DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 163

RIN: 1076-AC44

General Forestry Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this rulemaking action is to revise the General Forestry Regulations to implement the provisions of the National Indian Forest Resources Management Act enacted November 28, 1990.

The National Indian Forest Resources Management Act reaffirmed many aspects of the existing Indian forestry program and established new program direction for cooperative agreements, forest trespass, Secretarial recognition of tribal laws pertaining to Indian forest lands, Indian forestry program assessments, Indian forest land assistance accounts, tribal forestry programs, Alaska Native technical assistance and forestry education assistance.

EFFECTIVE DATE: November 6, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Stires, Forester, Billings Area Office, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana, 59101, Phone (406) 657–6358; or Mr. Terry Virden, Acting Chief, Division of Forestry, Department of the Interior, Bureau of Indian Affairs, Division of Forestry, 1849 C Street, NW, Mail Stop 4545 MIB, Washington, DC 20240, Phone (202) 208–6067.

SUPPLEMENTARY INFORMATION:

I. Background

The final rule has been developed with full participation and consultation of the affected Indian and Alaska Native public. Prior to drafting the proposed rule, public scoping meetings were announced and held in Minneapolis, Portland, Phoenix and Anchorage in February and March, 1991. Input from those meetings was considered and addressed in the rule. Additional consultation with the affected public was accomplished while drafting the rule by maintaining close communication with the Intertribal Timber Council (ITC) and including ITC members on the project steering committee and in project working groups.

Proposed regulations were published on January 27, 1994, at 59 FR 3952.

Following publication, a 60-day public comment period was held extending through March 28, 1994. Early in the comment period, copies of the proposed rule and the schedule of planned regional public comment meetings were provided to tribes and Alaska Native Corporations to encourage the maximum possible review and critique of the proposed rule. During the comment period, regional public comment meetings were held in Phoenix, Minneapolis, Portland, Anchorage, and Fairbanks. A total of 142 written or oral comments made at public comment meetings were received from individuals and attorneys representing tribes, tribal enterprises, and Federal agencies, as well as from individuals commenting on their own behalf. The comments and the Department's response are summarized below. Public comments are arranged by section of the proposed rule as printed in the Federal Register on January 27, 1994.

II. Review of Public Comments

1. *Comment:* The Regulatory Flexibility Act requires that the certification of no impact on a substantial number of small entities must be accompanied by a succinct statement explaining the certification. The proposed rule did not contain the required statement.

Response: The statement explaining the certification of no impact was unintentionally omitted from the Supplementary Information section of the published proposed rule. The statement explaining the certification has been included under Part III of the preamble, Findings and Certifications.

Subpart A—General Provisions

163.1 Definitions

2. *Comment:* The definition of advance payment should be dropped since advance payments and advance deposits are essentially used in the same way.

Response: The rule has not been revised because advance payments and advance deposits are not the same, are requirements of timber sale contracts, and must be addressed in regulations establishing policy and guidance for such contracts.

3. *Comment:* The 30-day payment requirement in the definition of advance payments is unnecessary.

Response: The rule has not been revised because the definition is made in reference to standard timber contracts and provisions of the definition must conform to the term as used in such contracts. 4. *Comment:* The definition of bid deposit should include the option to convert bid deposits to performance bonds and advance payments in timber sale contracts.

Response: The rule has not been revised because contracts are more appropriate than regulations for providing specific guidance on the disposition of bid deposits. The definition of bid deposit in § 163.1 of the rule does not preclude use of bid deposits for performance bonds or advance payments if so stipulated in timber contracts.

5. *Comment:* The term "expenditure plan" used in § 163.25(f) of the rule should clarify the type of plan required to budget and use forest management deductions.

Response: The rule has been revised to include a definition of expenditure plan in § 163.1 to clarify plan requirements.

6. *Comment:* In the definition of forest or forest land, the phrase "more or less dense" is ambiguous and unnecessary.

Response: The rule has not been revised because the wording of the definition is taken directly from 25 U.S.C. 3103(3) and is appropriate in the context used.

7. *Comment:* The definition of forest land management activities in § 163.1 of the rule should include the comprehensive list of such activities contained in 25 U.S.C. 3103(4).

Response: The definition of forest land management activities in § 163.1 of the rule has been revised to include the comprehensive list of forest land management activities contained in 25 U.S.C. 3103(4) to clarify activities addressed by the rule.

8. *Comment:* Include a definition of forest officer in § 163.1 of the rule.

Response: The rule has not been revised because forest officer is defined in the standard provisions used for all timber sale contracts. For ready reference, the definition of forest officer is the person of highest rank assigned to the supervision of forestry work at the Indian Agency having jurisdiction over the sale area, or his authorized representative.

9. *Comment:* The definition of forest products in § 163.1 of the rule is too broad for use in context with stumpage rate, and, therefore, may create confusion on basis of payment and accounting for proceeds from the sale of forest products.

Response: The rule has not been revised because the wording of the definition is taken directly from 25 U.S.C. 3103(6) and the definition is intentionally broad to encompass the many products from Indian forest land.