

and national origin, except in connection with home mortgage loans. The regulation also prohibits creditors from collecting information concerning an applicant's religion.

On April 26, 1995, the Board published for public comment a proposed amendment that would eliminate these prohibitions; the proposed amendment would have allowed, but not required, creditors to collect these data for any credit products. (60 FR 20436.) Creditors that collected these data would not have been required to report or disclose them to the public. The Board proposed that if a creditor requested this information and the applicant chose not to provide it, the creditor would have been prohibited from collecting the information through visual observation or other means. The regulation would have continued to bar creditors from considering this information in a credit decision.

II. Comments Received

Approximately 250 comment letters were received. Nearly 70 percent of them opposed the Board's proposal; the majority of these comments were from creditors and their trade associations. These commenters generally expressed concern that the amendment would lead to mandatory data collection and result in substantially increased costs and burden. In addition, these commenters raised concerns about the quality of the data that would be obtained, given that supplying the information would be voluntary and not all applicants would choose to provide it.

Of the 30 percent of commenters that supported the Board's proposal, approximately half were creditors and half were community representatives. Both groups believed that the data would allow creditors to better identify underserved groups and design programs that would address unmet credit needs. Creditors who supported the proposal believed that it would reduce compliance burden (by allowing them to streamline training and use one application form for multiple credit products, for example). These creditors also stated that having the data would give them the ability to evaluate their compliance with fair lending laws.

III. Discussion

In 1977, when the Board chose to prohibit creditors from collecting these data, the policy choice was seen as a way to discourage discrimination: If creditors did not have these data, they could not use them to discriminate. In addition, the prohibition was intended to emphasize that factors unrelated to

creditworthiness such as sex or race should not be part of the credit decision.

The fundamental question raised by the proposal is whether the rule prohibiting data collection furthers the ECOA's goal of preventing discrimination in credit transactions. The comments, while helpful, tended to focus on practical issues (such as data quality) rather than how best to ensure fair lending. Ultimately, there is no easy way to measure the extent to which discrimination occurs in credit transactions, nor the effect the rule has had on the incidence of discrimination. It is impossible to know precisely how, if at all, lifting the prohibition and making these data available would affect creditors' actions. On the one hand, it is likely that the prohibition has helped to prevent discrimination in at least some credit transactions. On the other hand, creditors have collected data in connection with mortgage loan applications for nearly twenty years, and there is no indication from this experience that data collection increases the potential for discrimination.

In the past the Congress has expressed interest in this issue, at least with respect to data collection for small business loans. Given this history, and the significant policy issues involved in any decision to remove the prohibition, the Board believes that this is an issue more appropriate for the Congress to consider. Consequently, the Board is withdrawing the proposed amendment pending further congressional guidance.

IV. Regulatory Flexibility Analysis

The Board's Office of the Secretary has determined that no analysis is needed since the proposal is being withdrawn.

By order of the Board of Governors of the Federal Reserve System, December 23, 1996.
William W. Wiles,

Secretary of the Board.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08-96-058]

33 CFR Part 117

Notice of Public Meeting; Bordeaux Railroad Bridge, West Nashville, TN

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Coast Guard announces a forthcoming public

meeting for the presentation of views concerning the hazard to navigation and use of the Bordeaux Railroad Bridge between West Nashville, Tennessee, and Buena Vista Springs, Tennessee.

DATE: The meeting will be held at 9 a.m., January 8, 1997.

ADDRESSES: The meeting will be held in Room A-761 at the Federal Courthouse, 801 Broadway (Broadway and 8th Street), Nashville, Tennessee.

(b) Written comments may be submitted to the docket. Comments will be available for examination or copying from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays, at the office of the Director, Western River Operations, Bridge Branch, 1222 Spruce Street, St. Louis, Missouri 63103-2832.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Wiebusch, (314) 539-3900, extension 378.

SUPPLEMENTARY INFORMATION: As a result of the Coast Guard Authorization Act of 1991 (P.L. 102-241, dated December 19, 1991) the Bordeaux Railroad Bridge was declared to be unreasonably obstructive to navigation. Information available to the Coast Guard indicates that the bridge has not been used for rail traffic since December 1991. Based on this information, the structure no longer appears to meet the definition of a bridge and may require removal from the water. All interested parties shall have full opportunity to be heard and to present their views as to whether removal of this bridge is needed, giving due consideration to the necessities of free and unobstructed water navigation.

Any person who wishes, may appear and be heard at this public meeting. Persons planning to appear and be heard are requested to notify the Director, Western Rivers Operations, Bridge Branch, 1222 Spruce Street, St. Louis, Missouri 63103-2832, Telephone: 314-539-3900 extension 378, any time prior to the meeting and indicate the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the meeting. Written statements and exhibits may be submitted in place of, or in addition to, oral statements and will be made a part of the public docket. Such written statements and exhibits may be delivered at the meeting or mailed to the Director, Western Rivers Operations, Bridge Branch. Transcripts of the meeting will be made available for purchase upon request.

Authority: 33 U.S.C. 513; 49 CFR 1.46(c)(3).

Dated: December 13, 1996.

T.W. Josiah,

*Rear Admiral, U.S. Coast Guard Commander,
Eighth Coast Guard District.*

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Disposal of National Forest Timber; Cancellation of Timber Sale Contracts

RIN 0596-AB21

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the existing rules on cancellation of timber sale contracts, permits, and other such instruments authorizing the sale or harvest of timber or other forest products to clarify when, why, and by whom contracts may be cancelled, to remove redundant provisions, and to provide a new formula for compensation when the government must cancel timber sale contracts. This proposed rule also would limit financial liability of the United States on certain contracts, remove cancellation limits applicable to the length of the contract term, and define the contractual terms "purchaser", "modification", "partial cancellation", and "cancellation". The proposed rule would also require that all sales are to be laid out in identifiable units. These changes are necessary because the Forest Service is unable to continue bearing most of the financial risk and burden of contract cancellation arising from compliance with increasingly complex and rigorously enforced environmental laws and regulations. This proposed rule would reasonably reallocate risk between the Government and private parties, thereby protecting the U.S. taxpayer from unreasonable and excessive financial damages arising from cancellation of timber sale contracts and other such instruments.

DATES: Comments must be received in writing by February 13, 1997.

ADDRESSES: Send written comments to Director, Timber Management Staff (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this proposed rule in the Office of the Director, Wing 3NW, Auditors Building, 201 14th Street, SW, Washington, DC 20250. Parties wishing

to view comments are encouraged to call ahead (202-205-0893) to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Rex Baumbach, Timber Management Staff, (202) 205-0855.

SUPPLEMENTARY INFORMATION: The rules at Title 36, Code of Federal Regulations (CFR), part 223 govern the sale of National Forest System timber. Section 223.30 provides that each timber sale contract will be consistent with plans, environmental standards, and other management requirements. Section 223.30 sets forth specific management requirements for timber sales contracts in addition to general compliance with environmental standards and resource management plans, for example, fire protection and suppression, minimizing increases in erosion, regeneration of timber, and so forth. Sections 223.40 and 223.116 set out the current bases for cancellation of timber sale contracts by either the Government or the purchaser and prescribe the amount of damages, if any, in the event of cancellation.

Section 223.40 requires that timber sale contracts, permits, and other such instruments with terms longer than 2 years provide for cancellation when necessary to prevent serious environmental damage or when they are significantly inconsistent with land management plans adopted or revised in accordance with section 6 of the Forest and Rangeland Renewable Resources Act of 1974, as amended (16 U.S.C. 1601, *et seq.*) and 36 CFR part 219—Planning.

Section 223.116 provides that timber sale contracts and permits may be cancelled based on specifically listed conditions. This section also authorizes the Chief of the Forest Service to cancel contracts and places limitations on the re-delegation of cancellation authority to Regional Foresters.

Background

Under existing regulations, purchasers may request cancellation of contracts if, as a result of catastrophic damage caused by forces beyond the control of the purchaser, the value of the remaining timber is materially diminished. The Government may cancel contracts under any of the following conditions: (1) By mutual agreement with the purchaser when such action is to the advantage of the United States or not prejudicial to its interests; (2) for purchaser's violation of contract terms; (3) for purchaser's conviction of violation of criminal statutes or for violation of civil standards, orders, permits, or other regulations, issued by a Federal agency,

State agency, or political subdivision thereof, for the protection of environmental quality, on National Forest System land, unless compliance with such laws or regulations would preclude performance of other contractual requirements; and (4) upon determination by the Chief of the Forest Service that operations under the contract would result in serious environmental degradation or resource damage.

Unlike government-wide rules governing procurement contracts, the existing cancellation regulation places an inappropriate amount of the financial liability on the Forest Service when the agency must, for reasons of public policy or statutory direction, cancel a timber sale contract or permit. In an effort to address this issue, the agency published a proposed rule to revise its rules on cancellation of timber sale contracts, permits, and other such instruments in the Federal Register on August 31, 1990, at 55 FR 35683-35686. No public comment was received as a result of this publication. After subsequent review of the cancellation regulation, the agency identified additional changes that are needed but that were not included in the proposed rule. Therefore, the agency is publishing a new proposed rule and inviting public comments.

The need for the revised contract cancellation procedures and expanded use of identifiable units for all forest product sales arises from the changing circumstances over the last two decades surrounding forest product sales and the increasing likelihood that a forest product sales may have to be changed in order to comply with the law. Consequently, the Federal manager must have contractual flexibility in order to maintain compliance with the law within reasonable economic limits.

Under the existing regulation when a sale is cancelled, the Forest Service pays a purchaser's out-of-pocket costs for a purchaser's operations up to the date of cancellation. The Forest Service also compensates the purchaser for the presumptive increased cost of acquiring comparable timber to replace the timber lost through cancellation, without regard to whether the purchaser actually purchases replacement timber. By holding inventory in a rising market, a purchaser generally earns a profit under the existing rules. In a falling market, the current rule shields the purchaser from loss that otherwise would be incurred if the contract had not been cancelled by the Forest Service.

Given the inability of the Forest Service to predict or control the need to adjust management practices to respond