

Bureau of Land Management, Interior

§ 5400.0-7

Personal use means use other than for sale, barter, trade, or obtaining a profit.

Product value means the stumpage value of timber or the fair market value of other vegetative resources.

Public lands means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership.

Purchaser means a business entity including, but not limited to, an individual, partnership, corporation, or association that buys Federal timber or other vegetative resources.

Sale value means the contract value of the stumpage sold under the contract.

Set-aside means a designation of timber for sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR part 121) under the authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

Substitution means:

(1) The purchase of a greater volume of Federal timber by an individual purchaser than has been his historic pattern within twelve (12) months of the sale of export by the same purchaser of a greater volume of his private timber than has been his historic pattern during the preceding twelve (12) months, exclusive of Federal timber purchased by negotiated sale for right-of-way purposes, and

(2) The increase of both the purchase of Federal timber and export of timber from private lands tributary to the plant for which Bureau of Land Management timber covered by a specific contract is delivered or expected to be delivered.

Third party scaling means the measurement of logs by a scaling organization, other than a Government agency, approved by the Bureau.

Timber means standing trees, downed trees or logs which are capable of being measured in board feet.

Trespass means the severance, removal, or unlawful use of timber or other vegetative resources without the consent (authorization) of the Federal

Government, or failure to comply with contract or permit requirements that causes direct injury or damage to timber or other vegetative resources, or undue environmental degradation.

Trespasser means any person, partnership, association, or corporation responsible for committing a trespass.

Unprocessed timber means:

(1) Any logs except those of utility grade or below, such as sawlogs, peeler logs, and pulp logs;

(2) Cants or squares to be subsequently remanufactured exceeding eight and three-quarters ($8\frac{3}{4}$) inches in thickness;

(3) Split or round bolts, or other roundwood not processed to standards and specifications suitable for end product use.

Willful means a knowing act or omission that constitutes the voluntary or conscious performance of a prohibited act or indifference to or reckless disregard for the law.

[35 FR 9783, June 13, 1970, as amended at 38 FR 6280, Mar. 8, 1973; 41 FR 12659, Mar. 26, 1976; 41 FR 31381, July 28, 1976; 56 FR 10175, Mar. 11, 1991; 57 FR 62235, Dec. 30, 1992]

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

(a) Public hearings will be held when authorized by the Director to seek advice and counsel as to the specific quantities of grades and species of unprocessed timber surplus to the needs of domestic users and processors. Such species and quantities thereby determined to be surplus by the Secretary, may be designated as available for export by the Secretary.

(b) Such hearings will be coordinated with the Department of Agriculture and held at convenient, centralized locations within the range of the species under consideration.

(c) Before any hearing is held in this regard, a notice will be published in a newspaper of general circulation within the range of the species under consideration at least 15 days prior to the hearing. In addition, known parties or groups with special interest in the species concerned should be notified directly. The record of the hearing shall be kept open for at least 5 consecutive calendar days from the date of the

§ 5401.0-6

hearing for receipt of additional statements.

(d) The hearing will be conducted by a representative or representatives of the Department of the Interior and the Department of Agriculture, respectively. At the conclusion of the hearing, the record thereof together with appropriate recommendations shall be forwarded to the Director for further action deemed appropriate. The Director shall give the public due notice as to the quantities and species of unprocessed timber determined to be surplus to the needs of domestic users and processors.

[35 FR 9783, June 13, 1970, as amended at 41 FR 12659, Mar. 26, 1976]

Subpart 5401—Advertised Sales; General

§ 5401.0-6 Policy.

(a) All sales other than those specified in § 5402.0-6 shall be made only after inviting competitive bids through publication and posting. Sales shall not be held sooner than one week after the last advertisement. Competitive sales shall be offered by the authorized officer when access to the sale area is available to anyone who is qualified to bid. Further, timber or other vegetative resources that would normally be sold by negotiated sale because of lack of legal access may be sold competitively without access if the authorized officer determines that there is competitive interest in such a sale.

(b) All competitive sales shall be subject to the restrictions relating to the export and substitution from the United States of unprocessed timber.

(Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*)

[35 FR 9783, June 13, 1970, as amended at 41 FR 12659, Mar. 26, 1976; 49 FR 23839, June 8, 1984; 56 FR 10175, Mar. 11, 1991]

Subpart 5402—Other Than Advertised Sales; General

§ 5402.0-6 Policy.

(a) When it is determined by the authorized officer to be in the public interest, he may sell at not less than the appraised value, without advertising or

43 CFR Ch. II (10-1-06 Edition)

calling for bids, timber where the contract is for the sale of less than 250 M board feet.

(b) Timber on the right-of-way of a logging road and danger trees adjacent to the right-of-way on O. and C. lands may be sold at not less than the appraised value without advertising or calling for bids to (1) permittee who constructs a road pursuant to a permit issued under Subpart 2800 of this chapter, or (2) a contractor who is constructing a road with Government funds.

(c) In addition to paragraph (b) of this section, negotiated sales with no limitations as to volume may be made if:

(1) The contract is for the disposal of materials to be used in connection with a public works improvement program on behalf of a Federal, State or local government agency and the public exigency will not permit the delay incident to advertising; or if

(2) The contract is for the disposal of timber or other vegetative resources, for which it is impracticable to obtain competition.

(d) All negotiated sales shall be subject to the restrictions relating to the export and substitution from the United States of unprocessed timber. Timber purchased for right-of-way purposes will not be subject to substitution restrictions.

(Sec. 5, 50 Stat. 875, 61 Stat. 681, as amended, 69 Stat. 367; 43 U.S.C. 1181e, 30 U.S.C. 601 *et seq.*)

[35 FR 9784, June 13, 1970, as amended at 41 FR 12660, Mar. 26, 1976; 56 FR 10175, Mar. 11, 1991]

PART 5410—ANNUAL TIMBER SALE PLAN

Subpart 5410—Annual Timber Sale Plan; General

§ 5410.0-6 Policy.

Plans for the sale of timber from the O. and C. and public lands will be developed annually. Suggestions from prospective purchasers of such timber may be received to assist in the development of a sound annual timber sale plan. Such plan may be advertised in a newspaper of general circulation in the