

# Notices

Federal Register

Vol. 70, No. 125

Thursday, June 30, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Marten Creek Timber Sales and Associated Activities Kootenai National Forest, Sanders County, MT

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement.

**SUMMARY:** The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of timber harvest, prescribed fire, and watershed rehabilitation in the Marten Creek project area on the Cabinet Ranger District of the Kootenai National Forest. The Marten Creek project area is located approximately 7 air miles northwest of Trout Creek, Montana, near the community of Trout Creek, Montana.

*Scoping Comment Date:* Comments concerning the scope of the analysis should be postmarked or received by September 2, 2005.

**ADDRESSES:** Written comments and suggestions concerning the scope of the analysis should be sent to Julie Molzahn ([jmolzahn@fs.fed.us](mailto:jmolzahn@fs.fed.us)), District Ranger, Cabinet Ranger District, 2693 Hwy 200, Trout Creek, Montana, 59874.

**FOR FURTHER INFORMATION CONTACT:** Dave Clay ([dclay@fs.fed.us](mailto:dclay@fs.fed.us)), Project Leader, Cabinet Ranger District. Phone: (406) 827-3533.

**SUPPLEMENTARY INFORMATION:** The Marten Creek project area contains approximately 43,770 acres of land within the Kootenai National Forest in Sanders County, Montana. The legal location of the Marten Creek project area is as follows: All or portions of T25N, R34W; T25N, R33W; T25N, R32W, T24N, R33W, and T24N, R32W; PMM, Sanders County, Montana. The proposed actions would occur on National Forest lands in the Marten Creek drainage. All proposed timber harvest activities are outside the

boundaries of any inventoried roadless area or any areas considered for inclusion to the National Wilderness System as recommended by the Kootenai National Forest Plan or by any past or present legislative wilderness proposals, with the exception of approximately 3,878 acres of underburning-only in the McNeeley and Devil's Gap Inventoried Roadless Area.

The purpose and need for this project is to: (1) Manage for vegetation conditions that are suitable for fire-department ecosystems; (2) Improve and maintain big game winter range; (3) Enhance or maintain conditions in old growth forest stands; (4) Reduce excess fuel loads in the Wildland/Urban interface; (5) Improve growing conditions and long term management of overstocked mid-successional stands; (6) Enhance the rate of natural recovery of streams; and (7) Contribute forest products to the local and regional economy.

The Forest Service proposes to harvest timber through application of a variety of harvest methods of approximately 1,860 acres of forestland within the Marten Creek project area. Use of existing, temporary and permanent roads would be needed to access timber harvest areas. An estimated 47.0 miles of existing roads would be reconstructed in addition to 7.0 miles of new specified road construction to facilitate timber removal and improve access for resource management. An estimated 1.0 miles of temporary road would be constructed and obliterated following completion of sale related activities. An additional 7.0 miles of existing road no longer needed for resource management, at this time, would be decommissioned by various methods, such as removal of culverts, recontouring, and ripping and seeding. The method of decommissioning would be selected for each road or portion of road on a site-specific basis.

*Regeneration Harvest:* This harvest would leave approximately 20–30 large trees per acre as individual trees and in groups, where feasible, to provide future snags and down woody material for wildlife habitat. A total of approximately 303 acres would be harvested through this method.

*Intermediate Harvest:* This type of harvest would commercially thin codominant and intermediate trees while retaining a stocked stand of

overstory trees on approximately 1,557 acres.

*Underburning:* Underburning is proposed on approximately 6,676 acres outside harvest units to reduce fuel loads and reduce fire risk.

*Burning of Natural Fuels and Slash:* Burning of natural fuels and slash resulting from timber harvest is proposed on approximately 1,860 acres.

*Watershed/Fish Habitat Improvement:* Watershed improvement projects are proposed for approximately 20 sites on approximately seven miles of road. These would include removing failed culverts, saturated road prisms and restoring channels at road crossings. Additional stream channel restoration projects are proposed on approximately one mile of the mainstream of Marten Creek and approximately one-half mile of the South Fork of Marten Creek. Riparian revegetation aimed at providing bank stability is being proposed on approximately two miles of stream banks within the middle reaches of Marten and South Fork of Marten Creek drainage. Reconstruction proposed for the project would apply Best Management Practices on approximately 47.0 miles of existing road.

*Range of Alternatives:* The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

*Public Involvement and Scoping:* In July, 2005 preliminary efforts were made to involve the public in considering management opportunities within the Marten Creek Decision Area. Comments received prior to this notice will be included in the documentation for the EIS. This proposal includes openings greater than 40 acres. A 60 day public review period, and approval by the Regional Forester for exceeding the 40 acre limitation for regeneration harvest will occur prior to the signing of the Record of Decision. This 60 day period is initiated with this Notice of Intent.

*Forest Plan Amendments:* The Proposed Action includes two project-specific Forest Plan amendments

necessary to meet the project's objectives: (1) An amendment to allow removal of existing cavity habitat in MA 10 (big game winter range). This amendment would be needed to allow removal of some snags within the cutting units. OSHA regulations require that many snags in logging units be felled to ensure the safety of forest workers. Therefore, we would anticipate the loss of some but not all standing dead timber for both safety concerns and harvest system logistics, and this would reduce "cavity habitat" associated with snags in the MA to some degree.

(2) An amendment to allow MA 12 open road density to be managed by 0.80 miles/square mile during project implementation. The amendment would be needed to suspend Facilities Standard #3, which states that open road density should be maintained by 0.75 miles/square mile. The open road density would return to 0.75 following project completion.

**Estimated Dates for Filing:** The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by March 2006. At that time, EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be a minimum of 45 days from the date of EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The Final EIS is scheduled to be complete by May 2006. In the final EIS, the Forest Service will respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

**Reviewer's Obligations:** The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft EIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th cir. 1986) and

*Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the Draft EIS 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statements should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statements. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service handbook 1909.15, Section 21.)

**Responsible Official:** As the Forest Supervisor of the Kootenai National Forest, 1101 U.S. Highway 2 West, Libby, MT 59923, I am the Responsible Official. As the Responsible Official, I will decide if the proposal project will be implemented. I will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations. I have delegated the responsibility for preparing the DEIS and FEIS to Julie Molzahn, District Ranger, Cabinet Ranger District, 2963 Hwy 200, Trout Creek, Montana 59874.

Dated: June 22, 2005.

**Bob Castaneda,**

*Forest Supervisor, Kootenai National Forest.*  
[FR Doc. 05-12892 Filed 6-29-05; 8:45 am]

**BILLING CODE 3410-11-M**

## **ANTITRUST MODERNIZATION COMMISSION**

### **Notice of Public Hearings**

**AGENCY:** Antitrust Modernization Commission.

**ACTION:** Notice of public hearings.

**SUMMARY:** The Antitrust Modernization Commission will hold public hearings on July 28, 2005. The topics of the hearings are the Robinson-Patman Act and certain civil remedies issues.

**DATES:** July 28, 2005, 9:15 a.m. to 11:30 a.m. and 12:30 p.m. to 5 p.m. Interested members of the public may attend. Registration is not required.

**ADDRESSES:** Federal Trade Commission, Conference Center, 601 New Jersey Avenue, NW., Washington, DC.

### **FOR FURTHER INFORMATION CONTACT:**

Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233-0701; e-mail: [info@amc.gov](mailto:info@amc.gov). Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

**SUPPLEMENTARY INFORMATION:** The purpose of these hearings is for the Antitrust Modernization Commission to take testimony and receive evidence regarding the Robinson-Patman Act and certain civil remedies issues. The hearing on the Robinson-Patman Act will consist of one panel. It will begin at 9:15 a.m. and adjourn at 11:30 a.m. The hearing on civil remedies issues will consist of two panels. The first civil remedies panel will address damages multipliers, attorneys' fees, and prejudgment interest. The panel will begin at 12:30 p.m. and run until 3 p.m. The second civil remedies panel will address joint and several liability, contribution, and claim reduction, and will run from 3 p.m. to 5 p.m. Materials relating to the hearings, including lists of witnesses and the prepared statements of the witnesses, will be made available on the Commission's Web site (<http://www.amc.gov>) in advance of the hearings. The starting time for the panel on Robinson-Patman Act is approximate, as the Commission will be holding a public meeting beginning at 9 a.m., the notice of which is published elsewhere in this issue of the **Federal Register**.

Interested members of the public may submit written testimony on the subject of the hearing in the form of comments, pursuant to the Commission's request for comments. See 70 FR 28,902 (May 19, 2005). Members of the public will not be provided with an opportunity to make oral remarks at the hearings.

The AMC is holding this hearing pursuant to its authorizing statute. Antitrust Modernization Commission Act of 2002, Pub. L. 107-273, § 11057(a), 116 Stat. 1758, 1858.

Dated: June 24, 2005.