

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 223****Sale and Disposal of National Forest System Timber; Appraisal of Timber for Land Exchange, Right-of-Way, or Other Authorized Use**

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: The Forest Service is amending regulations for appraising the value of timber under special circumstances. These regulations were reviewed under phase II of the President's Regulatory Reinvention Initiative and were determined to be repetitive and in need of revision. The intended effect of this technical amendment is to remove ambiguity and improve the usefulness of the rules by consolidating the content of similar rules that provide the Chief of the Forest Service appropriate appraisal methods for determining fair market value of timber on land exchanges; right-of-ways, or other authorized use.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Jim Naylor, Timber Management Staff, Forest Service, telephone: (202) 205-0858.

SUPPLEMENTARY INFORMATION:**Background**

The Organic Administration Act (16 U.S.C. 478) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) authorize the Secretary to allow occupancy and use of the national forests for egress or ingress, for right-of-ways, or other authorized uses.

The National Forest Management Act (16 U.S.C. 472a(a)) directs that all timber sold from National Forest System land be sold at not less than its appraised, or fair market, value. Therefore, all timber of merchantable size and quality sold in exchange for land or as timber cut for right-of-ways or for other authorized uses is appraised according to requirements set out in 36 CFR 223.60, Determining fair market value. Section 223.60 was amended February 14, 1996 (61 CFR 5684), to remove the residual value appraisal procedure as the primary method for determining fair market value. While the residual value appraisal method may still be used and currently is used by Region 10, it has been replaced primarily by the transaction evidence appraisal method used in other regions.

Currently, there are two rules that address the process for appraising the value of timber under special circumstances, one for exchange of timber—Section 223.65, and another for right-of-way or occupancy uses—Section 223.66. In this rulemaking, section 223.65 is being amended to include appraisal of timber for right-of-way or other authorized use, and § 223.66 is being removed.

When the residual value method was the primary method for appraising timber, direction was needed for the special circumstances of appraising the value of timber when an exchange of land, right-of-way, or other authorized use was granted. In order to ensure that the method of appraisal under these specific circumstances reflected fair market values, the rules at § 223.65 and § 223.66 included the following language: "Where residual value method is used, prices paid for comparable timber will be considered and the residual value adjusted accordingly." This statement allowed the use of transaction evidence (the prices paid for comparable timber) in determining the value of the timber. Since the amendment to § 223.60 states that "Valid methods to determine fair market value include, but are not limited to, transaction evidence appraisals, analytical appraisals, comparison appraisals, * * *" direction permitting the use of transaction evidence in determining the value of the timber is no longer needed in the revised § 223.65. Therefore, § 223.65 is being revised to state that "The value of the timber * * * is to be determined by the appraisal methods in § 223.60 of this part."

Regulatory Impact

This is a technical rule with no substantive effect; therefore, it is not subject to review under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. As a technical amendment, this final rule also is exempt from further analysis under Executive Order 12630, Takings Implications; the Unfunded Mandates Reform Act of 1995; the Paperwork Reduction Act of 1995; or Executive Order 12778, Civil Justice Reform.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting requirements, Timber sales.

Therefore, for the reasons set forth in the preamble, Part 223 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; 104 Stat. 714-726, 16 U.S.C. 620-620h, unless otherwise noted.

§ 223.65 [Amended]

2. Revise § 223.65 to read as follows:

§ 223.65 Appraisal of timber for land exchange; right-of-way, or other authorized use.

The value of timber in land exchange or the value of timber required to be cut for occupancy of a right-of-way or other authorized use of National Forest System land for which payment will be made is to be determined by the appraisal methods in § 223.60 of this part.

§ 223.66 [Removed and Reserved]

3. Remove and reserve § 223.66.

Dated: September 3, 1996.

David G. Unger,
Associate Chief.

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36 CFR Part 242**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100****RIN 1018-AD42****Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—1996-1997 Subsistence Taking of Fish and Wildlife Regulations; Correcting Amendments**

AGENCY: Forest Service, USDA. Fish and Wildlife Service, Interior.

ACTION: Correcting amendments.

SUMMARY: These corrections amend the Subsistence Management Regulations for Public Lands in Alaska (50 CFR part 100 and 36 CFR part 242, published in the Federal Register on July 30, 1996 (61 FR 39697)) implementing the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act of 1980.

EFFECTIVE DATES: The amendments to § _____.24 are effective August 1, 1996. The amendments to § _____.25 are effective August 1, 1996, through June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence