

## Forest Service, USDA

## § 223.115

(a) of this section, he may allow cancellation of the contract notwithstanding provisions therein or in § 223.116.

(c) The Chief, Forest Service, is authorized to reduce to 7 days the minimum time to advertise the sale of National Forest timber whenever he determines that—

(1) The sale of such timber will assist in the construction of any area of a State damaged by a major disaster,

(2) The sale of such timber will assist in sustaining the economy of such area, or

(3) The sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) Any request for relief under paragraph (a) or (b) of this section shall be made in writing to the Forest Supervisor having administrative responsibility for the land involved.

(Sec. 242 (a), (b), and (c), 84 Stat. 1756, 42 U.S.C. 4461)

### § 223.112 Modification of contracts.

(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 may be made by the officer approving the sale, by his successor, or by his superior, except as provided in § 223.110.

(b) Timber sale contracts awarded after October 1, 1995, that have been suspended for more than 90 days, during the normal operating season, at no fault of the purchaser, because of administrative appeals or litigation, that did not include contract provisions for rate redeterminations may be modified at the request of the timber sale purchaser to include a rate redetermination for the remaining unharvested volume to reflect significant decreases in market value during the period of delay. Rates in effect at the time of the suspension will be redetermined in accordance with the standard Forest Service methods in effect 45 days prior to the rate redetermination.

[42 FR 28252, June 2, 1977. Redesignated at 49 FR 2760-2761, Jan. 23, 1984, as amended at 69 FR 18814, Apr. 9, 2004]

### § 223.113 Modification of contracts to prevent environmental damage or to conform to forest plans.

Timber sale contract, permits, and other such instruments may be modified to prevent environmental damage or to make them consistent with amendments or revisions of land and resource management plans adopted subsequent to award or issuance of a timber sale contract, permit, or other such instrument. Compensation to the purchaser, if any, for modifications to a contract shall be made in accordance with provisions set forth in the timber sale contract. When determining compensation under a contract, timber payment rates shall be redetermined in accordance with appraisal methods in § 223.60 of this subpart.

[61 FR 64816, Dec. 9, 1996]

### § 223.114 Acquisition by third party.

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, 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—

(a) 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

(b) The rights are acquired in trust as security and subject to such conditions as may be necessary for the protection of the public interests.

### § 223.115 Contract extensions.

The term of any contract or permit shall not be extended unless the approving officer finds:

(a) That the purchaser has diligently performed in accordance with contract provisions and an approved plan of operation; or

(b) That the substantial overriding public interest justifies the extension.