

# PARTICIPATING AGREEMENT (PA)

**Participating Agreement under the Cooperative Funds and Deposits Act of December 12, 1975** authorizes the Forest Service to enter into agreements for projects that accomplish the following:

- Cooperative pollution abatement.
- Cooperative Manpower, Job training, and Development programs.
- Development of publications of cooperative environmental education and forest history materials.
- Forestry protection.

## Permitted activities:

1. Fire prevention.
2. Fuels management defined as understory reduction (thinning and pruning), debris removal
3. (snags, logs, and down timber and brush), treatment of fuels (to reduce flammability),
4. rearrangement of fuels (on-site), and conversion of fuels (less flammable replacement).
5. Insect and disease control, endangered species protection, noxious weed control, and animal control to protect endangered areas.
6. Tree planting and seeding.
7. Erosion control.
8. Reclamation of abandoned mines.
9. Land restoration (abandoned facilities, dams, roads, and permit sites).
10. Hazardous material identification (pre-CERCLA assessment with States to determine if hazardous materials exist on Forest Service lands).
11. Water testing and protection.
12. Air pollution abatement.

**Prohibited Activities.** This section of the Act must not be used to accomplish operation and maintenance projects, such as:

1. Road and trail construction/reconstruction, operation, and maintenance.
2. Recreation site and facility operation and maintenance.
3. Fishery and wildlife operation, maintenance, and improvement.
4. Range operation, maintenance, and improvement.
5. Work in a non-forest environment (warehouses, shops, and offices).

### Other Requirements.

1. Must be of mutually beneficial/mutual interest to both parties.
2. 20% contribution is required. Can be cash, non-cash, in-kind.
3. Must be on NFS lands.
4. Reimbursable or Advance payments may be made.

**Participating Agreement under the Wyden Amendment** authorizes the Forest Service to enter into agreements for projects that accomplish the following:

1. Both parties cooperatively performed work related to:
  - The protection, restoration, and enhancement of fish and wildlife habitat, and other natural or cultural resources on public or private lands;
  - The reduction of risk for natural disaster where public safety is threatened; or
  - A combination of both.

All agreements citing this authority must provide a benefit to natural or cultural resources on NFS lands within the watershed. (This means that some of the work could be done on non federal lands)

2. Cooperators Agreements for watershed restoration and enhancement may be awarded either:
  - Directly with a willing landowner, or
  - Indirectly through an agreement with a State, local, or tribal government or other public entity, educational institution, or private nonprofit organization.
  - Mutual Benefit. Mutual benefit is required
  - Funding/Contributions. The Forest Service may provide its share of the costs from any funds that are otherwise available for carrying out the purposes of the agreement. For example, a unit must have wildlife funds to complete a wildlife project, fire funds for a fire project, and so forth.

In all instances, the Forest Service and the cooperator(s) shall contribute resources to perform the work, share mutual interests, and benefit in the same qualitative way. The cooperator's contributions may include cash, real or personal property, services, and/or in-kind contributions (such as volunteer labor). The cooperator may not use funds from other Federal agencies for its contribution match unless specifically provided by the Federal statute authorizing those funds.

3. **Matching Contributions.** There is no set formula for determining the amount each party contributes, though cooperator contributions should always be calculated and commensurate with benefits gained. There is no minimum matching requirement.
4. **Advance and Reimbursable Payments.** The Forest Service may provide reimbursable or advance payments for watershed restoration or enhancement. Cooperator cash advances are limited to the minimum amount needed to perform anticipated activities or no more than is needed for a 30-day period, whichever is less.

5. **Applicability of Contracting.** The Forest Service may procure goods and services on behalf of the cooperator.

**Additional requirements:**

- Projects must comply with all applicable Federal, State, and local laws and regulations, policies, and requirements; for example, NEPA, Clean Water Act, Endangered Species Act, and so forth.. Ensure that any expenditure pursuant to the agreement is determined to be in the public interest.
- Property improvements to cooperator lands may become the property of the cooperator.