwood lumber, hardwood lumber or wood chips) updated monthly by the Bureau of Labor Statistics. The index selected for each sale is based on the species and product characteristics that represent more than one-half of the advertised volume. The index is used to determine when the contract is eligible for a market-related contract term addition and/or an emergency rate redetermination. This proposed rule change would authorize contracting officers to select an alternative producer price index at the time a contract is awarded when the appropriate Forest Supervisor has determined, prior to advertising the contract, that the species and potential product characteristics are such that more than one index could represent more than one-half of the advertised volume. Upon a purchaser's written request, the contracting officer could select an alternative index to the one identified in the sample contract if the contracting officer determines that the alternative index better represents the highest percentage of the products the successful bidder intends to produce or have produced from the sale.

On sales providing this alternative index option, all bidders will have an equal opportunity to substitute a more representative index, which should reduce the risk of potential bid protests over this change. Providing bidders with a process for changing the index on sales where more than one index may be applicable may also result in higher bids. For these sales, the prospectus will state that the contracting officer may, upon the purchaser's written request, select an alternative index from paragraph (b), and may modify the contract by mutual agreement, at time of contract award, to include an alternative index that the contracting officer has determined represents the highest percentage of products the purchaser intends to produce or have produced from the sale. The purchaser will be required to make a written request for an index change that includes documentation showing how the purchaser anticipates the timber will be processed. If the purchaser is a non-manufacturer, the written request should show the percentage of sale volume the purchaser intends to deliver to different manufactures, such as 75 percent to an oriented strand board processor (OSB) and 25 percent to a pulp mill.

This change to the regulation is needed because different uses of

technology for processing forest products continue to evolve. Thus selecting the appropriate index prior to knowing who the purchaser will be and what products will be produced may not be possible when a sale is offered. For example, a sale that is predominantly aspen may be sold in a market area that has a pulp mill, an OSB mill, and a sawmill capable of processing aspen lumber. Since the pulp mill is the closest mill to the sale, it is used as the appraisal under the current regulation. Consequently, the Forest Service assigns the wood chips index to the sale when it is advertised. If the pulp mill owner buys the sale, the wood chips index is the correct index for the product that will be produced and a change of index would not be appropriate. However, if the OSB mill owner buys the sale, the softwood lumber index would be more appropriate since OSB is a building material that tends to follow softwood lumber prices. Further, if the sawmill owner buys the sale, the hardwood lumber index may be most appropriate, unless the principal aspen product is panneling, in which case the softwood lumber index may be most appropriate. In addition, if a non-manufacturer buys the sale with the intention of merchandizing the wood to all three mills, the most appropriate index would be based on which mill is expected to process the highest percentage of the sale volume. In this example, if the purchaser intended to sell 40 percent of the sale volume to the OSB mill, 30 percent to the pulp mill and 30 percent to the hardwood lumber mill, the appropriate index would be softwood lumber as it is the index representing the single greatest percentage of volume. While this estimate is based on market conditions at the time the contract is awarded, the purchaser can change the mix of products produced during the life of the sale. However, the purchaser will not be permitted to change the index after award unless that index is discontinued and/or the Forest Service adopts and offers replacement indices.

Another example occurred in 2006 and 2007 on certain sales using the wood chips index. In November 2006 (71 FR 66160) and again in November 2007 (72 FR 64991), specified timber sales were granted one year extensions based on a determination of substantial overriding public interest. Excluded from these extensions were sales on the softwood lumber index because those sales were already receiving market-related contract term additions. Most of the substantial overriding public interest extensions granted went to sales

in the lake states region (predominately Minnesota) that were on the wood chips index despite the fact that most of the wood was actually being manufactured into oriented strand board. Although oriented strand board prices were plummeting along with softwood lumber prices, these sales were not eligible for market-related contract term additions because the wood chips index remained high. If the index on those sales had been changed from wood chips to softwood lumber when those contracts were awarded, the substantial overriding public interest extensions would not have been needed. To avert that situation in the future, and to implement the Managers' direction for the 2008 Farm Bill, a process for changing the index at the time of award when more than one index may be appropriate is needed.

Expanding existing rights to market-related contract term addition to include a procedure for changing the index at the time of contract award is in the public interest. In most market areas, the species product combinations are easy to identify prior to offering a sale, and there will be little need or justification to change the index at the time of contract award. However, in situations such as the examples described above where more than one index may apply, a procedure for changing the index when the contract is awarded to reflect the principal product the purchaser intends to produce is needed. The objective is to allow the parties to enter into contracts under terms that reflect market conditions at the time of award; it is not to guarantee profitable market conditions or a certain level of profit throughout the life of the contract. The intended effect is to avert the need for substantial overriding public interest extensions, determinations, as well as legislation like the 2008 Farm Bill, which provides relief to contracts with indices that became mismatched with, or did not reflect, the products the purchaser produced.

Currently, 36 CFR 223.52(a)(2) provides that the Forest Supervisor shall select from the available indices in § 223.52(b) the index to be used in each contract based on the species and product characteristics, by volume, included in a contract. The existing rule also provides that the index selected shall represent more than one-half of the advertised volume. The existing rule is silent as to when Forest Supervisors must choose an appropriate index but the practice has been to identify the index when a contract is advertised.

Buying a sale that uses an index that does not represent the principal product

a purchaser intends to produce increases the purchaser's risk that a drastic reduction in the prices of the wood products it is producing will not result in a market-related contract term addition. Providing a procedure to change the index once the purchaser and the principal product it intends to produce are identified will have the effect of reducing the purchaser's risk, which may also increase bids.

Finally, under the current regulation, a contract may receive a one year market-related contract term addition when there are two consecutive qualifying quarters and may receive three months of additional time within the contract's normal operating season for each subsequent consecutive qualifying quarter subject to the limits on total additional contract time. Some sales have a normal operating season that is less than three months resulting in a situation where the contract could be extended for more than one year if three months of normal operating season is added to the contract term. This proposed change will limit the amount of additional time to no more than one-calendar year when the normal operating season is less than three months.

Regulatory Certifications

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 proposed rule is not a significant regulatory action and is not subject to Office of Management and Budget (OMB) review. This proposed rule will not have an annual effect of \$100 million or more on the economy and will not adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. This proposed rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Little or no effect on the national economy will result from this regulatory action, which consists of necessary, technical changes to the regulation governing market-related contract term additions. Using the replacement indices and the modified formula contained in this proposed rule, the Forest Service will be able to determine whether a drastic decline in wood products prices has occurred. 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. 610 *et seq.*), and it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by that act. As revised in this proposed rule, the Forest Service will be able to grant additional market-related contract term additions to small and large purchasers when there is a prolonged drastic reduction in wood product prices. This will have the intended effect of averting massive defaults and attendant adverse economic impacts on industry and dependent communities by providing purchasers additional contract time until markets improve.

Proper Consideration of Small Entities

This proposed rule has been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Forest Service has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by SBREFA.

To the extent that the proposed rule imposes additional requirements on small entities, these requirements are the minimum necessary to protect the public interest, are not administratively burdensome or costly to meet, and are well within the capability of small entities to perform.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Forest Service has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed 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.

Environmental Impact

This proposed rule concerns the extension of timber sale contracts when warranted by a drastic reduction in wood product prices, and, as such, has no direct effect upon the amount, location, or manner of timber offered for purchase. 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 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.

Controlling Paperwork Burdens on the Public

This proposed rule includes information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 apply. This collection of information was submitted to the Office of Management and Budget (OMB) and received emergency approval under OMB No. 0596-0212. Notice of this information collection and request for comment was published in the **Federal Register** on July 22, 2008 (73 FR 42542). This rule contains no additional information collection under the Paperwork Reduction Act.

Energy Effects

This proposed rule has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

Federalism

The agency has considered this proposed rule under the requirements of Executive Order 13132, Federalism. The agency has made an assessment that the proposed rule conforms with the federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications as defined in Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

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 rule does not pose the risk of a taking of Constitutionally-protected private property.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The agency has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this rule. In any event, after adoption of this proposed rule: (1) All State and local laws or regulations that conflict with this rule or that would impede full implementation would be preempted; (2) no retroactive effect would be given to this final rule, except as described herein; and (3) the proposed rule would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

List of Subjects in 36 CFR Part 223

Administrative practice and procedure, Exports, Forests and forest products, Government contracts, 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.

2. Amend § 223.52 by revising paragraphs (a)(2) and (c)(2) through (4) to read as follows:

§ 223.52 Market-related contract term additions.

(a) * * *

(2) The contract term addition provision of the contract must specify the index to be applied to each sale. The Forest Supervisor shall determine, and select from paragraph (b) of this section, the index to be used for each sale based on the species and product characteristics, by volume, being harvested on the sale. The index specified shall represent more than one-half of the advertised volume. If none of the indices in paragraph (b) represent more than one half of the advertised volume, the index specified shall

represent the species product combination representing the highest percentage of volume for which there is an index. When the Forest Supervisor determines that the species and potential product characteristics are such that more than one index could be used, the prospectus will state that the Contracting Officer may, upon the purchaser's written request, select an alternative index from paragraph (b), and may modify the contract by mutual agreement, at time of contract award, to include an alternative index that the Contracting Officer has determined represents the highest percentage of products the purchaser intends to produce or have produced from the sale. Purchasers seeking a change of index at time of award must substantiate the need for an alternative index by providing the Contracting Officer with a written request including a list of products by volume it intends to produce or expects will be produced from the timber on that sale. In the event a mutual agreement to modify a contract to include an alternative index is not reached at time of award, the index specified in the sample contract shall apply.

* * * * *

(c) * * *

(2) For each additional consecutive quarter in which a contract qualifies for a market-related contract term addition, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to the contract, except that sales with a normal operating season of less than 3 months may only receive additional time equal to their normal operating season.

(3) No more than 3 years of MRCTA time shall be added to a contract's term by market-related contract term addition unless the following conditions are met:

(i) The sale was awarded after December 31, 2006;

(ii) During each quarter between the original contract termination date and the current termination date, contract rates for one or more of the biddable species exceeded base rates; and

(iii) A drastic reduction in wood product prices occurred for eleven consecutive qualifying quarters.

(4) For contracts eligible for more than 3 calendar years of market-related contract term addition under § 223.52(c)(3), beginning with the eleventh consecutive qualifying quarter, and for each subsequent consecutive qualifying quarter, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to

the contract, except that sales with a normal operating season of less than 3 months may only receive additional time equal to their normal operating season.

* * * * *

Dated: August 26, 2008.

Sally Collins,

Associate Chief, Forest Service.

[FR Doc. E8-20301 Filed 9-2-08; 8:45 am]

BILLING CODE 3410-11-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2008-0574, EPA-HQ-SFUND-2008-0575, EPA-HQ-SFUND-2008-0576, EPA-HQ-SFUND-2008-0577, EPA-HQ-SFUND-2008-0579, EPA-HQ-SFUND-2008-0580, EPA-HQ-SFUND-2008-0581, EPA-HQ-SFUND-2008-0582, EPA-HQ-SFUND-2008-0583, EPA-HQ-SFUND-2008-0584, EPA-HQ-SFUND-2008-0585, EPA-HQ-SFUND-2008-0586; FRL-8710-7]

RIN 2050-AD75

National Priorities List, Proposed Rule No. 49

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known

releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add 11 sites to the NPL, 10 to the General Superfund Section and 1 to the Federal Facilities Section. This rule also withdraws one site from proposal to the NPL.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before November 3, 2008.

ADDRESSES: Identify the appropriate FDMS Docket Number from the table below.

FDMS DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/state	FDMS Docket ID No.
B.F. Goodrich	Rialto, CA	EPA-HQ-SFUND-2008-0574.
Raleigh Street Dump	Tampa, FL	EPA-HQ-SFUND-2008-0575.
Arkla Terra Property	Thonotosassa, FL	EPA-HQ-SFUND-2008-0576.
U.S. Smelter and Lead Refinery, Inc	East Chicago, IN	EPA-HQ-SFUND-2008-0577.
Fort Detrick Area B Ground Water	Frederick, MD	EPA-HQ-SFUND-2008-0585.
Curtis Papers, Inc	Milford, NJ	EPA-HQ-SFUND-2008-0579.
Behr Dayton Thermal System VOC Plume	Dayton, OH	EPA-HQ-SFUND-2008-0580.
New Carlisle Landfill	New Carlisle, OH	EPA-HQ-SFUND-2008-0581.
Borit Asbestos Tailings Pile	Ambler, PA	EPA-HQ-SFUND-2008-0582.
Barite Hill/Nevada Goldfields	McCormick, SC	EPA-HQ-SFUND-2008-0583.
U.S. Magnesium	Tooele County, UT	EPA-HQ-SFUND-2008-0584.
Kennecott (South Zone)	Copperton, UT	EPA-HQ-SFUND-2008-0586.

Submit your comments, identified by the appropriate FDMS Docket number, by one of the following methods:

- *www.regulations.gov*: Follow the online instructions for submitting comments.
- *E-mail*: superfund.Docket@epa.gov.
- *Mail*: Mail comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; (Mail Code 5305T); 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

• *Hand Delivery or Express Mail*: Send comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue; EPA West, Room 3340, Washington, DC 20004. Such deliveries are only accepted during the

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