

Bureau of Indian Affairs, Interior

§ 163.26

management deductions shall be prepared annually and approved by the authorized tribal representative(s) and the Secretary. The approval of the expenditure plan by the authorized tribal representatives constitutes allocation of tribal funds for Indian forest land management activities. Approval of the expenditure plan by the Secretary shall constitute authority for crediting of forest management deductions to tribal account(s). The full amount of any deduction collected by the Secretary plus any income or interest earned thereon shall be available for expenditure according to the approved expenditure plan for the performance of forest land management activities on the reservation from which the forest management deduction is collected.

(2) Forest management deductions shall be handled in the same manner as described under §163.25(f)(1) of this part if the expenditure plan approved by an Indian tribe and the Secretary provides for the conduct of forest land management activities on Indian forest lands located outside the boundaries of an Indian reservation.

(3) For public domain and Alaska Native allotments held in trust for Indians by the United States, forest management deductions may be utilized to perform forest land management activities on such lands in accordance with an expenditure plan approved by the Secretary.

(g) Forest management deductions withheld pursuant to this section shall not be available to cover the costs that are paid from funds appropriated for fire suppression or pest control or otherwise offset federal appropriations for meeting the Federal trust responsibility for management of Indian forest land.

(h) Within 120 days after the close of the tribal fiscal year, tribes shall submit to the Secretary a written report detailing the actual expenditure of forest management deductions during the past fiscal year. The Secretary shall have the right to inspect accounts, books, or other tribal records supporting the report.

(i) Forest management deductions incorporated into an expenditure plan approved by the Secretary shall remain available until expended.

(j) As provided in §163.25(f) of this part, only forest management deductions that have not been incorporated into an approved expenditure plan may be deposited to a U.S. Treasury miscellaneous receipt account. No amount collected as forest management deductions shall be credited to any Federal appropriation. No other forest management deductions or fees derived from Indian forest land shall be collected to be covered into the general funds of the United States Treasury.

§ 163.26 Forest product harvesting permits.

(a) Except as provided in §§163.13 and 163.27 of this part, removal of forest products that are not under formal contract, pursuant to §163.19, shall be under forest product harvesting permit forms approved by the Secretary. Permits will be issued only with the written consent of the beneficial Indian owner(s) or the Secretary, for harvest of forest products from Indian forest land, as authorized in §163.20 of this part. To be valid, permits must be approved by the Secretary. Minimum stumpage rates at which forest products may be sold will be set at the time consent to issue the permit is obtained. Payment and bonding requirements will be stipulated in the permit document as appropriate.

(b) Free use harvesting permits issued shall specify species and types of forest products to be removed. It may be stipulated that forest products removed under this authority cannot be sold or exchanged for other goods or services. The estimated value which may be harvested in a fiscal year by any individual under this authority shall not exceed \$5,000. For the purpose of issuance of free use permits, individual shall mean an individual Indian or any organized group of Indians.

(c) Paid permits subject to forest management deductions, as provided in §163.25 of this part, may be issued. Unless otherwise authorized by the Secretary, the stumpage value which may be harvested under paid permits in a fiscal year by any individual under this authority shall not exceed \$25,000. For the purpose of issuance of paid permits, individual shall mean an individual or

§ 163.27

25 CFR Ch. I (4-1-10 Edition)

any operating entity comprised of more than one individual.

(d) A Special Allotment Timber Harvest Permit may be issued to an Indian having sole beneficial interest in an allotment to harvest and sell designated forest products from his or her allotment. The special permit shall include provision for payment by the Indian of forest management deductions pursuant to §163.25 of this part. Unless waived by the Secretary, the permit shall also require the Indian to make a bond deposit with the Secretary as required by §163.21. Such bonds will be returned to the Indian upon satisfactory completion of the permit or will be used by the Secretary in his or 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 shall be required to provide evidence acceptable to the Secretary that he or she has arranged a bona fide sale of the forest products, on terms that will protect the Indian's interests.

§ 163.27 Free-use harvesting without permits.

With the consent of the beneficial Indian owners and the Secretary, Indians may harvest designated types of forest products from Indian forest land without a permit or contract, and without charge. Forest products harvested under this authority shall be for the Indian's personal use, and shall not be sold or exchanged for other goods or services.

§ 163.28 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 land. No expenses for fighting a fire outside Indian lands may be incurred unless the fire threatens Indian land or unless the 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 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 land 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 is authorized to conduct a wildfire prevention program to reduce the number of person-caused fires and prevent damage to natural resources on Indian land.

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

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

§ 163.29 Trespass.

(a) Trespassers will be liable for civil penalties and damages to the enforcement agency and the beneficial Indian owners, and will be subject to prosecution for acts of trespass.

(1) *Cases in Tribal Court.* For trespass actions brought in tribal court pursuant to these regulations, the measure of damages, civil penalties, remedies and procedures will be as set forth in this §163.29 of this part. All other aspects of a tribal trespass prosecution brought under these regulations will be that prescribed by the law of the tribe in whose reservation or within whose jurisdiction the trespass was committed, unless otherwise prescribed under federal law. Absent applicable tribal or federal law, the measure of damages shall be that prescribed by the law of the state in which the trespass was committed.

(2) *Cases in Federal Court.* For trespass actions brought in Federal court