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# Indians

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Revised as of April 1, 1984

CONTAINING  
A CODIFICATION OF DOCUMENTS  
OF GENERAL APPLICABILITY  
AND FUTURE EFFECT

AS OF APRIL 1, 1984

*With Ancillaries*

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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 mu-

nicipality 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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§ 163.1 Definitions.

"Approval" means authorization by the Secretary, Area Director, Superintendent, tribe or individual Indian in accordance with appropriate delegations of authority.

"Commercial forest land" means Indian forest land capable of bearing merchantable forest products, currently or prospectively accessible, and not withdrawn from such use.

"Commercial forest resources" includes all the benefits derived by man from commercial forest lands such as forest products, soil productivity, water, fisheries, wildlife, recreation, aesthetic and other traditional values of the forest.

"Forest products" includes major forest resources such as lumber, lath, crating, ties, bolts, logs, bark, pulpwood, fuelwood, posts, Christmas trees, split products or other marketable materials authorized for removal.

"Forest protection" includes the protection of Indian forest resources from damages and losses by disease, insects, fire, animals (domestic and wild) and trespass. It also includes protection of wild lands from fire.

"Indian forest lands" means lands held in trust by the United States for Indian tribes, individual Indians, or Alaskan Natives or lands which are owned by such tribes and individuals subject to restrictions against alienation. Such lands are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover. A formal inspection and land classification action is not required before applying the provisions of this part to the management of any particular tract of land.

"Secretary" means the Secretary of the Interior or his/her authorized representative.

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

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

"Sustained yield" means the yield of forest products that a forest can produce continuously at a given intensity of management.

§ 163.2 Scope and information collection.

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

(b) The information collection requirements contained in §§ 163.6(a), 133.7(c)(2), 163.8(a), 163.9(a), 163.10(d), 163.14, 163.19(a), 163.19(d), and 163.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.* and assigned clearance number 1076-0080. The information is being collected to properly account for the resource. The information will be used to conduct program planning and management of timber resources. Response is required to obtain or retain a benefit.

§ 163.3 Objectives.

The following objectives apply to the management of Indian forest lands.

(a) The development, maintenance and enhancement of commercial forest lands in perpetually productive state by providing effective management and protection through the application of sound silvicultural and economic principles to the reforestation, growth and harvesting of timber and other forest products. This includes making adequate provision for new forest growth as the timber is removed.

(b) Regulation of the forest resources through the establishment and development of a timber sales program that is supported by written tribal objectives, and a long-range multiple use plan (as included in a forest management plan) that requires sound forest management practices.

(c) The regulation of the commercial forest 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.

(d) The development of Indian forests by Indian people to promote self-sustaining communities, so that Indians may receive from their own property not only the stumpage value, but also the benefit of whatever labor and profit it is capable of yielding.

(e) The sale of Indian timber on the open market, when the volume available and/or utilized for harvest is in excess of that which is being developed by the local Indian forest enterprise(s).

(f) The preservation of the forest in its natural state whenever the authorized Indian representatives determine that the recreational, cultural, aesthetic, or traditional values of the forest represent the highest and best use of the land to the Indians.

(g) The management and protection of forest resources to retain the beneficial effects of regulating water runoff and minimizing soil erosion.

(h) The management and protection of forest lands to maintain and/or improve timber production, soil productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural, and other traditional values of the forest to the extent that such action is in the best interest of the Indians.

#### § 163.4 Sustained yield management.

To further the objectives enumerated in § 163.3, the timber harvest from Indian forest lands will not be authorized until practical methods of harvest, based on sound economic, silvicultural and other forest management principles, have been prescribed. Harvest schedules shall be directed toward achieving an approximate balance at the earliest practical time, between maximum net growth and harvest, and shall salvage timber that is deteriorating from fire damage, insect infestation, disease, overmaturity or other causes. On all Indian reservations with commercial forest lands, appropriate management and operating plans shall be prepared and revised as needed. Such documents will contain a statement defining the objectives sought and describing the manner in which the policies of the tribe and the Secretary will be applied to the forest, with a definite plan of silvicultural management, analysis of the short-

term and long-term effects of the plan, and a program of action, including a harvest schedule, for a specified period in the future.

#### § 163.5 Cutting restrictions.

(a) Harvesting Indian timber will not be permitted unless provisions for natural and/or artificial forestation are included in planning the harvest.

(b) Clearing of large contiguous areas will be permitted only on lands that, when cleared, will be devoted to a more beneficial use than growing timber crops. This restriction shall not prohibit clearcutting when it is silviculturally good practice to harvest a particular stand of timber by such methods and conforms with § 163.3.

#### § 163.6 Indian operations.

Indian tribal forest enterprises may be initiated and organized with consent of the authorized tribal representatives. Such enterprises may contract for the purchase of non-Indian owned forest products. Subject to approval by the Secretary the following actions may be taken:

(a) Authorized tribal enterprises may enter into formal agreements with tribal representatives for the use of tribal forest products, and with individual Indian owners for allotted forest products.

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

(c) With the consent of the Indian owners, such enterprises may, without advertisement, contract for the purchase of forest products on Indian lands at stumpage rates authorized by the Secretary.

(d) Determination of and payment for stumpage and/or products utilized by such enterprises will be authorized in accordance with § 163.15. However, the Secretary may issue special instructions for payment by methods other than those in § 163.15.

(c) Performance bonds may or may not be required in connection with operations on trust lands by such enterprises as determined by the Secretary.

**§ 163.7 Timber sales from unallotted and allotted lands.**

(a) If the volume of timber available for harvest on a reservation exceeds that being developed and/or utilized by local Indian forest enterprise(s) or individual Indians, open market sales of Indian timber may be authorized. This provision requires consent of the authorized representatives of the tribe for tribal timber, and the owners of a majority Indian interest in trust or restricted timber on allotted lands. Consent of the Secretary is required in all cases.

(b) On any Indian forest lands not formally designated for retention in its natural state by authorized Indian representatives, the Secretary may sell the timber from lands held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his/her judgment such action is necessary to prevent loss of values resulting from fire, insects, diseases, windthrow or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales of timber from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding \$10,000 will not be approved until:

(1) An examination of the timber to be sold has been made by a forest officer, and

(2) 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 the timber shall be appraised and sold at stumpage rates not less than those established by the Secretary.

**§ 163.8 Advertisement of sales.**

Except as provided in §§ 163.6, 163.7, 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 there-

of. The advertisement may limit sales of Indian timber to Indian forest enterprises, members of the tribe, or may grant to Indian forest enterprises and/or members of the tribe who submitted bids the right to meet the higher bid of a non-member. If the estimated stumpage value of the timber offered does not exceed \$10,000, the advertisement may be made by posters and circular letters. If the estimated stumpage value exceeds \$10,000, 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 \$50,000, the advertisement shall be made for not less than 15 days; if the estimated stumpage value exceeds \$50,000 but not \$200,000, for not less than 30 days; and if the estimated stumpage value exceeds \$200,000, for not less than 60 days.

(b) The approving officer may reduce the advertising period because of emergencies such as fire, insect 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 one 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. The sale will be made 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.

**§ 163.9 Timber sales without advertisement.**

(a) Sales of timber may be made without advertisement to Indians or non-Indians with the consent of the authorized representatives 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 when:

(1) The timber is to be cut in conjunction with the granting of a right-of-way;

(2) Granting an authorized occupancy;

(3) It must be cut to protect the forest from injury;

(4) It is impractical to secure competition by formal advertising procedures; or

(5) Otherwise specifically authorized by statutes or regulations.

(b) The approving officer shall establish a documented record of each negotiated transaction. This will include:

(1) 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;

(2) The extent of solicitation and competition, or a statement, of the facts upon which a finding of impracticability of securing competition is based; and

(3) A statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.

(c) This section shall not serve to impede the use of § 163.6 as approved by the Secretary.

§ 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:

(1) Ten (10) percent if the appraised stumpage value is less than \$100,000 and in any event not less than \$1,000 or full value whichever is less;

(2) Five (5) percent if the appraised stumpage value is \$100,000 to \$250,000 but in any event not less than \$10,000.

(3) Three (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, postal money order, or irrevocable letter-of-credit, 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 request to have their bids considered for acceptance will be retained pending acceptance or rejection of the

bids. All other deposits will be returned following the opening and posting of bids.

(d) The deposit of the successful bidder will be retained if the bidder does not:

(1) Furnish the performance bond required by § 163.14 within the time stipulated in the advertisement of timber sale,

(2) Execute the contract, or

(3) Perform the contract.

(e) This section does not limit or waive any further damages available under applicable law or the terms of the contract.

§ 163.11 Acceptance and rejection of bids.

(a) Applicants or bidders may be Indian forest enterprises, members of the tribe, individuals, associations of individuals, partnerships, or corporations. The high bid received in accordance with any advertisement issued under authority of this part shall be accepted, except that the approving officer, having set forth the reason(s) in writing, shall have the right to reject the high bid if:

(1) The high bidder is considered unqualified to fulfill the contractual requirement of the advertisement, or

(2) There are 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 bid opening, makes written request that their bid and bid deposit be held pending a bid acceptance.

(c) The officer authorized to accept the bid shall have the discretion to waive minor technical defects in advertisements and proposals, such as typographical errors and misplaced entries on forms that do not affect clarity, value or money deposits.

§ 163.12 Contracts required.

Except as provided in § 163.19, in sales of timber with an appraised stumpage value exceeding \$10,000, 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. Essential departures from the fundamental requirements of standard and approved contract forms 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. By mutual agreement, contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion or by mutual agreement.

#### § 163.12 Execution and approval of contracts.

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

(b) 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 §§ 163.7 and 163.13(b) (1), (2), and (3). Contracts must be approved by the Secretary to be valid.

(1) The Secretary may, after consultation with any legally appointed guardian, execute contracts on behalf of minors and Indian owners who are non compos mentis.

(2) The Secretary may 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 may include such unrestricted interest in a sale of the trust or restricted interests in the timber, pursuant to this part, and perform any functions required of him/her 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.

#### § 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 at least 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 at least 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 at least 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 at least 5 percent of the estimated stumpage value but not less than \$25,000. Bonds shall be in a form acceptable to the approving officer and may include 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 securities supported by appropriate power of attorney; or an irrevocable letter-of-credit.

#### § 163.15 Payment for timber.

(a) The basis of volume determination for timber sold shall be the Scribner Decimal C log rules, cubic volume, lineal measurement, piece count, weight, or such other form of measurement as the Secretary may authorize for use. With the exception of tribal enterprises pursuant to

§ 163.6, payment for timber will be required in advance of cutting.

(b) Methods of payment include advance payments, installment payments and advance deposits as specified in timber contract documents. 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 three 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 timber, pursuant to § 163.16, shall not operate to reduce the size of advance deposits required by this section.

**§ 163.16 Advance payment for allotment timber.**

(a) Unless otherwise authorized by the Secretary, and except in the case of lump sum (predetermined volume) sales, contracts for the sale of timber from Indian forest lands shall provide for the payment of up to 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 three 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 each appropriate ownership exceed 50 percent of the bid stumpage value. For each appropriate ownership, advance payments shall be credited against the timber as it is cut and scaled at the stumpage rates governing at the time of scaling.

(b) Terms and conditions for payment of timber under lump sum sales shall be specified in timber contract documents. Advance payments are not refundable.

**§ 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 harvesting the estimated volume of timber purchased shall be five years.

**§ 163.18 Deductions for administrative expenses.**

In sales of forest products from Indian forest 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. Such costs will include the cost of sale administration, and forest regeneration. However, such deductions are not intended to cover 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, the deduction shall be 10% of the gross amount received for timber sold. Service fees in lieu of administrative deductions shall be determined in a similar manner.

**§ 163.19 Timber cutting permits.**

(a) Except as provided in §§ 163.6 and 163.20, all cutting of forest products 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 written consent of the Indian owner(s) or the Secretary, for allotted lands, as authorized in § 163.13. To be valid, permits must be approved by the Secretary. Such consents to the issuance of cutting permits shall stipulate the minimum product rate at which timber may be sold under permit. Payment and bonding requirements will be stipulated in the permit document as appropriate.

(b) Free-use cutting permits may be issued for specified species and types of forest products. Timber cut under this authority may be limited as to sale or exchange for other goods or services. The stumpage value which may be cut in a fiscal year by any indi-

vidual under this authority shall not exceed \$2,500. Individual shall mean an individual or any operating entity comprised of several individuals.

(c) Paid permits subject to deductions for administrative expenses, as provided in § 163.18, may be issued. Unless otherwise authorized by the Secretary, the stumpage value which may be cut under paid permits in a fiscal year by any individual under this authority shall not exceed \$10,000. This paragraph (c) does not apply to special allotment timber cutting permits. Individual shall mean an individual or any operating entity comprised of several individuals.

(d) 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/her discretion for planting or other work to offset damage to the land or the timber caused by 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/she has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interests.

**§ 163.20 Free-use cutting without permits.**

With the consent of the Indian owners and the Secretary, Indians may cut designated types of forest products from Indian forest 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.

**§ 163.21 Fire management measures.**

(a) The Secretary is authorized to maintain facilities and staff, hire temporary labor, rent fire fighting equipment, purchase tools and supplies, and

pay for their transportation as needed, to maintain an adequate level of readiness to meet normal wildfire protection needs and extinguish forest or range fires on Indian reservations or other Indian trust lands. No expenses for fighting a fire outside a reservation may be incurred unless the fire threatens the reservation or other Indian trust lands or unless such expenses are incurred pursuant to an approved cooperative agreement with another 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 wildfire 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 also enter into reciprocal agreements with any fire organization maintaining protection facilities in the vicinity of Indian reservations or other Indian trust lands for mutual aid in wildfire 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, 1955 (69 Stat. 66).

(b) The Secretary will conduct a wildfire prevention program to reduce the number of person-caused fires on Indian reservations or other Indian trust lands.

(c) The Secretary is authorized to expend funds for emergency rehabilitation measures needed to stabilize soil and watershed on Indian reservations or other Indian trust lands damaged by wildfire.

(d) Upon consultation with the Indian landowners, the Secretary may use fire as a management tool on Indian reservations to achieve land or resource management objectives.

**§ 163.22 Trespass.**

(a) In addition to liability for trespass on Indian lands, as indicated in this part, persons responsible for such trespass may be prosecuted criminally under any applicable federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass (18 U.S.C. 1853).

(2) Fire trespass (18 U.S.C. 1855, 1856). Tribal ordinances may apply where appropriate.

(b) The extraction, severance, injury or removal of forest products from Indian lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of trespass. Trespassers will be liable in damages to the United States and the Indian owners, and will be subject to prosecution for such unlawful acts.

(c) The rule of damages to be applied in cases of timber and other trespass will be the measure of damages prescribed by the laws of the State in which the trespass is committed, unless by federal law a different rule is prescribed or authorized.

(d) The Secretary may identify and forbid the removal of forest products from restricted or trust Indian lands or direct their removal to a point of safekeeping when there is reason to believe that such products were unlawfully cut. Any such forest products that can be positively identified as Indian trust property should be sold to prevent their deterioration. When any forest products cut in trespass are found to be removed to land not under Government supervision, the owner of the land should be notified that such products are Indian trust property and any further action should be upon advice of the Office of the Solicitor of the Department of the Interior. Any forest products sold under this § 163.22 may be disposed of under the provisions of this part, 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 Departmental procedures 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.

(e) The Secretary will provide for timely action on any reports of trespass on Indian trust lands including

pending Native allotments (25 U.S.C. 9).

§ 163.23 Revocable road use and construction permits for removal of commercial forest products.

(a) The Secretary may request tribes and/or all other trust landowners to sign landowners revocable permits designating the Secretary as Agent for the landowner and empowering him/her to issue revocable road use and construction permits to users for the purpose of removing commercial forest products.

(b) When a majority of trust interest in a tract has consented, the Secretary may issue revocable road use and construction permits for removal of commercial forest products over and across individually owned lands. In addition, the Secretary may act for individual owners when:

(1) The individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Secretary finds that such grant, in total or for an interest therein, will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages;

(2) The whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known or majority thereof, consent to the grant;

(3) The heirs or devisees of a deceased owner of the land or interest therein have not been determined, and the Secretary finds the grant will cause no substantial injury to the land or any owner thereof, provided that once the heirs or devisees of the deceased owner are determined, their consent is obtained.

(c) Nothing in this section shall preclude acquisition of rights-of-way for roads, Subchapter H, Part 169, 25 CFR, or conflict with provisions of that part.

§ 163.24 Insect and disease control.

(a) The Secretary is authorized to protect and preserve from disease, or the ravages of beetles, or other insects, timber on Indian reservations or other

Indian lands under the jurisdiction of the Department of the Interior. (Sept. 20, 1922, Ch. 349, 42 Stat. 857). The Secretary shall consult with authorized tribal representatives or owners of other Indian lands concerning control actions.

(b) The Secretary is responsible to control and mitigate harmful effects of insects and diseases on Indian forest lands. The Secretary will coordinate this control with the Secretary of Agriculture in accordance with Section 5, Pub. L. 95-313, July 1, 1978, 92 Stat. 336.

§ 163.25 Forest development.

This section pertains to that segment of the forestry program which addresses the improvement of timber resources. The program shall consist of forestation, timber stand improvement work, and related investments that enhance productivity. It shall be conducted with emphasis on on-site activities. Forest development funds will be used to establish, re-establish, maintain, and/or improve growth of desirable commercial timber species and stocking level. Forest development activities will be planned and executed using cost/benefit analyses as one of the determinants in establishing priorities.

§ 163.26 Appeals under timber contracts and permits.

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. Such appeal shall not stay any action under the contract unless otherwise directed by the Secretary of the Interior. Such appeals shall be filed in accordance with the provision of 25 CFR Part 2, Appeals from Administrative Actions, or any other applicable general regulations covering appeals. Appropriate Indian representatives shall be notified upon receipt of an appeal initiated by the purchaser. Likewise, the purchaser shall be notified upon receipt of an appeal initiated by the seller.

§ 163.27 Environmental protection.

Before implementing these regulations, forestry personnel will review their timber sale activities for potential environmental impacts in accordance with the National Environmental Policy Act (NEPA) of 1969 and applicable Council on Environmental Quality Regulations (40 CFR 1500-1508). NEPA compliance is further explained in Departmental Manual Part 516 DM (Environmental Quality) and 30 BIAM Supplement 1 (NEPA Handbook) of the Bureau of Indian Affairs, from which specific guidance is obtained.

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

- Sec.
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- 164.4 Sale in open market.
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- 164.9 Cash sales.
- 164.10 Payments, discounts, and credit sales.
- 164.11 Commission sales agents.
- 164.12 Deposits.

**AUTHORITY:** 54 Stat. 504, as amended; 5 U.S.C. 301, 41 U.S.C. 8b.

**SOURCE:** 27 FR 12929, Dec. 29, 1962, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 164.1 Definitions.

- As used in this part:
  - (a) "Secretary" means Secretary of the Interior or his authorized representative.
  - (b) "Forest products" means lumber, lath, shingles, crating, ties, bolts, logs, bark, pulpwood, or other marketable materials obtained from forests and authorized for removal by the Indian enterprises.

§ 164.2 Purpose of regulations.

The regulations in this Part 164 prescribe the terms and conditions under