

# INDIAN AFFAIRS MANUAL

Part 53  
Chapter 7

Forestry  
Forest Trespass

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**1.1 Purpose.** This chapter establishes policy and responsibilities pertaining to the enforcement of Indian Forest Product Trespass on Indian lands held in Trust status by the U.S. Government. In order to facilitate implementation of this policy, handbooks and other guidance may be issued and/or revised to provide detailed procedures (e.g., the *Indian Forest Management Handbook, 53 IAM 7-H, Forest Trespass, Current Version*).

**1.2 Scope.** This policy applies to all Indian Affairs (IA) offices and programs participating in the management, accountability, and protection of Indian forest resources on Indian lands held in Trust status by the U.S. Government. 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.** Forest resources on all Indian lands will be protected from acts of trespass. The policy of IA is to:

- Proceed in every reasonable manner to detect all acts of forest product trespass and determine a responsible party;
- Ensure that acts of trespass are properly investigated, reported, payment demanded, and, when appropriate, that prosecution is recommended to the proper authorities, prioritizing those cases in which the alleged trespasser had actual or constructive knowledge that their conduct was prohibited;
- Develop and maintain adequate records of each case in accordance with Federal document retention policies;
- Provide a full assessment of damages and product loss regardless of whether the trespasser has the ability or means to pay full restitution;
- Obtain full recoverable damages when possible;
- Communicate with beneficial owners and identify, collect, deposit, invest, and distribute income due or held on behalf of the beneficial owners;
- Provide complete and immediate support in handling trespass cases at all levels within IA;
- Develop and maintain trespass training standards to implement this policy;
- Issue and maintain detailed procedural guidance in the form of handbooks, guides, and training curriculum for processing cases;
- Promote and support Tribal concurrent civil jurisdiction as defined in 25 CFR §163.29(j);

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- Enforce the terms of all timber sale contracts and permits, leases, or other agreements that provide for the use of trust assets, and take appropriate steps to remedy trespass or compensate beneficial owners on Trust or restricted lands;
- Develop prevention and education strategies to reduce the number of forest trespass incidents;
- Alert or notify proper officials, including law enforcement, when a trespass has occurred.

## 1.4 Authority.

### A. Statutes and Regulations.

- 1) 18 U.S. Code (U.S.C.) § 641 Public money, property, or records
- 2) 18 U.S.C § 1163 Embezzlement and theft from Indian Tribal organizations
- 3) 18 U.S.C. § 1853 Trees cut or injured
- 4) 18 U.S.C. § 1855 Timber set on fire
- 5) 18 U.S.C. § 1856 Fires left unattended and unextinguished
- 6) 25 U.S.C. §§ 3101 - 3120, National Indian Forest Resources Management Act
- 7) 31 U.S.C. § 3711 [a] Collections and Compromise
- 8) 25 CFR Indians, § 163.29 - (Trespass)

### B. Guidance.

- 1) Secretary's Order (SO) 3385, Enforcement Priorities

### C. Handbooks.

- 1) Indian Forest Management Handbook – Forest Trespass, 53 IAM 7-H, Current Version
- 2) National Wildfire Coordinating Group (NWCG) Handbook 1 Wildfire Origin and Cause Determination Handbook
- 3) National Wildfire Investigation Handbook, 90 IAM 1.4C (10)-H, Current Version

**1.5 Responsibilities.**

**A. Director, BIA is responsible for:**

- 1) Ensuring compliance and capacity to comply with statutes, regulations, IA policy, and Department of the Interior (DOI) policy applicable to the detection and remedy/resolution of trespass on Indian forest lands;
- 2) Ensuring the appropriate involvement of the BIA Office of Justice Service staff regarding forest product trespass detection, investigation and applicable resolution.

**B. Deputy Bureau Director, BIA Field Operations is responsible for:**

- 1) Assigning priority to trespass detection and response, and supporting budget and staffing to complete these activities;
- 2) Determining and establishing Line Authority;
- 3) Ensuring consistent implementation of national trespass policy;
- 4) Concurring with Regional Directors' approval of an Indian Tribe's request for concurrent civil jurisdiction when requirements of 25 CFR §163.29(j) are met.

**C. Deputy Bureau Director, Office of Trust Services is responsible for:**

- 1) Developing and maintaining national trespass policy and guidance for Indian forest resources;
- 2) Coordinating trespass detection and investigation activities among and between Trust programs;
- 3) Coordinating with Division Directors to ensure consistent implementation of trespass policies;
- 4) Providing national trespass program direction, oversight, and guidance;
- 5) Establishing standards for trespass enforcement.

**D. Regional Directors (RDs) are responsible for:**

- 1) Developing regional specific forest trespass guidelines for program implementation;
- 2) Ensuring trespass policies and standards are met;
- 3) Identifying a Regional Trespass Coordinator;
- 4) Referring trespass cases to the Regional Solicitor's Office involving compromise settlements or where trespass cases have a high degree of complexity;
- 5) Referring criminal trespass cases to the appropriate law enforcement agency (BIA/Tribal/State/);

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- 6) Authorizing payment acceptance of damages in full for settlement of civil trespass cases. "Payment of damages in full" means payment of the maximum amount due under applicable law;
- 7) When requested, approving an Indian Tribe's concurrent civil jurisdiction when requirements of 25 CFR §163.29(j) are met;
- 8) Ensuring collections are documented and distributed via the Trust Asset and Accounting Management System (TAAMS);
- 9) Ensuring agreements with Self Governance Tribes include duties and responsibilities for the detection, investigation and remedy/resolution of forest product trespass;
- 10) Approving or remanding agreements between Agencies and Tribes concerning forest products trespass responsibilities and processes.

**E. Agency Superintendents** are responsible for:

- 1) Detecting and investigating trespass of forest products;
- 2) Taking initial administrative actions as defined in 25 CFR §163.29 (a), (e) and (g);
- 3) Identifying the Forest Officer responsible for the investigation of the trespass;
- 4) Ensuring staff are properly trained to carry out and enforce trespass policies;
- 5) Contacting the appropriate law enforcement agency/office when criminal activities are discovered and/or related to trespass action(s);
- 6) Negotiating agreements with Tribal governments to agree to the duties and responsibilities for the detection, investigation, and remedy/resolution of forest product trespass to either the BIA or the Tribe, as appropriate;
- 7) Work with Field or Regional Solicitors as necessary to ensure case is resolved in a timely and legal manner.

**F. Field or Regional Solicitors** are responsible for:

- 1) Providing legal guidance to the RDs and Agency Superintendents on trespass cases;
- 2) Providing legal assistance in collecting damages and negotiating compromised trespass settlements as needed;
- 3) Requesting initiation of civil and criminal litigation by the U.S Department of Justice (DOJ) as needed;
- 4) Documenting and inputting trespass collections for distribution via TAAMS;
- 5) Coordinating communication between the DOJ, RDs, Agency Superintendents and Tribes as necessary, in trespass litigation.

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**1.6 Definitions.** Additional definitions specific to Indian forest trespass are found in 25 CFR § 163.1.

- A. Forest Products** are timber, timber products, lumber, lath, crating, ties, bolts, logs, pulpwood, fuelwood, posts, poles, split products, bark, Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, mushrooms, herbs, other marketable materials, and gravel which is extracted from, and utilized on, Indian forest land.
- B. Indian Forest Land** is Indian land, including commercial, non-commercial, productive and non-productive timberland and woodland, that is considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by forest cover, regardless of whether a formal inspection and land classification action has been taken.
- C. Trespass** is the removal of forest products from, or damaging forest products on, Indian forest land, except when authorized by law and applicable Federal or Tribal regulations. Trespass can include any damage to forest resources on Indian forest land resulting from activities under contracts or permits or from fire.

## Approval

Darryl LaCounte

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Darryl LaCounte  
Director, Bureau of Indian Affairs

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