

11.1 Purpose. This chapter documents the policies, standards, and responsibilities relevant to the collection and expenditure of forest management deductions (see 25 CFR §163.25 and 53 IAM 1).

11.2 Guidance. Handbooks, directives and other guides may be issued and revised to provide procedural guidance (see 53 IAM 1.3; also see the *Indian Forest Management Handbook, Volume 11*, titled, *Forest Management Deductions*, for detailed process and procedural guidance). Regional directives may be issued as necessary to address local processes and procedures.

11.3 Scope. The directives contained in this chapter apply to all Federal agencies and programs participating in the management, accountability, or protection of Indian forest lands. Regardless of the means of program execution, the appropriate Federal official shall assure that the standards prescribed herein are met.

11.4 Policy.

A. Forest Products Harvesting. A forest management deduction (FMD) will be withheld from the "gross proceeds" (as defined in 25 CFR §163.25 (b)) of sales of forest products harvested from Indian forest lands, via timber sale contracts or permits, where the value of the sale of forest products is greater than or equal to \$5,001 (25 CFR §163.25 (a)(b)(c)). The term "gross proceeds" is further defined to mean the exact stumpage revenue that is generated in this process.

B. Trespass Recovery. In trespass cases, a FMD will only be withheld where the "highest stumpage value" of the unprocessed forest products taken in the trespass, or greater, has been recovered. The "highest stumpage value" is defined as the highest obtainable stumpage value from the raw materials involved in the trespass. Recovery that exceeds the highest stumpage value of the trespass product, but is less than the full recovery of all damages, shall be distributed as described in 25 CFR §163.29(b)(2).

C. Actions Subject to Forest Management Deductions. The following actions are subject to FMD:

- (1) Gross proceeds from estimated and predetermined volume contracts and paid permits.
- (2) Total estimated value of forest products harvested using special allottee permits.
- (3) Gross proceeds from cutting or destruction of trees or products not designated for harvest.
- (4) Gross proceeds resulting from deficiencies in cutting requirements.
- (5) Gross proceeds resulting from unauthorized movement of products.
- (6) Liquidated damages charged to the Purchaser
- (7) Gross proceed resulting from trespass settlements (as described in Section B above).

11.5 Withholdings.

A. Amount Withheld. The amount of FMD withheld at each location will be 10 percent of the gross proceeds or the percentage that was in effect on November 28, 1990, whichever is less. The

Secretary may increase, or decrease to not less than one percent, the FMD percentage upon receipt of a written request by a Tribe supported by a tribal resolution executed by the authorized tribal representatives. FMD's will be used for the performance of forest management activities on the reservation from which the FMD is deducted.

B. Individual Indian Lands. The same policy for the withholding of FMDs applies on reservation allotments, public domain and Alaska Native allotments, trust or restricted, for individual Indians, except that FMD's may or may not be utilized on the allotment(s) from which the FMD was withheld. Also, if a Tribe has been authorized to withhold an amended FMD rate, that rate will also be withheld on all allotments administered by the Tribe.

C. Trespass Settlements Involving Installment Payments. In trespass settlements involving installment payments, there is no way of knowing whether the "highest stumpage value" will be fully recovered until the final payment is received. In these cases, if the settlement is for the highest stumpage value or greater, the assumption will be that the highest stumpage value is fully recovered, even though it is based upon installment payments. In these cases, the FMD will be collected with each installment.

11.6 Expenditures. Forest management deductions are to be utilized to perform authorized forest land management activities in accordance with an approved expenditure plan. FMDs must be incorporated into an approved expenditure plan during the fiscal (or calendar) year following the fiscal year that they are withheld. Any FMDs not incorporated as just described will be collected into the general funds of the United States Treasury. FMDs incorporated into an approved expenditure plan will remain available until expended.

A. Expenditure Plan. Expenditure plans will describe the forest land management activities anticipated to be undertaken, establish a time period for their completion, summarize anticipated obligations and expenditures, and specify the method through which funds are to be transferred or credited to tribal accounts from accounts established to hold amounts withheld as FMDs. The expenditure plan will also describe the activities on carryover funds and funds budgeted but not spent on previous year expenditure plans. Refer to the *Indian Forest Management Handbook, Volume 11* for guidance.

(1) Expenditure plans for FMDs withheld from Reservation lands will be approved by the authorized Tribal representative and the Secretary.

(2) Expenditure plans for FMDs withheld from public domain and Alaska Native allotments will be approved by the Secretary.

B. Authorized Forest Land Management Activities. Expenditures of FMDs must only occur within the eleven forest land management activities defined in 25 CFR §163.1 and summarized below. FMDs will not be used to offset Federal appropriations for meeting the Federal trust responsibility for management of Indian forest land.

(1) **Program Administration** includes policy and operational procedures, program oversight and evaluation; legal assistance and the handling of legal matters; budget, finance and personnel; databases and program reports.

(2) **Forest Inventory and Management Plans** includes aerial photography, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment, management plans, and forest history.

(3) **Forest Development** includes forestation, thinning, tree improvement activities, and the use of silvicultural treatments for forest land restoration and improvement.

(4) **Wildfire Protection** includes acquisition and maintenance of fire fighting equipment and fire detection systems, construction of fire breaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements. FMDs will not be used to cover the costs that are paid from funds appropriated for fire suppression.

(5) **Insect and Disease Protection** includes: detection and evaluation; preparation of project proposals, including descriptions, environmental analyses, and cost-benefit analyses necessary to secure funding; field suppression operations and reporting. FMDs will not be used to cover the costs that are paid from funds appropriated for pest control.

(6) **Damage Assessments** includes assessment of damage caused by forest trespass, infestation or fire, including field examination and survey, damage appraisal, investigation assistance and report, demand letter and testimony.

(7) **Sale of Indian Forest Products** includes all aspects of the preparation, administration, and supervision of timber sale contracts, paid and free use permits, other Indian forest products harvest sale documents, and forest product marketing assistance.

(8) **Education of Indians and Alaska Natives** includes financial assistance for the education of Indians and Alaska Natives enrolled in accredited programs of post-secondary and post-graduate forestry and forestry-related fields of study.

(9) **Tribal Integrated Resource Management Plans (IRMP)** includes development and implementation of IRMPs for current and future multiple uses of Indian forest lands.

(10) **Roads** include improvement and maintenance of extended season primary and secondary Indian forest land road systems.

(11) **Research** includes research activities to improve the basis for determining appropriate management measures to apply to Indian forest land.

11.7 Justifiable Expenses. The following are justifiable expenses: personnel services; travel and training; contractual services; shipping costs; rent; utilities; printing costs; supplies, materials, and equipment.

11.8 Reporting. Tribes shall submit a written report within 120 days after the close of the tribal fiscal year. The report will detail the actual expenditures of FMDs during the past fiscal year. Refer to the *Indian Forest Management Handbook, Volume 11* for guidance.

11.9 Responsibilities.

A. Assistant Secretary - Indian Affairs (AS-IA).

- (1) Review and approve changes to FMD rates, as requested by Tribes.
- (2) Review and approve waivers of FMD, as requested by Tribes.

B. Director, Bureau of Indian Affairs.

- (1) Recommend changes to rates or waivers of FMD to AS-IA.
- (2) Develop and revise policy on FMD.
- (3) Develop national guidance.

C. Regional Director.

- (1) Audit FMD expenditures.
- (2) Develop regional guidance.
- (3) Approve expenditure plans (unless delegated to Superintendents).

D. Agency Superintendent.

- (1) Assist Tribes in the preparation of expenditure plans.
- (2) Review expenditure plans.
- (3) Collect FMDs.
- (4) Oversee FMD expenditures and accomplishments, and review expenditure report.

E. Tribal Government.

- (1) Prepare expenditure plan.
- (2) Use FMD in accordance with approved expenditure plan.
- (3) Prepare and submit to Superintendent annual FMD expenditure report.