

3.1 Purpose. This chapter provides the basic policies, standards, and responsibilities governing contract sales of forest products on Indian lands.

3.2 Guidance. Handbooks, directives and other guides may be issued and revised as necessary (see 53 IAM 1.3; also see the *Indian Forest Management Handbook, Volume 3*, titled, *Contract Sales of Forest Products*, for detailed process and procedural guidance).

3.3 Scope. The directives contained in this chapter apply to all Federal agencies and programs participating in the management, accountability, or protection of Indian forest lands. Regardless of the means of program execution, the appropriate Federal Official shall assure that the standards prescribed herein are met.

3.4 Policy. The following policies apply to all Indian forest lands managed by the Secretary:

A. To harvest forest products under an approved Forest Management Plan that is consistent with established tribal goals and objectives, and with a tribal Integrated Resource Management Plan, (if one exists), through the application of sound silvicultural and economic principles on a sustained-yield basis.

B. To sell forest products through contracts to serve the best interest of the Indian owners. All forest product sales with an estimated stumpage value of \$15,000 or more will be sold using contract forms approved by the Secretary. At the discretion of the Approving Officer, a contract may be required for the sale of forest products with an estimated stumpage value that is less than \$15,000

C. To accurately determine and record the volume and value of forest products harvested by ownership, and to ensure that all required contract payments and disbursements are made.

D. To maintain sufficient records to document compliance with contract requirements and to otherwise record factual information relating to the purchaser's performance under the contract.

E. To encourage participation of tribal enterprises and individual Indians in the harvest of forest products.

F. To promote self-sustaining communities, value added industries, tribal jobs and labor.

3.5 Sale of Forest Products.

A. Owner Consent

(1) Tribal Interests. A valid Tribal Resolution or other authority of the governing body of the tribe giving consent for the sale of tribal forest products is required. Such consent shall provide authority for tribal execution of necessary sale documents

(a) The resolution or delegation of authority must be included in the contract file.

(b) When consent to sell forest products has been delegated to a business or other committee, a copy of this delegation of authority must be included in the contract file.

(2) Allotted Interests.

(a) Sales with Indian Consent. Unless the contract is signed by the beneficial Indian owner, the execution of a power of attorney is required (25CFR§163.20(b)). Form 5-5315,

Power of Attorney for Sale of Allotment Timber, (will) be used (refer to *Illustration 1, Indian Forest Management Handbook, Volume 3*). When an individual cannot be located, the Secretary, after a reasonable and diligent search and the giving of notice by publication, may sign a Power of Attorney consenting to the sale for the particular interests. When consent of only a majority interest has been obtained, the Secretary may execute the sale on behalf of all owners.

(b) Sales Without Indian Consent. After consultation with the owners, or upon reasonable attempt to consult with owners, sales of forest products may be made from any individually owned Indian land held in trust or other patent containing restrictions on alienation without the consent of the Indian owners when such action is necessary to prevent loss of values resulting from fires, insect, disease, wind throw, or other catastrophes.

(3) Unrestricted Interest In Which There Are Trust or Restricted Interests. Upon the request of the owner of an undivided but unrestricted interest in land in which there are trust or restricted Indian interests, the Secretary may include such unrestricted interest in a sale of the trust or restricted interests in the timber. When an individual with unrestricted interest cannot be located, the Secretary, after a reasonable and diligent search and the giving of notice by publication, may execute the sale on behalf of all owners with consent of a majority of restricted interest.

B. Sale Preparation

(1) Sale Preparation. Contract sales of forest products will be based upon an examination that is incorporated into a Forest Officer's Report developed for the proposed sale area. The report will set forth all pertinent information relating to the sale. Proposed sales will conform to the general harvest schedule set out in the Forest Management Plan unless the Approving Officer authorizes an exception. Deviations from the Forest Management Plan harvest schedule will be presented in writing to the Regional Director for decision prior to making the presale examination.

(2) Forest Officer's Report (FOR). A complete report setting forth all pertinent information of the proposed sale will be prepared for all contract sales of forest products. The FOR will contain an appraisal of the value of the forest products sold (refer to *Indian Forest Management Handbook, Volume 3*, for suggested content of the FOR).

(3) Environmental and Cultural Resources Requirements. An environmental analysis and other studies as necessary will be prepared to comply with applicable laws and regulations for the protection and enhancement of environmental and cultural resources.

(4) Contract Forms. Contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved for use by the Secretary. The following contract forms are approved for use and included as illustrations in the *Indian Forest Management Handbook, Volume 3*:

- A. Form 5-5323.** Timber Sale Contract Part B Standard Provisions.
- B. Form 5-5324.** Timber Contract for the Sale of Estimated Volumes.
- C. Form 5-5327.** Timber Contract for the Sale of Predetermined Volumes.
- D. Form 5-5326.** Subsidiary Allotment Timber Contract for Sale of Estimated Volumes.

(5) Forest Management Deductions (FMD). The Secretary shall withhold a reasonable deduction from the gross proceeds of sales of forest products harvested from Indian forest land under a

timber sale contract, permit, or other harvest sale document, except where the total sale value is less than \$5,001. Expenditure plans are required that detail how estimated expenditures fall within appropriate forest land management activities (see 25 CFR §163.25 and 53 IAM 11 for more on withholdings and expenditure plans).

3.6 Responsibilities.

A. Director, Bureau of Indian Affairs.

- (1) Develop and revise policy on contract sales of forest products harvesting.
- (2) Provide oversight, guidance, and technical assistance to regional offices as needed.
- (3) Establish reporting standards and requirements.

B. Regional Director.

- (1) Establish procedures for preparation of forest products contract sales, and establish reporting standards and requirements for Forest Officer's Reports.
- (2) Approve deviations from the general harvest schedule in the Forest Management Plan.
- (3) Receive, review, and compile timber sale preparation and harvest accomplishment reports from field offices and Tribes for annual Central Office reporting requirements.
- (4) Perform or delegate authority for responsibilities of the Approving Officer.

C. Approving Officer. (May be Regional Director, Agency Superintendent, or any line officer with the delegated authority)

- (1) Authorize the advertisement of forest products for sale.
- (2) Approve all contracts for the sale of forest products.
- (3) Ensure purchaser's compliance with contractual requirements.
- (4) Maintain required sale records.
- (5) Collect and distribute trust funds proceeds in conjunction with the Office of the Special Trustee (OST) and non-trust funds proceeds in conjunction with the Division of Accounting Management (DAM) (refer to the *BIA Forestry Collections and Distribution Handbook*).
- (6) Prepare, develop and submit to the Regional Director the required timber sale preparation and harvest accomplishment reports.