

(e) With prior approval by the Regional Forester, timber on lands under option by the United States or on offered lands included in an approved land exchange agreement may be sold. Before the sale is made, a cooperative agreement must be made with the owner of the land authorizing the Forest Service to conduct the sale and providing for return of stumpage receipts to the owner if title to the land is not accepted by the United States.

(f) With prior approval by the Regional Forester, cutting of exchange timber described in §223.4 may be authorized in advance of the acceptance of title to the non-Federal land offered in exchange.

§ 223.15 Provision of trees, portions of trees, or forest products to Indian tribes for traditional and cultural purposes.

(a) Pursuant to section 8105 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, 122 Stat. 1651) [hereinafter the “2008 Farm Bill”], Regional Foresters or designated Forest Officers may, at their discretion, provide trees, portions of trees, or forest products to Indian tribes free of charge for traditional and cultural purposes provided that:

(1) The trees, portions of trees, or forest products are provided to tribal officials on behalf of an Indian tribe for traditional and cultural purposes; and

(2) The trees, portions of trees, or forest products will not be used for commercial purposes.

(b) The following definitions apply to this section:

Indian tribe. The term “Indian tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

Traditional and cultural purpose. The term “traditional and cultural purpose,” with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established signifi-

cance or ceremonial nature of the use, area, or practice to the Indian tribe.

Tribal officials: The term “tribal officials” means elected or duly appointed officials of Indian tribal governments.

(c) Requests for trees, portions of trees, or forest products made under this section must be submitted to the local Forest Service District Ranger’s Office(s) in writing. Requests may be made:

(1) Directly by a tribal official(s) who has been authorized by the Indian tribe to make such requests; or

(2) By providing a copy of a formal resolution approved by the tribal council or other governing body of the Indian tribe.

(d) Requests for trees, portions of trees, and forest products made under this section must be directed to the appropriate Forest Service District Ranger(s)’ Office from which the items are being requested. Tribal officials are encouraged to explain their requests to the Regional Forester or designated Forest Officer and, if necessary, describe how the request fits a traditional and cultural purpose. When an Indian tribe requests forest products located on two or more National Forests, authorized tribal officials should notify each of the affected Forest Service District Ranger’s Offices of the requests made on other forests.

(e) Agency Line Officers and managers (who have been authorized by name through official Forest Service correspondence) are authorized to provide trees, portions of trees, and forest products under this section subject to the following limitations:

(1) District Rangers and Forest Officers may provide material not exceeding \$25,000 in value in any one fiscal year to an Indian tribe;

(2) Forest Supervisors may provide material not exceeding \$50,000 in value in any one fiscal year to an Indian tribe;

(3) Regional Foresters may provide material not exceeding \$100,000 in value in any one fiscal year to an Indian tribe; and

(4) The Chief of the Forest Service may provide material exceeding \$100,000 in value to an Indian tribe.

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(f) A request for trees, portions of trees, or forest products under this section may be conditioned or denied for reasons including, but not limited to the following:

(1) Protecting public health and safety;

(2) Preventing interference with Forest Service and/or commercial operations;

(3) Complying with Federal and State laws and regulations;

(4) Ensuring sustainability; or

(5) Otherwise protecting National Forest System land and resources.

(g) All decisions made under this section must comply with the National Forest Management Act, relevant land management plans, the National Environmental Policy Act, the Endangered Species Act, all other applicable laws and regulations, and are subject to tribal treaty and other reserved rights and the savings provisions of the Cultural and Heritage Cooperation Authority (25 U.S.C. 3057(b)).

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Subpart B—Timber Sale Contracts

CONTRACT CONDITIONS AND PROVISIONS

§ 223.30 Consistency with plans, environmental standards, and other management requirements.

The approving officer will insure that each timber sale contract, permit or other authorized form of National Forest timber disposal is consistent with applicable land and resource management plans and environmental quality standards and includes, as appropriate, requirements for:

(a) Fire protection and suppression;

(b) Protection of residual timber;

(c) Regeneration of timber as may be made necessary by harvesting operations;

(d) Minimizing increases in soil erosion;

(e) Providing favorable conditions of water flow and quality;

(f) Utilization of the timber resource to provide for the optimum practical use of the wood material as may be obtained with available technology, considering opportunities to promote more efficient wood utilization, regional conditions and species characteristics;

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(g) Reduction of the likelihood of loss to destructive agencies; and

(h) Minimizing adverse effects on, or providing protection for and enhancing other National Forest resources, uses and improvements.

§ 223.31 Duration of contracts.

Sale contracts shall not exceed 10 years in duration, unless there is a finding by the Chief, Forest Service, that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960) will result.

§ 223.32 Timber sale operating plan.

Sale contracts with a term of 2 years or more shall provide for the filing of an operating plan as soon as practicable after execution of the contract, such plan shall be a part of the contract. The plan of operation shall be general in nature, outlining the expected timing and order of sale development, including such major operations as road construction, felling and removal of timber, distribution of timber, and contractual requirements for erosion prevention and slash disposal. The plan of operation and revisions thereto shall be subject to concurrence by the Forest Service.

§ 223.33 Redetermination of stumpage rates and deposits.

Sale contracts exceeding 7 years in duration, and those of shorter duration to the extent found desirable by the approving officer, will provide for the redetermination of rates for stumpage and for required deposits at intervals of not more than 5 years, exclusive of any period allowed for the construction of improvements.

§ 223.34 Advance payment.

Sale contracts shall provide that timber and forest products be paid for in advance of cutting, unless the contract authorizes the purchaser to furnish a payment guarantee satisfactory to the Forest Service. Advance payments found to be in excess of amounts due the United States shall be refunded to the current holder of the contract or