

## Bureau of Land Management, Interior

## § 5400.0-3

(1) BLM will treat sustained-yield forest units as in paragraph (b) of this section; and

(2) BLM will treat any O. and C. lands not located within sustained-yield forest units as a single unit.

### Group 5400—Sales of Forest Products

#### PART 5400—SALES OF FOREST PRODUCTS; GENERAL

##### Subpart 5400—Sales of Forest Products; General

Sec.

5400.0-3 Authority.

5400.0-5 Definitions.

5400.0-7 Public hearings to determine surplus quantities and species of unprocessed timber.

##### Subpart 5401—Advertised Sales; General

5401.0-6 Policy.

##### Subpart 5402—Other Than Advertised Sales; General

5402.0-6 Policy.

AUTHORITY: 61 Stat. 681, as amended, 69 Stat. 367, 48 Stat. 1269, sec. 11, 30 Stat. 414, as amended, sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 1181a, 16 U.S.C. 607a, and 43 U.S.C. 1701 *et seq.*

#### Subpart 5400—Sales of Forest Products; General

##### § 5400.0-3 Authority.

(a) The Act of August 28, 1937 (43 U.S.C. 1181a) authorizes the sale of timber from the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands and directs that such lands shall be managed for permanent forest production and the timber thereon sold, cut and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating streamflow and contributing to the economic stability of local communities and industries, and providing recreational facilities.

(b) The Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*) authorizes the disposal of timber and other vegetative resources on public lands of the United

States including lands embraced within an unpatented mining claim located after July 23, 1955, if the disposal of such resources is not otherwise expressly authorized by law including, but not limited to, the Act of June 28, 1934, as amended (43 U.S.C. 315 through 315o-1) and the U.S. mining laws; is not expressly prohibited by laws of the United States; and would not be detrimental to the public interest.

(1) The Act also authorizes the United States, its permittees, and licensees to use so much of the surface of any unpatented mining claim located under the mining law of the United States after July 23, 1955, as may be necessary for access to adjacent land for the purposes of such permittees or licensees. Any authorized use of the surface of any such mining claim shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

(2) Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under the regulations in this subpart only with the consent of such other Federal department or agency or of such State, or local governmental unit. The Act provides, however, that the Secretary of Agriculture shall dispose of materials if such materials are on lands administered by the Secretary of Agriculture for national forest purposes or for purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

(3) The provisions of the Act in disposal of vegetative or mineral materials do not apply to lands in any national park, or national monument or to any Indian lands or lands set aside or held for the use or benefit of Indians including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.

(c) The Department of the Interior and Related Agencies Appropriation Act, 1976 (Pub. L. 94-165) prohibits the

use of funds appropriated thereunder for sale of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser. The law also provides that the export restriction shall not apply to specific quantities of grades and species of timber which the Secretary of the Interior determines to be surplus to domestic lumber and plywood manufacturing needs.

(d) Authority for small sales of timber for use in Alaska is contained in the Act of May 14, 1898, as amended (16 U.S.C. 615a).

(e) Authority to enforce the provisions of this title is contained in the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*).

[37 FR 22797, Oct. 25, 1972, as amended at 41 FR 12659, Mar. 26, 1976; 56 FR 10174, Mar. 11, 1991]

#### § 5400.0-5 Definitions.

Except as the context may otherwise indicate, as the terms are used in parts 5400-5490 of this chapter and in contracts issued thereunder:

*Affiliate* means a business entity including but not limited to an individual, partnership, corporation, or association, which controls or is controlled by a purchaser, or, along with a purchaser, is controlled by a third business entity.

*Authorized Officer* means an employee of the Bureau of Land Management, to whom has been delegated the authority to take action.

*Bureau* means the Bureau of Land Management, Department of the Interior.

*Commercial use* means use intended for resale, barter, or trade, or for profit.

*Director* means the Director of the Bureau of Land Management.

*Fair Market value* means the price for best products will return when offered for competitive sale on the open market. Determination of fair market value will be made in accordance with procedures in BLM Manual 9354.

*Federal lands* means all lands administered by the Department of the Interior west of the 100th meridian in the contiguous 48 States with the exception of tribal and trust allotted lands managed by the Bureau of Indian Affairs on behalf of the Indians.

*Federal timber* means timber sold by the Bureau of Land Management as used under these regulations.

*Incidental use* means personal use of other vegetative resources on the site where they are obtained, or, if they are transported to a secondary location, personal use of the resources within a reasonable period of time by the person obtaining them.

*Loading point* means any landing or other area in which logs are capable of being loaded for transportation out of the contract area: *Provided, however*, That right-of-way timber which has been cut shall not be considered to be at a loading point until such time as logs from any source are actually transported over that portion of the right-of-way.

*Nonwillful* means an action which is inadvertent, mitigated in character by the belief that the conduct is reasonable or legal.

*O. and C. Lands* means the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands and other lands administered by the Bureau of Land Management under the provisions of the Act of August 28, 1937 (50 Stat. 874).

*Operating season* means the time of the year in which operations of the type required to complete the contract are normally conducted in the location encompassing the subject timber sale, or the time of the year specified in the timber sale contract when such operations are permitted.

*Operating time* means a period of time during the operating season.

*Other vegetative resources* means all vegetative material that is not normally measured in board feet, but can be sold or removed from public lands by means of the issuance of a contract or permit.

*Permit* means authorization in writing by the authorized officer or other person authorized by the United States Government, and is a contract between the permittee and the United States.