

code of federal regulations

Indians

25

Revised as of April 1, 1982

**CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT**

AS OF APRIL 1, 1982

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§ 162.19 Grazing units excepted.

Tribal or individually owned lands within range units established pursuant to Part 166 of this chapter, general grazing regulations, shall not be leased and permits respecting such lands shall not be issued under this part.

§ 162.20 San Xavier and Salt River Pima-Maricopa Reservations.

(a) *Purpose and scope.* The Act of November 2, 1966 (80 Stat. 1112), provides statutory authority for long-term leasing on the San Xavier and Salt River Pima-Maricopa Reservations, Ariz., in addition to that contained in the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415). When leases are made under the 1955 Act on the San Xavier or Salt River Pima-Maricopa Reservations, the regulations in §§ 162.1 through 162.14 and in § 162.19 apply. The purpose of this § 162.20 is to provide regulations for implementation of the 1966 Act. The 1966 Act does not apply to leases made for purposes that are subject to the laws governing mining leases on Indian lands.

(b) *Duration of leases.* Leases made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes may be made for terms of not to exceed 99 years. The terms of a grazing lease shall not exceed 10 years; the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed 10 years; and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed 40 years. No lease shall contain an option to renew which extends the total term beyond the maximum term permitted by this section.

(c) *Required covenant and enforcement thereof.* Every lease under the 1966 Act shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act that causes waste or a nuisance or which creates a hazard to health of persons or to property wherever such persons or property may be.

(d) *Notification regarding leasing proposals.* If the Secretary determines that a proposed lease to be made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes will substantially affect the governmental interests of a municipality contiguous to the San Xavier Reservation or the Salt River Pima-Maricopa Reservation, as the case may be, he shall notify the appropriate authority of such municipality of the pendency of the proposed lease. The Secretary may, in his discretion, furnish such municipality with an outline of the major provisions of the lease which affect its governmental interests and shall consider any comments on the terms of the lease affecting the municipality or on the absence of such terms from the lease that the authorities may offer. The notice to the authorities of the municipality shall set forth a reasonable period, not to exceed 30 days, within which any such comments shall be submitted.

(e) *Applicability of other regulations.* The regulations of §§ 162.1 through 162.14 and in § 162.19 shall apply to leases made under the 1966 Act except where such regulations are inconsistent with this § 162.20.

(f) *Mission San Xavier del Bac.* Nothing in the 1966 Act authorizes development that would detract from the scenic, historic, and religious values of the Mission San Xavier del Bac owned by the Franciscan Order of Friars Minor and located on the San Xavier Reservation.

[33 FR 14641, Oct. 1, 1968. Redesignated at 47 FR 13327, Mar. 30, 1982]

PART 163—GENERAL FOREST REGULATIONS

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AUTHORITY: Secs. 7, 8, 36 Stat. 857, 25 U.S.C. 406, 407; and sec. 6, 48 Stat. 986, 25 U.S.C. 466; 47 Stat. 1417, 25 U.S.C. 413. Sec. 141.23 issued under 5 U.S.C. 301, 25 U.S.C. 2, unless otherwise noted.

CROSS REFERENCES: For rights-of-way, see Part 169 of this chapter. For sale of forest products, Red Lake Indian Reservation, Minnesota, see Part 165 of this chapter. For sale of lumber and other forest products produced by Indian enterprises from other reservations, see Part 164 of this chapter. For wilderness and roadless areas, see Part 265 of this chapter. For law and order, see Part 11 of this chapter.

§ 163.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Indian forest lands" means lands held in trust by the United States for Indian tribes or individual Indians or owned by such tribes or individuals subject to restrictions against alienation, that are considered to be chiefly valuable for the production of forest crops, or on which it is considered that a forest cover should be maintained in order to protect watershed or other values. A formal inspection and land classification action is not required before applying the provisions of this Part 163 to the management of any particular tract of land.

(c) "Stumpage value" means the value of uncut timber as it stands in the woods.

(d) "Stumpage rate" means the stumpage value per thousand board feet or other unit of measure.

[24 FR 7870, Sept. 30, 1959, as amended at 27 FR 12929, Dec. 29, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.2 Scope.

The regulations in this part are applicable to all Indian forest lands except as this part may be superseded by special legislation.

[24 FR 7870, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.3 Objectives.

(a) The following objectives are to be sought in the management of unallotted Indian forest lands in accordance with the principles of sustained yield:

(1) The preservation of such lands in a perpetually productive state by providing effective protection, by applying sound silvicultural and economic principles to the harvesting of the timber, and by making adequate provision for new forest growth as the timber is removed.

(2) The regulation of the cut in a manner which will insure method and order in harvesting the tree capital, so as to make possible continuous production and a perpetual forest business.

(3) The development of Indian forests by the Indian people for the purpose of promoting self-sustaining communities, to the end that the Indians may receive from their own property not only the stumpage value, but also the benefit of whatever profit it is capable of yielding and whatever labor the Indians are qualified to perform.

(4) The sale of Indian timber in open competitive markets in accordance with good business practices on reservations where the volume that should be harvested annually is in excess of that which is being developed by the Indians.

(5) The preservation of the forest in its natural state wherever it is considered, and the authorized Indian representatives agree, that the recreational or aesthetic value of the forest to the Indians exceeds its value for the production of forest products.

(6) The management of the forest in such a manner as to retain its benefi-

cial effects in regulating water runoff and minimizing erosion.

(7) The preservation and development of grazing, wildlife, and other values of the forest to the extent that such action is in the best interest of the Indians.

(b) Similar objectives are sought in the management of allotted Indian forest lands, but, in addition, the sales of timber shall be based upon a consideration of the needs and best interests of the Indian owner and his heirs. The Secretary shall take into consideration, among other things:

(1) The state of growth of the timber and the need for maintaining the productive capacity of the land for the benefit of the owner and his heirs.

(2) The highest and best use of the land, including the advisability of devoting it to other uses for the benefit of the owner and his heirs.

(3) The present and future financial needs of the owner and his heirs.

[29 FR 14740, Oct. 29, 1964. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.4 Sustained-yield management.

In accordance with the objectives set forth in § 163.3, the harvest of timber from Indian forest lands will not be authorized until there have been prescribed practical methods of cutting, based on sound silvicultural principles. Cutting schedules shall be directed toward the salvage of timber that is deteriorating as a result of fire damage, insect infestation, disease, over-maturity or other cause; and toward achieving an approximate balance between maximum net growth and harvest during each cutting cycle. For all Indian reservations of major importance from an industrial forestry standpoint, management plans for the forest resource shall be prepared by the Bureau of Indian Affairs, and revised as needed. The plans shall contain a statement of the manner in which the policies of the Bureau of Indian Affairs are to be applied on the forest, with a definite plan of silvicultural management and a program of action, including a cutting schedule, for a specified period in the future.

[24 FR 7870, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.5 Cutting restrictions.

Clearcutting of large contiguous areas will be permitted only on lands that, when cleared, will be devoted to a more beneficial use than the growing of timber crops; but this restriction shall not prohibit clearcutting, by staggered settings or otherwise, when it is silviculturally good practice to harvest a particular stand of timber by such methods, or when it is not practicable to harvest such timber stand by methods other than clearcutting.

[24 FR 7870, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.6 Indian operations.

Subject to approval by the Secretary, the following actions may be taken:

(a) Indian tribal logging or sawmill enterprises may be initiated and organized with the consent of the authorized tribal representatives.

(b) Such enterprises which do not operate under the provisions of Part 164 of this chapter shall enter into formal agreements with tribal representatives for the use of tribal timber, and with the individual Indian owners for allotted timber.

(c) Such enterprises may contract for the purchase of Indian-owned timber with the consent of the tribal representatives or the individual owners at stumpage rates established by the Secretary.

(d) Such enterprises may negotiate for the purchase of non-Indian owned timber.

(e) Performance bonds need not be required in connection with the use of timber by such enterprises.

(f) Payment for tribal timber cut by such enterprises may be authorized by methods other than those in § 163.15.

(g) Authorized officers of tribal enterprises, operating under approved agreements for the use of tribal or allotted timber pursuant to this section, may sell the forest products produced in accordance with generally accepted trade practices without compliance with section 3709 of the Revised Statutes.

[27 FR 12929, Dec. 29, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.7 Timber sales from unallotted and allotted lands.

(a) On reservations where the volume of timber available for cutting is in excess of that which is being developed by the Indians, open market sales of Indian timber will be authorized: *Provided*, That consent is given by the authorized representative of the tribe for tribal timber and by the owners of a majority Indian interest in trust or restricted timber on allotted lands. The consent of the Secretary is required in all cases.

(b) The Secretary may sell the timber on any Indian land held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his judgment such action is necessary to prevent loss of values resulting from fire, insects, disease, windthrow, or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding \$2,500 will not be approved until an examination of the timber to be sold has been made by a qualified forest officer and a report setting forth all pertinent information has been submitted to the officer authorized to approve the contract as provided in § 163.13. In all such sales of timber exceeding \$2,500 in value, the timber shall be appraised and sold at not less than its appraised value.

[38 FR 24638, Sept. 10, 1973. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.8 Advertisement of sales.

Except as provided in §§ 163.6, 163.9, and 163.19, sales of timber shall be made only after advertising.

(a) The advertisement shall be approved by the officer who will approve the contract. Advertised sales shall be made under sealed bids, or at public auction, or under a combination thereof. The advertisement may limit sales of Indian timber to members of the tribe, or may grant to members of the tribe who submitted bids the right to meet the higher bid of a non-Indian. If the estimated stumpage value of the timber offered does not exceed \$1,000,

the advertisement may be made by posters and circular letters. If the estimated stumpage value exceeds \$1,000, the advertisement shall also be made in at least one edition of a newspaper of general circulation in the locality where the timber is situated. If the estimated stumpage value does not exceed \$10,000, the advertisement shall be for not less than 15 days; if the estimated stumpage value exceeds \$10,000 but not \$100,000, for not less than 30 days; and if the estimated stumpage value exceeds \$100,000, for not less than 60 days.

(b) The approving officer may reduce the advertising period because of emergencies such as fire, beetle attack, blowdown, limitation of time, or when there would be no practical advantage in advertising for the prescribed periods.

(c) If no contract is executed after such advertisement, the approving officer may, within 1 year from the last day on which bids were to be received as defined in the advertisement, permit the sale of such timber in the open market upon the terms and conditions in the advertisement and at not less than the advertised value or the appraised value at the time of sale, whichever is greater.

[24 FR 7870, Sept. 30, 1959, as amended at 27 FR 12929, Dec. 29, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.9 Timber sales without advertisement.

Sales of timber may be made without advertisement with the consent of the authorized representative of the tribe for tribal timber or with the consent of the owners of a majority Indian interest in trust or restricted timber on allotted lands, and the approval of the Secretary:

(a) To Indians or non-Indians when the timber is to be cut in conjunction with the granting of a right-of-way or authorized occupancy, or must be cut to protect the forest from injury, or if it is impractical to secure competition by formal advertising procedures, or when otherwise specifically authorized by statutes or regulations; or

(b) To Indians who are members of the tribe for stumpage value not ex-

ceeding \$10,000. Such contracts shall not be made for a longer term than 2 years. The stumpage rates in connection with such sales shall be established by the approving officer after due appraisal procedure. Timber contract forms executed under authority hereof shall be those stipulated for the sale of timber under § 163.12, and shall carry the bond requirement stipulated in § 163.14. No more than one such sale without advertisement may be made to any person or operating group of persons in any 1 calendar year. In the case of each negotiated transaction the approving officer shall establish a documented record of the transaction, including a written determination and finding that the transaction is of a type or class allowing the negotiation procedures or warranting departure from the procedures provided in § 163.8; the extent of solicitation and competition, or a statement of the facts upon which a finding of impracticability of securing competition is based; and a statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.

[38 FR 24638, Sept. 10, 1973. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.10 Deposit with bid.

(a) A deposit shall be made with each proposal for the purchase of either allotted or unallotted Indian timber. Such deposits shall be at least 20 percent if the appraised stumpage value is less than \$10,000; at least 10 percent if the appraised stumpage value is between \$10,000 and \$100,000, but in any event not less than \$2,000; at least 5 percent if the appraised stumpage value is between \$100,000 and \$250,000, but in any event not less than \$10,000; and at least 3 percent if the appraised stumpage value exceeds \$250,000, but in any event not less than \$12,500.

(b) Deposits shall be in the form of either a certified check, cashier's check, bank draft, or postal money order, drawn payable to the order of the Bureau of Indian Affairs, or in cash.

(c) The deposit of the apparent high bidder, and of others who submit written requests to have their bids consid-

ered for acceptance, will be retained pending acceptance or rejection of the bids. All other deposits will be returned promptly following the opening and posting of bids.

(d) The deposit of the successful bidder will be retained as liquidated damages if the bidder does not execute the contract, and furnish the performance bond required by § 163.14, within the time stipulated in the advertisement of timber sale.

[24 FR 7871, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.11 Acceptance and rejection of bids.

(a) Applicants or bidders may be individuals, associations of individuals, or corporations. In ordinary circumstances the high bid received in connection with any advertisement issued under authority of this part shall be accepted. However, the approving officer, having set forth his reasons in writing shall have the right to reject the high bid:

(1) If he considers the high bidder to be unqualified to fulfill the contractual requirement of the advertisement, or

(2) If he has reasonable grounds to consider it in the interest of the Indians to reject the high bid.

(b) If the high bid is rejected, the approving officer may authorize:

(1) Rejection of all bids, or

(2) Acceptance of the offer of another bidder who, at the time of opening of bids, makes formal request that his bid be so considered.

(c) The officer authorized to accept the bid is also authorized in his discretion to waive minor technical defects in advertisements and proposals.

[24 FR 7871, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.12 Contracts required.

Except as provided in § 163.19(c), in sales of timber with an appraised stumpage value exceeding \$2,500 the contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved by the Secretary. The approved forms provide flexibility to meet variable conditions, but essential departures from the fundamental

requirements of such contracts shall be made only with the approval of the Secretary. Unless otherwise directed, the contracts shall require that the proceeds be paid by remittance drawn to the Bureau of Indian Affairs and transmitted to the Superintendent. Contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion.

[38 FR 24639, Sept. 10, 1973. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.13 Execution and approval of contracts.

(a) *Contracts for the sale of tribal timber.* All contracts for the sale of tribal timber shall be executed by the authorized representative of the tribe or tribal corporation. Contracts to be valid must be approved by the Secretary. There shall be included with the contract an affidavit executed by the appropriate officer of the tribe or tribal corporation setting forth the resolution or other authority of the governing body of the tribe or tribal corporation authorizing the sale.

(b) *Contracts for the sale of allotted timber.* Contracts for the sale of allotted timber shall be executed by the Indian owners or the Secretary acting pursuant to a power of attorney from the Indian owner, subject to conditions set forth in § 163.13(b) (1), (2), and (3). Contracts to be valid must be approved by the Secretary.

(1) The Secretary shall execute contracts on behalf of minors and Indian owners who are incompetent by reason of mental incapacity after consultation with any legally appointed guardian.

(2) The Secretary shall execute contracts for those persons whose ownership in a decedent's estate has not been determined or for those persons who cannot be located after a reasonable and diligent search and the giving of notice by publication.

(3) Upon the request of the owner of an undivided but unrestricted interest in land in which there are trust or restricted Indian interests, the Secretary shall include such unrestricted interest in a sale of the trust or restricted interests in the timber, pursuant to

Part 163, and perform any functions required of him by the contract of sale for both the restricted and the unrestricted interests, including the collection and disbursement of payments for timber and the deductions as service fees from such payments of sums in lieu of administrative expenses.

[29 FR 14741, Oct. 29, 1964. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.14 Bonds required.

Performance bonds will be required in connection with all sales of Indian timber, except they may or may not be required, as determined by the approving officer, in connection with the use of timber by tribal enterprises pursuant to § 163.6, or in timber cutting permits issued pursuant to § 163.19. In sales in which the estimated stumpage value, calculated at the appraised stumpage rates, does not exceed \$10,000 the bond shall be approximately 20 percent of the estimated stumpage value. In sales in which the estimated stumpage value exceeds \$10,000 but is not over \$100,000, the bond shall be approximately 15 percent of the estimated stumpage value but not less than \$2,000; in sales in which the estimated stumpage value exceeds \$100,000 but is not over \$250,000, the bond shall be approximately 10 percent of the estimated stumpage value but not less than \$15,000; and in sales in which the estimated stumpage value exceeds \$250,000, the bond shall be approximately 5 percent of the estimated stumpage value but not less than \$25,000. Bonds may be in the form of a corporate surety bond by an acceptable surety company; or cash bond designating the approving officer to act under a power of attorney; or negotiable United States Government bonds supported by appropriate power of attorney and performance bond.

[27 FR 12929, Dec. 29, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.15 Payments for timber.

The basis of volume determination for timber sold shall be the Scribner Decimal C, International $\frac{1}{4}$ inch, or International Decimal $\frac{1}{4}$ inch log rules, cubic volume, weight, or such other

form of measurement as the Secretary shall designate for each sale. Payment for timber will be required in advance of cutting pursuant to § 163.16, except for Indian enterprises pursuant to § 163.6. Each advance deposit shall be at least 10 percent of the value of the minimum volume of timber required to be cut annually, figured at the appraised stumpage rates: *Provided*, That the approving officer may reduce the size of the last advance deposit before the completion of the sale or before periods of approximately 3 months or longer during which no timber cutting is anticipated. If a contract stipulates no minimum annual cutting requirements the amount of each advance deposit shall be determined by the approving officer. The advance payments that may be required in the sale of trust allotted timber, pursuant to § 163.16, shall not operate to reduce the size of advance deposits required by this section, but may postpone the necessity of requiring such deposits until the advance payments on the particular allotments being cut have been exhausted.

[27 FR 12929, Dec. 29, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.16 Advance payment for allotment timber.

Unless otherwise authorized by the Secretary, and except in the case of lump sum sales, contracts for the sale of timber from trust allotments shall provide for the payment of 25 percent of the stumpage value, calculated at the bid price, within 30 days from the date of approval and before cutting begins. Additional advance payments may be specified in contracts that are more than 3 years in duration; however, no advance payment will be required that would make the sum of such payment and of advance deposits and advance payments previously applied against timber cut from the allotment exceed 50 percent of the bid stumpage value. The advance payments shall be credited against the allotment timber as it is cut and scaled, at the stumpage rates governing at the time of scaling.

[38 FR 24639, Sept. 10, 1973. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.17 Time for cutting timber.

Unless otherwise authorized by the Secretary, the maximum period which shall be allowed, after the effective date of a timber contract, for cutting of the estimated volume of timber purchased shall be 5 years.

[24 FR 7872, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.18 Deductions for administrative expenses.

In sales of timber from either allotted or unallotted lands, a reasonable deduction shall be made from the gross proceeds to cover in whole or in part the cost of managing and protecting the forest lands, including the cost of timber sale administration, but not including the costs that are paid from funds appropriated specifically for fire suppression or forest pest control. Unless special instructions have been given by the Secretary as to the amount of the deduction, or the manner in which it is to be made, there shall be deducted 10 percent of the gross amount received for timber sold under regular supervision, and 5 percent when the timber is sold in such a manner that little administrative expense by the Indian Bureau is required. Service fees in lieu of administrative deductions shall be determined in a similar manner.

(Act of April 30, 1964, 78 Stat. 186, 187)

[29 FR 14741, Oct. 29, 1964. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.19 Timber cutting permits.

(a) Except as provided in § 163.20, all timber cutting that is not done under formal contract, pursuant to § 163.12, shall be done under timber cutting permit forms approved by the Secretary. Permits will be issued only with the consent of the Indian owner or the Secretary, for allotted lands, as authorized in § 163.12(b). Such consents to the issuance of cutting permits shall stipulate the minimum stumpage rates at which timber may be sold under permit.

(b) Free-use cutting permits may be issued for specified species and types of forest products by persons authorized under § 163.13 to execute timber

contracts. Timber cut under this authority may be limited as to sale or exchange for other goods or services.

(c) An Indian having sole beneficial interest in an allotment may be issued an approved form of special permit to cut and sell designated timber from such allotment. The special permit shall include provision for payment by the Indian of administrative expenses pursuant to § 163.18. Unless waived by the Secretary, the permit shall also require the Indian to make a deposit with the Secretary to be returned to the Indian upon satisfactory completion of the permit or to be used by the Secretary in his discretion for planting or other work to offset damage to the land or the timber caused by the Indian's failure to comply with the provisions of the permit. As a condition to granting a special permit under authority of this paragraph, the Indian may be required to provide evidence acceptable to the Secretary that he has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interests. In special cases, the Secretary may authorize exceptions to the requirement of sole beneficial interest in an allotment.

(d) Permits to be valid must be approved by the Secretary. The stumpage value which may be cut in 1 calendar year by any individual under authority of paragraphs (a) and (b) of this section shall not exceed \$2,500, but this limitation shall not apply to cutting under authority in paragraph (c) of this section. Essential departures from the fundamental requirements for issuance of special allotment timber cutting permits under authority of paragraph (c) of this section shall be made only with the approval of the Secretary.

[38 FR 24639, Sept. 10, 1973. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.20 Free-use cutting without permits.

(a) Timber may be cut by an Indian for his personal use from an allotment in which he holds the sole beneficial interest, without a permit or contract; but timber cut under this authority shall not be sold, or exchanged for other goods or services. Such cutting shall conform to the principles of

conservative use as contemplated by § 163.4.

(b) With the consent of the authorized tribal representatives and the Secretary, Indians may cut designated types of forest products from unallotted lands without a permit or contract, and without charge. Timber cut under this authority shall be for the Indian's personal use, and shall not be sold or exchanged for other goods or services. Such cutting shall conform to the principles of conservative use as contemplated by § 163.4.

[24 FR 7872, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.21 Fire protective measures.

The Secretary is authorized to hire temporary labor, rent fire fighting equipment, purchase tools and supplies, and pay for their transportation to extinguish forest or range fires. No expense for fighting a fire outside a reservation may be incurred unless the fire threatens the reservation, or unless such expense is incurred pursuant to an approved cooperative agreement with another forest protection agency. The rates of pay for fire fighters and for equipment rental shall be the rates for such fire fighting services that are currently in use by public and private forest fire protection agencies adjacent to Indian reservations on which a fire occurs, unless there are in effect at the time different rates that have been approved by the Secretary. The Secretary may enter into reciprocal agreements with any fire organizations, maintaining fire protection facilities in the vicinity of Indian reservations, for mutual aid in fire protection. This section does not apply to the rendering of emergency aid, or agreements for mutual aid, in fire protection pursuant to the act of May 27, 1959 (69 Stat. 66).

[24 FR 7872, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.22 Trespass.

(a) Federal statutes provide that:

(1) Willful and unauthorized setting fire to timber, underbrush, or grass or other inflammable material upon any Indian reservation or lands belonging to or occupied by any tribe or group of

Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, is punishable by fine of not more than \$5,000 or imprisonment of not more than 5 years, or both.

(2) Whoever, having kindled or caused to be kindled, a fire in or near any forest timber, or other inflammable material on such lands, leaves said fire without totally extinguishing it, or permits such fire to spread beyond his control or leaves such fire unattended shall be fined not more than \$500 or imprisoned not more than 6 months, or both.

(3) The unlawful cutting or wanton injury or destruction of trees standing, growing, or being upon such lands is punishable by fine of not more than \$1,000 or imprisonment of not more than one year, or both.

(4) Section 1 of the act of June 25, 1948 (62 Stat. 787 (18 U.S.C. 1853)) provides penalties for the unlawful cutting of timber on Government lands and on Indian lands under Government supervision.

(b) The Secretary may mark and forbid the removal of timber from restricted or trust Indian lands or direct its removal to a point of safekeeping when he has reason to believe that such timber was unlawfully cut. Any such timber that can be positively identified as Indian trust property should be sold to prevent its deterioration. When any timber cut in trespass is found to be removed to land not under Government supervision, the owner of the land should be notified that such timber is Indian trust property and any further action should be upon advice of the Office of the Solicitor of the Department of the Interior. Any timber sold under this § 163.22 may be disposed of under the provisions of this Part 163 insofar as they are applicable. The Secretary may accept payment of damages in full in the settlement of civil trespass cases without resort to court action. The Secretary may also accept a recommended settlement per Solicitor's Regulations Manual I.4.1 when exercised

in accordance with regulations contained in 344 DM 3.

All other matters relating to the collection of debts under this section will be in accordance with Departmental Manual, Part 344.

(25 U.S.C. 9)

[42 FR 40194, Aug. 9, 1977. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 163.23 Appeals under timber contracts.

Any action taken by an approving officer exercising delegated authority from the Secretary of the Interior or by a subordinate official of the Department of the Interior exercising an authority by the terms of the contract may be appealed to the Secretary of the Interior. Such appeal shall not stay any action under the contract unless otherwise directed by the Secretary of the Interior. Appeals will be filed in accordance with any applicable general regulations covering appeals. The Secretary shall notify the appropriate Indian tribal representatives upon receipt of an appeal by the purchaser, and shall notify the purchaser upon receipt of an appeal by the seller.

[24 FR 7872, Sept. 30, 1959. Redesignated at 47 FR 13327, Mar. 30, 1982]

PART 164—SALE OF LUMBER AND OTHER FOREST PRODUCTS PRODUCED BY INDIAN ENTERPRISES FROM THE FORESTS ON INDIAN RESERVATIONS

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- 164.11 Commission sales agents.
- 164.12 Deposits.

AUTHORITY: 54 Stat. 504, as amended; 5 U.S.C. 301, 41 U.S.C. 6b.