

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 1437—SERVICE CONTRACTING

Subpart 1437.72—Utilization of Woody Biomass

Sec.

1437.7200 General.

1437.7201 When can woody biomass be removed?

1437.7202 When is the biomass utilization clause required?

1437.7203 Definitions.

AUTHORITY: 30 U.S.C. 601–604, 611, as amended; 16 U.S.C. 668dd; 16 U.S.C. 1; 25 U.S.C. 3101 *et seq.*; 43 U.S.C. 1701 *et seq.*

SOURCE: 70 FR 29210, May 20, 2005, unless otherwise noted.

Subpart 1437.72—Utilization of Woody Biomass

§ 1437.7200 General.

This subpart establishes consistent and efficient procedures to allow contractors the option to remove woody biomass by-products from Department of the Interior land management activities where ecologically appropriate. If the woody biomass has fair market value and payment is required, or as required by regulation, Bureau policy or the Mineral Materials Disposal Act of 1947 (30 U.S.C. 601 *et seq.*) a separate timber/vegetative sales contract must be executed.

§ 1437.7201 When can woody biomass be removed?

(a) The Department of the Interior allows and encourages contractors to remove and use woody biomass from project areas when:

(1) The biomass is generated during land management service contract activity; and

(2) Removal is ecologically appropriate.

(b) A contractor removing biomass under this part shall:

(1) Do so only within legal limits applicable to the contractor, including National Environmental Policy Act (NEPA) compliance; and

(2) If required, comply with the terms, conditions and special provi-

sions of the applicable timber/vegetative sales notice.

§ 1437.7202 When is the biomass utilization clause required?

(a) The contracting officer must insert a clause reading substantially the same as §1452.237–71 in each solicitation and contract that is expected to generate woody biomass that meets the criteria in §1437.7201(a), unless biomass removal is required elsewhere in the contract.

(b) In addition, the contract will specify any limitations on types of woody biomass that may not be removed and any areas from which woody biomass must not be removed.

§ 1437.7203 Definitions.

Ecologically appropriate means those situations where the Responsible Official determines it is not necessary to retain specific woody material or reserve specific areas from woody biomass removal to meet ecological objectives. For example, it may be necessary to retain snags or small woody debris to meet wildlife habitat objectives, or to create specific prescribed burning conditions to stimulate native plant development; therefore it would not be appropriate to allow removal of the specified woody biomass.

Responsible Official means the Secretary of the Interior or designee having the delegated authority to responsibility to:

(1) Oversee the planning process and make decisions to carry out a specific planning action;

(2) Render a National Environmental Policy Act decision; or

(3) Sign the authorizing environmental document.

Timber/vegetative sales contract and/or notice means the agency-specific authorized contract instrument for the sale, barter, exchange, billing or other compensation for the payment, removal, and/or transportation of woody biomass material.

Woody biomass means the trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or