

INDIAN AFFAIRS MANUAL

1.1 Purpose. This chapter documents the policy, authorities, and responsibilities for wildland fire origin and cause determinations and investigations on Indian lands (including Tribal trust, allotted, and restricted title lands).

1.2 Scope. This policy applies to all Tribal and individually held trust and restricted Indian lands under the Bureau of Indian Affairs' (BIA) jurisdiction, and to all Indian Affairs (IA) programs and staff involved in wildland fire investigations on these lands. This policy may also apply to entities carrying out activities on behalf of BIA under contracts or other agreements if expressly agreed to in the contracts or agreements, or if the requirement to abide by such policy is otherwise required by law. These entities may include contractors or Tribes operating through contracts issued pursuant to Public Law (P.L.) 93-638. Compact Tribes may not be required to abide by the policies contained in this chapter (depending on individual compact language), but are encouraged to use IA policy as guidance. Other federal agencies and programs that are also involved in the administration of Indian forest resources are encouraged to ensure that the standards prescribed herein are met.

1.3 Policy. It is IA's policy to follow all Department of the Interior (DOI), IA, and state and local laws, policies, and requirements in order to conduct wildland fire origin and cause determinations on all wildfires objectively and efficiently; work effectively with appropriate jurisdictional authorities as needed; and pursue adjudication of wildfire crimes through the appropriate legal channels.

1.4 Authority.

A. Statutes and Regulations.

- 1) 18 U.S.C. § 1153, Offenses committed within Indian country
- 2) 18 U.S.C. § 1855, Timber set afire
- 3) 18 U.S.C. § 1856, Fires left unattended and unextinguished
- 4) 18 U.S.C. § 5032, Delinquency proceedings in district courts; transfer for criminal prosecution
- 5) 25 U.S.C. § 3104, Management of Indian forest land
- 6) 25 CFR 11.409, Reckless burning or exploding
- 7) 25 CFR 11.410, Criminal mischief

INDIAN AFFAIRS MANUAL

Part 90
Chapter 6

Wildland Fire Management
Wildfire Investigation

Page 2

- 8) 25 CFR 11.430, False alarms
- 9) 25 CFR 163.29, Trespass

B. Guidance.

- 1) Guide to Wildland Fire Origin and Cause Determination, National Wildfire Coordinating Group (NWCG) publication PMS 412
- 2) National Incident Management System: Wildland Fire Qualification System Guide, NWCG publication 310-1
- 3) National Fire Protection Association (NFPA) 921 Guide for Fire and Explosion Investigations

C. Handbooks.

- 1) 53 IAM 7-H: Indian Forest Management Handbook - Forest Trespass
- 2) 90 IAM 6-H: Wildland Fire Origin and Cause Investigation Handbook
- 3) Interagency Standards for Fire & Aviation Operations (Red Book)
- 4) Federal Bureau of Investigation (FBI) Handbook of Forensic Services

1.5 Responsibilities.

A. Director, BIA (DBIA) is responsible for:

- 1) adopting and establishing wildfire origin and cause investigation policies to protect Indian lands and Indian natural resources from wildfires; and
- 2) ensuring compliance and capacity to comply with statutes, regulations, IA policy, and DOI policy applicable to the origin and cause investigation of wildfires on Indian lands.

B. Deputy Bureau Director (DBD), BIA Field Operations (DBD Field Ops) is responsible for:

- 1) assigning priority to the investigation of wildfires, and supporting budget and staffing to complete wildfire investigation activities; and
- 2) ensuring consistent implementation of national wildfire origin and cause investigation policy.

INDIAN AFFAIRS MANUAL

C. Regional Director (RD) is responsible for:

- 1) ensuring that wildland fire investigation needs are met;
- 2) adopting regional directives for standards and additional procedural policy, as needed, for wildland fire investigations, including operational implementation, effectiveness evaluation, and fiscal accountability; and
- 3) coordinating with the Office of Justice Services (OJS) Special Agent in Charge when criminal activity associated with wildfires occurs on Indian lands.

D. Agency Superintendent is responsible for:

- 1) ensuring that origin and cause is determined for every wildland fire within their jurisdiction;
- 2) requiring that wildland fires are investigated for origin and cause when they have resulted in:
 - damage to or destruction of real property (structures and other improvements);
 - trespass damages to natural or agricultural resources;
 - loss of, or serious injury to, domestic livestock;
 - personal injury requiring medical treatment or fatality;
 - vehicular loss, damage, or accident; or,
 - potential for litigation;
- 3) ensuring BIA Agency staff are trained and qualified to conduct wildland fire origin and cause investigations;
- 4) initiating requests for assistance when BIA Agency personnel are unavailable to conduct wildland fire origin and cause investigations;
- 5) ensuring established wildfire investigation procedures and guidance are followed; and
- 6) coordinating with the appropriate law enforcement agency(s) when wildfire crimes are suspected and/or detected.

E. Office of Environmental and Natural Resources, Office of Trust Services (OTS) is responsible for:

- 1) reviewing and recommending national wildfire origin and cause investigation policy for Indian Country; and
- 2) coordinating wildfire origin and cause investigation activities among and between OTS programs.

INDIAN AFFAIRS MANUAL

Part 90
Chapter 6

Wildland Fire Management
Wildfire Investigation

Page 4

F. Chief, Division of Wildland Fire Management (DWF), OTS is responsible for:

- 1) providing overall direction to the Wildland Fire Management Program;
- 2) overseeing wildland fire investigation policy development, and evaluating impacts on other wildland fire programs;
- 3) providing policy and procedural guidance to the DBD Field Ops and the RDs to achieve wildland fire investigation objectives; and
- 4) developing policies and standards for firefighter safety, equipment, and training for the prevention, investigation, suppression, and use of wildland fires on Indian trust and restricted lands.

G. Deputy Branch Chief, Fire Use and Fuels, DWF is responsible for:

- 1) establishing minimum standards for wildland fire investigations and reports;
- 2) providing national oversight and guidance in wildland fire investigations;
- 3) interpreting national wildland fire management policy as it relates to wildland fire investigation; and
- 4) developing and interpreting wildland fire investigation policy.

H. Regional Fire Management Officer is responsible for:

- 1) developing wildland fire origin and cause investigation processes and providing regional guidance and oversight to implement policy;
- 2) ensuring that Wildland Fire Investigators (INVs) operating in the region are certified according to NWCG qualifications and standards;
- 3) ensuring that INVs have a proper delegation of authority when needed; and
- 4) recognizing situations requiring additional investigative resources, and coordinating that with the assigned Regional Wildland Urban Interface (WUI)/Prevention Specialist to ensure that those needs are met in an efficient manner.

I. Regional WUI/Prevention Specialist is responsible for:

- 1) providing technical guidance and assistance to the Regional Fire Management Officer, Agency Superintendents, and INVs to implement wildland fire investigation policy;
- 2) evaluating fire occurrence and collaboratively determining regional investigation needs and priorities with the Regional Fire Management Officer;

INDIAN AFFAIRS MANUAL

- 3) coordinating, conducting, and/or supporting wildland fire origin and cause investigations and associated activities in Indian Country with appropriate law enforcement;
- 4) providing oversight and guidance for fire trespass cases related to wildland fire origin and cause investigations;
- 5) maintaining Code of Conduct Agreements for INVFs in their assigned regions;
- 6) interpreting national investigation policy at the regional level;
- 7) coordinating wildland fire origin and cause investigation training; and
- 8) periodically providing wildfire occurrence information to BIA OJS, District Special Agent in Charge.

J. INVFs are responsible for:

- 1) signing a Code of Conduct Agreement and providing copies to their supervisor and their WUI/Prevention Specialist prior to conducting any wildland fire origin and cause investigation;
- 2) obtaining a delegation of authority from the Agency Superintendent, RD, or an empowered Tribal official when conducting a wildland fire origin and cause investigation outside of their local BIA Agency or Tribal jurisdiction;
- 3) objectively conducting wildland fire origin and cause investigations in accordance with established policy, standards, and guidance;
- 4) reporting any possible trespass damages observed during a wildland fire origin and cause investigation to the appropriate resource managers;
- 5) preparing the wildland fire origin and cause investigation report and passing it on to the appropriate authority for follow-up;
- 6) maintaining confidentiality for investigations and investigation reports; and
- 7) engaging and cooperating with the appropriate law enforcement agency as necessary to complete a wildland fire origin and cause investigation.

K. BIA OJS personnel, in the absence of qualified Tribal law enforcement, are responsible for:

- 1) providing for the safety and protection of INVFs while engaged in a wildland fire origin and cause investigation when requested;
- 2) supporting INVFs in their investigations when law enforcement authority and knowledge are needed;

INDIAN AFFAIRS MANUAL

Part 90
Chapter 6

Wildland Fire Management
Wildfire Investigation

Page 6

- 3) providing technical advice to INVFs concerning law enforcement issues related to their investigations;
- 4) providing law enforcement functions in a wildland fire origin and cause investigation;
- 5) making the decision to involve other federal or state investigative agencies;
- 6) ensuring that evidence collected in wildland fire origin and cause investigations is properly catalogued and stored;
- 7) obtaining forensic testing of evidence as required; and
- 8) developing law enforcement cases for prosecution.

1.6 Definitions.

Definitions related to wildfire investigations are documented in the corresponding handbook, 90 IAM 6-H: Wildland Fire Origin and Cause Investigation Handbook.

1.7 Standards, Requirements, and Procedures.

Wildland fire origin and cause determinations and investigation standards, requirements, and procedures specific to IA are documented in the corresponding handbook, 90 IAM 6-H: Wildland Fire Origin and Cause Investigation Handbook. This handbook is located on the IA Handbooks webpage here:

<https://www.bia.gov/policy-forms/handbooks>.

Approval

Darryl LaCounte Digitally signed by Darryl
LaCounte
Date: 2023.09.25 11:57:41 -04'00'

Darryl LaCounte
Director, Bureau of Indian Affairs

Date