



**FOREST SERVICE MANUAL
NATIONAL HEADQUARTERS (WO)
WASHINGTON, DC**

FSM 2400 - TIMBER MANAGEMENT

CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

Amendment No.: 2400-2020-5

Effective Date: XXXXXX

Duration: This amendment is effective until superseded or removed.

Approved: TINA TERRELL
Associate Deputy Chief, NFS

Date Approved: xx/xx/20

Posting Instructions: Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document.

New Document	2460	22 Pages
Superseded Document(s) by Issuance Number and Effective Date	2460 (Amendment 2400-2002-2, 02/21/2002)	21 Pages

Digest:

2461.04a – Changes title from “Director of Forest and Rangelands, Washington Office” to “Washington Office, Director, Forest Management” and moves direction to FSM 2404.14.

2461.04b – Removes responsibilities of the Regional Forester and recodes to FSM 2404.15h.

2461.04c – Removes responsibilities of the Forest Supervisor and recodes to FSM 2404.16h.

2462.01 – Adds authority to grant free use to federally recognized Indian tribes.

2462.1 – Clarifies type of material granted free use.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

Digest--Continued:

2462.2 – Adds reference to FSM 2404.28 for maximum level of authority to grant free use. Adds free use to federally recognized Indian tribes.

2462.4 – Updates value of free use material that can be granted under 36 CFR 223.8.

2462.5 – Adds permit form to be used for free use.

2463.1 – Clarifies administrative use of timber.

2466 – Adds reference to FSH 2409.12b.

2466.01 – Adds regulatory authority for sale and disposal of seized forest product materials.

2466.02 – Adds reference to FSH 2409.12b.

2466.04 – Moves responsibility of Regional Forester and recodes to FSM 2404.15h.

2467 – Changes title from “Sales of Special Forest Products” to “Sales of Special Forest Products and Forest Botanical Products” and sets forth direction. Adds reference to forest botanical products throughout subsections.

2467.01 – Clarifies regulatory authority.

2468.04a – Removes responsibilities of Chief and recodes to FSM 2404.11.

2468.04b – Removes responsibilities of Regional Forester, Region 6 and recodes to FSM 2404.15i.

2468.04c – Removes responsibilities of Regional Foresters, Regions 3 and 5 and recodes to FSM 2404.15i.

2469.01 – Removes reference to Bankhead Jones Farm Act and recodes to FSM 2401.1. Adds authority to grant free use of forest products to Indian tribes.

2469.5 – Established Code, caption, and sets forth direction on “Disposal of Forest Products Under Good Neighbor Authority Agreements.”

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

Table of Contents

2461 - DISASTER RELIEF	5
2461.01 - Authority.....	5
2461.02 - Objective.....	5
2461.03 - Policy.....	5
2461.04 - Responsibility.....	5
2461.04a - Washington Office, Director, Forest Management.....	5
2461.04b - Regional Forester.....	5
2461.04c - Forest Supervisor.....	6
2461.04d - Contracting Officer.....	6
2462 - FREE USE OF TIMBER	6
2462.01 - Authority.....	6
2462.02 - Objective.....	6
2462.03 – Policy.....	6
2462.04 - Responsibility.....	7
2462.1 - Type of Material Granted for Free Use to Individuals.....	7
2462.2 - Applicants Granted Free Use.....	7
2462.3 - Use of Material.....	9
2462.4 - Amount of Material.....	9
2462.5 - Resource Protection and Accountability Needs.....	9
2463 - ADMINISTRATIVE USE	10
2463.01 - Authority.....	10
2463.02 - Objective.....	10
2463.03 - Policy.....	10
2463.04 - Responsibility.....	10
2463.1 - Conditions of Use.....	11
2464 - TIMBER SETTLEMENT	11
2464.01 - Authority.....	12
2464.02 - Objective.....	12
2464.03 - Policy.....	12
2464.04 - Responsibility.....	12
2464.1 - Conditions of Use.....	12
2464.11 - Payment Required.....	12
2464.12 - Payment Not Required.....	13
2465 - TIMBER ON FEDERAL AND NON-FEDERAL LANDS ACQUIRED IN EXCHANGE	13
2465.01 – Authority.....	13
2465.02 - Objective.....	14
2465.03 - Policy.....	14
2465.1 - Timber Value.....	14
2466 - SALES OF SEIZED AND TRESPASS MATERIALS	14
2466.01 - Authority.....	14

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2466.02 - Objectives	15
2466.03 - Policy	15
2466.04 - Responsibility	15
2466.1 - Property Value.....	15
2466.2 - Trespass Materials	15
2467 - SALES OF SPECIAL FOREST PRODUCTS AND FOREST BOTANICAL PRODUCTS	15
2467.01 - Authority.....	15
2467.02 - Objective.....	16
2467.03 - Policy	16
2467.04 - Responsibility	16
2467.1- Conditions of Use for Miscellaneous Forest Products	16
2468 - COOPERATIVE AND FEDERAL SUSTAINED-YIELD UNITS	16
2468.01 - Authority.....	16
2468.04 - Responsibility	18
2468.04a - Chief.....	18
2468.04b - Regional Forester, Region 6	18
2468.04c - Regional Foresters, Regions 3 and 5	18
2468.05 - Definitions	18
2468.1 - Designation of Sustained-Yield Units	18
2468.11 - Cooperative Sustained-Yield Units	18
2468.12 - Federal Sustained-Yield Units.....	19
2468.2 - Designation of Purchasers	19
2468.3 – Administration of Cooperative or Federal Sustained Yield Units.....	19
2469 - OTHER TIMBER PRODUCT DISPOSAL AUTHORITIES AND USES	21
2469.01 - Authority.....	21
2469.1 - Timber Property Sales	22
2469.2 - Forest Product Uses on Lands of Unsettled Status.....	22
2469.3 - Forest Product Uses on Donated Lands.....	22
2469.4 - Forest Product Disposal on Lands Administered by Forest Service, but Without Full National Forest Status	22

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2461 - DISASTER RELIEF

2461.01 - Authority

Provisions of section 418 of the Disaster Relief Act of 1974 (Title 42, United States Code, section 5188 (42 U.S.C. 5188)) and section 223.111 of Title 36 of the Code of Federal Regulations (36 CFR 223.111) authorize the Chief, within disaster areas designated by the President, to:

1. Bare the increased cost of repairing physical damage to roads as specified in the Act;
2. Cancel the contract if the physical damage to roads is so great that repair is not practicable; and
3. Reduce advertising time of timber sales to seven days when the sale of such timber will aid in the construction of an area within the state damaged by a major disaster or sustain the economy of such damaged area, or when necessary to salvage the value of damaged timber in such major disaster area.

The act applies to areas that have experienced major disasters including, but not limited to, hurricanes, storms, floods, wind-driven waters, explosions, fires, and volcanic eruptions, of such severity and magnitude that effective response is beyond the capabilities of a State and local governments, and that federal assistance is necessary.

2461.02 - Objective

To provide assistance to states, local governments, and timber purchasers when major disasters are declared under the Disaster Relief Act.

2461.03 - Policy.

Use existing timber sale regulations whenever possible to sell timber under disaster relief conditions.

2461.04 - Responsibility

2461.04a - Washington Office, Director, Forest Management,

Refer to FSM 2404.14.

2461.04b - Regional Forester

Refer to FSM 2404.15h.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2461.04c - Forest Supervisor

Refer to FSM 2404.16h.

2461.04d - Contracting Officer

The Contracting Officer has the delegated authority and responsibility to:

1. Accept requests for assistance and approve assistance to purchasers where the cost of repairing major physical damage to roads meets the conditions set forth in FSH 2409.18, section 81.1; and
2. Accept termination requests from purchasers and, after authorization from the Chief, terminate contracts where the physical damage to roads is so great that restoration, construction or reconstruction is not practicable.

2462 - FREE USE OF TIMBER

2462.01 - Authority

Free wood may be made available from National Forests under the specific conditions set forth in Title 36, Part 223 of the Code of Federal Regulations as follows:

1. §223.5 Scope of free use granted to individuals.
2. §223.6 Cutting and removal of timber in free use areas.
3. §223.7 Provisions for free use of timber outside free use areas.
4. §223.8 Delegations of authority to approve free use by individuals.
5. §223.9 Free use to owners of certain mining claims.
6. §223.10 Free use to Alaskan settlers, miners, residents and prospectors.
7. §223.11 Free use to other federal agencies.
8. §223.15 Provision of trees, portions of trees, or other forest products to Indian tribes for traditional or cultural purposes.

2462.02 - Objective

The Forest Service may provide timber and other forest products free of charge for various reasons stated in the regulations listed above and to aid in the protection and silvicultural improvement of individual National Forests.

2462.03 — Policy

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

Dispose of timber by free use in accordance with specific circumstances identified in FSM 2462.2.

2462.04 - Responsibility

See FSM 2404.2 and 36 CFR 223.8 for delegation of authority and assignment of responsibility by organizational level.

2462.1 - Type of Material Granted for Free Use to Individuals

Restrict free use of convertible products to dead, insect-infested, or diseased timber when the availability and suitability of such material meets the needs of free-use applicants (36 CFR 223.5). In the absence of such material or where a need exists for timber stand improvement, allow for free use of green material. Forest Supervisors may designate free-use areas where compatible with land management plans. Within such free-use areas, any dead timber or any green timber previously marked or designated by forest officers may be cut and removed for personal use for domestic purposes. (36 CFR 223.6)

2462.2 - Applicants Granted Free Use

Refer to FSM 2404.28, Exhibit 01 for maximum level of authority to approve free use.

1. General Terms. Where free use is appropriate, grant free use to applicants without regard to race, creed, color, national origin, age, handicap, or sex, and without restrictions regarding the wealth of the users.

2. Free Use to Settlers, Miners, Residents, and Prospectors. Provide free material suitable for fencing, building, mining, prospecting, and other domestic purposes only to bona fide settlers, miners, residents, and prospectors for minerals. To qualify for this free use, an individual must live in the United States and live under such conditions that the resident's association with the forest appears similar to that of a settler, prospector, or miner.

3. Free Use to federally recognized Indian tribes for traditional and cultural purposes. In accordance with 36 CFR 223.15, provide trees, portions of trees, or forest products to federally recognized Indian tribes free of charge for traditional and cultural purposes. The trees, portions of trees, or forest products provided cannot be used for commercial purposes (FSH 2409.18, sec. 82.5).

4. Emergency Situations. In cases of unusual need, especially when a major public disaster is declared pursuant to the Disaster Relief Act or in other emergencies, grant free use for timber and other forest products normally disposed of by sale. Permit free use within or outside free use areas subject to 36 CFR 223.6 and 36 CFR 223.7. Define the area and time period for which the unusual need is applicable based on the declaration establishing the disaster or emergency.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

5. Free Use in Connection with Mining Claims. When available, grant free-use timber to the owner of a mining claim in this category upon request and in accordance with 36 CFR 223.9. In these cases, the claimant may receive timber substantially equivalent in kind and quantity to that which the Forest Service estimates was cut from the claim under Forest Service authorization subsequent to its location (FSM 2813.13).

The United States has the right to manage and dispose of the vegetative surface resources, including timber and forest products, on unpatented mining claims located on and after July 23, 1955 in accordance with 36 CFR 223.14.

6. Free Use to Alaskan Settlers, Miners, Residents, and Prospectors. Bona fide settlers, miners, residents, and prospectors for minerals in Alaska may take timber from the National Forests in Alaska free of charge for personal use, but not for resale (36 CFR 223.10). Although 36 CFR 223.10 refers to dried timber, dead timber should be considered synonymous with dried timber when implementing this regulation.

7. Free Use to Other Federal Agencies.

a. Regional Foresters may grant free use of National Forest System timber to other agencies of the Federal Government (36 CFR 223.11). However, before granting free use to other Government branches, consider all phases of administration and protection of individual National Forests and the requirements of the National Environmental Policy Act (NEPA), as well as the demands upon the available supply to dependent communities or users.

b. Line Officers may grant permission to the Departments of Army, Navy, and Air Force to take timber from individual National Forests or Grasslands for the use of these Departments. Those armed forces departments must ensure compatibility with the administration of the National Forest System for the established purposes. Line Officers may also grant permission for taking of timber from individual National Forests or Grasslands for the construction of Government railways or other Government works in Alaska (43 Stat. 1197; 45 Stat. 993; 16 U.S.C. 492).

c. Line Officers may grant timber to the Bureau of Reclamation for the construction of irrigation works (43 U.S.C. 420).

d. On military land or other reservations located within National Forests, cutting of timber for use by other Government agencies may be allowed without formal permit. Insofar as practicable, determine the needs of the other agency in advance, and make arrangements for timber harvest in the places and under conditions that promote or cause the least interference with Forest Service purposes.

8. Transients. Regulations permit the cutting or use of trees and wood without charge by transients for their needs for campfires and similar uses (36 CFR 223.7).

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

9. Firewood. Any applicant may receive consideration for free firewood regardless of residency. Free use of firewood should be authorized only when objectives (FSM 2462.02) are unlikely to be met through use of charge permits.

2462.3 - Use of Material

Those who receive free-use wood or other forest products may use it for cutting, manufacturing, handling, or other processing, but not for resale.

2462.4 - Amount of Material

Except for Alaska, the amount of free-use material an individual can remove in any one fiscal year is limited to \$200 in value (36 CFR 223.8).

Bona fide settlers, miners, residents, and prospectors for minerals in Alaska may take free of charge green and dried (dead) timber from the National Forests in Alaska for personal use but not for resale. The amount of material granted to any one person in one year shall not exceed 10,000 board feet of sawtimber and 25 cords of wood, or an equivalent volume in other forms (36 CFR 223.10).

There are no dollar or volume limits on how much free use material may be disposed of under the following free use authorities:

1. 36 CFR 223.9 Free use to owners of certain mining claims
2. 36 CFR 223.11 Free use to other federal agencies
3. 36 CFR 223.15 Provision of trees, portions of trees, or other forest products to Indian tribes for traditional or cultural purposes

Line Officers may dispose of free-use material up to the limits of their delegated authority stated in FSM 2404.28. Regional Foresters and Forest Supervisors may redelegate authorities to subordinate positions on specific units only by formal correspondence to named individuals (FSM 2404.28).

2462.5 - Resource Protection and Accountability Needs

Authorize free-use on form FS-2400-0008 Forest Products Free Use Permit. Free-use permits must contain provisions to protect all resources. Administer permits to ensure this protection and to ensure that the permittee understands the requirement to follow, the terms of the permit, and the consequences for not following permit terms.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

When specifying measurement and accountability requirements, Forest Officers must provide sufficient documentation to purchasers and permittees to satisfy all State and local laws and regulations for the movement of forest products on public roads.

Forest Officers should estimate the volume or obtain the amount of timber granted for free-use from the permittee, except as provided by 36 CFR 223.8(b).

2463 - ADMINISTRATIVE USE

2463.01 - Authority

Forest Officers may dispose of forest products by administrative use (36 CFR 223.2).

2463.02 - Objective

To permit disposal of timber when it meets one of the following five conditions:

1. For construction, maintenance or repair of roads, bridges, trails, telephone lines, fences, recreation areas or other improvements of value for the protection or the administration of Federal lands.
2. For fuel in various types of camps operated by the Forest Service or other Federal agencies.
3. For research and demonstration projects, even though such use may not directly apply to a specific National Forest.
4. For use in disaster relief work conducted by public agencies, even when no direct benefit results to the National Forest.
5. For disposal when removal is desirable to enhance or protect multiple uses of National Forest System lands.

2463.03 - Policy

Forest Officers shall ensure that sound justification exists and is documented for disposing of timber by administrative use, rather than by using commercial sale procedures.

2463.04 - Responsibility

See FSM 2404.2 for delegation of authority and assignment of responsibility by organizational level. Forest Officers shall designate cutting areas and mark or designate the trees for removal, as in regular timber sales.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2463.1 - Conditions of Use

Permit deviations from practices prescribed in other forms of timber use when cutting is needed for administrative use, including to achieve research objectives, or when removal of timber is needed to protect the forest from injury or improves conditions of growth. All disposal of timber for administrative use must follow applicable laws and regulations and prescribed fiscal and reporting procedures (FSM 4060). Research natural areas and experimental forests fall under the guidance of Research Station Directors.

1. Free Administrative Use. Timber may be removed without charge if there are compensating benefits to the Government. Such benefits should be documented in the official project file. If this is not the case, it should be sold in accordance with paragraph 2 of this section.

2. Administrative Use Sales.

a. Determining Value. Use appropriate methods for determining value for administrative use timber. Where applicable these may include appraisal by comparison or the use of standard rates (FSM 2420.3). When it is determined that administrative timber has a market value an appraisal should be conducted. Follow the procedures in FSM 2420 and FSH 2409.18, chapter 40 to establish fair market value. In appraising administrative use sales the Appraiser shall consider any items of cost or value that are unusual because of the nature of the operation. Charge rates less than the established minimum rates if the appraisal so indicates. If the appraisal indicates no market value exists, provide the material under free administrative use (par. 1).

b. Advertising. Advertise for a minimum of 30 days those administrative use sales worth more than \$10,000 in appraised value. See 36 CFR 223.81 for procedures to advertise for periods less than 30 days.

3. Disposal of Cut Timber Not Utilized. Unutilized timber cut in clearings for improvements, timber sales, or timber stand improvement projects may be subsequently disposed of by sale or other form of timber use as opportunity occurs. When practicable, require cooperators to take measures to prevent deterioration of such timber by decking or other means.

2464 - TIMBER SETTLEMENT

Timber settlement is the process of compensating the United States for timber cut or rendered unusable for other purposes incidental to some lawful use of National Forest System land. This is usually, but not always, associated with activities performed under a special use permit. Examples include, but are not limited to, timber cut in ski areas, clearing a road right-of-way to a private inholding and cutting trees around recreational residences.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2464.01 - Authority

Forest Officers may grant a permittee the right to cut, damage, or destroy National Forest System timber or other forest products in conjunction with an authorized occupancy of a right-of-way or other use of National Forest System land (36 CFR 223.12).

2464.02 - Objective

To account and receive payment for timber cut, damaged, killed, or destroyed on National Forests and Grasslands in connection with the occupancy of land under permit or easement.

2464.03 - Policy

Use timber settlement procedures outlined in this section to sell and remove the timber or other products, only when commercial sale procedures are not expected to meet the objective.

Examples include:

1. Timber harvest and removal by commercial sale would not meet the required time limits.
2. Sale of logs or other products felled, bucked, and decked incidental to the clearing require prompt removal to allow continuation of the project.

2464.04 - Responsibility

See FSM 2404.2 for delegation of authority and assignment of responsibility by organizational level. Forest Officers must consider their authorization to sell timber and decide whether to charge for the timber and at what rates. They have the responsibility to:

1. Determine the approval status of the special use or occupancy permit.
2. Base the decision either to provide free-use or charge for the material on:
 - a. The benefit to the individual National Forest and
 - b. Whether the permittee would otherwise qualify for free-use.

2464.1 - Conditions of Use

2464.11 - Payment Required

Require payment for:

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

1. Timber of merchantable size and quality that the permittee cuts or destroys incidental to any authorized use of National Forest System land, except as stated in FSM 2464.12.
2. Cutting and destroying young growth below merchantable size unless analysis shows an insignificant volume or value.

2464.12 - Payment Not Required

Do not charge for timber cut or destroyed in a timber settlement when:

1. The timber cut or destroyed provides benefits to the individual National Forest (such as clearing for an airstrip, for resource improvement, or for recreational development) and the products removed are not being used for a commercial purpose, including use in construction or as fuelwood.
2. The permittee qualifies for free-use or free administrative use.
3. The timber is decked for sale by the Forest Service under competitive bidding or the Forest Service retains the material for sale in log or other product form.
4. The trees are too young or too small to be used as timber and one of the following applies:
 - a. The trees cut or destroyed provide benefits to the National Forest System and there is a permanent change in land use from timber production.
 - b. They form an understory to a well-stocked over story stand and would not survive harvest of the over story trees.
 - c. They are located on a poor site, are of doubtful merchantability, and are determined to have no value.
 - d. The trees are located in scattered patches interspersed with merchantable timber and comprise, in the aggregate, less than 25 percent of the tract area, and contribute no value to the tract.
 - e. Analysis shows the trees have an insignificant volume or value.

2465 - TIMBER ON FEDERAL AND NON-FEDERAL LANDS ACQUIRED IN EXCHANGE

2465.01 – Authority

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

Under the provisions of 36 CFR 223.4, the Chief may authorize exchange of timber for land under laws authorizing the exchange of National Forest System land or timber.

Regional Foresters may agree to the removal of timber from lands acquired by the Government. In these instances, this can occur subject to provisions at 36 CFR 251.14.

2465.02 - Objective

To assist in the acquisition of lands by exchanging Federal timber for non-Federal lands and to allow the selling of timber on lands offered to the Government.

2465.03 - Policy

Forests are permitted to cut and remove National Forest System timber granted in an exchange using the practices and requirements for commercial sales of the same type of timber.

2465.1 - Timber Value

Appraise the timber as if for a commercial sale, except do not apply a roll-back factor in the transaction evidence appraisal. Follow guidance in FSH 2409.18, chapter 40. An appraisal report must accompany a case file when submitting the case for approval or recommendation to the Secretary of Agriculture.

2466 - SALES OF SEIZED AND TRESPASS MATERIALS

Defer to the appropriate Law Enforcement personnel whenever a potential need is identified to seize timber or other forest products.

Follow the procedures in FSH 2409.12b, chapter 40 when selling or disposing seized and trespass materials.

2466.01 - Authority

The authority for sale and disposal of seized forest product materials is derived from 36 CFR 223.3, which states: "Seized material (trees, portions of trees or other forest products cut in trespass from National Forest System lands) may be sold to the highest bidder under specific authorization from the Regional Forester. If advertisement is impractical, sale of material with an appraised value of less than \$10,000 will be made on informal bids".

Delegation of authority for the sale of forest products the Forest Service has seized under 36 CFR 223.3 or is selling as innocent trespass material under 36 CFR 223.3 are set out at FSM 2404.28.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2466.02 - Objectives

Refer to FSH 2409.12b, chapter 40.

2466.03 - Policy

Sell seized material using the normal timber sale procedures expected to recover the highest value for the Government. Refer to FSH 2409.12b, chapter 30.

2466.04 - Responsibility

Refer to FSM 2404.15h.

2466.1 - Property Value

When the United States seizes timber in manufactured form, the selling price usually exceeds the stumpage rate because of whole or partial preparation for market. The excess amount constitutes property value that has been increased due to processing. Handle this property value according to the guidelines set out in FSM 2469.

2466.2 - Trespass Materials

Defer to the appropriate Law Enforcement personnel whenever a potential trespass involving cutting or removal of timber or other forest products is identified.

To recover values due the Government, add the material to an existing contract with the trespasser or sell the material to the trespasser in a new contract, if all the following conditions are met:

1. Trespass is free from criminal intent, maliciousness, and gross carelessness as determined by Forest Service Law Enforcement;
2. The party has not previously committed timber trespass on a National Forest; and
3. The timber value does not exceed \$10,000.

2467 - SALES OF SPECIAL FOREST PRODUCTS AND FOREST BOTANICAL PRODUCTS

2467.01 - Authority

Forest Officers may sell other forest products including forest botanical products under provisions set out at 36 CFR 223.1. Note although 36 CFR, Part 223, Subpart G - Special Forest

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

Products and Subpart H - Forest Botanical Products appear in the CFR, implementation of those regulations is delayed indefinitely pursuant to the notice at 74 FR 26091 on June 1, 2009.

2467.02 - Objective

To sell other forest products and forest botanical products where it would serve local needs and meet land management objectives.

2467.03 - Policy

Use management measures that perpetuate or increase the production of miscellaneous forest products and forest botanical products within applicable objectives, standards, and guidelines of the Forest land and resource management plan. Recover the fair market value of such products when it is practicable to do so.

2467.04 - Responsibility

See FSM 2404.15h for Regional Forester responsibility.

2467.1- Conditions of Use for Miscellaneous Forest Products

Conditions for use of special forest products and forest botanical products are set forth in FSH 2409.18, chapter 80.

2468 - COOPERATIVE AND FEDERAL SUSTAINED-YIELD UNITS

2468.01 - Authority

16 U.S.C. 583: Establishment of sustained-yield units to stabilize forest industries, employment, communities and taxable wealth. In order to promote the stability of forest industries, of employment, of communities, and of taxable forest wealth, through continuous supplies of timber; in order to provide for a continuous and ample supply of forest products; and in order to secure the benefits of forests in maintenance of water supply, regulation of stream flow, prevention of soil erosion, amelioration of climate, and preservation of wildlife, the Secretary of Agriculture and the Secretary of the Interior are severally authorized to establish by formal declaration, when in their respective judgments such action would be in the public interest, cooperative sustained-yield units which shall consist of federally owned or administered forest land under the jurisdiction of the Secretary establishing the unit and, in addition thereto, land which reasonably may be expected to be made the subject of one or more of the cooperative agreements with private landowners authorized by section 583a of this title.

16 U.S.C. 583a: Cooperative agreements with private owners; privileges of private owners; recordation of agreements. The Secretary of Agriculture, with respect to Forest land under his jurisdiction, and the Secretary of the Interior, with respect to forest land under his jurisdiction,

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

are severally authorized, for the purposes specified in section 583 of this title, to enter into cooperative agreements with private owners of Forest land within a cooperative sustained-yield unit, established pursuant to said section, providing for the coordinated management of such private forest land and of federally owned or administered Forest lands within the sustained-yield unit involved. Each cooperative agreement may give the cooperating private landowner the privilege of purchasing without competitive bidding at prices not less than their appraised value, subject to periodic readjustments of stumpage rates and to such other conditions and requirements as the Secretary may prescribe, timber and other forest products from federally owned or administered forest land within the unit, in accordance with the provisions of sustained-yield management plans formulated or approved by the Secretary for the unit; shall limit the time, rate, and method of cutting or otherwise harvesting timber and other forest products from the land of the cooperating private landowner, due consideration being given to the character and condition of the timber, to the relation of the proposed cutting to the sustained-yield plan for the unit, and to the productive capacity of the land; shall prescribe the terms and conditions, but not the price, upon which the cooperating private landowner may sell to any person timber and other forest products from his land, compliance by the purchaser with such conditions to be required by the contract of sale; shall contain such provisions as the Secretary deems necessary to protect the reasonable interest of other owners of Forest land within the unit; and shall contain such other provisions as the Secretary believes necessary to carry out the purposes of this subchapter.

Each cooperative agreement shall be placed on record in the county or counties in which the lands of the cooperating private landowner covered thereby are located, and the costs incident to such recordation may be paid out of any funds available for the protection or management of federally owned or administered Forest land within the unit. When thus recorded, the agreement shall be binding upon the heirs, successors, and assigns of the owner of such land, and upon purchasers of timber or other forest products from such land, throughout the life of such cooperative agreement.

16 U.S.C. 583b: Establishment of sustained-yield units to stabilize sale of timber and forest products. The Secretary of Agriculture and the Secretary of the Interior are further severally authorized, whenever in their respective judgments the maintenance of a stable community or communities is primarily dependent upon the sale of timber or other forest products from federally owned or administered forest land and such maintenance cannot effectively be secured by following the usual procedures in selling such timber or other forest products, to establish by formal declaration for the purpose of maintaining the stability of such community or communities a sustained-yield unit consisting of Forest land under the jurisdiction of the Secretary establishing such unit, to determine and define the boundaries of the community or communities for whose benefit such unit is created, and to sell, subject to such conditions and requirements as the Secretary believes necessary, federally owned or administered timber and other forest products from such unit without competitive bidding at prices not less than their appraised values, to responsible purchasers within such community or communities.

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

2468.04 - Responsibility

See FSM 2404.28 for delegations of authority to sell and dispose of timber and other forest products from Federal sustained-yield units.

2468.04a - Chief

Refer to FSM 2404.11.

2468.04b - Regional Forester, Region 6

Refer to FSM 2404.15i.

2468.04c - Regional Foresters, Regions 3 and 5

Refer to FSM 2404.15i.

2468.05 - Definitions

Cooperative sustained-yield units. A management unit that includes private timberlands and intermingled, adjacent, or otherwise logically related National Forest timberlands that, together, operates on a sustained basis.

Federal sustained-yield units. An area of Federally owned or administered land under the jurisdiction of the Forest Service that operates as a sustained-yield unit.

2468.1 - Designation of Sustained-Yield Units

Do not establish new Federal or cooperative sustained-yield units. Examine the desirability of the further continuance of established Federal sustained-yield units, at least at 10-year intervals. Base subsequent decisions on continuance of any Federal sustained-yield unit on data gathered from investigations and on information presented at public hearings.

Permit exception to the advertising requirement in section 14(d) of the National Forest Management Act of 1976 (90 Stat. 2949) with respect to the sale of timber through competitive bidding. Unrestricted competitive bidding may endanger or impair the stability of timber-dependent communities. Unrestricted bidding may also make it impossible to coordinate management of intermingled, or otherwise related, public and private timber.

2468.11 - Cooperative Sustained-Yield Units

The Shelton Cooperative Sustained-Yield Unit on the Olympic National Forest, Pacific Region (R6), is the only cooperative sustained-yield unit in existence. A cooperative agreement between

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

the United States and the Simpson Logging Company, consummated December 12, 1946 and extending through December 31, 2046, provides direction and operating procedures.

2468.12 - Federal Sustained-Yield Units

The existing Federal sustained-yield units include:

1. Vallecitos Unit, Carson National Forest, Southwestern Region (R3), established January 1, 1948.
2. Big Valley Unit, Modoc National Forest, Pacific Southwest Region (R5), established January 27, 1950.
3. Lakeview Unit, Fremont National Forest, Pacific Northwest Region (R6), established October 10, 1950.

2468.2 - Designation of Purchasers

Line Officers may competitively sell National Forest System timber in a Federal sustained-yield unit to any operator of a plant or to any logging operator who agrees to comply with the stipulations of the sustained-yield unit policy contained in the Chief's authorization for the sustained-yield unit. Include applicable provisions of the sustained-yield unit policy in timber sale contracts offered within the unit.

When only one operator meets the conditions in the unit policy statement for an approved responsible purchaser, Line Officers may sell timber to that operator without competition.

Where desirable, provide for division of the allowable sale quantity of timber between two or more approved purchasers, and designate the share of the allowable sale quantity that each purchaser shall receive.

2468.3 – Administration of Cooperative or 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 U.S.C. 583–5831), the 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 cooperative sustained yield unit; or, if the approved sustained yield unit consists entirely of federally owned or administered Forest land

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

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,

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

(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 seven 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 base 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.

2469 - OTHER TIMBER PRODUCT DISPOSAL AUTHORITIES AND USES

2469.01 - Authority

In addition to the following, refer to FSM 2401.1.

1. Forest Products Disposal on Non-National Forest System Lands Administered by Forest Service. See the terms of the cooperative agreement that provides for Forest Service administration of Non-National Forest System Lands for methods to dispose of forest products from those lands.

2. Forest Products Disposal on Reclamation Withdrawals. The Memorandum of Understanding between the Forest Service and the Bureau of Reclamation (FSM 1531.53a) guides management of National Forest System lands within reclamation withdrawals.

3. Forest Products Disposal on Power Withdrawals. Public land laws reserve from disposition those National Forest System lands withdrawn or classified for power purposes. Any uses made of such lands subsequent to the withdrawal are subject to future use of power purposes. The Forest Service can use, or authorize others to use, resources on power withdrawal subject to the dominant use for power purposes. The Forest Service assumes responsibility for

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

the salvage of timber when clearing an area for Federal Power Commission licensed projects on National Forest System land.

4. Forest Products Disposal on Flood Control Projects and National Forest System Lands Used for Defense. FSM 1533 contains a Memorandum of Agreement concerning National Forest System land withdrawn for water development purposes of the Corps of Engineers of the Department of the Army (FSM 1533.21) and Joint Policy Statements between the Department of Agriculture and the Departments of the Air Force, Army, and Navy (FSM 1533.1) relating to the use of National Forest System lands for defense. Forest product uses authorized by the Forest Service must agree with the special-use permit issued to the military for defense purposes on National Forest System land.

5. Forest Products Disposal to Federally Recognized Tribes. Section 8105 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, 122 Stat. 1651), also known as 2008 Farm Bill, authorizes the Forest Service to provide free of charge to Indian tribes trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes as set forth in 36 CFR 223.15. The trees, portions of trees, or forest products provided shall not be used for commercial purposes.

2469.1 - Timber Property Sales

See FSH 2409.18, section 56.3 for direction on timber property sales.

2469.2 - Forest Product Uses on Lands of Unsettled Status

The Regional Forester may permit forest product uses on lands with unsettled or clouded titles only to protect the public interest. If possible, reach an agreement in writing with the holder of the adverse claim of title providing for the disposal of the products and the retention of the payments in a suspense account until settlement of the status of the land.

2469.3 - Forest Product Uses on Donated Lands

Handle forest product uses on lands donated to the United States for National Forest purposes in the same manner as on other National Forest System lands, except as modified by the provisions of the specific acts under which the lands were donated.

2469.4 - Forest Product Disposal on Lands Administered by Forest Service, but Without Full National Forest Status

Refer to FSM 2403.1 for policy pertaining to verifying status of timber ownership. Based on a check of the land status records, determine if there are special circumstances on how products and receipts are accounted for. Examples where this may be the case include the Oregon and California (O&C) lands, Quinault Tribal Lands, other Treaty lands, or any other lands with

FSM 2400 - TIMBER MANAGEMENT
CHAPTER 2460 - USES OF TIMBER OTHER THAN COMMERCIAL TIMBER SALES

restrictions or reservation. The Regional Forester shall obtain the advice of the Field Representative of the Office of the General Counsel if disposal and accounting authorities are unclear.