

PART 221—TIMBER

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AUTHORITY §§ 221 1 to 221 29 issued under sec 1 30 Stat 35 as amended 16 U S C 551 Interpret or apply sec 1 43 Stat 1132 16 U S C 572 Other statutory provisions interpreted or applied are cited to text in parentheses

§ 221 1 Timber uses

The Chief Forest Service is hereby authorized to permit the use of the timber resource of the national forests and to delegate this authority to subordinate officers to the extent in ways and by means compatible with the laws and the other regulations of the Secretary of Agriculture concerning such use so as to make that resource of the greatest permanent usefulness to the people of the United States

[13 FR 7711 Dec 14 1948]

§ 221 2 Future growth, reduction of hazard, utilization

Each sale or other use of national forest timber will be authorized only after the approving officer is satisfied that practicable fire-prevention measures and methods of cutting and logging are prescribed which will preserve the residual living and growing timber promote the younger growth reduce the hazards of destructive agencies secure favorable conditions of water flows and obtain as complete utilization of the various species and grades of material as the existing markets or the requirements of users permit

§ 221 3 Disposal of national forest timber according to management plans

(a) Management plans for national forest timber resources shall be prepared and revised as needed for working circles or other practicable units of national forest Such plans shall

(1) Be designed to aid in providing a continuous supply of national forest timber for the use and necessities of the citizens of the United States

(2) Provide so far as feasible for the stabilization of communities and of opportunities for employment

(3) Be based on the principle of sustained yield with due consideration to the condition of the area and the timber stands covered by the plan

(4) Be approved by the Chief Forest Service unless authority for such approval shall be delegated to subordinates by the Chief

(5) Establish the maximum amount of timber which may be cut from the national forest lands within the unit by years or other periods

(b) When necessary to promote better utilization of national forest timber or to facilitate protection and management of the national forests a management plan may include provisions for requirements of purchasers for processing the timber to at least a stated degree within the working circle or within a stated area and when appropriate by machinery of a stated type and agreements for cutting in accordance with the plan may so require

(c) Unless prohibited by specific instructions from the Secretary of Agriculture timber lawfully cut on any national forest except the national forests in Alaska may be exported from the State where grown. Timber cut from the national forests in Alaska may not be exported from Alaska in the form of logs cordwood bolts or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester when the timber sale project involved is within his authorization to sell or the Chief Forest Service when a larger timber sale project is involved. In determining whether consent will be given to the export of such products consideration will be given among other things to whether such export will

- (1) permit a more complete utilization of material on areas being logged primarily for products for local manufacture
- (2) prevent loss or serious deterioration of logs unsalable locally because of an unforeseen loss of market
- (3) permit the salvage of timber damaged by wind insects or fire
- (4) bring into use a minor species of little importance to local industrial development
- (5) provide material required to meet national emergencies or to meet urgent and unusual needs of the Nation

(44 Stat 242 16 USC 616) [13 FR 7711 Dec 14 1948 as amended at 24 FR 2306 Mar 25 1959]

§ 221 4 Administration of cooperative and Federal Sustained Yield Units

With respect to Sustained Yield Units established pursuant to the provisions of the Act of March 29 1944 (58 Stat 132 16 USC 583-583i) the Chief of the Forest Service hereinafter referred to as Chief with authority to delegate to other officers and employees of the Forest Service

(a) Shall provide that national forest timber in any Sustained Yield Unit shall be available in sufficient amounts to meet the needs of bona fide farmers settlers miners residents and prospectors for minerals for personal and domestic use as provided by law and by regulation

(b) May offer for sale to cooperators without competition but at not less than appraised value timber on national forest lands within an approved Cooper-

ative Sustained Yield Unit, or if the approved Sustained Yield Unit consists entirely of Federally owned or administered forest land and if necessary for the maintenance of a stable community or communities, may offer national forest timber for sale to responsible operators within such community or communities at not less than appraised value but without competition or with competition restricted to responsible operators who will manufacture the timber to at least a stated degree within the community or communities to be maintained. Each such sale which involves more than \$500 in stumpage value may be made only after notice has been given in advance by such means as may be deemed effective in informing the public of the proposed action, including, in any event publication once weekly for four consecutive weeks and with additional insertions if needed in one or more newspapers of general circulation in the vicinity of the place where the timber is located, of a notice of the proposed sale stating at least (1) the location, estimated quantity and appraised value of the timber to be cut, (2) the name and address of the proposed purchaser or those of the operators among whom bidding is to be restricted, (3) the time and place of a public advisory hearing on the proposed sale, to be held not earlier than 30 days after the first publication of said notice if requested by the state or county where the timber is located or by any other person deemed to have a reasonable interest in the proposed sale or in its terms, and (4) the title and address of the officer of the Forest Service to whom any request for such hearing should be made. Such requests need be considered only if received at the place designated in the notice not later than 15 days after the first publication of such notice. If a public advisory hearing is to be held notice of it shall be published in the same newspaper or newspapers as the original notice stating the place where it will be held and the time which shall not be earlier than 10 days after the first publication of the said notice of hearing, and shall appear once each week but not for more than four successive weeks in any event until the date set for the hearing. Any such hearing shall be conducted by

the Chief or by any officer designated by him as his representative except that if the amount of the proposed sale is not in excess of that which the Regional Forester has been authorized to sell without prior approval of the Chief the hearing may be held by the Regional Forester concerned or by his representative and decision may be by the Regional Forester. At any such hearing opportunity shall be given to those having a reasonable interest to make oral statements or to file written statements discussing the advantages and disadvantages of the proposed sale, and the officer holding the hearing may, in his discretion permit the filing of such statements within a reasonable period after the close of the hearing to become part of the record for consideration before a decision is made.

(c) Shall keep available for public inspection (1) during the life of any Sustained Yield Unit the minutes or other record of the hearing held on the establishment thereof and the determination of action taken following the hearing including any modification of the proposals as submitted at the hearing, and (2) during the life of any cooperative agreement for coordinated management the similar record of the hearings and actions determined upon, and (3) during the life of any Sustained Yield Unit, the similar record of any public hearing which may be held on a sale made without competition or with restricted competition and the action determined upon. Such records of any case may be kept in any office of the Forest Service designated by the Chief as being suitable and convenient of access for probably interested persons.

(d) Shall make provision in any contract for the purchase of timber without competition or with restricted competition if that contract is of more than five years duration and in his discretion in any case of shorter duration for the redetermination of rates for stumpage and for required deposits to be paid by the purchasers such redetermination to be effective at intervals or dates stated in the contract but the sum of such redetermined rates for stumpage and sale area betterment shall not be less than the sum of such rates in the published notice of the proposed sale.

(e) May modify and revise existing cooperative agreements entered into under said act after taking appropriate action (58 Stat 132 16 USC 583-583i) [22 FR 5576 July 16 1957]

§ 221 5 Where timber may be cut

(a) The cutting of timber may be authorized as prescribed by regulation on any national forest land whether reserved from the public domain, purchased acquired by exchange donated or transferred from other Federal agencies or on land administered by the Forest Service under an authorization for the application to it of the regulations for the occupancy and use of the national forests except for

(1) Timber reserved by a grantor of land during the life of such reservation

(2) Timber reserved from cutting under other regulations

(3) Timber on valid unpatented mining claims located prior to July 23 1955 unless the claimant has executed a waiver pursuant to section 6 of the act of July 23 1955 (69 Stat 367) or unless, pursuant to a proceeding under section 5 of that act the claimant has failed to file a verified statement or has failed to establish the validity and effectiveness of his asserted rights and timber on valid claims other than mining claims, when any of such claims were located or entered prior to

(i) The first publication of the notice of sale

(ii) The execution of the sale contract or approval of permit for timber where disposal is without publication of notice

(iii) The recommendation by the Department of Agriculture to the Department of the Interior for an exchange in which timber on the area is to be given to the proponent

(iv) The first publication of a notice of hearing under the provisions of § 221 4 on a cooperative or Federal sustained yield unit including the area

(b) The cutting of timber on mining claims shall be conducted in such manner as not to endanger or materially interfere with prospecting mining or processing operations

(c) No person shall prevent or interfere with the cutting and removal of

timber under any sale, permit grant contract or establishment of a sustained yield unit because of a location or entry made subsequent to authorized actions for timber disposal

(d) Timber on an unpatented claim to which the United States does not otherwise have disposal rights may be disposed of with the written consent of the claimant or, in emergencies arising from insect infestations disease infections or rapid deterioration of timber killed or dying from fire or other causes without the consent of the claimant

(e) Timber on an unpatented claim may be cut by the claimant only for the actual development of the claim or for uses consistent with the purposes for which the claim was entered. Any severance or removal of timber other than severance or removal to provide clearance shall be in accordance with sound principles of forest management as applied in the severance and removal of timber from the surrounding national forest lands

(f) Timber on unapproved selections or other lands of unsettled status may be sold, or otherwise disposed of with prior approval of the Regional Forester in emergencies to prevent loss under arrangement guaranteeing payment of not less than the stipulated price for the timber cut if title is not perfected adversely to the United States within a specified period or if claim of title there-to adverse to the United States is determined to be invalid

(g) With prior approval by the Regional Forester timber on lands under option by the United States or on offered lands included in an approved land exchange agreement may be sold. Before the sale is made, a cooperative agreement must be made with the owner of the land authorizing the Forest Service to conduct the sale and providing for return of stumpage receipts to the owner if title to the land is not accepted by the United States

[20 F R 8816 Dec 1 1955]

§ 221 6 Authorization to make sales

(a) The Chief Forest Service is authorized to make timber sales for any amount on any national forest subject

to the maximum cut fixed in accordance with established policies for management of the national forests. He may delegate and provide for the redelegation of this authority to subordinates for amounts not exceeding in any one sale 50 million feet board measure or the equivalent thereof

(b) The Chief Forest Service after approval of conditions of sale may authorize Regional Foresters formally to execute timber sale contracts and related papers in sales exceeding the volume which the Regional Forester has been authorized to sell

[24 F R 2306 Mar 25 1959]

§221 7 Rate redetermination

All sale contracts exceeding five years in duration and those of shorter duration to the extent found desirable by the officer authorizing the sale will provide for the redetermination of rates for stumpage and for required deposits at intervals ordinarily of not more than three years, and of not more than five years in any case exclusive of any period allowed for the construction of improvements but contracts for large sales in Alaska involving installation of extensive manufacturing facilities may provide that the first redetermination of rates and deposits will be made after not more than ten years exclusive of any period allowed for the construction of improvements. No redetermined stumpage price shall be less than the base price determined in the original appraisal

[18 F R 7193 Nov 13 1953]

§ 221 8 Advertisements and bids

(a) Except as otherwise provided each sale in which the appraised value of the timber or other forest products exceeds \$2 000 will be made only after advertisement for a period of 30 days or if in the opinion of the officer authorizing the sale the quantity value or other conditions justify a longer period and any sale of smaller appraised value will be advertised or informal bids solicited from possible purchasers if in the judgment of the officer authorizing the sale such action is deemed advisable

(b) If requested by Small Business Administration in accordance with the Act of July 18 1958 (72 Stat 384) the advertisement may state that an offering of timber or other forest products is set aside for competitive bidding by small-business concerns. When an advertisement provides for a set aside it will state whether bids from others will be considered if no valid bid is received from a small-business concern.

(c) The advertisement will include

(1) The location and estimated quantities of timber or other forest products offered for sale.

(2) The minimum acceptable stumpage or other Unit prices.

(3) The amount or rate of any required additional payments.

(4) The place where complete information on the offering may be obtained.

(5) The time and place at which (1) sealed bids will be opened publicly or (1) opportunity to make oral or written bids will be given by auction.

(6) The amount of deposit which each bidder must make or which must be made promptly by the successful bidder in an oral auction.

(7) The right to reject any and all bids.

(44 Stat 242 16 USC 616 sec 1 30 Stat 35 as amended 16 USC 476 551 Interpret or apply sec 8(c) 72 Stat 339 344 sec 1 30 Stat 35 as amended sec 1 33 Stat 628 sec 15 72 Stat 384 395 16 USC 476 472) [24 FR 2306 Mar 25 1959]

§ 221 9 Emergency sales

(a) Timber may be sold in amounts exceeding \$2 000 in value in advance of advertisement in cases of unusual emergency. Emergency sale contracts will require that the purchaser bid for the entire offering at not less than the appraised value and pay for all timber cut under the emergency contract at the rate or rates of the highest bona fide bid submitted.

(b) An unusual emergency exists if the applicant is in immediate need of timber for his own use or to meet urgent public needs or to maintain opportunities for gainful employment in the locality, or if immediate cutting is neces-

sary because of rapid deterioration of the timber. Emergency sale contracts will be approved by the officer having authority to approve sales of the total quantity being advertised, but Regional Foresters may require advance submission to them of all proposals to make emergency sales.

[18 FR 7193 Nov 13 1953]

§ 221 10 Awards of advertised timber

(a) Advertised timber will be awarded to the highest bidder upon satisfactory showing by him of ability to meet financial requirements and any other conditions of the sale offer unless

(1) Determination is made to reject all bids.

(2) Two or more bidders all of whom meet the requirements submit equal bids which are the highest bids in which case award may be by division of the sale or by the drawing of lots. Equal bids from parties having direct or indirect common control or association in logging processing or marketing may be consolidated to the extent deemed necessary by the awarding officer in order to give to any others who have bid the same amount an equitable opportunity in the division of the sale or in the drawing of lots.

(3) Award at the highest price bid to the purchaser under an emergency sale or division of the sale between such purchaser and the highest bidder may be required in the public interest because of the emergency or in equity because of investments necessarily made for logging the emergency sale timber.

(4) The highest bidder is notoriously or habitually careless with fire or has failed to comply satisfactorily with the requirements of previous contracts for national forest timber.

(5) Monopoly injurious to the public welfare would result from the control of large amounts of public or of public and private timber.

(6) The award would result in removing or materially lessening opportunities for gainful employment to local labor or would be against the interests of local users dependent on national forest timber or would cause the abandonment or

prevent the establishment of a local industry which should furnish a desirable permanent market for national forest products

(b) Any bidder or applicant for a sale may be required to furnish a statement of his relation to other bidders or operators including if desired by the supervisor or Regional Forester a certified statement of stockholders or members of the firm and the holders of bonds notes or other evidences of indebtedness so far as known so that the statement will show the extent of the interest of each in the bidder or applicant

(c) If the highest bid is not accepted and the sale is still deemed desirable all bids may be rejected and the timber re-advertised or if the highest bidder cannot meet the requirements under which the timber was advertised or the withholding of award to him is based on one or more of subparagraphs (4) (5) and (6) of paragraph (a) of this section award at the highest price bid may be offered to the next highest qualified bidder or to the other qualified bidders in order of their bids until the award is accepted by one or refused by all of the qualified bidders

[13 F R 7713 Dec 14 1948]

§ 221 11 Financial standing of applicant or bidder

When necessary in the judgment of the approving officer any applicant or bidder may be required to submit before expense is incurred in acting on the application or before award is made in response to a bid a satisfactory showing of financial ability and bidder may be required to show that he has or can obtain equipment and supplies suitable for logging and manufacturing the timber and for meeting the fire precautionary terms of the contract

[18 F R 7193 Nov 13 1953]

§ 221 12 Sale of previously advertised timber without further advertisement

Forest Officers may sell within their authorization without further advertisement at not less than the appraised value in quantities to suit purchasers any timber previously advertised for competitive bids but not sold because of

lack of satisfactory bids and any timber on uncut areas included in a contract which has been terminated by abandonment cancellation contract period expiration or otherwise if such timber would have been cut under the contract [22 F R 3562 May 22 1957]

§ 221 13 Payment in advance of cutting, refunds and transfer

(a) Timber and forest products must be paid for in advance of cutting under any sale contract or sale permit except that when the contract or permit so specifies payment may be made after the timber is cut and scaled provided the purchaser prior to cutting furnishes a bond with corporate surety satisfactory to the Forest Service or in lieu thereof deposits with a Federal depository through the Forest Service negotiable securities of the United States having face value not lower than the value of the timber to be cut before payment is made and accompanied by power of attorney and agreement authorizing the bond approving officer to sell or collect such securities if payment is not made for timber cut Sums deposited for payment in advance of cutting in excess of amounts found to be due the United States may be refunded to original depositors their local representatives or to successors in interest

(Sec 1 33 Stat 628 16 U S C 472) [21 F R 6070 Aug 14 1956]

§ 221 14 Performance bonds

The officer approving any timber sale contract may require the purchaser to furnish a performance bond for satisfactory compliance with its terms

[18 F R 7194 Nov 13 1953 as amended at 22 F R 3562 May 22 1957]

§ 221 15 Administration of sales

(a) No live timber shall be cut under any timber sale contract or permit until marked or otherwise designated for cutting by a forest officer

(b) The volume of national forest timber in a sale may be determined by scaling measuring or counting the logs or other products or by measuring the trees before cutting If the contract or permit provides for the determination of volume by tree measurement and the

timber has been paid for the marking or otherwise designating of the tree authorizes cutting and removal. Otherwise no timber cut under any contract shall be removed from the place designated until it has been scaled, measured or counted by a forest officer unless such removal is specifically authorized in the contract.

(c) No person except a forest officer shall stamp any timber belonging to the United States upon a national forest with the official marking ax or any instrument having a similar design or otherwise mark or designate such timber for cutting or removal.

(d) National forest timber sold on scale shall be scaled by the Scribner Decimal C Log Rule or if the advertisement and contract or permit so state by the International ¼ inch log rule by the International Decimal ¼ inch log rule or by the cubic volume rule each as used by the Forest Service. [18 F R 7194 Nov 13 1953]

§ 221 16 Modification of contract and performance by third party

(a) Timber sale contracts may be modified only when the modification will apply to unexecuted portions of the contract and will not be injurious to the United States. Modifications permitted by this section may be made by the officer approving the sale or his successor by his superior.

(b) No agreement permitting a third party to acquire the rights of a purchaser under a timber sale contract may be recognized and approved by the Forest Service except in writing signed by the officer approving the sale or his successor or superior officer. Such approval shall not relieve the purchaser of his responsibilities or liabilities under the timber sale contract and may be given only if (1) the third party is acceptable to the Forest Service as a purchaser of timber under the conditions and requirements then in effect for similar timber sales and assumes in writing all of the obligations to the Forest Service under the terms of the timber sale contract as to the uncompleted portion thereof or (2) the rights are acquired in trust as security and subject to such

conditions as may be necessary for the protection of the public interests. [18 F R 7194 Nov 13 1953]

§ 221 17 Cancellation of contracts

(a) Timber sale contracts may be canceled.

(1) For serious or continued violation of their terms.

(2) Upon application or with the consent of the purchaser when such action is of advantage to the United States or not prejudicial to its interests.

(3) Upon application of the purchaser if the condition of the timber has changed materially due to some cause such as a forest fire or insect infestation for which the purchaser is not responsible.

(b) Cancellation will be by the Chief Forest Service if the amount of the sale exceeded the Regional Forester's authorization and by the Regional Forester in all other cases.

[18 F R 7194 Nov 13 1953]

§ 221 18 Breach of contract

Action for breach of contract may be brought for violations of the sale contract or where damages to the United States from violation of the contract cannot be recovered otherwise. Such action will be brought only with the approval of the Chief Forest Service. [18 F R 7194 Nov 13 1953]

§ 221 19 Sales of naval stores cuppage

(a) So far as applicable the regulations governing timber sales will be followed in sales of naval stores cuppage.

(b) The Chief Forest Service is authorized to make such sales for any amount on any national forest in accordance with established policies for management of the national forests and to delegate this authority for amounts not exceeding 200 000 cups in any one sale to Regional Foresters. Regional Foresters may delegate this authority to supervisors for amounts not exceeding 40 000 cups in any one sale.

(c) The Chief may authorize Regional Foresters to formally approve naval stores contracts and related papers in sales exceeding 200 000 cups in which

the conditions of sale have been previously approved by him. Emergency sales will not be made

[18 F R 7194 Nov 13 1953]

§ 221 20 Sales of other forest products

(a) The Chief Forest Service is authorized to make sales of forest products not specifically covered by other regulations in accordance with established policies for management of the national forests. He may delegate with authority to redelegate this authority for amounts not exceeding \$100 000 00 in value in any one sale to Regional Foresters. All Forest Supervisors and all forest officers in charge of Research Centers may make such sales of not exceeding \$2 000 in value without special authorization and may delegate this authority to subordinate officers.

(b) So far as applicable the regulations governing timber sales will be followed in sales of other forest products not specifically covered by other regulations.

(c) The Chief Forest Service, after approval of conditions of sale, may authorize Regional Foresters formally to approve contracts and related papers properly falling under this section in sales exceeding the value which the Regional Forester has been authorized to make

(Sec 1 33 Stat 628 16 U S C 472) [23 F R 5039 July 2 1958]

§ 221 21 Sales of seized material

Seized material may be sold to the highest bidder under specific authority from the regional forester. If advertisement is impractical sales of material exceeding \$2 000 in value will be made on informal bids.

[13 F R 7714 Dec 14 1948 as amended at 17 F R 5368 June 13 1952]

§ 221 22 Sales at cost

(a) Mature dead and down timber will be sold upon application without advertisement in any appropriate amount to homestead settlers and farmers for domestic use on any homestead or farm at the actual cost of making and administering such sales. Each permit for such a sale will specify practicable methods of fire prevention cutting slash dis-

posal and other measures necessary to achieve the objectives of national forest timber disposal. The disposal of any part of such material for a money or other consideration or in exchange for labor services or commodities furnished the purchaser in connection with its cutting removal or manufacture or for any purpose except domestic use on the homestead or farm of the purchaser is prohibited. If any of the foregoing requirements are violated the sale will be terminated and the purchaser required to pay for all material cut at twice its appraised market value for stumpage.

(b) The regional forester will determine from time to time the cost per thousand feet board measure or other unit of making and administering such sales which amount will be used to determine the stumpage price for sales made under this section.

(c) Regional foresters may approve sales in appropriate amounts for the uses stated in this section and may authorize supervisors to make sales not exceeding 50 000 feet board measure or equivalent in any one sale. Supervisors may authorize rangers to make sales in any amount not exceeding 20 000 feet board measure or its equivalent in any one sale.

(37 Stat 287 16 USC 489) [13 F R 7714 Dec 14 1948]

§ 221 23 Timber given in exchanges

The Chief Forest Service is authorized to permit cutting of national forest timber obligated through approved exchanges under the acts of March 20 1922 (42 Stat 465 16 USC 485) and March 3 1925 (43 Stat 1215 16 USC 516) or other laws authorizing the exchange of land for national forest timber, and to delegate such authority to regional foresters. Cutting of exchange timber will be in accordance with the silvicultural protection and woods utilization requirements applicable to commercial sales of similar timber. The value of exchange timber will be determined by appraisals as in commercial sales.

[13 F R 7714 Dec 14 1948]

§ 221 24 Administrative use of national forest timber

(a) The Chief Forest Service is authorized to dispose of timber on the

national forests in any amount for administrative use by sale or without charge as may be most advantageous to the United States subject to the maximum cut fixed in accordance with established policies for management of the national forests. Such administrative use shall be limited to the following conditions and purposes:

(1) For construction, maintenance or repair of roads, bridges, trails, telephone lines, fences, recreation areas or other improvements of value for the protection of the administration of the national forests or other federal lands.

(2) For fuel in federal camps, buildings and recreation areas.

(3) For investigations of experimental use.

(4) For use in relief work conducted by public agencies.

(5) For disposal when necessary to protect the forest from injury or to improve conditions of growth.

(b) The Chief Forest Service may delegate and provide for redelegation of the authority obtained herein to subordinates in amounts fixed by him.

(Sec. 1-30 Stat. 35 as amended, 16 U.S.C. 551.)

§ 221 25 Administrative use for protection, stand improvement, or investigations, primarily of benefit to the timber stand.

(a) The Chief Forest Service may dispose of timber, the use or removal of which is necessary to protect the forest from injury or to improve conditions of growth or for experimental use by sale or without charge as may be most advantageous to the United States.

(b) This authority may be delegated to regional foresters by them to supervisors and supervisors and forest officers in charge of Research Centers are authorized and may delegate in each case for amounts not in excess of those which these officers are authorized to sell or delegate in commercial sales if payment is to be made for the timber and when no payment is required for amounts not in excess of the authorizations to these officers stated in § 221 24.

[13 F.R. 7714 Dec. 14, 1948.]

§ 221 26 Free use.

(a) Free use may be granted to bona fide settlers, miners, residents and prospectors for minerals for firewood, fencing, building, mining, prospecting and other domestic purposes. Free use of material to be employed in any business as by sawmill operators or proprietors of stores will be refused. The sale or exchange of timber or other forest products obtained under free use is prohibited.

(b) Free use will be granted to individuals primarily to aid in the protection and silvicultural improvement of the forests. Hence the material granted will, except in unusual cases, be restricted to dead insect-infested or diseased timber and thinnings. Other material may be granted in exceptional cases where its refusal would cause unwarranted hardship. On forests or parts of forests where limited supply or other conditions justify such action, the free use of green material may be refused.

(c) Supervisors may designate portions or all of national forests as free-use areas and may give public notice of their action. Settlers, miners, residents and prospectors for minerals may cut and remove from these free-use areas free of charge and without permit under such rules as may be prescribed by the district ranger to prevent fire risks, injury to remaining timber or confusion among users. Any dead timber or any green timber previously marked or designated by forest officers for the purpose, needed for their own use for domestic purposes. Similar material may be cut outside of a free-use area without permit in cases of emergency but the person taking such material shall promptly notify the district ranger, and small quantities of material needed by transients while in the forest may also be taken without permit, but the kinds of material so taken and the location and manner of cutting must be consistent with the purposes for which national forests are established. In all other cases permits will be required for green material.

(d) Forest officers whom the supervisor may designate are authorized to grant free use of timber to individuals up to \$20 in value in any one fiscal year.

Supervisors may grant permits for material not exceeding \$100 in value. Regional foresters may approve permits for larger amounts and in times of emergency may delegate this authority to supervisors for not over \$500 in value. Prior review by the Chief of the Forest Service will be given if the amount involved exceeds \$5 000 in value.

(e) Regional Foresters may authorize supervisors to permit the removal of specific classes of material without scaling or measurement.

(f) Free use will be granted to an owner of a mining claim located subsequent to July 23, 1955 or of a mining claim which is otherwise subject to Section 4 of the act of July 23, 1955, (69 Stat 367), if at any time said claim owner requires more timber for his mining operations in connection with that claim than is available on that claim because of Forest Service timber disposal therefrom subsequent to location of that claim. He will be granted, free of charge timber from the nearest national forest land which is ready for harvesting under the applicable management plan, substantially equivalent in kind and quantity to that estimated by the Forest Service to have been cut under Forest Service authorization from that claim subsequent to its location. Forest Officers may be delegated authority to grant amounts of timber not in excess of those which these Officers are authorized to sell in commercial sales.

[13 FR 7714 Dec 14 1948 as amended at 22 FR 3562 May 22 1957]

§ 221 27 Free use in Alaska

Bona fide settlers miners residents, and prospectors for minerals in Alaska may take free of charge green or dry timber from the national forests in Alaska for personal use but not for sale. Permits will be required for green saw timber. Other material may be taken without permit. The amount of material granted to any one person in one year shall not exceed 10 000 board feet of saw timber and 25 cords of wood or an equivalent volume in other forms. Persons obtaining material shall on demand forward to the supervisor a statement of the quantity taken and the location from which it was removed.

[13 FR 7715 Dec 14 1948]

§ 221 28 Free use by other branches of the Federal Government

(a) National forest timber will be granted free of charge to other branches of the Federal Government when authorized by law. Permits may be approved by forest officers for amounts not greater than they are otherwise authorized to sell.

(b) Permits for timber will require the cutting and removal to be done in accordance with the conditions in current timber sale contracts in order to preserve the living and growing timber, promote the younger growth, secure reproduction and protect the forest from fire or other destructive agencies. The permittee may be required to report to the supervisor the amount of timber by species actually cut or may be required to furnish scalers for work under the direction of the forest officers in charge or if authorized to provide funds for the employment by the Forest Service of scalers to scale or measure the timber cut. The permittee may be required to dispose of the slash as cutting proceeds or to employ men to work under the direction of a forest officer in disposing of the slash or if authorized to provide funds for the employment of men for slash disposal under the direction of a forest officer.

(38 Stat 1100 as amended 16 USC 492)
[13 FR 7715 Dec 14 1948]

§ 221 29 Timber settlement

(a) Permission may be granted to cut damage or destroy national forest timber without advertisement when necessary for the occupancy of a right-of-way or other authorized use of national forest land.

(b) Payment for timber of merchantable size and quality will be required at its appraised market value but at not less than applicable minimum prices established by Regional Foresters, and payment will be required for young-growth timber below merchantable size at its damage appraisal value.

(c) Notwithstanding the provisions of (b) of this section no payment will be required.

(1) For timber necessarily killed or cut in connection with land uses which are of substantial benefit to the national forests.

(2) For timber necessarily killed or cut and used by the permittee which would have been granted free under other applicable regulations

(3) For timber which will be cut by

the permittee which the Forest Service retains for sale in log or other product form

(Sec 1 30 Stat 35 as amended sec 1 33 Stat 628 sec 4 69 Stat 368 16 U S C 476 472 30 U S C 612) [22 F R 3562 May 22 1957]