

U.S. 26

C664 CUMULATIVE POCKET SUPPLEMENT

1949

v. 25

P.P. 11960

TO THE . . . CODE
OF FEDERAL
REGULATIONS

Title 25—Indians

AS OF
JANUARY 1
1960

For changes on and after
January 1, 1960, see the daily issues of the Federal Register

§ 131.9 *Negotiation of tribal leases and permits.* (a) Tribes, acting through their tribal councils or their authorized representatives, may negotiate on forms approved by the Secretary or his duly authorized representative and subject to the approval of the Secretary or his authorized representative, leases or permits with respect to tribal lands. Subject to the exception herein, negotiated leases shall not be approved at less than the appraised fair rental value. Leases for religious, educational, recreational or other public purposes to religious organizations or to agencies of the Federal,

State or local government may be approved at less than the appraised fair rental value. A lease or permit may provide for the payment of rentals direct to the lessor when a tribe is organized and has facilities for handling its own funds, including an acceptable bonded officer to receipt for funds. Otherwise, the lease or permit shall provide for the payment of rentals to the superintendent for deposit to the credit of the tribe in the United States Treasury.

[Paragraph (a) amended, 23 F. R. 87, Jan. 4, 1958]

SUBCHAPTER M—FORESTRY

PART 141—GENERAL FOREST REGULATIONS (REVISED)

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- 141.23 Appeals under timber contracts.

AUTHORITY: §§ 141.1 to 141.23 issued under 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. § 141.23 issued under 5 U.S.C. 22, 25 U.S.C. 2.

SOURCE: §§ 141.1 to 141.23 appear at 24 F.R. 7870, Sept. 30, 1959.

CROSS REFERENCES: For rights-of-way, see Part 161 of this chapter. For sale of timber products, Menominee Indian Reservation, see Part 143 of this chapter. For sale of forest products, Red Lake Indian Reservation, Minnesota, see Part 144 of this chapter. For

sale of lumber and other forest products produced by Indian enterprises from other reservations, see Part 142 of this chapter. For wilderness and roadless areas, see Part 163 of this chapter. For law and order, see Part 14 of this chapter.

§ 141.1 Definitions.

As used in this part:

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

(b) "Indian forest lands" means lands, held in trust by the United States for Indian tribes or individual Indians or owned by such tribes or individuals subject to restrictions against alienation, that are chiefly valuable for the production of forest crops; or such lands on which a forest cover should be maintained in order to protect watershed or other values.

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

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

§ 141.2 Scope.

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

§ 141.3 Objectives.

The following objectives are to be sought in the management of Indian forest lands:

(a) The preservation of such lands in a perpetually productive state by providing effective protection, by applying sound silvicultural and economic principles to the harvesting of the timber, and by making adequate provision for new forest growth as the timber is removed.

(b) The regulation of the cut 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.

(c) The development of Indian forests by the Indian people for the purpose of promoting self-sustaining communities, to the end that the Indians may receive from their own property not only the stumpage value, but also the benefit of whatever profit it is capable of yielding and whatever labor the Indians are qualified to perform.

(d) The sale of Indian timber in open competitive markets in accordance with good business practices on reservations where the volume that should be harvested annually is in excess of that which is being developed by the Indians.

(e) The preservation of the forest in its natural state wherever it is considered, and the authorized Indian representatives agree, that the recreational or aesthetic value of the forest to the Indians exceeds its value for the production of forest products.

(f) The management of the forest in such a manner as to retain its beneficial effects in regulating water run-off and minimizing erosion.

(g) The preservation and development of grazing, wildlife, and other values of the forest to the extent that such action is in the best interest of the Indians.

§ 141.4 Sustained-yield management.

In accordance with the objectives set forth in § 141.3, the harvest of timber from Indian forest lands will not be authorized until there have been prescribed practical methods of cutting, based on sound silvicultural principles. Cutting schedules shall be directed toward the salvage of timber that is deteriorating as a result of fire damage, insect infestation, disease, over-maturity or other cause; and toward achieving an approximate balance between maximum net growth and harvest during each cutting cycle. For all Indian reservations of

major importance from an industrial forestry standpoint, management plans for the forest resource shall be prepared by the Bureau of Indian Affairs, and revised as needed. The plans shall contain a statement of the manner in which the policies of the Bureau of Indian Affairs are to be applied on the forest, with a definite plan of silvicultural management and a program of action, including a cutting schedule, for a specified period in the future.

§ 141.5 Cutting restrictions.

Clearcutting of large contiguous areas will be permitted only on lands that, when cleared, will be devoted to a more beneficial use than the growing of timber crops; but this restriction shall not prohibit clearcutting, by staggered settings or otherwise, when it is silviculturally good practice to harvest a particular stand of timber by such methods, or when it is not practicable to harvest such timber stand by methods other than clearcutting.

§ 141.6 Indian operations.

Indian tribal logging or sawmill enterprises may be organized and initiated, subject to consent of the authorized tribal representatives, where applicable, and approval by the Secretary.

§ 141.7 Timber sales from unallotted and allotted lands.

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 Indian owners for allotted timber. The consent of the Secretary is required in all cases. Unless otherwise authorized by the Secretary, sales from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding \$200 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, the timber shall be appraised and sold at not less than its appraised value.

§ 141.8 Advertisement of sales.

Sales of timber shall be made only after advertisement except as provided in §§ 141.9 and 141.19.

(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 members of the tribe; or may grant to members of the tribe who submitted bids the right to meet the higher bid of a non-Indian. If the estimated stumpage value of the timber offered does not exceed \$1,000, the advertisement may be made by posters and circular letters. If the estimated stumpage value exceeds \$1,000, the advertisement shall also be made in at least one edition of a newspaper of general circulation in the locality where the timber is situated. If the estimated stumpage value does not exceed \$10,000, the advertisement shall be for not less than 15 days; if the estimated stumpage value exceeds \$10,000 but not \$100,000, for not less than 30 days; and if the estimated stumpage value exceeds \$100,000, for not less than 60 days.

(b) The approving officer may reduce the advertising period because of emergencies such as fire, beetle 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 1 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 upon the terms and conditions in the advertisement and at not less than the advertised value or the appraised value at the time of sale, whichever is greater.

§ 141.9 Timber sales without advertisement.

With the consent of the tribal or individual Indian owners of the timber, and the approval of the Secretary, sales without advertisement may be made:

(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 \$5,000. 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 one 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.

§ 141.10 Deposit with bid.

(a) A deposit shall be made with each proposal for the purchase of either allotted or unallotted Indian timber. Such deposits shall be at least 20 percent if the appraised stumpage value is less than \$10,000; at least 10 percent if the appraised stumpage value is between \$10,000 and \$100,000, but in any event not less than \$2,000; at least 5 percent if the appraised stumpage value is between \$100,000 and \$250,000; but in any event not less than \$10,000; and at least 3 percent if the appraised stumpage value exceeds \$250,000, but in any event not less than \$12,500.

(b) Deposits shall be in the form of either a certified check, cashier's check, bank draft, or postal money order, 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 requests to have their bids considered for acceptance, will be retained pending acceptance or rejection of the bids. All other deposits will be returned promptly following the opening and posting of bids.

(d) The deposit of the successful bidder will be retained as liquidated damages if the bidder does not execute the contract, and furnish the performance bond required by § 141.14, within the time stipulated in the advertisement of timber sale.

§ 141.11 Acceptance and rejection of bids.

(a) Applicants or bidders may be individuals, associations of individuals, or corporations. In ordinary circumstances the high bid received in connection with any advertisement issued under authority of this part shall be accepted. However, the approving officer, having set forth his reasons in writing shall have the right to reject the high bid:

- (1) If he considers the high bidder to be unqualified to fulfill the contractual requirement of the advertisement, or
- (2) If he has 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 the time of opening of bids, makes formal request that his bid be so considered.

(c) The officer authorized to accept the bid is also authorized in his discretion to waive minor technical defects in advertisements and proposals.

§ 141.12 Contracts required.

Except as provided in § 141.19(c), in sales of timber with an appraised stumpage value exceeding \$200 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.

§ 141.13 Execution and approval of contracts.

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

(b) Contracts for the sale of allotted timber. Contracts for the sale of allotted timber shall be executed by the Indian owners or by an authorized official of the Bureau of Indian Affairs acting pursuant to a power of attorney from the Indian owner. Contracts to be valid must be approved by the Secretary.

(c) Execution of contracts for incompetents. The Superintendent shall execute contracts on behalf of Indian owners who are incompetent by reason of mental incapacity or minority. Contracts to be valid must be approved by the Secretary.

§ 141.14 Bonds required.

Performance bonds will be required in connection with all contracts for the sale of Indian timber, but in the discretion of the approving officer may not be required in connection with timber cutting permits issued pursuant to § 141.19. In sales in which the estimated stumpage value, calculated at the appraised stumpage rates, does not exceed \$10,000 the bond shall be approximately 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 approximately 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 approximately 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 approximately 5 percent of the estimated stumpage value but not less than \$25,000. Bonds may be in the form of a corporate surety bond by an acceptable surety company; or cash bond designating the officer to act under a power

of attorney; or negotiable United States Government bonds supported by appropriate power of attorney and performance bond.

§ 141.15 Payments for timber.

The basis of volume determination for timber sold shall be the Scribner Decimal C, International 1/4 inch, or International Decimal 1/4 inch log rules, cubic volume, weight, or such other form of measurement as the Secretary shall designate for each sale. Payments for timber will be required in advance of cutting, either as a single-lump sum payment, or in the form of advance deposits, or as advance payments pursuant to § 141.16. Each advance deposit shall be at least 10 percent of the value of the minimum volume of timber required to be cut and figured at the appraised stumpage rate. *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 3 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 allotted timber, pursuant to § 141.16, shall not operate to reduce the size of advance deposits required by this section, but may postpone the necessity of requiring such deposits until the advance payments on the particular allotments being cut have been exhausted.

§ 141.16 Advance payments 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 15 percent of the stumpage value, calculated at the bid price, within 30 days of contract approval, and for additional payments of 15 percent and 20 percent of the same total value within 3 years and 6 years respectively of approval if the contract extends beyond those periods; except, that 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.

§ 141.17 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 cutting of the estimated volume of timber purchased shall be 5 years.

§ 141.18 Deductions for administrative expenses.

In sales of timber from either allotted or unallotted 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, including the cost of timber sale administration, but not including the costs that are paid from funds appropriated specifically for fire suppression or 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, there shall be deducted 10 percent of the gross amount received for timber sold under regular supervision, and 5 percent when the timber is sold in such a manner that little administrative expense by the Indian Bureau is required.

§ 141.19 Timber cutting permits.

Except as provided in § 141.20, all timber cutting that is not done under formal contract, pursuant to § 141.12, shall be done under the regular timber cutting permit forms. Permits to be valid must be approved by the Secretary. Permits will be issued only with the consent of authorized representatives of the tribe for unallotted lands, and for allotted lands with the consent of the Indian owner or the Superintendent as authorized in §§ 141.13(b) and 141.13(c). The stumpage value which may be cut in 1 year by any individual under authority of paragraphs (a) and (b) of this section shall not exceed \$200, but this limitation shall not apply to cutting under authority of paragraph (c) of this section.

(a) 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. 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.

§ 141.20 Free-use cutting without permits.

(a) Timber may be cut by an Indian for his personal use from an allotment in which he holds the sole beneficial interest, without a permit or contract; but timber cut under this authority shall not be sold, or exchanged for other goods or services. Such cutting shall conform to the principles of conservative use as contemplated by § 141.4.

(b) With the consent of the authorized tribal representatives and the Secretary, Indians may cut designated types of forest products from unallotted 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. Such cutting shall conform to the principles of conservative use as contemplated by § 141.4.

§ 141.21 Fire protective measures.

The Secretary is authorized to hire temporary labor, rent fire fighting equipment, purchase tools and supplies, and pay for their transportation to extinguish forest or range fires. No ex-

pense for fighting a fire on a reservation may be incurred if the fire threatens the reservation. If such expense is incurred by an approved cooperative association with another forest 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 forest fire 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 enter into reciprocal agreements with any fire organizations, maintaining fire protection facilities in the vicinity of Indian reservations, for mutual aid in fire 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).

§ 141.22 Trespass.

Federal statutes provide that: (a) Willful and unauthorized setting fire to timber, underbrush, or grass or other inflammable material upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, is punishable by fine of not more than \$5,000 or imprisonment of not more than 5 years; or both; (b) whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material on such lands, leaves said fire without totally extinguishing it, or permits such fire to spread beyond his control, or leaves such fire unattended, shall be fined not more than \$500 or imprisoned not more than 6 months, or both; (c) the unlawful cutting or wanton injury or destruction of trees standing, growing, or being upon such lands is punishable by fine of not more than \$1,000 or imprisonment of not more than 1 year, or both; (d) section 1 of the act of June 25, 1948, (62 Stat. 787; 16 U.S.C. 1853) provides penalties for the unlawful cutting of timber on Government lands and on Indian lands under Government supervision. The Secretary may seize timber which he has

reason to believe was unlawfully cut from restricted or trust Indian lands, mark the same and forbid its removal from the land or direct its removal to a point of safe keeping. When any such timber is found to be removed to land not under Government supervision the owner of the land should be notified that such timber is Indian trust property. The Secretary may accept payment of damages in full in settlement of civil trespass cases without resort to court action.

§ 141.23 Appeals under timber contracts.

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 to the Secretary of the Interior. Such appeal shall not stay any action under the contract unless otherwise directed by the Secretary of the Interior. Appeals will be filed in accordance with any applicable general regulations covering appeals. The Secretary shall notify the appropriate Indian tribal representatives upon receipt of an appeal by the purchaser, and shall notify the purchaser upon receipt of an appeal by the seller.

SUBCHAPTER N—GRAZING

PART 152—NAVAJO GRAZING REGULATIONS

Sec. 152.13 Trespass [Amended]

§ 152.13 Trespass.

(b) All persons running livestock in excess of their permitted number must by April 25, 1959, either obtain permits to cover their total livestock numbers or

reduce to their permitted number, or be in trespass. Additional time may be granted in unusual individual cases as determined and approved by the District Grazing Committee, General Grazing Committee, and the Superintendent or his authorized representative.

[Paragraph (b) amended, 24 F.R. 1178, Feb. 17, 1959]

SUBCHAPTER O—RIGHTS-OF-WAY—ROADS

PART 161—RIGHTS-OF-WAY OVER INDIAN LANDS

Sec. 161.4 Permission to survey. [Revised]
161.5 Permission to commence construction. [Revised]

§ 161.4 Permission to survey.

Anyone desiring to obtain permission to survey a right-of-way upon and across restricted lands must file a written application therefor with the Superintendent. The application shall adequately describe the proposed project, and it shall be accompanied by the written consent of the landowners as required by § 161.3, by satisfactory evidence of the good faith and financial responsibility of the applicant, and by a check or money order of sufficient amount to cover double the estimated damages which

may be sustained as a result of the survey. With the approval of the Superintendent, a surety bond may be substituted in lieu of a check or money order accompanying an application. Such bond may serve as surety to accompany other applications by the same applicant made under this section, if adequate in amount. An application filed by a corporation must be accompanied by proof of corporate existence and of compliance with State laws entitling the applicant to operate in the State in which the restricted land is situated. An application filed by an unincorporated partnership or association must be accompanied by a certified copy of the articles of partnership or association, or if there be none, this fact must be stated over the signature of each member of the partnership or association. If

the applicant has previously filed with the Department an application accompanied by the evidence required in this section, a reference to the date and place of such filing, accompanied by proof of current financial responsibility and good faith, will be sufficient. Upon receipt of an application made in compliance with the regulations of this part, the Superintendent may grant the applicant written permission to survey.

[24 F.R. 10676, Dec. 24, 1959]

§ 161.5 Permission to commence construction.

Subject to the provisions of § 161.3, permission to proceed with construction work on a right-of-way may be granted by the Superintendent at the same time or after permit to survey is issued and before full compliance is made with the regulations in this part, provided the applicant deposits with the Superintendent in advance such amount, in addition to that deposited in accordance with § 161.4, or increases the surety bond in such amount, as will be sufficient to equal twice the estimated damages which may result from the survey and construction, and agrees in writing to comply promptly with the regulations in this part. The amount of the deposit, if the applicant is an agency of the Federal or of a State Government, will be a sum to cover only the estimated damages whenever it be shown to the satisfaction of the Superintendent that the funds of the applicant are not available for the deposit of the greater amount. Each deposit shall be held in a "special deposit" account until the actual damages have been determined and the application for the right-of-way has been approved.

[24 F.R. 10676, Dec. 24, 1959]

Part 163—Establishment of Roadless and Wild Areas on Indian Reservations

Sec. 163.1 Roadless areas. [Revised]
163.2 Definition of wild areas. [Revised]

§ 163.1 Roadless areas.

A roadless area for the purpose of this part is one which contains no provision for the passage of motorized transportation and which is at least 100,000 acres in forested country or at least 500,000 acres in non-forested country. The following are established as roadless areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Wind River Mountains	Shoshone	220,000
Mt. Thomas	Ft. Apache	130,000
Mesa Verde	Consolidated Ute	115,000
Goat Rocks	Yakima	105,000

The boundaries of these areas are described in the appendix to this part.¹

[24 F.R. 8257, Oct. 10, 1959]

Prior Amendments

1958: 23 F.R. 6495, Aug. 22.
1959: 24 F.R. 261, Jan. 10; 24 F.R. 2560, Apr. 2;
24 F.R. 4030, May 19.

§ 163.2 Definition of wild areas.

There are certain areas, not large enough to be designated by the term roadless, from which it is nevertheless desirable to exclude provision for the passage of motorized transportation. Such tracts have been designated as wild areas. The Secretary of the Interior ordered that the following be established as wild areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Mount Adams	Yakima	48,000

The boundaries of this area are indicated in the appendix to this part.¹

[24 F.R. 8267, Oct. 10, 1959]

¹ The appendix to this part is not codified. It appears, however, at 3 F.R. 709-711, Mar. 22, 1938.