

**Forest Service Handbook
National Headquarters - Washington Office
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**Forest Service Handbook 2409.12b – Timber and Forest Products Trespass/Theft Procedures
Handbook
Chapter 40 - Sale and Disposal**

Amendment: 2409.12b-2012-1

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Duration: This amendment is effective until superseded or removed.

Approved by: James M. Pena, Associate Deputy Chief, NFS

Date approved: August 10, 2012

Responsible Staff:

Last Change: None

Superseded Document(s):

Digest: Following is an explanation of the changes throughout the directive by section.

2409.12b: Establishes new handbook “FSH 2409.12b, Timber and Forest Products Trespass/Theft Procedures Handbook.”

Zero Code: Establishes handbook and sets forth direction on procedures for preventing and investigating trespass and theft of forest products. In addition to consolidating information scattered throughout several different manuals and handbooks, it clarifies existing direction and provides new direction for the prevention of or the investigation of trespass and/or theft of forest products.

10: Establishes chapter 10 and sets forth direction on procedures to address the prevention, discovery, legal concerns, and reporting for timber and forest products trespass and theft.

20: Establishes chapter 20 and sets forth direction on procedures to conduct timber measurements for timber and forest products trespass and theft.

30: Establishes chapter 30 and sets forth direction on procedures for valuation and appraisal method(s) for timber and forest products trespass and theft.

40: Establishes chapter 40 to set forth procedures for the sale and disposal of seized material from timber and forest products trespass and theft.

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40 - Sale and Disposal of Seized Materials

40.1 - Authority

The authority for sale and disposal of seized forest product materials is derived from 36 CFR 223.3, which states: “Seized material (trees, portions of trees or other forest products cut in trespass from National Forest System lands) may be sold to the highest bidder under specific authorization from the Regional Forester. If advertisement is impractical, sale of material with an appraised value of less than \$10,000 will be made on informal bids”.

40.2 - Objectives

1. Recover values due to the Government.
2. Assure a fair market value of the seized material.
3. Assure chain of evidence.
4. Retain receipts from disposed materials until final disposition of the legal case.
5. Distribute receipts per settlement of the case.

40.4 - Responsibility

40.41- Regional Forester

The Regional Forester will delegate to the appropriate, Contracting Officers, the authority to sell and dispose of seized material (FSM 2409.28). This authority cannot be re-delegated. Contracting Officers shall meet the minimum requirements of FSM 2452.21.

40.42 - Contracting Officer

The Contracting Officer will ensure fair market value is received for disposed material, receipts are appropriately retained pending disposition of the case, and receipts are appropriately dispersed upon settlement of the case. The Contracting Officer may authorize in writing another individual to be a Transport Agent for perishable material to the sale and disposal site.

40.43 - Law Enforcement

The Investigating Officer or Case Agent will ensure that seized material is maintained in a secure location until disposal, will notify the Contracting Officer when the material is released for disposal, will notify the Contracting Officer upon resolution of the case, and notify the Contracting Officer of any specified case-resolution required dispersal or distribution of receipts.

40.44 - Collection Officer

Only designated Collection Officers and Unit Collection Clerks are to accept remittances, FSM 6532.2.

40.6 - Seized Material Fundamentals

1. Follow procedures described in FSH 5309.11, chapter 20 for seizure, documentation and retention of seized materials.
2. Follow procedures described in FSH 2409.18, chapters 40, 80 and chapter 30 Valuation of Theft and Trespass Material, from this handbook, to determine fair market values.
3. Follow procedures described in FSH 2409.18, chapters 60 and 80, to sell seized material. Direct sales of perishable materials may be appropriate to minimize value loss due to deterioration.
4. Sale and disposal of non-perishable seized materials will occur subsequent to resolution of the case, per FSH 5309.11, chapter 23.
5. Sale and disposal of perishable seized materials may be disposed of prior to case resolution, per FSH 5309.11, chapter 22.
6. Sale and disposal of perishable seized materials may be potentially timing-critical. However, deviations from Manual and Handbook direction regarding sale and disposal are not appropriate.

40.61 - Receipts from Seized Material

Non-Perishable Material. Receipts generated through sale or disposal of material not returned to the entity from which it was seized will be distributed according to court resolution. Receipts in excess of the court directed distribution will be distributed under the protocols established for receipts of forest products by the Forest on which the material was seized. All receipts should be entered into the Timber Information Management (TIM) system and in the Automated Timber Sale Accounting (ATSA). See the TIM Financial Management User Guide or Automated Timber Sale Accounting Desk Guide for detailed instructions.

Perishable Material. Receipts generated through sale or disposal of material prior to case resolution.

1. Vendor data will be collected and utilized to establish a vendor code. A vendor is described as the entity from which the material was seized.
2. A Bill for Collection will be issued with the vendor ID and for the amount of funds realized for the disposed material.

3. Initially, the collected funds will be deposited in a code 867001-Miscellaneous, Suspense Account.
4. Upon final disposition and/or resolution of the court case related to the seized material, the funds will be dispersed according to the court resolution. If the court provides no alternate direction, receipts will be distributed under the protocols established for receipts of forest products by the Forest on which the material was seized. All receipts should be processed in TIM and ATSA. See the TIM Financial Management User Guide or Automated Timber Sale Accounting Desk Guide for detailed instructions.
5. The Suspense Account and related account transactions must be audited at a minimum of each 6 months to ensure funds are properly distributed and accounted for.