

introduced onto Wild Horse and Burro Territories or ranges after December 15, 1971, by accident, negligence, or willful disregard of private ownership, and which do not become intermingled with wild free-roaming horses or burros shall be considered as unauthorized livestock and treated in accordance with provisions in 36 CFR 261.7 and 262.10.

Dated: June 28, 1996.

David G. Unger,
Associate Chief.

[FR Doc. 96-17444 Filed 7-8-96; 8:45 am]

BILLING CODE 3410-11-M

36 CFR Part 223

Sale and Disposal of National Forest System Timber; Subpart E—Federal Timber Contract Payment Modification Program

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: The Forest Service is amending its regulations on timber sale contracts to remove the subpart on Federal timber contract payment modification program. Originally required to implement the Federal Timber Contract Payment Modification Act of 1984, these regulations were reviewed during the regulatory reform phase II initiative of the National Performance Review and determined to be obsolete.

EFFECTIVE DATE: July 9, 1996.

FOR FURTHER INFORMATION CONTACT: Jim Naylor, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090-6090, (202) 205-0858.

SUPPLEMENTARY INFORMATION:

Background

The Federal Timber Contract Payment Modification Act of October 16, 1984, (16 U.S.C. 618) authorized and directed the Secretaries of Agriculture and the Interior to release a timber sale purchaser from specified contractual obligations thereby returning to the Government certain timber sale contracts.

Speculative bidding in the early 1980's, followed by a substantial drop in the forest products market, left many timber purchasers in high risk of defaulting timber sale contracts and having to declare bankruptcy.

The Act allowed purchasers of national forest timber to return to the Government a certain number of timber sale contracts upon payment of a "buy-out charge."

The final rule to implement the Federal Timber Contract Payment Modification Act was published in the Federal Register on June 27, 1985, at 50 FR 26666. Under this regulation, purchasers were required to apply for contract buyout within 90 days of the published date of the rule. All of the contracts governed by this regulation are closed. Also, the emergency rate redetermination in Alaska rules, which were part of Subpart E, are no longer applicable. Therefore, these rules are no longer needed and by this amendment are removed from the Code of Federal Regulations. Because of the narrow scope and limited effect of this action, the Agency has determined that this amendment is a technical amendment for which notice and comment pursuant to the Administrative Procedures Act (5 U.S.C. 553) is neither practical nor necessary.

Regulatory Impact

This rule is a technical amendment to remove obsolete regulations and, as such, has no substantive effect nor is it subject to review under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. Accordingly, this rule is not subject to OMB review under Executive Order 12866.

Moreover, good cause exists to exempt this rule from notice and comment pursuant to 5 U.S.C. 553 and, therefore, this rule is exempt from further analysis under the Unfunded Mandates Reform Act of 1995; Executive Order 12778, Civil Justice Reform; Executive Order 12630, Takings Implications; or The Paperwork Reduction Act of 1995.

Environmental Impact

This action falls within a category of actions excluded from documentation in an Environmental Impact Statement and an Environmental Assessment. 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 final technical 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.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting requirements, and Timber sales.

Therefore, for the reasons set forth in the preamble, Part 223 of Title 36 of the Code of Federal Regulations is hereby 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. 620-620h, unless otherwise noted.

Subpart E—[Removed and Reserved]

2. Remove and reserve Subpart E consisting of sections 223.170-223.183.

Dated: June 28, 1996.

David G. Unger,
Associate Chief.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-5532-6]

RIN 2060-AD27

Regulation of Fuels and Fuel Additives; Standards for Reformulated Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition for reconsideration; request for comment.

SUMMARY: EPA requests comment on a petition submitted to EPA by the American Petroleum Institute (API). The petition, submitted pursuant to section 553(e) of the Administrative Procedure Act, requests reconsideration of the Phase II reformulated gasoline reduction standard for oxides of nitrogen (NO_x).

DATES: Comments must be received on or before September 9, 1996.

ADDRESSES: Interested parties may submit written comments (in triplicate, if possible) to: EPA Air and Radiation Docket, Attention Docket No. A-96-27, room M-1500 (mail code 6102), 401 M St., SW, Washington, D.C. 20460. The docket may be inspected at this location from 8:30 a.m. until 5:30 p.m. weekdays. The docket may also be reached by telephone at (202) 260-7548. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: Debbie Wood, Office of Mobile Sources, Fuels and Energy Division, (202) 233-9000.

SUPPLEMENTARY INFORMATION:**I. Introduction and Background**

On February 16, 1994, EPA published a final rule establishing emission reduction and other performance standards for reformulated gasoline (RFG), including provisions for the certification of RFG and enforcement of RFG standards, and establishing certain requirements regarding unreformulated or conventional gasoline (59 FR 7716). The purpose of the RFG program is to improve air quality by requiring that gasoline be reformulated to reduce emissions from motor vehicles of toxics and tropospheric ozone-forming compounds, as specified by section 211(k)(1) of the Clean Air Act (CAA or the Act). Section 211(k) mandates that RFG be sold in the nine largest metropolitan areas with the most severe summertime ozone levels; RFG must also be sold in other ozone nonattainment areas that choose to participate or "opt in" to the program. The Act further prohibits conventional gasoline sold in the rest of the country from becoming any more polluting than it was in 1990 by requiring that each refiner's and importer's gasoline be as clean, on average, as it was in 1990; this statutory prohibition has resulted in requirements referred to as the "anti-dumping" program.

The Act mandates certain requirements for the RFG program. Section 211(k)(1) directs EPA to issue regulations that:

* * * require the greatest reduction in emissions of ozone forming volatile organic compounds (during the high ozone season) and emissions of toxic air pollutants (during the entire year) achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts and energy requirements.

Section 211(k)(3) specifies the minimum requirement for reduction of volatile organic compounds (VOC) and toxics for 1995 through 1999, or Phase I of the RFG program; the section specifies that EPA must require the more stringent of a formula fuel or an emission reduction performance standard, measured on a mass basis, equal to 15 percent of baseline emissions. Baseline emissions are the emissions of 1990 model year technology vehicles operated on a specified baseline gasoline. Section 211(k)(2) compositional specifications for RFG include a 2.0 weight percent oxygen minimum and a 1.0 volume percent benzene maximum. Section 211(k)(2) also specifies that NO_x emissions may not increase in RFG.

For the year 2000 and beyond, or Phase II of the RFG program, the Act specifies that the VOC and toxics performance standards must be no less than either a formula fuel or a 25 percent reduction from baseline emissions, whichever is more stringent. EPA can adjust these standards upward or downward taking into account such factors as feasibility and cost, but in no case can they be less than 20 percent.

Shortly after passage of the CAA Amendments in 1990, EPA entered into a regulatory negotiation with interested parties to develop specific proposals for implementing both the RFG and anti-dumping programs. In August 1991, the negotiating committee reached consensus on a program outline, addressing emission content standards for Phase I (1995–2000), emission models, certification, use of averaging and credits, and other important program elements.

The regulatory negotiation conducted by EPA did not, however, address Phase II VOC and toxics standards, nor did it address a reduction in NO_x emissions beyond the statutory cap imposed under section 211(k)(2)(A). The final rule promulgated by EPA closely followed the outline agreed to in the negotiated rulemaking. The final rule also adopted a NO_x reduction performance standard for Phase II RFG, relying on authority under section 211(c)(1)(A).

In proposing and promulgating a NO_x reduction standard, EPA analyzed the costs and benefits, along with other relevant factors, including EPA's view that NO_x reductions are important to achieve attainment of the ozone National Ambient Air Quality Standard (NAAQS) in many nonattainment areas. In the final rule, EPA discussed recent studies which indicate that NO_x control is an effective ozone control strategy for the northeast as well as the Lake Michigan area (59 FR 7751). EPA also noted that there are non-ozone benefits from NO_x control, such as reduced acid rain and improved visibility (59 FR 7751). In considering the feasibility of section 202 motor vehicle controls prior to regulating fuels, EPA cited several reasons for the promulgation of a NO_x reduction standard (59 FR 7752): (1) Significant emission reductions would be achieved right away, in the summer of 2000, with no delay based on fleet turnover time. (2) A NO_x reduction standard for gasoline would act to reduce emissions from all mobile sources that use gasoline, whether on-highway or nonroad. (3) The fuel control is specifically aimed at areas of the country that are in nonattainment for ozone, and is limited in time to that part of the year when ozone is of most

concern. (4) The expected increase in vehicle miles traveled over time leads EPA to believe that this fuel control is needed to continue to achieve the in-use NO_x emission reductions necessary for many areas of the country to reach attainment for ozone. (5) The performance standard adopted minimizes any concern that a fuel control could interfere in the production process by directing refiners on how to make their product.

EPA estimates that the Phase II NO_x emission reduction standard of 6.8 percent on average will reduce summertime NO_x emissions from gasoline-powered mobile sources by approximately 22,000 tons annually. Cost-effectiveness is estimated at \$5,000 per ton of NO_x reduction.

In December 1995, API submitted a petition to EPA requesting reconsideration of the Phase II RFG NO_x standard or, at a minimum, suspension of the effective date of the standard. API bases its request for reconsideration on three arguments: (1) The standard is inconsistent with the CAA Amendments of 1990 and the 1991 negotiated rulemaking. (2) Air quality benefits of the standard are overstated. (3) The standard is not a cost-effective strategy for ozone control. These arguments were also submitted to EPA by API as comments during the RFG rulemaking; the final rule preamble discusses these arguments and explains EPA's reasons for promulgating the NO_x reduction standard (see 59 FR 7716, 7744–7756).

An initial review of the API petition indicates that it presents no compelling new evidence or argument that would warrant revisiting the decision made in promulgating the Phase II NO_x reduction standard. However, to ensure that our conclusions on the appropriateness of the NO_x reduction standard remain well-founded, EPA will review any relevant and available new information on costs and benefits that has been developed since promulgation of the final rule. EPA solicits comment on the issues raised in the petition. The arguments presented in the API petition are summarized below. A complete copy of the API petition may be found in the docket for this notice.

II. Summary of API Petition**A. Consistency With CAA and Negotiated Rulemaking**

API's first argument is that EPA's Phase II RFG NOG5X standard is inconsistent with the CAA Amendments of 1990 and the 1991 negotiated rulemaking. API cites provisions of the Act that specifically require reductions in various pollutants, and contrasts that

with the "no NO_x increase" approach taken toward RFG in section 211(k). API also notes that the 1991 negotiated rulemaking agreement does not address a Phase II NO_x reduction, and that the focus of debate was whether *de minimis* increases in NO_x would satisfy the no NO_x increase standard. For discussion of these arguments in the RFG final rule, see, for example, 59 FR 7744-7745.

B. Air Quality Benefits

API's second argument is that the ozone benefits of the Phase II RFG NO_x standard are overstated. API argues that the primary basis for the Phase II NO_x standard is ozone attainment, and cites data from EPA's Trends Report (U.S. EPA, National Air Quality and Emissions Trends Report 1993, EPA 454/R-94-026, October 1994 at 6.) that progress toward ozone attainment has been made. API also notes that the Act imposes substantial obligations on states to attain ozone standards.

API claims that in promulgating the Phase II RFG NO_x standard, EPA emphasized those parts of studies (such as *Rethinking the Ozone Problem in Urban and Regional Air Pollution*, National Research Council, National Academy Press, Washington, D.C. 1991) that showed NO_x to be an effective ozone control strategy, while discounting those which indicate that NO_x control can be counterproductive.

API discusses EPA's authority under CAA section 182 to grant waivers from certain CAA local NO_x reduction requirements. The petition states that the section 182(f) waiver requirement recognizes that local NO_x reductions may not be necessary or helpful to attainment of the ozone standard. Although the overwhelming majority of section 182(f) waivers have been granted because additional NO_x reductions are not needed for attainment of the ozone NAAQS, the petition notes that, in a few cases, photochemical modeling has indicated that increased NO_x reductions may exacerbate peak ozone in an urban core. The petition cites three cases where modeling has shown that increased NO_x reductions may exacerbate peak ozone concentrations: Chicago, Milwaukee, and Houston, three of the nine cities required to use RFG. API notes the conditional nature of section 182(f) waivers.

API argues that given continued progress toward ozone NAAQS attainment, imposition of Phase II NO_x reductions applicable in all RFG areas is "plainly incongruous" with the granting of waivers under section 182(f). API also argues that EPA's claim that air quality benefits in addition to reduced ozone will result from the Phase II NO_x

standard (e.g., less acid rain, reduced nitrate deposition, and improved visibility), is speculative. These arguments are discussed in the RFG final rule at, for example, 59 FR 7746 and 7751.

C. Cost-effectiveness

API argues that EPA has understated the impact of the Phase II NO_x reduction standard on costs and refiner flexibility. API claims that if more accurate sulfur removal ("desulfurization") costs were employed, EPA's cost per ton of NO_x removed would increase to over \$10,000. Moreover, API argues that EPA's cost effectiveness analysis does not take into account that NO_x reductions in some areas do not contribute to ozone attainment; API claims that if the benefit of NO_x reductions in Chicago, Milwaukee and Houston, which have been granted conditional section 182(f) waivers, is reduced to zero or less, EPA's cost-effectiveness estimate would rise from \$5,000 to \$7,500 per ton.

API also argues that EPA should have included a more extensive array of stationary source NO_x control measures that compare favorably to EPA's cost-effectiveness estimate, particularly if that estimate is changed in light of API's arguments on desulfurization costs and reduced ozone benefits.

Finally, API argues that major stationary sources offer more potential for overall reduction in air pollution, and that the cost-effectiveness of Phase II NO_x controls is higher than stationary combustion sources with lower potential for overall NO_x reduction. API argues that, unlike mobile source control, major stationary source control can be targeted to avoid the cost of NO_x control where it is not needed and any adverse effect on ozone because of atmospheric chemistry. API's arguments are discussed in the RFG final rule at, for example, 59 FR 7752-7754.

III. Request for Comment

EPA requests comment on all the issues raised in API's petition for reconsideration. EPA is also interested in the potential impact of a delay in implementation or elimination of the Phase II RFG NO_x standard on state implementation plans for attaining compliance with the ozone NAAQS. EPA solicits new information on costs and air quality benefits associated with the Phase II RFG NO_x reduction standard, including non-ozone air quality benefits.

IV. Conclusion

After considering all public comments and any other relevant information available to EPA, the agency will make a decision regarding API's petition for reconsideration.

Dated: June 28, 1996.

Mary D. Nichols,
Assistant Administrator, Office of Air and Radiation.

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40 CFR Part 300

[FRL-5533-1]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Carter Lee Lumber Company Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Carter Lee Lumber Company Site in Indiana from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Indiana, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Indiana have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: July 9, 1996.

FOR FURTHER INFORMATION CONTACT: Deborah Orr at (312) 886-7576 (SR-6J), Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Hawthorn Community Center, 2440 West Ohio Street, Indianapolis, IN and the offices of the Indiana Department of Environmental management, 100 N. Senate Avenue, N1255, Indianapolis, IN. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H-7J), U.S.