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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 141]

GENERAL FOREST REGULATIONS

Notice of Proposed Rulemaking

Notice is hereby given that it is proposed to revise §§ 141.7, 141.9, 141.12, 141.16, and 141.19 of part 141, subchapter M, chapter I, title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

The purpose of these amendments is to increase the stumpage value limitation stated in §§ 141.7(c), 141.12, and 141.19(d) from \$500 to \$2,500; to increase the stumpage value limitation stated in § 141.9(b) from \$5,000 to \$10,000; to increase advance payments for allotment timber stated in section 141.16 from 15 to 25 percent of the stumpage value, calculated at the bid price, within 30 days of contract approval and before cutting begins, in contracts that are less than 3 years duration, and to make additional payments in contracts that are more than 3 years duration permissive, rather than mandatory as now stipulated by regulation; and to make editorial changes.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments, to the Bureau of Indian Affairs, Washington, D.C. 20245, on or before May 21, 1973. As so amended, §§ 141.7, 141.9, 141.12, 141.16, and 141.19, in their entirety, will read as follows:

§ 141.7 Timber sales from unallotted and allotted lands.

(a) On reservations where the volume of timber available for cutting is in excess of that which is being developed by the Indians, open market sales of Indian timber will be authorized: *Provided*, That consent is given by the authorized representative of the tribe for tribal timber and by the owners of a majority Indian interest in trust or restricted timber on allotted lands. The consent of the Secretary is required in all cases.

(b) The Secretary may sell the timber on any Indian land held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his judgment such action is necessary to prevent loss of values re-

sulting from fire, insects, disease, windthrow, or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding \$2,500 will not be approved until an examination of the timber to be sold has been made by a qualified forest officer and a report setting forth all pertinent information has been submitted to the officer authorized to approve the contract as provided in § 141.13. In all such sales of timber exceeding \$2,500 in value, the timber shall be appraised and sold at not less than its appraised value.

§ 141.9 Timber sales without advertisement.

Sales of timber may be made without advertisement with the consent of the authorized representative of the tribe for tribal timber or with the consent of the owners of a majority Indian interest in trust or restricted timber on allotted lands, and the approval of the Secretary:

(a) To Indians or non-Indians when the timber is to be cut in conjunction with the granting of a right-of-way or authorized occupancy, or must be cut to protect the forest from injury, or if it is impractical to secure competition by formal advertising procedures, or when otherwise specifically authorized by statutes or regulations; or (b) To Indians who are members of the tribe for stumpage value not exceeding \$10,000. Such contracts shall not be made for a longer term than 2 years. The stumpage rates in connection with such sales shall be established by the approving officer after due appraisal procedure. Timber contract forms executed under authority hereof shall be those stipulated for the sale of timber under § 141.12, and shall carry the bond requirement stipulated in § 141.14. No more than one such sale without advertisement may be made to any person or operating group of persons in any 1 calendar year. In the case of each negotiated transaction the approving officer shall establish a documented record of the transaction, including a written determination and finding that the transaction is of a type or class allowing the negotiation procedures or warranting departure from the procedures provided in § 141.8; the extent of solicitation and competition, or a statement of the facts upon which a finding of impracticability of securing competition is based; and a statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.

§ 141.12 Contracts required.

Except as provided in § 141.19(c), in sales of timber with an appraised stumpage value exceeding \$2,500 the contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved by the Secretary. The approved forms provide flexibility to meet variable conditions, but essential departures from the fundamental requirements of such contracts shall be made only with the approval of the Secretary. Unless otherwise directed, the contracts shall require that the proceeds be paid by remittance drawn to the Bureau of Indian Affairs and transmitted to the Superintendent. Contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion.

§ 141.16 Advance payment for allotment timber.

Unless otherwise authorized by the Secretary, and except in the case of lump sum sales, contracts for the sale of timber from trust allotments shall provide for the payment of 25 percent of the stumpage value, calculated at the bid price, within 30 days from the date of approval and before cutting begins. Additional advance payments may be specified in contracts that are more than 3 years in duration; however, no advance payment will be required that would make the sum of such payment and of advance deposits and advance payments previously applied against timber cut from the allotment exceed 50 percent of the bid stumpage value. The advance payments shall be credited against the allotment timber as it is cut and scaled, at the stumpage rates governing at the time of scaling.

§ 141.19 Timber cutting permits.

(a) Except as provided in § 141.20, all timber cutting that is not done under formal contract, pursuant to § 141.12, shall be done under timber cutting permit forms approved by the Secretary. Permits will be issued only with the consent of the Indian owner or the Secretary, for allotted lands, as authorized in § 141.13(b). Such consents to the issuance of cutting permits shall stipulate the minimum stumpage rates at which timber may be sold under permit.

(b) Free-use cutting permits may be issued for specified species and types of forest products by persons authorized under § 141.13 to execute timber contracts. Timber cut under this authority may be limited as to sale or exchange for other goods or services.

(c) An Indian having sole beneficial interest in an allotment may be issued an approved form of special permit to cut and sell designated timber from such allotment. The special permit shall include provision for payment by the Indian of administrative expenses pursuant to § 141.18. Unless waived by the Secretary, the permit shall also require the Indian to make a deposit with the Secretary to be returned to the Indian upon satisfactory completion of the permit or to be used by the Secretary in his discretion for planting or other work to offset damage to the land or the timber caused by the Indian's failure to comply with the provisions of the permit. As a condition to granting a special permit under authority of this paragraph, the Indian may be required to provide evidence acceptable to the Secretary that he has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interests. In special cases, the Secretary may authorize exceptions to the requirement of sole beneficial interest in an allotment.

(d) Permits to be valid must be approved by the Secretary. The stumpage value which may be cut in 1 calendar year by any individual under authority of paragraphs (a) and (b) of this section shall not exceed \$2,500, but this limitation shall not apply to cutting under authority in paragraph (c) of this section. Essential departures from the fundamental requirements for issuance of special allotment timber cutting permits under authority of paragraph (c) of this section shall be made only with the approval of the Secretary.

NEWTON W. EDWARDS,
*Acting Secretary
of the Interior.*

APRIL 13, 1973.

[FR Doc.73-7664 Filed 4-19-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service
[9 CFR Parts 327, 381]

DEFINITION OF IMPORTATION
Notice of Proposed Rulemaking

Notice is hereby given in accordance with the administrative procedure provisions of 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending part 327 of the Federal meat inspection regulations (9 CFR 327) and part 381, subpart T, of the poultry products inspection regulations (9 CFR 381) as indicated below pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and the Poultry Products Inspection Act, as amended (21 U.S.C. 463 et seq.).

Statement of considerations.—The proposed amendments are intended to clarify the meaning of the term "importation" or "imported" as those terms are used in the Federal Meat Inspection and Poultry Products Inspection Acts and regulations issued thereunder.

Under the Federal Meat Inspection Act (21 U.S.C. 620) and the Poultry Products Inspection Act (21 U.S.C. 466), no meat or meat food products or slaughtered poultry or poultry products shall be imported into the United States if they are adulterated or misbranded and unless they comply with all the inspection and other provisions of the acts and regulations issued thereunder applicable to such articles within the commerce of the United States. Meat or poultry products that are not entered into this country with a view of disposing of them in the commerce of the United States, are not subject to import inspection under said acts. The sale of meat or poultry products in a port of the United States, even for use as sea stores, is a transaction in the "commerce" of the United States, as that term is defined in the Federal Meat Inspection Act (21 U.S.C. 601(h)) and the Poultry Products Inspection Act (21 U.S.C. 453(a)).

The proposed amendments specify transactions with respect to foreign meat and poultry products which would not fall within the term "importation" or "imported" and would therefore not subject such products to the provisions of said acts and regulations with respect to imports.

Therefore, the present provisions of § 327.1 would be designated as paragraph (a) of that section, and a new paragraph (b) would be added as follows:
§ 327.1 Application of provisions.

(b) For the purposes of this part, the term "importation" or "imported" shall refer to any product, as defined in § 301.2 of this subchapter, prepared in a foreign country which is brought into the United States for any reason, including sale or distribution for ship stores, except for that which:

(1) Is consigned to another country and shipped (including incidental storage) to that country across a portion of the United States under U.S. Customs Service custody;

(2) Is stored under Customs custody pending decision with respect to disposition in the commerce of the United States; or

(3) Constitutes ship stores aboard and is not removed from the vessel or carrier which enters the territorial waters of the United States, or which is not sold while aboard such vessel or carrier in the United States.

A new paragraph (c) under § 381.195 of the Federal poultry products inspection regulations would be added as follows:

§ 381.195 Requirements for importation into the United States.

(c) For purposes of this subpart, the term "importation" or "imported" shall refer to any poultry product, as defined in subpart A of this part, prepared in a

foreign country, which is brought into the United States, for any reason, including sale or distribution for ship stores, except for that which:

(1) Is consigned to another country and shipped (including incidental storage) to that country across a portion of the United States under U.S. Customs Service custody;

(2) Is stored under Customs custody pending decision with respect to disposition in the commerce of the United States; or

(3) Constitutes ship stores aboard and is not removed from the vessel or carrier which enters the territorial waters of the United States, or which is not sold while abroad such vessel or carrier in the United States.

Any person wishing to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by June 15, 1973.

Any person desiring opportunity for oral presentation of views should address such requests to the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C., so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the office of the hearing clerk during regular hours of business, unless the person makes the submission to the staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on April 13, 1973.

G. H. WISE,
*Acting Administrator, Animal
and Plant Health Inspection Service.*
[FR Doc.73-7603 Filed 4-19-73;8:45 am]