

# INDIAN AFFAIRS MANUAL

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**1.1 Purpose.** This chapter documents the Bureau of Indian Affairs' (BIA) policy, responsibilities, and standards for the authorized harvest of forest products on Indian land. It has been updated to combine the previously separate policy chapters on Contract Sales of Forest Products (53 IAM 3) and Permit Sales of Forest Products (53 IAM 4).

**1.2 Scope.** This policy applies to all BIA offices and programs participating in the management of Indian forest resources on Indian lands. Other federal agencies and programs that are also involved in the administration of Indian forest lands are encouraged to ensure that the standards prescribed herein are met.

**1.3 Policy.** It is the policy of BIA to:

- A. harvest forest products under an approved Forest Management Plan that is consistent with established Tribal goals and objectives, through the application of sound silvicultural and economic principles on a sustained-yield basis (25 CFR §163.11);
- B. sell forest products through contracts or permits to serve the best interest of the Indian owners and only with their written consent;
- C. ensure the Secretary of the Department of the Interior (DOI) approves all contract and permit forms under which forest products are sold (25 CFR §163.19);
- D. accurately determine and record the volume and value of forest products harvested by tract or ownership, and ensure that all required contract and permit collections and disbursements are completed or accounted for using the Trust Asset Accounting Management System (TAAMS);
- E. maintain records sufficient to document contract or permit preparation, advertisement, compliance, and other factual information related to implementation of the contract or permit; and
- F. promote self-sustaining communities, value-added industries, Tribal employment, and economic opportunities for Indian people through the authorized harvest of forest products (25 CFR §163.3 (4)).

**1.4 Authority.**

**A. Statutes and Regulations.**

- 1) 25 CFR 163, General Forestry Regulations

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- 2) 16 U.S.C. § 594, Protection of timber owned by United States from fire, disease, or insect ravages
- 3) 25 U.S.C. § 196, Sale or other disposition of dead timber
- 4) 25 U.S.C. § 406, Sale of timber on lands held under trust
- 5) 25 U.S.C. § 407, Sale of timber on unallotted lands
- 6) 25 U.S.C. § 407d, Charges for special services to purchasers of timber
- 7) 25 U.S.C. § 413, Fees to cover cost of work performed for Indians
- 8) 25 U.S.C. 33, National Indian Forest Resources Management

### **B. Guidance.**

- 1) TAAMS Forestry Document Training Guide, June 15, 2017
- 2) Trust Asset and Accounting Management System (TAAMS) Future Direction memo from Director, BIA, July 28, 2015

### **C. Handbooks.**

- 1) 53 IAM 2-H: Indian Forest Management Handbook- Forest Management Planning, March 18, 2009
- 2) 53 IAM 3-H: Indian Forest Management Handbook- Contract Sales of Forest Products, June 10, 2004
- 3) 53 IAM 4-H: Indian Forest Management Handbook- Permit Sales of Forest Products, June 15, 2005
- 4) 53 IAM 9-H: Indian Forest Management Handbook -Silviculture, April 30, 2012
- 5) 53 IAM 11-H; Indian Forest Management Handbook- Forest Management Deductions, February 1, 2006

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### 1.5 Responsibilities.

- A. **Deputy Bureau Director, Office of Trust Services (OTS)** is responsible for all activities associated with the management and protection of Indian land and forest resources.
- B. **Chief, Division of Forestry and Wildland Fire Management, OTS** is responsible for:
- 1) maintaining policies on the sale and harvesting of forest products;
  - 2) maintaining forest products harvest forms;
  - 3) providing oversight, guidance, and technical assistance to regional offices; and
  - 4) establishing national reporting standards and requirements for the harvest of forest products.
- C. **Regional Directors (RDs)** under the direction of the Deputy Bureau Director, Office of Field Operations, are responsible for:
- 1) establishing supplemental procedures for the preparation and implementation of forest product sales;
  - 2) establishing reporting standards and requirements that address conditions specific and unique to the given region;
  - 3) receiving, reviewing, and compiling timber sale preparation and harvest accomplishment reports from field offices and Tribes to meet Central Office reporting requirements;
  - 4) performing the responsibilities of the Approving Officer (see 1.5 D.); and
  - 5) reviewing and approving direct pay agreements.
- D. **Approving Officer** (this may be a RD, Agency Superintendent, or any line officer with the designated authority) is responsible for:
- 1) authorizing the advertisement of forest products for sale;
  - 2) approving all contracts, permits, and associated documents for the sale of forest products;

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- 3) reviewing and approving (or disapproving) deviations from the general harvest schedule in the Forest Management Plan;
- 4) ensuring the purchaser's compliance with contractual requirements;
- 5) maintaining the required sale records;
- 6) collecting and distributing trust funds from all harvest operations through TAAMS unless a direct pay agreement has been approved;
- 7) collecting and distributing non-trust funds in conjunction with the Indian Affairs' Office of the Chief Financial Officer's Division of Accounting Operations;
- 8) preparing, developing, and submitting to the RD the required timber sale preparation and harvest accomplishment reports;
- 9) ensuring all pertinent sale information is entered into TAAMS according to national, regional, and local business rules; and
- 10) approving Timber Use Policy Statements (TUPS).

**1.6 Definitions.** Additional definitions specific to Sales of Forest Products are found in 25 CFR §163.1.

- A. Accounting** is a systematic process of identifying, recording, measuring, classifying, verifying, summarizing, interpreting, and communicating financial information.
- B. Approving Officer** means the individual approving instruments of harvest for forest products.
- C. Authorized Harvest** means the removal of forest products from Indian forest land when authorized by law and applicable federal or Tribal regulations.
- D. Beneficial Owner** means an individual or entity who holds an ownership interest in Indian land.
- E. Forest Officer** means the person of highest rank assigned to the supervision of forestry work at the BIA Agency having jurisdiction over the sale area, or their authorized representative.
- F. Indian Forest Land** is Indian land, including commercial and non-commercial timberland and woodland, that is considered chiefly valuable for the production of

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forest products or to maintain watershed or other land values enhanced by a forest cover, regardless of whether a formal inspection and land classification action has been taken (25 CFR §163.1).

**G. Indian land** means land title to which is held by:

1) the United States in trust for an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally-recognized Indian Tribe, or an Indian Tribe; or

2) an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized Tribe, or an Indian Tribe subject to a restriction by the United States against alienation (25 CFR §163.1).

**H. TAAMS** is the official federal system of record which includes sales of forest products from Indian land, and all associated collections and distributions.

**I. TUPS** is a document that reflects Tribal and Bureau policy towards harvesting products under permit authority, and describes the agency/Tribal prices, policies, and procedures for issuing paid and free-use permits and authorizing free-use cutting without permits on designated Tribal lands. The TUPS should include a specific delegation of signature authority section that authorizes signature consent.

**1.7 Standards and Requirements.** To authorize and account for the harvest of forest products from Indian lands, the following standards and requirements apply:

**A. Owner Consent**

Harvesting forest products from Indian land requires consent of a majority interest of the beneficial trust owners, unless action is necessary to prevent loss of value resulting from fire, insects, diseases, windthrow, or other catastrophes.

When consent to sell forest products is below fair market value, written acknowledgment that the landowners have been informed of the difference between fair market value and appraised value must be documented.

**B. Sale Preparation**

1) **Forest Officer's Report (FOR).** A FOR is a report detailing sale information including a description of the area, silviculture method, ownership consent, and other pertinent information. A FOR is required for all sales of forest products with an estimated stumpage value exceeding \$15,000.

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- 2) **Environmental and Other Requirements.** Documentation of National Environmental Policy Act (NEPA) compliance is required. This includes a NEPA decision document, as well as compliance with Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act, and any additional studies that are necessary to comply with applicable laws and regulations.
- 3) **Forms.** Contract forms approved by the Secretary must be used to execute timber harvest on sales exceeding \$15,000, except for sole owner allotments using a Special Allotment Timber Cutting Permit (BIA 5328). Permit forms or contract forms may be used to execute timber harvest on sales of less than \$15,000.

## C. Collections and Distributions

- 1) **Forest Management Deductions (FMD).** The Secretary will withhold a reasonable deduction, generally 10%, from the gross proceeds of sales of forest products harvested from Indian forest land, except where the total consideration furnished is estimated to be less than \$5,001.
- 2) **Forestry Project (FP) fees.** Forestry Project fees will be collected if specified by the timber sale contract, permit, or other harvest sale document. These funds are deposited into a BIA trust account or a Tribal account to ensure forest management goals are met.
- 3) **Direct Pay.** A Tribe may request a direct payment agreement for the proceeds of forest product harvests. Such agreements must be approved by the RD.

## D. Additional Permit Guidance

Permit forms cannot be used on harvests with estimated values greater than \$15,000, except for sole owner allotments using a Special Allotment Timber Cutting Permit (BIA 5328). The stumpage value that may be harvested under paid permits in a fiscal year by any individual or entity cannot exceed \$25,000.

### 1.8 Forms.

The following forms are approved for use and can be found on the IA Online Forms webpage here: <https://www.bia.gov/policy-forms/online-forms>

**Form 5-5323**, Timber Sale Contract Part B Standard Provisions

**Form 5-5324**, Timber Contract for the Sale of Estimated Volumes

#19-03, Issued: 10/29/18

Replaces #129 and #130 respectively, both Issued: 9/01/06

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**Form 5-5326**, Subsidiary Allotment Timber Contract for Sale of Estimated Volumes

**Form 5-5327**, Timber Contract for the Sale of Predetermined Volumes

**Form BIA 5328**, Special Allotment Timber Cutting Permit

**Form 5-5331**, Timber Cutting Permit

**Form 5-5331A**, Special Forest Products Harvest Permit

### Approval



10-29-2018

Darryl LaCourte

Date

Acting Director, Bureau of Indian Affairs