77. *Comment:* § 163.25(e) states that the Secretary shall increase the forest management deduction upon receipt of a written request from a tribe supported by a tribal resolution. Since provisions of 25 U.S.C. 3105 do not require such an action to be mandatory upon receipt of the stipulated documents, the Secretary's decision on such matters should be discretionary.

Response: The rule has been revised to change the word "shall" to "may" in the first sentence of § 163.25(e) to preserve the Secretary's discretionary authority on requests to increase forest management deductions.

78. Comment: § 163.25 of the rule must provide for incorporating interest earned on forest management deductions into expenditure plans to ensure that interest income is available for use.

Response: The rule has not been revised because existing Bureau accounting regulations require that interest earned on forest management deductions follow principal so interest earned on forest management deductions may be incorporated into expenditure plans.

79. Comment: The prohibition on withholding forest management deductions from monies collected or derived from trespass, defaulted contracts or other civil judgements in § 163.25(c)(2) of the rule should be deleted because it is appropriate that forest management deductions be collected on single stumpage value in such cases.

Response: The rule has been revised by deleting § 163.25(c)(2) of the rule because this recommendation is consistent with past policy and 25 U.S.C. 3105 does not prohibit the change.

80. Comment: Modify the definition of gross proceeds in § 163.25(b) of the rule by adding a provision to take into consideration Indian investments and using formulas and methods approved by the Secretary for individual locations.

Response: The rule has not been revised because the definition in § 163.25(b) of the rule accurately reflects the language in 25 U.S.C. 3105(a) which describes gross proceeds of sales of forest products and the definition is appropriate for establishing uniform operating procedures for the Indian forestry program.

81. Comment: § 163.25 of the rule should be modified to allow timber sale special purchaser payments to be added to forest management deductions so their use can be determined in consultation with tribes. *Response:* The rule has not been revised because timber sale special purchaser payments are required payments for contract specified activities and, therefore, cannot be commingled with forest management deductions.

82. Comment: Modify § 163.25(j) of the rule by adding the word "miscellaneous" to describe the type of U.S. Treasury receipt account.

Response: § 163.25(j) of the rule has been revised by adding the word "miscellaneous" before U.S. Treasury receipt account to emphasize that such funds may not be used to augment any appropriated fund.

163.26 Forest Product Harvesting Permits

83. *Comment:* In §§ 163.26 (b) and (c) of the rule, increase the annual value of forest products that can be harvested under free use forest permits to \$10,000 and under paid permits to \$50,000.

Response: The rule has not been revised because the \$5,000 free use and \$25,000 paid permit maximum annual harvest values in the rule provide sufficient flexibility for the harvest of forest products under permits.

84. *Comment:* In § 163.26(d) of the rule, does the condition to issuance of a special allotment timber harvest permit which requires terms that protect the Indians' interests conflict with § 163.14(d) of the rule?

Response: There is no conflict between the two parts of the rule. § 163.14(d) of the rule requires apprising the beneficial owners of forest product values and Secretarial approval to sell products at less than their appraised value. § 163.26(d) of the rule stipulates that issuance of a special allotment timber harvest permit requires terms that protect the Indians' interests.

85. *Comment:* § 163.26 of the rule should provide for issuance of special allotment timber harvest permits in the case of multiple owners.

Response: The rule has not been revised because issuance of special timber harvest permits when there is more than one beneficial owner would make it difficult or impossible for the Secretary to fulfill the trust responsibility to all beneficial owners involved in such cases.

163.27 Free-Use Harvesting Without Permits

86. *Comment:* There should be a \$15,000 annual limit on harvest authority under § 163.27 of the rule.

Response: The rule has not been revised because § 163.27 of the rule appropriately provides that the limit on products harvested under the free-use authority be established by the Indian owners and that products harvested under the authority be limited to personal use.

163.28 Fire Management Measures

87. *Comment:* Include authority for the Secretary to expend funds for the procurement of Smokey Bear and other promotional materials utilized for fire prevention purposes in § 163.28(b) of the rule.

Response: The rule has not been revised because implicit in § 163.28(b) of the rule which requires the Secretary to conduct a wildfire prevention program is an authorization to expend funds for that purpose.

88. *Comment:* Use of the phrase "The Secretary will" rather than "The Secretary is authorized to" conduct a wildfire prevention program in § 163.28(b) of the rule is inappropriate because lack of funds may prevent the Secretary from being able to conduct the program.

Response: The rule has been revised to make the requested change.

89. *Comment*: In § 163.28(d) of the rule, require the approval of the beneficial Indian owners be obtained rather than merely requiring consultation with the beneficial owners before using fire as a management tool.

Response: The rule has not been revised because use of fire as a management tool is carried out under the framework of resource management plans which must be approved by the Secretary and beneficial Indian owners.

163.29 Trespass

90. *Comment:* § 163.29 of the rule should allow the Federal government to recover the expense of trespass investigation.

Response: § 163.29 of the rule has been revised to provide for recovering trespass associated expenses of the Federal government and tribes.

91. Comment: § 163.29(a)(3)(i) of the proposed rule appears to limit trespass to trees, timber or shrubs. In light of the comprehensive list of products included in the definition of forest products in § 163.1 of the rule, such a limitation is inconsistent with the intent of 25 U.S.C. 3106.

Response: § 163.29 of the rule has been revised to include all forest products as listed in the definition of forest products in § 163.1 of the rule to ensure providing for the broad scope of trespass protection intended by 25 U.S.C. 3106.

92. *Comment:* Determining trespass damages will be difficult and controversial if the highest valued product obtainable as called for in