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Selected Subjects

Administrative Practice and Procedure
Federal Deposit Insurance Corporation
Air Pollution Control
Environmental Protection Agency
Animal Drugs
Food and Drug Administration
Authority Delegations (Government Agencies)
Food and Drug Administration
Classified Information
Agriculture Department
Coal Mining
Surface Mining Reclamation and Enforcement Office
Communicable Diseases
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Community Development Block Grants
Community Planning and Development, Office of Assistant Secretary
Crop Insurance
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permitted to identify country of origin on small semiconductor devices; the language "conspicuously marked" should be defined to include affixation of the country of origin on the exterior surface of the semiconductor's base; Customs should require a public hearing or undertake a detailed study before revising current practices; and, if the change of position is adopted, it should be effective not less than six months after the date of publication in the **Federal Register**, or some other phase-in period should be established.

Others believe that since other countries do not require such marking, the proposed rule could become a non-tariff trade barrier and a barrier to the standardization of trade agreements and instead, creativity is necessary to solve repackaging problems.

Although these comments are not entirely on point, Customs believes that certain concerns are valid and that some of the problems which could arise as a result of adoption of the proposal are real. Other observations are speculative or do not provide Customs with sufficient information to address the issues presented. Some have no basis in law, and others are contrary to the purpose of the country of origin marking requirements.

Because of its decision in this matter, Customs does not believe it is necessary to address each of these comments.

Action—Withdrawal of Proposal

In view of the foregoing, Customs has determined that the proposed change should not be adopted. Accordingly, the notice published in the **Federal Register** on April 5, 1982 (47 FR 14493), proposing to require semiconductor devices, including transistors, diodes, and integrated circuits, to be individually marked with their country of origin, is withdrawn.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner.

Approved:

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

March 3, 1983.

[FR Doc. 83-7153 Filed 3-17-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 170, 172, 181, and 573

[Docket No. 77N-0222]

Use of Sodium Nitrite, Sodium Nitrate, Potassium Nitrite, and Potassium Nitrate; Withdrawal of Proposed Rule and Proposed Declaration That No Prior Sanction Exists

Correction

In FR Doc. 83-5478 beginning on page 9299 in the issue of Friday, March 4, 1983, make the following correction on page 9300, the first column:

In the second complete paragraph, the ninth line from the bottom of that paragraph, the phrase "(20 sodium nitrate" should read "(2) sodium nitrate".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 163

General Forest Regulations

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is publishing a proposed rule which updates the General Forest Regulations to include new provisions for revocable road use permits for removal of commercial forest products, insect and disease control, and forest development. Also included are substantive changes within existing text, general administrative changes and correction of gender specific terms.

DATE: Comments must be received on or before May 17, 1983.

ADDRESS: Written comments should be directed to the Chief, Division of Forestry, Code 230, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Fred G. Malroy, Division of Forestry, Code 230, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202) 343-6067.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The Bureau of Indian Affairs published a redesignation table on March 30, 1982 (47 FR 13326) which renumbered Part 141, General forest regulations as Part 163. Therefore all references in this document are made to Part 163.

Five to 23 years have elapsed since the last revision and publication of the forestry regulations. During the interim there have been changes in technology, economic conditions and national Indian policy. This action is required to align this rule with these changes. The proposed rule is intended to simplify program accomplishment and ease burdens on small Indian and non-Indian logging contractors.

Substantive changes proposed by this document are as follows:

Section 163.1, Definitions is revised by rearranging all definitions alphabetically and by adding new definitions for forest products, forest protection, commercial forest land, sustained yield, and approval.

Section 163.2, Scope is revised by adding information collection requirements in connection with 44 U.S.C. 3501 *et seq.*

Section 163.3, Objectives is revised to include terminology changes, additions to reflect changes in the forestry process and emphasize national policy of Indian self-determination. Certain paragraphs were deleted which addressed managing allotted Indian lands since the same objectives were covered under "Indian forest lands."

Section 163.5, Cutting restrictions is revised to clarify language to require planning for natural and/or artificial forestation in conjunction with planning for timber harvest.

Section 163.7, Timber sales from unallotted and allotted lands is revised to conform with a newly established $10,000 permit cutting authority.

Section 163.8, Advertisement of sales is revised to include word changes to adjust form and period of advertisement to contemporary range of stumpage prices.

Section 163.10, Deposit with bid is revised to include use of irrevocable letters-of-credit as a bid deposit and other administrative changes.

Section 163.12, Contracts required is revised to conform with newly established $10,000 permit cutting authority.

Section 163.14, Bonds required is revised to authorize use of irrevocable letters-of-credit for securing performance bonds and other administrative changes.

Section 163.18, Deductions for administrative expenses is unchanged. However, the question of the utilization, expenditure, and size of such deductions was the subject of a May 5, 1982,

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opinion of the Solicitor of the Department of the Interior, addressed to the Department's Inspector General. This opinion has been the subject of a great deal of discussion among Indian tribes and other members of the public. The Solicitor's opinion will not be implemented during Fiscal Year 1983, while the Department studies a possible legislative resolution of the issues raised by the opinion. The republication of the existing regulation in this proposal does not reflect any decision by the Department with respect to those issues.

Section 163.19, Timber cutting permits is revised to increase authority from $2,500 to $10,000 for cutting forest products under permits.

Section 163.20, Free-use cutting without permits is revised to delete language which provides automatic and open-ended authority for Indian allottees to cut timber on their own allotments for their own use without permit.

Section 163.21, Fire management measures is revised to specify that the Secretary will conduct a wildfire prevention program, is authorized to expend funds for emergency rehabilitation of Indian lands damaged by wildfire, and may use fire as a management tool on Indian reservations.

Section 163.23, Revocable road use permits for removal of commercial forest products is added to specify the use of subject permits in conjunction with timber harvest programs.

Section 163.24, Insect and disease control is added to specify the authority that the Secretary holds to protect Indian forests from insects and disease.

Section 163.25, Forest development is added to define and formalize intensive forest management activities conducted on Indian forests.

All other changes are organizational clarification, editing, gender specific corrections and general administrative changes.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule.

The primary author of this document is Fred G. Malroy, Forester, Central Office, Bureau of Indian Affairs, telephone number (202) 343-6067.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. The rationale for this conclusion is that the proposed rule is designed to relax certain of the existing rules and provide more flexibility for resource managers to work with "small" contract loggers. Perhaps 20 to 40 very small business entities will be potentially impacted favorably. Their magnitude of economic activity resulting from these rules will have inconsequential impact on even regional or area economies.

The information collection requirements contained in Sections 163.6(a), 163.7(2), 163.8(a), 163.9(a), 163.10(d), 163.14, 163.19(a), 163.19(d) and 163.23 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects in 25 CFR Part 163

Forests and forest products, and Indians—lands.

It is proposed to revise Part 163 of Subchapter H of Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

PART 163—GENERAL FOREST REGULATIONS

Sec.

163.1 Definitions.
163.2 Scope and information collection.
163.3 Objectives.
163.4 Sustained yield management.
163.5 Cutting restrictions.
163.6 Indian operations.
163.7 Timber sales from unallotted and allotted lands.
163.8 Advertisement of sales.
163.9 Timber sales without advertisement.
163.10 Deposit with bid.
163.11 Acceptance and rejection of bids.
163.12 Contracts required.
163.13 Execution and approval of contracts.
163.14 Bonds required.
163.15 Payment for timber.
163.16 Advance payment for allotment timber.
163.17 Time for cutting timber.
163.18 Deductions for administrative expenses.
163.19 Timber cutting permits.
163.20 Free-use cutting without permits.
163.21 Fire management measures.
163.22 Trespass.
163.23 Revocable road use permits for removal of commercial forest products.
163.24 Insect and disease control.
163.25 Forest development.
163.26 Appeals under timber contracts and permits.

Authority: Secs. 7, 8, 36 Stat. 857, 25 U.S.C. 406, 407; and sec. 6, 48 Stat. 986, 25 U.S.C. 466; 47 Stat. 1417, 25 U.S.C. 413. Section 141.23 issued under 5 U.S.C. 301, 25 U.S.C. 2, unless otherwise noted.

§ 163.1 Definitions.

"Approval" means authorization by the Secretary, Area Director, Superintendent, tribe or individual Indians in accordance with appropriate delegations of authority.

"Commercial forest land" means Indian forest land capable of bearing merchantable forest products, currently accessible, and not withdrawn from such use.

"Forest products" includes major forest resources such as lumber, lath, crating, ties, bolts, logs, bark, pulpwood, fuelwood, posts, Christmas trees, split products or other marketable materials authorized for removal.

"Forest protection" includes the protection of Indian forest resources from damages and losses by disease, insects, fire and trespass. It also includes protection of other wildlands from fire.

"Indian forest lands" means lands held in trust by the United States for Indian tribes, individual Indians, or Alaskan Natives or lands which are owned by such tribes and individuals subject to restrictions against alienation. Such lands are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover. A formal inspection and land classification action is not required before applying the provisions of this part to the management of any particular tract of land.

"Secretary" means the Secretary of the Interior or his/her authorized representative.

"Stumpage rate" means the stumpage value per thousand board feet or other unit of measure.

"Stumpage value" means the value of uncut timber as it stands in the woods.

"Sustained yield" means the yield that a forest can produce continuously at a given intensity of management.

§ 163.2 Scope and information collection.

(a) The regulations in this part are applicable to all Indian forest lands except as this part may be superseded by special legislation.

(b) Information collection (reserved).

§ 163.3 Objectives.

The following objectives apply to the management of Indian forest lands.

(a) The development, maintenance and enhancement of commercial forest lands in a perpetually productive state by providing effective management and protection through the application of sound silvicultural and economic principles to the reforestation, growth and harvesting of timber and other

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forest products. This includes making adequate provision for new forest growth as the timber is removed.

(b) Regulation of the forest resources through the establishment and development of a timber sales program that is supported by written tribal objectives, and a long-range multiple use plan (as included in a forest management plan) that requires sound forest management practices.

(c) The regulation of the commercial forest in a manner which will insure method and order in harvesting the tree capital, so as to make possible continuous production and a perpetual forest business.

(d) The development of Indian forests by Indian people to promote self-sustaining communities, so that Indians may receive from their own property not only the stumpage value, but also the benefit of whatever labor and profit it is capable of yielding.

(e) The sale of Indian timber on the open market, when the volume available and/or utilized for harvest is in excess of that which is being developed by the local Indian forest enterprise(s).

(f) The preservation of the forest in its natural state whenever the authorized Indian representatives determine that the recreational, cultural, aesthetic, or traditional values of the forest represent the highest and best use of the land to the Indians.

(g) The management and protection of forest resources to retain the beneficial effects of regulating water runoff and minimizing soil erosion.

(h) The management and protection of forest lands to maintain or improve timber production, grazing, wildlife, fisheries, recreation, aesthetic, cultural, and other traditional values of the forest to the extent that such action is in the best interest of the Indians.

§ 163.4 Sustained yield management.

To further the objectives enumerated in § 163.3, the timber harvest from Indian forest lands will not be authorized until practical methods of harvest, based on sound economic, silvicultural and other forest management principles, have been prescribed. Harvest schedules shall be directed toward achieving an approximate balance at the earliest practical time, between maximum net growth and harvest, and shall salvage timber that is deteriorating from fire damage, insect infestation, disease, overmaturity or other causes. On all Indian reservations with a commercial forest resource, appropriate management plans shall be prepared and revised as needed. Such documents will contain a statement of the manner in which the policies of the tribe and the Secretary will be applied to the forest, with a definite plan of silvicultural management, analysis of the short- and long-term effects of the plan, and a program of action, including a harvest schedule, for a specified period in the future.

§ 163.5 Cutting restrictions.

(a) Harvesting Indian timber will not be permitted unless provisions for natural and/or artificial forestation are included in planning the harvest.

(b) Clearing of large contiguous areas will be permitted only on lands that, when cleared, will be devoted to a more beneficial use than growing timber crops. This restriction shall not prohibit clearcutting when it is silviculturally good practice to harvest a particular stand of timber by such methods and conforms with § 163.3.

§ 163.6 Indian operations.

Indian tribal forest enterprises may be initiated and organized with consent of the authorized tribal representatives. Such enterprises may contract for the purchase of non-Indian owned forest products. Subject to approval by the Secretary the following actions may be taken:

(a) Authorized tribal enterprises may enter into formal agreements with tribal representatives for the use of tribal forest products, and with individual Indian owners for allotted forest products.

(b) Authorized officials of tribal enterprises, operating under approved agreements for the use of tribal or allotted forest products pursuant to this section, may sell the forest products produced according to generally accepted trade practices without compliance with § 3709 of the Revised Statutes.

(c) With the consent of the Indian owners, such enterprises may, without advertisement, contract for the purchase of forest products on Indian lands at stumpage rates authorized by the Secretary.

(d) Determination of and payment for stumpage and/or products utilized by such enterprises will be authorized in accordance with § 163.15. However, the Secretary may issue special instructions for payment by methods other than those in § 163.15.

(e) Performance bonds may or may not be required in connection with operations on trust lands by such enterprises as determined by the Secretary.

§ 163.7 Timber sale from unallotted and allotted lands.

(a) If the volume of timber available for harvest on a reservation exceeds that being developed and/or utilized by local Indian forest enterprise(s) or individual Indians, open market sales of Indian timber may be authorized. This provision requires consent of the authorized representatives of the tribe for tribal timber, and the owners of a majority Indian interest in trust or restricted timber on allotted lands. Consent of the Secretary is required in all cases.

(b) On any Indian forest lands not formally designated for retention in its natural state by authorized Indian representatives, the Secretary may sell the timber from lands held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his/her judgment such action is necessary to prevent loss of values resulting from fire, insects, diseases, windthrow or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales of timber from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding $10,000 will not be approved until:

(1) An examination of the timber to be sold has been made by a forest officer, and

(2) A report setting forth all pertinent information has been submitted to the officer authorized to approve the contract as provided in § 163.13. In all such sales the timber shall be appraised and sold at stumpage rates not less that those established by the Secretary.

§ 163.8 Advertisement of sales.

Except as provided in §§ 163.6, 163.7, 163.9 and 163.19 sales of timber shall be made only after advertising.

(a) The advertisement shall be approved by the officer who will approve the contract. Advertised sales shall be made under sealed bids, or at public auction, or under a combination thereof. The advertisement may limit sales of Indian timber to Indian forest enterprises, members of the tribe, or may grant to Indian forest enterprises and/or members of the tribe who submitted bids the right to meet the higher bid of a nonmember. If the estimated stumpage value of the timber offered does not exceed $10,000, the advertisement may be made by posters and circular letters. If the estimated stumpage value exceeds $10,000, the advertisement shall also be made in at least one edition of a newspaper of general circulation in the locality where

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the timber is situated. If the estimated stumpage value does not exceed $50,000, the advertisement shall be made for not less than 15 days; if the estimated stumpage value exceeds $50,000 but not $200,000, for not less than 30 days; and if the estimated stumpage value exceeds $200,000, for not less that 60 days.

(b) The approving officer may reduce the advertising period because of emergencies such as fire, insect attack, blowdown, limitation of time, or when there would be no practical advantage in advertising for the prescribed periods.

(c) If no contract is executed after such advertisement, the approving officer may, within one year from the last day on which bids were to be received as defined in the advertisement, permit the sale of such timber in the open market. The sale will be made upon the terms and conditions in the advertisement and at not less that the advertised value or the appraised value at the time of sale, whichever is greater.

§ 163.9 Timber sales without advertisement.

(a) Sales of timber may be made without advertisement to Indians or non-Indians with the consent of the authorized representatives of the tribe for tribal timber or with the consent of the owners of a majority Indian interest in trust or restricted timber on alloted lands, and the approval of the Secretary when:

(1) The timber is to be cut in conjunction with the granting of a right-of-way;

(2) Granting an authorized occupancy;

(3) It must be cut to protect the forest from injury;

(4) It is impractical to secure competition by formal advertising procedures; or

(5) Otherwise specifically authorized by statutes or regulations.

(b) The approving officer shall establish a documented record of each negotiated transaction. This will include:

(1) 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 § 163.8;

(2) The extent of solicitation and competition, or a statement of the facts upon which a finding of impracticability of securing competition is based; and

(3) A statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.

(c) This section shall not serve to impede the use of § 163.8 as approved by the Secretary.

§ 163.10 Deposit with bid.

(a) A deposit shall be made with each proposal for the purchase of either alloted or unallotted Indian timber. Such deposits shall be at least:

(1) Ten (10) percent if the appraised stumpage value is less than $100,000 and in any event not less than $1,000;

(2) Five (5) percent if the appraised stumpage value is $100,000 to $250,000 but in any event not less than $10,000.

(3) Three (3) percent if the appraised stumpage value exceeds $250,000 but in any event not less that $12,500.

(b) Deposits shall be in the form of either a certified check, cashier's check, bank draft, postal money order, or irrevocable letter-of-credit, drawn payable to the order of the Bureau of Indian Affairs, or in cash.

(c) The deposit of the apparent high bidder, and of others who submit written request to have their bids considered for acceptance will be retained pending acceptance or rejection of the bids. All other deposits will be returned following the opening and posting of bids.

(d) The deposit of the successful bidder will be retained as payment for total or partial liquidated damages if the bidder does not:

(1) Furnish the performance bond required by § 163.14 within the time stipulated in the advertisement of timber sale,

(2) Execute the contract, or

(3) Perform the contract.

(e) This section does not limit or waive any further legal damages which may be available.

§ 163.11 Acceptance and rejection of bids.

(a) Applicants or bidders may be Indian forest enterprises, members of the tribe, individuals, associations of individuals, partnerships, or corporations. The high bid received in accordance with any advertisement issued under authority of this part shall be accepted, except that the approving officer, having set forth the reason(s) in writing, shall have the right to reject the high bid if:

(1) The high bidder is considered unqualified to fulfill the contractual requirement of the advertisement, or

(2) There are reasonable grounds to consider it in the interest of the Indians to reject the high bid.

(b) If the high bid is rejected, the approving officer may authorize:

(1) Rejection of all bids, or

(2) Acceptance of the offer of another bidder who, at bid opening, makes written request that their bid and bid deposit be held pending a bid acceptance.

(c) The officer authorized to accept the bid shall have the discretion to waive minor technical defects in advertisement and proposals.

§ 163.12 Contracts required.

Except as provided in § 163.19, in sales of timber with an appraised stumpage value exceeding $10,000, 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. Essential departures from the fundamental requirements of standard and approved contract forms 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. By mutual agreement, contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion or by mutual agreement.

§ 163.13 Execution and approval of contracts.

(a) All contracts for the sale of tribal timber shall be executed by the authorized tribal representative(s). Contracts must be approved by the Secretary to be valid. There shall be included with the contract an affidavit executed by the appropriate tribal representative(s) setting forth the resolution or other authority of the governing body of the tribe authorizing the sale.

(b) Contracts for the sale of allotted timber shall be executed by the Indian owners or the Secretary acting pursuant to a power of attorney from the Indian owner, subject to conditions set forth in §§ 163.7 and 163.12(b) (1), (2), and (3). Contracts must be approved by the Secretary to be valid.

(1) The Secretary may, after consultation with any legally appointed guardian, execute contracts on behalf of minors and Indian owners who are non compos mentis.

(2) The Secretary may execute contracts for those persons whose ownership in a decedent's estate has not been determined or for those persons who cannot be located after a reasonable and diligent search and the giving of notice by publication.

(3) Upon the request of the owner of an undivided but unrestricted interest in land in which there are trust or

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restricted Indian interests, the Secretary may include such unrestricted interest in a sale of the trust or restricted interests in the timber, pursuant to this part, and perform any functions required of him/her by the contract of sale for both the restricted and the unrestricted interests, including the collection and disbursement of payments for timber and the deductions as service fees from such payments of sums in lieu of administrative expenses.

§ 163.14 Bonds required.

Performance bonds will be required in connection with all sales of Indian timber, except they may or may not be required, as determined by the approving officer, in connection with the use of timber by tribal enterprises pursuant to § 163.6 or in timber cutting permits issued pursuant to § 163.19. In sales in which the estimated stumpage value, calculated at the appraised stumpage rates, does not exceed $10,000, the bond shall be at least 20 percent of the estimated stumpage value. In sales in which the estimated stumpage value exceeds $10,000 but is not over $100,000, the bond shall be at least 15 percent of the estimated stumpage value but not less than $2,000; in sales in which the estimated stumpage value exceeds $100,000 but is not over $250,000, the bond shall be at least 10 percent of the estimated stumpage value but not less than $15,000; and in sales in which the estimated stumpage value exceeds $250,000, the bond shall be at last 5 percent of the estimated stumpage value but not less than $25,000. Bonds shall be in a form acceptable to the approving officer and may include a corporate surety bond by an acceptable surety company; or cash bond designating the approving officer to act under a power of attorney; or negotiable United States Government securities supported by appropriate power of attorney; or an irrevocable letter-of-credit.

§ 163.15 Payment for timber.

(a) The basis of volume determination for timber sold shall be the Scribner Decimal C log rule, cubic volume, lineal measurement, piece count, weight, or such other form of measurement as the Secretary may authorize for use. With the exception of tribal enterprises pursuant to § 163.6, payment for timber will be required in advance of cutting.

(b) Methods of payment include advance payments, installment payments and advance deposits as specified in timber contract documents. Each advance deposit shall be at least 10 percent of the value of the minimum volume of timber required to be cut annually, figured at the appraised stumpage rates: *Provided,* That the approving officer may reduce the size of the last advance deposit before the completion of the sale or before periods of approximately three months or longer during which no timber cutting is anticipated. If a contract stipulates no minimum annual cutting requirements the amount of each advance deposit shall be determined by the approving officer. The advance payments that may be required in the sale of trust timber, pursuant to § 163.16, shall not operate to reduce the size of advance deposits required by this section.

§ 163.16 Advance payment of allotment timber.

(a) Unless otherwise authorized by the Secretary, and except in the case of lump sum (predetermined volume) sales, contracts for the sale of timber from Indian forest lands shall provide for the payment of up to 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 three 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 each appropriate ownership exceed 50 percent of the bid stumpage value. For each appropriate ownership, advance payments shall be credited against the timber as it is cut and scaled at the stumpage rates governing at the time of scaling.

(b) Terms and conditions for payment of timber under lump sum sales shall be specified in timber contract documents. Advance payments are not refundable.

§ 163.17 Time for cutting timber.

Unless otherwise authorized by the Secretary, the maximum period which shall be allowed, after the effective date of a timber contract, for harvesting the estimated volume of timber purchased shall be five years.

§ 163.18 Deductions for administrative expenses.

In sales of forest products from Indian forest lands, a reasonable deduction shall be made from the gross proceeds to cover in whole or in part the cost of managing and protecting the forest lands. Such costs will include the cost of sale administration, and forest regeneration. However, such deduction will not cover the costs that are paid from funds appropriated specifically for fire suppression of forest pest control. Unless special instructions have been given by the Secretary as to the amount of the deduction, or the manner in which it is to be made, the deduction shall be 10% of the gross amount received for timber sold. Service fees in lieu of administrative deductions shall be determined in a similar manner.

§ 163.19 Timber cutting permits.

(a) Except as provided in §§ 163.6 and 163.20, all cutting of forest products that is not done under format contract, pursuant to § 163.12, shall be done under timber cutting permit forms approved by the Secretary. Permits will be issued only with the written consent of the Indian owner(s) or the Secretary, for allotted lands, as authorized in § 163.13. To be valid, permits must be approved by the Secretary. Such consents to the issuance of cutting permits shall stipulate the minimum product rate at which timber may be sold under permit. Payment and bonding requirements will be stipulated in the permit document as appropriate.

(b) Free-use cutting permits may be issued for specified species and types of forest products. Timber cut under this authority may be limited as to sale or exchange for other goods or services. The stumpage value which may be cut in a fiscal year by any individual under this authority shall not exceed $2,500.

(c) Permits subject to deductions for administrative expenses, as provided in § 163.18, may be issued. Unless otherwise authorized by the Secretary, the stumpage value which may be cut under paid permits in a fiscal year by any individual under this authority shall not exceed $10,000. This paragraph (c) does not apply to special allotment timber cutting permits.

(d) 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 § 163.18. 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/her discretion for planting or other work to offset damage to the land or the timber caused by 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/she has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interest.

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§ 163.20 Free-use cutting without permits.

With the consent of the Indian owners and the Secretary, Indians may cut disignated types of forest products from Indian forest lands without a permit or contract, and without charge. Timber cut under this authority shall be for the Indian's personal use, and shall not be sold or exchanged for other goods or services.

§ 163.21 Fire management measures.

(a) The Secretary is authorized to maintained facilities and staff, hire temporary labor, rent fire fighting equipment, purchase tools and supplies, and pay for their transportation as needed to maintain an adequate level of readiness to meet normal wildfire protection needs and extinguish forest or range fires on Indian reservations or other Indian trust lands. No expenses for fighting a fire outside a reservation may be incurred unless the fire threatens the reservation or other Indian trust lands or unless such expenses are incurred pursuant to an approved cooperative agreement with another protection agency. The rates of pay for fire fighters and for equipment rental shall be the rates for such fire fighting services that are currently in use by public and private wildfire protection agencies adjacent to Indian reservations on which a fire occurs, unless there are in effect at the time different rates that have been approved by the Secretary. The Secretary may also enter into reciprocal agreements with any fire organization maintaining protection facilities in the vicinity of Indian reservations or other Indian trust lands for mutual aid in wildfire protection. This section does not apply to the rendering of emergency aid, or agreements for mutual aid in fire protection pursuant to the Act of May 27, 1955 (69 Stat. 66).

(b) The Secretary will conduct a wildfire prevention program to reduce the number of person-caused fires on Indian reservations or other Indian trust lands.

(c) The Secretary is authorized to expend funds for emergency rehabilitation measures needed to stabilize soil and watershed on Indian reservations or other Indian trust lands damaged by wildfire.

(d) Upon consultation with the Indian landowners the Secretary may use fire as a management tool on Indian reservations to achieve land or resource management objectives.

§ 163.22 Trespass.

(a) In addition to liability for trespass on Indian lands, as indicated in this part, persons responsible for such trespass may be prosecuted criminally under any applicable federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass (18 U.S.C. 1853).

(2) Fire trespass (18 U.S.C. 1855, 1856). Tribal ordinances may apply where appropriate.

(b) The extraction, severance, injury or removal of forest products from Indian lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of trespass. Trespassers will be liable in damages to the United States and the Indian owners, and will be subject to prosecution for such unlawful acts.

(c) The rule of damages to be applied in cases of timber and other trespass will be the measure of damages prescribed by the laws of the State in which the trespass is committed, unless by federal law a different rule is prescribed or authorized.

(d) The Secretary may identify and forbid the removal of forest products from restricted or trust Indian lands or direct their removal to a point of safekeeping when there is reason to believe that such products were unlawfully cut. Any such forest products that can be positively identified as Indian trust property should be sold to prevent their deterioration. When any forest products cut in trespass are found to be removed to land not under Government supervision, the owner of the land should be notified that such products are Indian trust property and any further action should be upon advice of the Office of the Solicitor of the Department of the Interior. Any forest products sold under this § 163.22 may be disposed of under the provisions of this part insofar as they are applicable. The Secretary may accept payment of damages in full in the settlement of civil trespass cases without resort to court action. The Secretary may also accept a recommended settlement per Solicitor's Regulations Manual I.4.1 when exercised in accordance with Departmental procedures contained in 344 DM 3. All other matters relating to the collection of debts under this section will be in accordance with Departmental Manual, Part 344.

(e) The Secretary will provide for timely action on any reports of trespass on Indian trust lands including pending Native allotments (25 U.S.C. 9).

§ 163.23 Revocable road use permits for removal of commercial forest products.

(a) The Secretary may request tribes and/or all other trust landowners to sign landowners revocable permits designating the Secretary as Agent for the landowner and empowering him/her to issue revocable road use permits to users for the purpose of removing commercial forest products.

(b) When a majority of trust interest in a tract has consented, the Secretary may issue revocable road use and construction permits for removal of commercial forest products over and across individually owned lands. In addition the Secretary may act for individual owners when:

(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 of 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.

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§ 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 activites. 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 representative 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.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 83-6631 Filed 3-17-83; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 4a

[LR-296-82]

Source of Interest and Dividends; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations with respect to the source of interest derived from resident alien individuals and domestic corporations and the source of dividends derived from domestic corporations.

DATES: The public hearing will be held on May 24, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by May 10, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The request to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-296-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 861 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, December 29, 1982 (47 FR 57972).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than May 10, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-7009 Filed 3-17-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Procedures for the Public Comment Period on a Proposed Amendment to the Oklahoma State Regulatory Program

AGENCY: Office of Suface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule

SUMMARY: OSM is announcing procedures for the public comment period on the substantive adequacy of a program amendment to Oklahoma's program to control surface coal mining and reclamation operations. The proposed amendment consists of changes to the State's rules regarding efficent limitations for surface and underground coal mining activities and is intended to meet the requirements of similar revisions that were made by OSM to the Federal rule.

This document sets forth the time and locations that the Oklahoma program and proposed amendment are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendment (OK-451).

DATE: Written comments relating to Oklahoma's proposed modification of its program not received on or before 4:00 p.m. on April 4, 1983, will not necessarily be considered on whether the proposed amendment meets the Federal requirements.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, 333 W. Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

FOR FURTHER INFORMATION CONTACT: Robert L Markey, (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Oklahoma program, the proposed amendement, and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Suface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

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