

#### § 5451.4

Satisfactory completion of portions of the required road construction, to reasonable points that can be easily identified in the road construction appraisal, shall be considered as completed road construction for the purpose of this section.

[55 FR 19886, May 14, 1990]

#### § 5451.4 Payment bond.

To obtain permission to (a) cut and remove timber, or (b) remove timber already cut, which has been secured by an increased performance bond as provided for in § 5451.2, before payment of the first or subsequent installments, the purchaser must obtain a payment bond in an amount equal to one or more installment payments as determined by the authorized officer. The payment bond may be a bond of a corporate surety shown on the approved list issued by the U.S. Treasury Department and executed on an approved form or negotiable securities of the United States. The payment bond may be a bond of a corporate surety shown on the approved list issued by the United States Treasury Department and executed on an approved form, negotiable securities of the United States, or any guaranteed remittance approved by the authorized officer. If a bond of a corporate surety is used, the payment bond shall provide that if the purchaser fails to make payment as required by § 5461.2(c) of this chapter, the surety will make such payment including any required interest to the Bureau within 60 days after demand therefor by the Bureau. With the written approval of the authorized officer a single blanket payment bond may be allocated to two or more contracts with the same purchaser in the same Bureau of Land Management administrative district. When operations cease for 60 days or more, the amount of a payment bond may be adjusted downward to an amount equal to the value of the timber cut. Before operations resume, a reduced bond shall be increased to the amount of a full installment.

[38 FR 6281, Mar. 8, 1973, as amended at 46 FR 42674, Aug. 24, 1981; 47 FR 38697, Sept. 2, 1982]

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### Subpart 5452—Method of Payment

#### § 5452.1 Cash sales.

For sales under \$500 the full amount shall be paid prior to or at the time the authorized officer signs the contract.

[35 FR 9787, June 13, 1970]

#### § 5452.2 Installment payments.

For sales of \$500 or more the authorized officer may allow payment by installments as provided by § 5461.2 of this chapter.

[35 FR 9787, June 13, 1970]

## PART 5460—SALES ADMINISTRATION

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5463.1 Time for cutting and removal.

AUTHORITY: 30 U.S.C. 601 *et seq.*, 43 U.S.C. 1181e.

### Subpart 5461—Contract Payments

#### § 5461.1 Payment in advance of cutting or removal.

Except as provided in §§ 5451.2 and 5451.4 no part of any timber or other vegetative resources sold may be cut or removed unless advance payment has been made as provided in the contract.

[35 FR 9787, June 13, 1970, as amended at 38 FR 6281, Mar. 8, 1973]

#### § 5461.2 Required payment schedule.

(a)(1) For sales of less than \$500,000, installment payments shall not be less than 10 percent of the total purchase price. For sales of \$500,000 or more, installment payments shall be \$50,000.

(2) The first installment shall be paid prior to or at the time the authorized officer signs the contract. A purchaser cannot apply any portion of the first installment to cover other payments due on the contract until either 60 percent of the total purchase price has been paid or road construction required by the contract, the value of which when combined with contract payments is equal to 60 percent of the total purchase price, has been completed. When either of these 60-percent levels has been reached, one-half of the first installment may be applied to other payments due on the contract.

(3) Notwithstanding the provisions of paragraph (a)(2) of this section, when the contracting officer suspends or requests the purchaser to interrupt or delay operations during the operating season for a reason beyond the control of the purchaser, the contracting officer may reduce the amount of the first installment to 5 percent of the installment amount listed in the timber sale contract. Reductions may be made when the suspension, interruption, or delay can reasonably be expected to last longer than 30 days or has been in effect for more than 30 days for existing contracts. The purchaser shall request such reduction in writing from the contracting officer. The contracting officer will answer such requests within 15 days. The funds released may be refunded or credited to other contracts. When the contracting officer notifies the purchaser that operations may proceed, the purchaser shall have 15 days after such notification to return the first installment to the full amount specified in the timber sale contract. Failure to pay the full first installment amount within the specified time will be considered a material breach of contract, and the contracting officer may cancel the contract. No timber may be cut or removed from the contract area until the first installment is restored to the full amount required by the contract.

(4) The second installment shall be paid prior to the cutting or removal of the material sold. Each subsequent installment shall be due and payable without notice when the value of material cut or removed equals the sum of all payments made up to that point,

not including the first installment, or one-half of the first installment after the other one-half of the first installment has been released as provided in paragraph (a)(2) of this section.

(5) Timber sale contracts shall contain provisions requiring periodic payments for all sales with a contract term of 19 months or longer. For sales with a contract term of 19-26 months, one periodic payment of 20 percent of the total purchase price will be required. For all sales with a contract term of 27 months or longer, two periodic payments will be required. The first payment shall be 20 percent of the total purchase price and the second payment shall be 40 percent of the total purchase price. The value of satisfactorily completed road construction required by the contract and all completed contract payments may be used as a credit against the amount due for periodic payments. The due dates for the periodic payments will be specified in the timber sale contract. Adjustment of the periodic payment dates in the contract may be made when the contracting officer suspends, interrupts, or delays operations during the operating season prior to the due date for a periodic payment for a reason beyond the control of the purchaser. The adjustment may be made when the suspension, interruption, or delay can reasonably be expected to last longer than 30 days or has been in effect for more than 30 days for existing contracts. The purchaser shall request such adjustment in writing from the contracting officer. The contracting officer will answer such requests within 15 days.

(6) For the purpose of this section, the value of satisfactorily completed road construction shall be based on the Bureau of Land Management's appraisal allowance. Satisfactory completion of portions of the required road construction, to reasonable points that can be easily identified in the road construction appraisal, shall be considered as completed road construction for purposes of this section.

(b) Delayed payment of installments shall be allowed if the purchaser furnishes a bond as provided in §5451.2 of this title. A deposit shall be paid in the

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same manner as prescribed in paragraph (a) of this section. If cutting is permitted before payment, as prescribed in §5451.2 of this title, payment by installment shall be made before any timber may be skidded or yarded to a loading point or removed from the contract area. Each subsequent installment shall be due and payable without notice when the sale value of the timber skidded or yarded to a loading point or removed equals the sum of all payments not including the deposit. The unenhanced value of timber allowed to be cut in advance of payment shall be limited to the amount of the increase over and above the required performance bond. Upon payment, the amount of the bond may be applied to other timber sold under the contract to permit its cutting in advance of payment.

(c) Where cutting or removal is permitted under payment bond under §5451.4 of this title, a deposit shall be paid as provided in paragraph (a) of this section. If cutting and/or removal is permitted before payment, as provided in §5451.4 of this title, the purchaser shall be billed monthly for timber skidded or yarded to a loading point or removed from the contract area and for any related road maintenance fees unless a lesser period is agreed to by the authorized officer and the purchaser. Payment shall be made within 15 days of the billing date shown on the billing form. The unenhanced value of timber allowed to be cut and/or removed in advance of payment is limited to the amount of the payment bond. Upon payment, the amount of the bond may be applied to other timber.

[47 FR 38697, Sept. 2, 1982; 47 FR 51868, Nov. 18, 1982, as amended at 55 FR 19886, May 14, 1990; 57 FR 62235, Dec. 30, 1992]

### §5461.3 Total payment.

The total amount of the contract purchase price must be paid prior to expiration of the time for cutting and removal under the contract. For a cruise sale the purchaser shall not be entitled to a refund even though the amount of timber cut, removed, or designated for cutting may be less than the estimated total volume shown in the contract. For a scale sale, if it is

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determined after all designated timber has been cut and measured that the total payments made under the contract exceed the total sale value of the timber measured, such excess shall be refunded to the purchaser within 60 days after such determination is made.

[35 FR 9787, June 13, 1970]

## Subpart 5462—Contract and Permit Requirements

### §5462.1 Contract and permit compliance.

(a) The following minimum requirements shall be met in order to assure contract or permit compliance:

(1) Contracts or permits shall be executed by authorized purchasers or their formally designated representatives.

(2) For other than lump sum sales, only the specific timber or other vegetative resource designated for removal, in their respective quantities, shall be removed.

(3) Timber or other vegetative resources shall be removed only from designated locations or areas.

(4) Transportation of timber or other vegetative resources shall be in accordance with contract or permit requirements and shall include appropriate load or product tagging if required.

(5) Contract or permit stipulations and specification shall be adhered to.

(6) Payments shall be made in accordance with subpart 5461 of this title.

(b) All contract and permit provisions and special provisions shall be adhered to unless the contract is modified in accordance with part 5470 of this title.

(c)(1) The authorized officer may cancel a contract or permit upon determining that the holder has failed to comply with a law or regulation pertinent to the contract or permit. The authorized officer may also cancel a contract or permit upon determining that the holder has failed to comply with a stipulation or requirement contained in the contract or permit and the non-compliance is detrimental to the public interest. Individual contracts or permits may contain specific language defining the remedies or penalties associated with noncompliance.