

**Forest Service Policy for
Suppression
Rehabilitation**

And

**Claims Against the United
States**

Plumas National Forest Supervisor's Office
(530) 283-2050

Mt Hough Ranger District
(530) 283-0555

Beckwourth Ranger District
(530) 836-2575

Feather River Ranger District
(530) 534-6500

Albuquerque Service Center Budget and Finance
1(877) 372-7248

FSH 6509.11g Service Wide Appropriations Use

Chapter 50 Wildfire Management

51.24 - Property Damage Resulting from Fire Suppression Activity

Use WFSU funds for the following activities:

1. Repair or minimize damage to soil, water, and other resources directly attributable to the fire suppression activity on National Forest System lands.

(This is based on the premise that Forest Service programs must include known, proven, and reasonable precautions necessary to prevent operations from causing damage to forest resources. Do this work before incident demobilization or as soon thereafter as possible. Usually, work should be completed before the fire is declared out. Activities that extend beyond that point must be documented and approved in advance by the Regional Forester. Such documentation must be retained on file for audit purposes.)

2. Repair damage to Forest Service improvements caused by fire suppression activities; for example, a fence that is damaged when obtaining access to the incident or to build a fireline. Do not use

WFSU funds to repair damage to Forest Service improvements caused by the fire itself.

3. Repair Forest Service-owned airfields that are damaged by fire suppression activities.

4. Pay for damage to State, County, and private lands and improvements caused by wildland fire suppression activities, only to the minimum extent needed to immediately correct the damage to prevent further loss or injury. Examples are:

a. patching a wire fence around a water development,

b. placing a temporary fence to keep cattle from roaming into dangerous areas during suppression activities, or

c. building a water bar across a fire line.

Pay for other damage only through established claims procedures (FSM 6570).

--	--

FSM 6500 – FINANCE AND ACCOUNTING

CHAPTER 6570 – CLAIMS

This chapter provides direction on the legal authorities and delegated authority within the Forest Service for pursuing claims, both for and against the United States, that involve Forest Service activities. See FSH 6509.11h, Service-Wide Claims Management Handbook, for further claims guidance.

6570.1 - Authority

6570.11 - Claims for the United States

1. The Debt Collection Act of 1982 (31 U.S.C. 3701-3720E), as amended by the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104-134). This act establishes the legal framework for collecting debts owed to the United States, including interest and penalties on debts owed to the Federal Government, administrative offset of delinquent debts, and centralization of collection of delinquent, non-tax debts in the U.S. Department of the Treasury (referred to as U.S. Treasury).

2. Office of Management and Budget Circular A-129, Policies for Federal Credit

Programs and Non-Tax Receivables, as amended November 29, 2000. This circular establishes policies and procedures for Federal agencies to collect non-tax debts.

3. Title 7, Code of Federal Regulations, part 3 (7 CFR part 3). These regulations implement the Debt Collection Improvement Act (DCIA) and the Federal Claims Collection Standards (FCCS) on behalf of the U.S. Department of Agriculture (USDA).

4. Title 28, United States Code, sections 2415 through 2416 (28 U.S.C. 2415-2416). This act sets the time periods within which the United States may file a claim in Federal court for monetary damages.

5. Title 31, Code of Federal Regulations, part 285 (31 CFR part 285). These regulations cover the debt collection authorities including administrative offset and wage garnishment.

6. Title 31, Code of Federal Regulations, Part 901-905 (31 C.F.R. part 901-905). These regulations are the “Federal Claims Collection Standards” which govern administrative collection, compromise, termination and suspension of collections and which require referral of delinquent debts to Treasury for centralized administrative offset.

6570.12 - Claims Against the United States

6570.12a - Tort Claims

1. Federal Tort Claims Act (FTCA) (28 U.S.C. 1346, 2401(b), and 2671-2680). This act authorizes tort claims to be filed against the United States and sets forth procedures for both filing and processing claims.
2. Title 31, United States Code, section 3723 (31 U.S.C. 3723). This act authorizes claims of less than \$1,000 against the United States for damage to or loss of privately owned property.

6570.12b - Contract Claims

1. The Contract Disputes Act (41 U.S.C. 601-613). This act establishes the parameters for filing and processing claims against the United States that arise under procurement contracts and contracts for the disposal of real property (see FSH 6309.32).
2. Title 16, United States Code, section 502 (16 U.S.C. 502). This act authorizes the Federal Government to pay up to \$2,500 for damage to or destruction of hired equipment.

6570.12c - Employee Claims

1. Title 16, United States Code, section 556c (16 U.S.C. 556c). This act authorizes the Federal Government to pay employees up to \$100 for property damage to clothing or personal effects resulting from fire, flood, or other casualties.
2. Title 31, United States Code, section 3721 (31 U.S.C. 3721). This act authorizes the Federal Government to pay employees up to \$40,000 for personal property damage or loss incident to their work, as long as the claim is made in writing within 2 years of the date of the loss, the possession of private property at work was reasonable, and the employees are not partially at fault for the damage or loss.

6570.12d - Settlement and Payment of Claims

1. Title 16, United States Code, section 574 (16 U.S.C. 574). This act authorizes the Secretary of Agriculture to pay up to \$2,500 for damage to or destruction of private property caused by Federal employees in connection with protection, administration, and improvement of the national forests.
2. Title 28, United States Code, section 2671 (28 U.S.C. 2671). This section of the Federal Tort Claims Act (FTCA) authorizes

the head of a Federal agency to settle tort claims of up to \$25,000, and requires approval of the Department of Justice (DOJ) for settlement of claims over \$25,000.

3. Title 31, United States Code, section 3702 (31 U.S.C. 3702). This act authorizes the:

a. Office of Personnel Management to settle all claims involving Federal civilian employees' compensation and leave.

b. General Services Administration to settle claims involving expenses incurred by Federal civilian employees for official travel and transportation and for relocation expenses incident to transfers of an official duty station.

c. Office of Management and Budget to settle claims not otherwise provided for.

4. Title 31, United States Code, section 3711 (31 U.S.C. 3711). This act authorizes the head of a Federal agency to settle affirmative claims of the United States up to \$100,000, requires approval of DOJ for settlement of claims over \$100,000, and establishes standards for suspension and termination of debt collection.

5. Title 31, United States Code, section 3721 (31 U.S.C. 3721). This act authorizes the head of a Federal agency to settle and pay up to \$40,000 for claims brought by employees for personal property damage or loss incident to their work, as long as the claim is made in writing within 2 years of the date of the loss, the possession of private property at work was reasonable, and the employees are not partially at fault for the damage or loss.

6. Title 31, United States Code, section 3723 (31 U.S.C. 3723). This act authorizes the head of a Federal agency to settle a claim of up to \$1,000 for damage to or loss of privately owned property that is not cognizable under the FTCA.

7. Title 41, United States Code, section 605 (41 U.S.C. 605). This act authorizes contracting officers to issue a final decision on claims submitted by contractors under the Contract Disputes Act.

6570.2 - Objectives

1. To collect legally enforceable debts owed to the Forest Service, for example, debts arising from a tort (such as a civil fire trespass) or a contract or special use authorization (such as an unpaid land use fee), efficiently and effectively.

2. To protect the interests of the Federal Government regarding claims for and against the United States.
3. To resolve administrative tort claims fairly and expeditiously with the least burden and cost to both the agency and the claimants.

6570.3 - Policy

It is the Forest Service's policy to:

1. Take timely and active action, with appropriate or necessary follow-up, to collect all legally enforceable debts of the Forest Service.
2. Collect, aggressively, all debts arising out of activities of, or referred, or transferred for collection services to, the Forest Service.
3. Process, in a timely manner, claims filed against the United States that arise from Forest Service activities.
4. Treat claimants fairly while protecting the Federal Government's interest relative to their claims.
5. Investigate all incidents that may result in a claim for or against the United States and ensure that the depth and scope of the investigation are commensurate with the

seriousness of the incident and the monetary value involved.

6. Properly report claims data in the Treasury Report on Receivables.

7. Refer to the Office of the General Counsel (OGC) for legal action, as appropriate or necessary, or to the U.S. Treasury for appropriate collection action after Forest Service collection efforts have been exhausted.

7. Terminate, suspend, or discharge indebtedness only in accordance with 31 U.S.C. 3711 and 31 CFR part 903.1.

6570.4 - Responsibility

6570.41 - Chief Financial Officer

The Chief Financial Officer (CFO) is responsible for:

1. Ensuring internal controls are in place to comply with the direction in this chapter.
2. Ensuring Forest Service financial systems contain complete, reliable, consistent, and timely claims information.
3. Providing and managing directives on claims management.

4. Re-delegating Claims Officer authority to the Albuquerque Service Center-Budget and Finance (ASC-B&F), Director.

6570.41a - Albuquerque Service Center - Budget and Finance, Director

The Albuquerque Service Center-Budget and Finance (ASC-B&F), Director, is responsible for:

1. Serving as the Claims Officer for the Forest Service and has the authority to re-delegate Forest Service Claims Officer authority to ASC-B&F officials.
2. Adjudicating claims against the United States:
 - a. Of up to \$2,500 for loss, damage, or destruction of equipment hired by the Forest Service (16 U.S.C. 502).
 - b. Of up to \$2,500 for damage to or destruction of private property in the protection, administration, and improvement of the National Forest System (16 U.S.C. 574).
 - c. Of up to \$100 for property losses resulting from fire, flood, or other casualties on National Forest System lands (16 U.S.C. 556c).

- d. For property losses incurred by volunteers under the Volunteers in the National Forests Act (16 U.S.C. 558a-558d).
- e. For property losses incurred by Youth Conservation Corps enrollees (16 U.S.C. 1701-1704, 1706).
- f. For refund of monies erroneously collected by the Forest Service (16 U.S.C. 499).
- g. For rewards for information leading to the arrest and conviction of violators of laws and regulations enforced by the Forest Service (16 U.S.C. 559a).
- h. Of up to \$40,000 for personal property damage or loss incurred by Forest Service employees incident to their work, as long as the claim is made in writing within 2 years of the date of the loss, possession of the private property at work was reasonable, and the employees are not partially at fault for the damage or loss (31 U.S.C. 3721).
- i. Ensuring that claims against the Forest Service are processed in a timely manner that protects the Federal Government's interest.

3. Conducting claims for the United States, including:

a. Collecting debts owed the Forest Service as a result of torts.

b. Compromising, suspending, or terminating collection action in accordance with Federal Claims Collection Standards when the principal amount of a debt (excluding interest, penalty, and administrative costs) does not exceed \$100,000, and recommending compromise, suspension, or termination when the principal amount of a debt exceeds \$100,000 and DOJ approval is required.

c. Executing payment agreements in lieu of administrative or salary offset for any debt.

4. Collecting aggressively all debts arising out of Forest Service activities.
5. Authorizing employees to serve as ASC-B&F claims officers.
6. Ensuring sufficient internal controls are in place to comply with responsibilities enumerated in this section and ensuring effective and efficient claims operations, including:
 - a. Reliable financial reporting;
 - b. Appropriate internal and external coordination on claims;
 - c. Compliance with Federal claims statutes and regulations and Forest Service claims directives;
 - d. Complete and accurate documentation of debts;
 - e. Complete and accurate calculation of interest, penalties, and administrative costs; and
 - f. Where appropriate, consulting with the Office of the General Counsel regarding debt collection, including the legal basis for a debt and potential referrals to the Department of Justice and the U.S. Treasury.

7. Ensuring proper litigation support is provided (such as claims estimates, documentation, and proposed claim or settlement payments) as requested by the U.S. Department of Agriculture, Office of the General Counsel.
8. As appropriate, referring claims for the United States to the Department of Justice through the Office of the General Counsel.
9. Referring legally enforceable debts that are 180 days delinquent and that have not been collected by the Forest Service or the Department of Justice to the U.S. Treasury for appropriate collection action.

6570.42 - Contracting Officers

Contracting officers are responsible for negotiating settlements within the terms of contracts they administer under the Contract Disputes Act (FSH 6309.32).

6570.43 - Director of Law Enforcement and Investigations

The Director of Law Enforcement and Investigations has overall program and oversight responsibility for the investigation of incidents that could result in claims for or against the Forest Service (FSM 5303.11; FSH 6509.11h, sec. 11.04).

6570.44 - Deputy Chiefs, Regional Foresters, Forest and Grassland Supervisors, Station Directors, Area Director, Institute Director, Forest Products Laboratory Director, and Job Corps Civilian Conservation Center Directors

Deputy chiefs, regional foresters, forest and grassland supervisors, station directors, Area Director, Institute Director, Forest Products Laboratory Director, and Job Corps Civilian Conservation Center directors are responsible for:

1. Ensuring that documentation supporting claims for and against the United States, in their responsible area, is submitted to the ASC-B&F, Claims, in a timely manner;
2. Ensuring that unit claims liaisons (UCLs) have been designated, for their area of responsibility, as their unit's central point of contact for all claims issues.

6570.5 - Definitions

See FSH 6509.11h, Zero Code, section 05, Definitions.

6571 - DEPARTMENT OF JUSTICE'S ROLE REGARDING CLAIMS

The Department of Justice's role regarding claims is to:

1. Pursue collection of affirmative claims for the United States when requested by a Federal agency through its attorneys.
2. Approve proposed settlement of government claims that exceed \$100,000.
3. Represent the United States in FTCA litigation.
4. Approve FTCA awards that exceed \$25,000.

6571.1 - Attorney General's Role Regarding Claims

The Attorney General, or his or her designee, shall approve awards, settlements, or compromise of claims under the FTCA that involve payments above \$25,000 (28 CFR 14.6). The Attorney General shall approve settlement or compromise of claims for the United States that exceed \$1,000,000 (28 CFR part O, subpart Y; 31 CFR part 900).

6571.2 - U.S. Attorneys' Role Regarding Claims

United States attorneys' offices will pursue collection of claims where direct referral to the U.S. attorneys' offices is permitted. An example of a case that may be directly referred to the U.S. attorneys' offices is a civil fire trespass. Pursuant to delegation of authority from the Attorney General, U.S. attorneys' offices may approve settlement or compromise of claims for the United States between \$100,000 and \$1,000,000 (28 CFR part O, subpart Y; 31 CFR part 900). The U.S. attorneys' offices also represent Federal agencies in litigation under the FTCA.

6572 - OFFICE OF THE GENERAL COUNSEL'S ROLE REGARDING CLAIMS

The Office of the General Counsel is authorized to consider, ascertain, adjust, determine, compromise, and settle administrative claims under the FTCA (28 U.S.C. 1346(b), 2401(b), 2671-2680) and U.S. Department of Agriculture (USDA) regulations at 7 CFR 2.31a, subject to the Department of Justice's approval of settlement per FSM 6571. The USDA Departmental Regulation 2510-001 provides additional direction on handling administrative tort claims under the FTCA, including a requirement to aggregate all FTCA claims arising from a single incident. The Office of the General Counsel is also authorized to review, negotiate settlement, or refer affirmative claims to the Department of Justice

subject to the approval requirements in
FSM 6571.

6572.1 - Office of the General Counsel's Washington Office's Role Regarding Claims

The Office of the General Counsel's Washington Office is authorized to consider, ascertain, adjust, determine, compromise, and settle administrative claims under the FTCA exceeding \$100,000, subject to the Department of Justice's approval of settlement, when required, per FSM 6571.

6572.2 - Office of the General Counsel's Field Offices' Role Regarding Claims

The Office of the General Counsel's field offices are authorized to consider, ascertain, adjust, determine, compromise, and settle administrative claims under the following authorities for the amounts specified, subject to the Department of Justice's approval of settlement, when required, per FSM 6571:

1. FTC claims up to \$100,000 (28 U.S.C. 1346(b), 2401(b), and 2671-2680; DR 2510-001), and
2. Small claims for privately owned property damage or loss under 31 U.S.C. 3723.

Office of the General Counsel's field offices are authorized to review, negotiate settlement, or refer for enforced collection affirmative claims of the government, subject to the Department of Justice's approval of settlement when required, per FSM 6571.

FSM 2500 Watershed and Air Management 2523.53 - Other Non-Federal Lands

Include the assessment of non-Federal intermingled or adjacent, burned lands in burned-area surveys and reports, as appropriate, to determine watershed response or identify values at risk.

Inform the non-federal landowner or manager of the existence of the Emergency Watershed Protection Program. Such funds may be used to finance watershed protection treatment work on State and private lands.

Under the Watershed Restoration and Enhancement Agreement authority (Pub. L. 105-277, authorized through 2005), Forest Service funding may be used to accomplish work on other ownerships if the work is essential to protect National Forest System lands, roads, or improvements. Use of Burned-Area

Emergency Response (BAER) funding to implement emergency stabilization on non-Federal burned lands is appropriate when there is a clear benefit to National Forest System lands, when treatments conducted on National Forest System lands would otherwise not be effective, and when appropriate cost-sharing, protection, and liability agreements with the landowners are initiated.