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Commercial timber sale process

DEPARTMENT OF NATURAL RESOURCES

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DIVISION OF FORESTRY & FIRE PROTECTION

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Commercial Timber Sale Process

DOF uses a six-part process to design, sell, and administer timber sales. The process is described below, and in more detail in the attached tables: Appendix A. Commercial Timber Sale Planning Process, Appendix B. Planning and Public Notice Requirements.

Part 1: Regional Planning. DNR develops area plans and state forest management plans to designate appropriate uses for state land, classify the land accordingly, and establish management guidelines for multiple use. These plans determine where timber sales are an allowed use, and what other uses must be considered when designing and implementing timber sales. Subsequent land use decisions must be consistent with provisions contained within the applicable area and/or forest plans.

Part 2: Five-year Schedule of Timber Sales (AS 38.05.113). DOF Area Offices prepare a Five Year Schedule of Timber Sales (FYSTS) every other year. The Schedule identifies proposed sales, including their location, volume, and main access routes. The FYSTS is a scoping document that provides an opportunity for public, agency, and industry to identify potential issues and areas of interest for further consideration in the BIF. Under AS 38.05.113, proposed timber sales within the area covered by this BIF must appear in at least one of the two FYSTSs preceding the sale.

Part 3: Best Interest Finding (AS 38.05.035(e)). DOF must adopt a final BIF before selling timber. A best interest finding is the decision document that:

- Ensures that the best interest of the State will be served by this proposed action,
- Establishes the overall area within which the timber sale may occur,
- Determines the amount of timber that will be offered for sale and the duration of the sale,
- Sets the overall harvest and reforestation strategy for the sale area,
- Determines whether the sale proposal complies with the constitutional requirement to manage for sustained yield by evaluating the amount of timber in the sale and the annual allowable cut for the affected area,
- Selects the appropriate method of sale (i.e., competitive or negotiated sale), and
- Determines the appraisal method that will be used to determine the sale price.

Part 4: Forest Land Use Plans (AS 38.05.112). Prior to authorizing harvest of timber on any area greater than 10 acres, the DOF must adopt a site-specific Forest Land Use Plan (FLUP) for the harvest area. DOF prepares a FLUP for harvest areas within the overall sale area covered by this best interest finding. The FLUP specifies the site, size, timing, and harvest methods for harvest units within the sale area. The FLUP also addresses site-specific requirements for access construction and maintenance, reforestation, and multiple use management. The Draft FLUP will be based on additional field work and site-specific analyses by DOF. Appropriate regulatory agencies are consulted, and the plan is subject to public review. The timber sale FLUP will consider the cumulative impacts in the project area as each sale is designed and sold.

Part 5: Timber Sales and Contracts. Following adoption of the final BIF, the DOF may offer the timber for sale using the identified authority. The Division will sign a contract with the purchaser for each sale. The contract will include stipulations to ensure compliance with the BIF, FLUP, and statutory requirements.

Part 6: Sale Administration. DOF will administer the timber sale and conduct field inspections to ensure compliance with the final BIF, FLUP, timber sale contract, and applicable laws, including the Alaska Forest Resources and Practices Act (FRPA) and regulations (AS 41.17 and 11 AAC 95), and forest management statutes and regulations in AS 38.05 and 11 AAC 71.

Appendix A. Commercial Timber Sale Planning Process

Phase 1 Scoping and Pre-field work	Phase 2 Fieldwork	Phase 3 Post-field work	Phase 4 Timber Disposal (Sale)
<ul style="list-style-type: none"> • Proposed sale area published in Five Year Schedule of Timber sales (FYSTS) • Agency and public review of FYSTS • FYSTS adopted • Determine feasibility <ul style="list-style-type: none"> - Land classification - Consistency with land use plans - Aerial photo layout/Field recon of timber and access - Scope constraints - Confirm ownership as necessary through a title report <p>TIME: This process is ongoing and typically takes several months per sale. The FYSTS is programmatically done every other year. Sales are required to be in at least one FYSTS by policy and in most cases by statute.</p>	<ul style="list-style-type: none"> • Road layout • Harvest unit layout • Timber cruise • Data analysis (road design, unit maps, cruise report) <p>TIME: Several days to months, depending on size and location of sales</p>	<ul style="list-style-type: none"> • Prepare and issue Preliminary Decision (PD) for Best Interest Finding (BIF) • Agency and public review of PD • Prepare and issue final BIF • Appeal period for BIF decision • Prepare and issue draft Forest Land Use Plan (FLUP) • Agency and public review of draft FLUP • Adopt FLUP • Appeal period for FLUP adoption <p>Note: BIF and FLUP may be done concurrently.</p> <p>TIME: 6 months (may be longer for very large and/or controversial sales)</p>	<ul style="list-style-type: none"> • Prepare contract • Prepare prospectus • Prepare notice of timber sale • Issue notice of timber sale • Conduct sale • Appeal period for timber sale disposal intent (actual act of sale and determination of award to a specific purchaser) • Award contract • Execute contract <p>TIME: 3 months</p>

Appendix B. Planning and Public Notice Requirements for State Timber Sales

Requirement	Applicability	Statutory References	Alaska Constitutional Provisions Implemented
Land Use Plans	Timber sales must be consistent with adopted land use plans. ¹	AS 38.04.065 (State land) AS 38.05.300 (State land) AS 41.17.230 (State Forests) AS 41.15.320 (Haines SFRMA)	Art. VIII, §1 (maximum use), §2 (maximum benefit), §4 (sustained yield/preferential beneficial uses).
Land Classification	Timber sales must be on classified land (excludes small sales).	AS 38.04.065(e) & (h) AS 38.05.300 11 AAC 55.040(i)	Art. VIII, §1 (maximum use), §2 (maximum benefit), §4 (sustained yield/preferential beneficial uses).
Five-Year Schedule of Timber Sales (FYSTS)	Sale may not be offered unless it has appeared on at least one of the two FYSTS preceding the sale. N/A salvage sales. Scoping document prepared every other year. Not appealable decision. Summarizes proposed timber harvest areas, access, reforestation plans. Public/agency review identifies issues for timber sale planning.	AS 38.05.113	Art. VIII, §1 (maximum use, public interest), §2 (maximum benefit), §4 (sustained yield/preferential beneficial uses).
Best Interest Finding	All timber sales other than negotiated small sales offered under AS 38.05.115.	AS 38.05.035(e)(6) & (e)(6)(B)	Art. VIII, §1 (public interest); §10 (public notice and other statutory safeguards).
Public Notice	All timber sales other than negotiated small sales offered under AS 38.05.115	AS 38.05.945(a)(3)&(4)	Art. VIII, §10 (public notice).
Forest Land Use Plan (FLUP)	All sales >10 acres except for timber salvaged from land cleared for a non-forest use. FLUP contains detailed information on the location, access, harvest methods, duration, and proposed reforestation for each sale.	AS 38.05.112	Art. VIII §1 (public interest), §4 (sustained yield).
Timber Sale	Negotiated Sales Sealed bid Public Auction Negotiated (local manufacture)	AS 38.05.118 AS 38.05.120 AS 38.05.120 AS 38.05.123	Art. VIII, §10 (public notice and other statutory safeguards).

¹ *Alaska Survival v. State, DNR*, 723 P.2d 1281, 1289 (1986) ruled that regional planning must precede land classifications and disposals.

Applicability of Planning and Notice Requirements by Sale Type

	Personal Use Sales	AS 38.05.115 Negotiated Sales \leq 500 MBF	AS 38.05.117 Salvage Sales (Emergency sales)	AS 38.05.118 Schnabel Law	AS 38.05.120 Competitive Sales	AS 38.05.123 Negotiated Value-Added
Classification	NO if \leq 10 MBF	YES if > 10 MBF	YES if > 10 MBF	YES if > 10 MBF	YES if > 10 MBF	YES if > 10 MBF
Best Interest Finding	NO	NO	YES	YES	YES	YES
.945 Notice	NO	NO	YES	YES	YES	YES
Forest Land Use Plan (FLUP)	NO if \leq 10 acres	YES if > 10 acres	YES if >10 ac except for salvage on land cleared for a non-forest use	YES if >10 ac	YES if > 10 ac	YES if >10 ac
Five-Year Schedule of Timber Sales (FYSTS) -- must appear on one of the two schedules preceding the sale	NO if \leq 160 acres	NO if \leq 160 acres	YES if >160 acres unless compliance with FYSTS would conflict with use of .117	YES if >160 acres	YES if >160 acres	YES if >160 acres

Notes:

■ Timber sales must also be consistent with all land use plans adopted under AS 38.04.065, including Area Plans, Management Plans, and Site-Specific Land Use Plans. However, personal use sales \leq 10 MBF may be offered in unplanned and unclassified areas.

■ DNR's policy is to put all sales on the FYSTS preceding the sale whenever possible. All sales will appear on at least the FYSTS preceding the sale unless waiting for the Schedule will cause substantial losses of economic value on salvage sales under AS 38.05.117, or, for sales less than 160 acres, would preclude a local economic enterprise or forest management project that is in the state's best interest, or the sales are sold under AS 38.05.115 or are <10 acres.