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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 to successors in interest. (90 Stat. 2959; 16 U.S.C. 472a.)

[43 FR 38008, Aug. 25, 1978. Redesignated at 49 FR 2761, Jan. 23, 1984]

§ 223.35 Performance bond.

Timber sale contracts may require the purchaser to furnish a performance bond for satisfactory compliance with its terms.

§ 223.36 Volume determination.

(a) Timber sale contracts may provide for volume determination by scaling, measuring, weighing, or counting the logs or other products, or by measuring the trees before cutting. If the contract or permit provides for the determination of volume by tree measurement and the timber has been paid for, the marking or otherwise designating of the tree authorizes cutting and removal. Otherwise no timber cut under any contract shall be removed from the place designated until it has been scaled, measured or counted as provided in the timber sale contract, unless such removal is specifically authorized in the contract.

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(b) National Forest timber sold on board foot scale shall be scaled by the Scribner Decimal C Log Rule, or if the advertisement and contract or permit so state, by the International ¼-inch log rule or by the International ¼-inch Decimal log rule. National Forest timber may also be sold by the cubic volume rule or by cords, each as used by the Forest Service.

§ 223.37 Revegetation of temporary roads.

Timber sale contracts, permits and other documents authorizing the cutting or removal of timber or forest products shall require the purchaser to treat temporary roads constructed or used thereunder so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

§ 223.38 Standards for road design and construction.

Road construction authorized under timber sale contracts, permits and other documents authorizing the cutting or removal of timber or forest products shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources. If the sale contract provides for road design standards in excess of those needed for the harvest and removal of timber from that sale, including measures to protect adjacent resource values, provision shall be made in the contract for compensating the purchaser for the additional costs, unless the purchaser elects Government construction under section 14(i) of the National Forest Management Act of 1976.

§ 223.39 [Reserved]

§ 223.40 Cancellation for environmental protection or inconsistency with plans.

Timber sale contracts, permits, and other such instruments, authorizing

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the harvesting of trees or other forest products, with terms of longer than 2 years, shall provide for cancellation in order to prevent serious environmental damage or when they are significantly inconsistent with land management plans adopted or revised in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Such provision shall provide for reasonable compensation to the purchaser for unrecovered costs incurred under the contract and for the difference between the current contract value and the average value of comparable National Forest timber sold during the preceding 6-month period.

§ 223.41 Payment when purchaser elects government road construction.

Each contract having a provision for construction of specified roads with total estimated construction costs of \$50,000 or more shall include a provision to ensure that if the purchaser elects government road construction, the purchaser shall pay, in addition to the price paid for the timber or other forest products, an amount equal to the estimated cost of the roads.

[71 FR 11510, Mar. 8, 2006]

§ 223.42 Transfer of effective purchaser credits.

The Forest Service may permit transfer of unused effective purchaser credit earned after December 16, 1975, from one timber sale account to another timber sale account of the same purchaser within the same National Forest, provided the sale contracts provide procedures for the use of purchaser credit. Approval for transfer shall not be granted for amounts needed to satisfy unfulfilled payment obligations or claims for damages due the United States. Purchaser credit transferred under this paragraph is subject to such additional restrictions as may be necessary for its orderly use.

(Pub. L. 94-154, 89 Stat. 823 (16 U.S.C. 535)

[42 FR 63777, Dec. 20, 1977. Redesignated at 49 FR 2761, Jan. 23, 1984]

§ 223.43 Limitation on amounts of transferred purchaser credit.

(a) The amount of purchaser credit which may be transferred into a given sale shall be limited to the difference between remaining current contract value and the total of:

- (1) Remaining base rate value needs,
- (2) Salvage sale fund needs plus sale area improvement needs in excess of base rate value needs, and
- (3) Total purchaser credit limit on the given sale.

(b) This calculation shall be made as of the date of sale award for sales made on or after January 1, 1978. For sales made prior to January 1, 1978, the calculation shall be made as of December 31, 1977, except that if the amount actually transferred in as of December 31, 1977, exceeds the calculated limit, the actual transfers as of that date shall be the established limit. Purchaser credit earned on a sale and subsequently transferred out may be replaced without regard to the transfer in limit. Sale area improvement needs shall be based on the original sale area betterment plan or revisions thereto approved prior to July 1, 1976. Salvage sale fund needs shall be based on the original salvage sale fund plan.

(Pub. L. 94-154, 89 Stat. 823 (16 U.S.C. 535)

[42 FR 63777, Dec. 20, 1977. Redesignated at 49 FR 2761, Jan. 23, 1984]

§ 223.44 Collection rights on contracts involved in transfer of purchase credit.

To assure protection of the United States in connection with the implementation of this regulation, contract provisions shall not prevent the Forest Service from carrying out collection rights, authorized by the Federal Claims Collection Act of 1966 (80 Stat. 309), between contracts involved in the transfer of purchaser credit. Such claims against the contract receiving the transferred purchaser credit shall be limited to the amount transferred.

(Pub. L. 94-154, 89 Stat. 823 (16 U.S.C. 535)

[42 FR 63777, Dec. 20, 1977. Redesignated at 49 FR 2761, Jan. 23, 1984]