

distribution of power and responsibilities among the various levels of government. Moreover, there is no requirement on States to match funds in order to participate in FLEP. Based on comments received on this interim final rule, the Department will consider if any additional consultation will be needed with State and local governments prior to adopting a final rule.

#### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 through 1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this interim final rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of \$100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

#### *Proper Consideration of Small Entities*

This interim final 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.*). An initial assessment on small entities' flexibility has been prepared as part of the cost-benefit analysis and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by SBREFA. This interim final rule imposes no additional requirements on the affected public. The principal small businesses expected to be impacted are consultant foresters who may assist State forestry agencies in different phases of FLEP delivery, including technical, educational, and cost-share elements for which they will be fully compensated. The minimum requirements on small entities imposed by this interim final rule are 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.

#### **List of Subjects in 36 CFR Part 230**

Forest and forest products, Grant programs—natural resources, Intergovernmental relations, Reporting and recordkeeping requirements.

■ Therefore, for the reasons set forth in the preamble, part 230 of Title 36 of the Code of Federal Regulations is amended by adding a new subpart C as follows:

### **PART 230—STATE AND PRIVATE FORESTRY ASSISTANCE**

■ 1. The authority citation is revised to read as follows:

**Authority:** 16 U.S.C. 2101 *et seq.*

■ 2. Amend Part 230 by adding a new subpart C to read as follows:

#### **Subpart C—Forest Land Enhancement Program**

Sec.

- 230.30 Purpose and scope.
- 230.31 Definitions.
- 230.32 National program administration.
- 230.33 Responsible official program administration.
- 230.34 State program administration.
- 230.35 FLEP elements.
- 230.36 State priority plan—purpose and scope.
- 230.37 State priority plan—educational assistance component.
- 230.38 State priority plan—technical assistance.
- 230.39 State priority plan—financial assistance component.
- 230.40 Eligible practices for cost-share assistance.
- 230.41 Eligibility requirements for cost-share assistance.
- 230.42 Cost-share assistance—application and payment procedures.
- 230.43 Cost-share assistance—prohibited practices.
- 230.44 Cost-share assistance—reporting requirement.
- 230.45 Recapture of cost-share assistance.
- 230.46 Information collection requirements.

#### **§ 230.30 Purpose and scope.**

(a) The regulations in this subpart govern the operation of the Forest Land Enhancement Program (hereafter, FLEP) as provided in Section 4 of the Cooperative Forestry Assistance Act (16 U.S.C. 2101 *et seq.*), as amended by title VIII of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171). The purpose of FLEP is to provide a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.

(b) The educational assistance, resource management expertise, and financial assistance provided under FLEP shall complement any existing Federal or State programs or programs offered through institutions of higher learning providing assistance to nonindustrial private forest landowners. FLEP promotes improved coordination and cooperation among Federal, State, and local programs regarding the establishment, maintenance, enhancement, and restoration of nonindustrial private forestlands.

(c) Participation in FLEP is voluntary on the part of both the State and the nonindustrial forest landowner. To participate, each State must have nonindustrial private forest lands, a State Forester or equivalent, and a State Forest Stewardship Coordinating Committee.

#### **§ 230.31 Definitions.**

The terms used in this subpart are defined as follows:

**Capital investment or improvement.** Durable equipment or assets capable of being amortized or depreciated over a period of 3 or more years, not including activities or practices carried out as part of the Forest Land Enhancement Program (FLEP) cost-share element.

**Catastrophic natural event.** Destructive natural event, which includes, but is not limited to, wildfires, insect infestations, disease outbreaks, droughts, floods, windstorms, freezing, ice storms, hail, sleet, mudslides, landslides, earthquakes, avalanches, tornadoes, volcanoes, hurricanes, or tsunamis.

**Chief.** The Chief of the Forest Service, United States Department of Agriculture.

**Committee.** The State Forest Stewardship Coordinating Committee.

**Concurrence.** Review, verification, and confirmation by the Responsible Official that the State priority plan contains all of the key elements required by law and the rules of this subpart.

**Cost-share.** A program payment, on a reimbursable basis, at a maximum of 75 percent of the cost incurred by a landowner for implementation of a State-approved activity or practice authorized under FLEP.

**Financial assistance.** Funds disbursed as an award by the Federal Government to an eligible party from the FLEP annual apportionment, in the form of money, including grants, agreements, contracts, and other arrangements.

**Fiscal year.** The accounting period, used by the United States Government, from October 1 through September 30.

**Landowner.** An individual, group, association, corporation, Indian Tribe, or other legal private entity owning nonindustrial private forest land or a person who receives concurrence from the landowner for practice implementation and who holds a lease on the land for a minimum of 10 years. Corporations whose stocks are publicly traded or owners principally engaged in the primary processing of raw wood products are excluded.

**Management plan.** A written plan prepared by a service representative and approved by a State Forester.