

code of federal regulations

Indians

25

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(1) The individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Secretary finds that such grant, in total or for an interest therein, will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages;

(2) The whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known or majority thereof, consent to the grant;

(3) The heirs or devisees of a deceased owner of the land or interest therein have not been determined, and the Secretary finds the grant will cause no substantial injury to the land or any owner thereof, provided that once the heirs or devisees of the deceased owner are determined, their consent is obtained.

(c) Nothing in this section shall preclude acquisition of rights-of-way for roads, subchapter H, part 169, 25 CFR, or conflict with provisions of that part.

§ 163.24 Insect and disease control.

(a) The Secretary is authorized to protect and preserve from disease, or the ravages of beetles, or other insects, timber on Indian reservations or other Indian lands under the jurisdiction of the Department of the Interior. (Sept. 20, 1922, Ch. 349, 42 Stat. 857). The Secretary shall consult with authorized tribal representatives or owners of other Indian lands concerning control actions.

(b) The Secretary is responsible to control and mitigate harmful effects of insects and diseases on Indian forest lands. The Secretary will coordinate this control with the Secretary of Agriculture in accordance with Section 5, Pub. L. 95-313, July 1, 1978, 92 Stat. 336.

§ 163.25 Forest development.

This section pertains to that segment of the forestry program which addresses the improvement of timber resources. The program shall consist of forestation, timber stand improvement work, and related investments that enhance productivity. It shall be conducted with emphasis on on-site activities. Forest development funds will be

used to establish, re-establish, maintain, and/or improve growth of desirable commercial timber species and stocking level. Forest development activities will be planned and executed using cost/benefit analyses as one of the determinants in establishing priorities.

§ 163.26 Appeals under timber contracts and permits.

Any action taken by an approving officer exercising delegated authority from the Secretary of the Interior or by a subordinate official of the Department of the Interior exercising an authority by the terms of the contract may be appealed. Such appeal shall not stay any action under the contract unless otherwise directed by the Secretary of the Interior. Such appeals shall be filed in accordance with the provision of 25 CFR part 2, Appeals from Administrative Actions, or any other applicable general regulations covering appeals. Appropriate Indian representatives shall be notified upon receipt of an appeal initiated by the purchaser. Likewise, the purchaser shall be notified upon receipt of an appeal initiated by the seller.

§ 163.27 Environmental protection.

Before implementing these regulations, forestry personnel will review their timber sale activities for potential environmental impacts in accordance with the National Environmental Policy Act (NEPA) of 1969 and applicable Council on Environmental Quality Regulations (40 CFR 1500-1508). NEPA compliance is further explained in Departmental Manual Part 516 DM (Environmental Quality) and 30 BIAM Supplement 1 (NEPA Handbook) of the Bureau of Indian Affairs, from which specific guidance is obtained.

PART 164—SALE OF LUMBER AND OTHER FOREST PRODUCTS PRODUCED BY INDIAN ENTERPRISES FROM THE FORESTS ON INDIAN RESERVATIONS

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AUTHORITY: 54 Stat. 504, as amended; 5 U.S.C. 301, 41 U.S.C. 6b.

SOURCE: 27 FR 12929, Dec. 29, 1962, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 164.1 Definitions.

As used in this part:

(a) "Secretary" means Secretary of the Interior or his authorized representative.

(b) "Forest products" means lumber, lath, shingles, crating, ties, bolts, logs, bark, pulpwood, or other marketable materials obtained from forests and authorized for removal by the Indian enterprises.

§ 164.2 Purpose of regulations.

The regulations in this part 164 prescribe the terms and conditions under which forest products produced by Indian tribal enterprises from the forests of Indian reservations may be sold without compliance with section 3709 of the Revised Statutes.

§ 164.3 Applicability of regulations.

The regulations in this part 164 are intended to be generally applicable except that they shall not apply to the Red Lake Reservation in Minnesota; or, as may be determined by the Secretary, to Indian enterprises that have entered into approved agreements for the use of tribal or allotted timber pursuant to § 163.6 of this chapter.

§ 164.4 Sale in open market.

The forest products obtained from the forests on Indian reservations by Indian enterprises may be sold in the open market at such prices as may be realized through the methods provided in this part 164.

§ 164.5 Advertisement in trade journals and newspapers.

Forest products obtained from Indian reservation forests by Indian enter-

prises, may be advertised for sale in lumber trade journals of general circulation among persons, companies, or corporations interested in the buying and selling of forest products, and in newspapers in cities that may afford a favorable market for such forest products.

§ 164.6 Advertising, general.

Advertisement of forest products may also be made by circular letters and through personal interviews with the trade: *Provided*, That the travel expense incident thereto shall not be incurred without specific authority from the Secretary.

§ 164.7 Proposals for purchase.

Proposals for the purchase of forest products may be made to the Secretary, and he is authorized to quote prices and consummate sales at such times and/or such terms as are consistent with the regulations of this part 164.

§ 164.8 Proposals to government departments.

Proposals to sell may be made to municipalities, counties, states, or the United States and prices may be quoted to such agencies. Terms and payment in connection with such sales may be formulated in accordance with the general practice of such agencies.

§ 164.9 Cash sales.

All forest products of Indian forest enterprises shall be sold for cash f.o.b. mill or other point of delivery, except as provided in §§ 164.8 and 164.10. Adjustments and allowances on shipments of forest products after delivery to the buyer are authorized in accordance with generally accepted trade practices when such adjustments are essential by reason of off-grade shipments or errors in volume.

§ 164.10 Payments, discounts, and credit sales.

Shipments of forest products on open account shall be made only to persons or companies who have an acceptable credit rating. Credit on shipments of forest products sold on open account must not be extended beyond 60 days from date of receipt by the buyer. A

cash discount in accordance with general trade practice and usually not exceeding two percent of mill value, may be allowed when the shipment is paid for within ten days of receipt by the consignee as evidenced by the original paid freight bill or other acceptable evidence.

§ 164.11 Commission sales agents.

Sales may be made through commission sales agents, for which they may be paid a commission on f.o.b. mill value of the shipment at approved rates. Sales may be made to wholesalers on which a discount at approved rates may be allowed.

§ 164.12 Deposits.

On all agreements to purchase for future delivery a deposit may be required. Such a deposit may be forfeited if the purchaser does not comply with the terms of sale. No agreement for sale and future delivery shall be made for a longer period than 90 days, except with the approval of the Secretary.

PART 165—SALE OF FOREST PRODUCTS, RED LAKE INDIAN RESERVATION, MINN.

Sec.

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- 165.13 Deposits.
- 165.14 Purchase of timber by the Red Lake Indian Mills.
- 165.15 Appeals.

AUTHORITY: Sec. 9, 39 Stat. 137, as amended; 5 U.S.C. 301, 41 U.S.C. 6b.

SOURCE: 29 FR 4797, Apr. 4, 1964, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

CROSS REFERENCE: For General Forest Regulations, see part 163 of this chapter.

§ 165.1 Definitions.

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Red Lake Indian Mills" means the tribal enterprise, established under section 9 of the act of May 18, 1916 (34 Stat. 137), as amended, for the purpose of producing forest products.

(c) "Forest Products" means lumber, lath, shingles, crating, ties, bolts, logs, bark, pulpwood, or other marketable materials manufactured or produced by the Red Lake Indian Mills.

(d) "Red Lake Indian Reservation, Minnesota" means the Red Lake Indian Forest and all other forest lands held in trust for the Red Lake Band of Chippewa Indians.

§ 165.2 Purpose of regulations.

The regulations in this part 165 prescribe the terms and conditions under which forest products produced by the Red Lake Indian Mills may be sold without compliance with section 3709 of the Revised Statutes.

§ 165.3 Applicability of regulations.

The regulations in this part 165 apply only to the Red Lake Indian Mills.

§ 165.4 Sale in open market.

The forest products produced by the Red Lake Indian Mills may be sold in the open market at such prices as may be realized through the methods in this part 165.

§ 165.5 Advertisement in trade journals and newspapers.

The Secretary may advertise forest products of the Red Lake Indian Mills for sale in trade journals of general circulation among persons, companies, or corporations interested in buying and selling of forest products, and in newspapers in cities that may afford a favorable market for such forest products.

§ 165.6 Advertising contracts.

The Secretary may, as he determines, make advertising contracts, provided that such contracts shall not be executed for periods of more than one year.