

ORIGINALLY ADOPTED: 04-05-89
DATE AMENDED: 09-06-89, 04-14-93, 08-27-96
SUBJECT: Minor Forest Product
RESOLUTION NO.: 048.96

**CONFEDERATED TRIBES OF THE GRAND RONDE
COMMUNITY OF OREGON**

**ANNUAL TIMBER USE POLICY AND MINOR FOREST PRODUCTS ORDINANCE
TRIBAL CODE § 6.30**

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Part I
General Provisions

(a) PURPOSE AND AUTHORITY:

The following rules as set forth in Parts I, II, and III of this ordinance establishes a policy that regulates the use of Minor Forest Products on the Grand Ronde Reservation. the authority for this Ordinance is found in the Tribal Constitution Article III, § 1 and 25 CFR 163.19 and 163.20.

(b) DEFINITIONS:

(1) "Minor Forest Products" shall mean forest products that have a relatively low economic value and when harvested and removed will not conflict with the sale of harvestable timber or the future growing stock of timber on the Reservation. Some of the minor forest products include, but are not limited to firewood, fence posts, Tee Pee poles, ferns, moss, Christmas trees, and cones.

(2) "Permit" shall mean a written document giving the Permittee permission to enter the Reservation and obtain the products as listed on the document. It requires the permittee to follow all the rules and regulations in the permit document and in this Ordinance.

(3) "Firewood" shall mean wood whose highest value and best use is for fuel.

(4) "Market Value" shall mean the financial or monetary gain received from selling stumpage and other wood products on the open market.

(5) "Harvestable Timber" shall mean timber that when sold will bring a current market value and return to the Tribe.

(6) "Stumpage" shall mean timber in unprocessed form as it is found in the woods.

(7) "Load Ticket" shall mean a ticket that is issued with wood permits. It contains a number, amounts and days of the year. The correct date is punched, and the ticket is attached to the wood load.

(8) "Natural Resources Manager" shall mean Tribal Natural Resources Manager or his representative.

(9) "BIA" shall mean Bureau of Indian Affairs.

(10) "Tribe" shall mean the Confederated Tribes of the Grand Ronde Community of Oregon.

(11) "Greenery" shall mean green plant foliage (e.g. moss, fern, cascara, etc), the removal of which will not conflict with the future growing stock of timber on the Reservation.

(12) "Permittee" shall mean the tribal member to whom a permit is issued to.

(13) "Proxy" shall mean the authority or written authorization to act for the permittee.

(c) **DUTIES:**

(1) The Natural Resources Manager will administer the permits and will enforce the rules as stated in this Ordinance.

(d) **PERMITTEE PROXY:**

(1) If the minor forest products are to be harvested by someone other than the permittee, then the forest products can be harvested by proxy. The proxy must have the permit in their possession while harvesting. The permittee must receive the harvested materials, and be designated by name on the permit.

(e) **ROADS:**

(1) The permittee must not damage the road surfaces, ditches, and shoulders. The roads shall not be blocked while removing the material, unless authorized by the Natural Resources Manager.

(2) Concurrent with cutting firewood, unused material will be removed from the roads and ditches, and piled in openings and clearings, or as otherwise indicated on the permit.

(f) **INSPECTIONS:**

(1) The Natural Resources Manager will inspect the material to be removed prior to issuing permits. A post inspection of the permit area may also be necessary.

PART II
Permits, Rules and Regulations
Tribal Permits

(g) **FREE USE CUTTING WITH TRIBAL PERMITS:**

(1) The Tribe will issue revocable Free Use Permits for Minor Forest Products. These products may not be exchanged, sold, or traded for other goods or services.

(2) Free Use Permits for all Minor Forest Products will be issued to enrolled members of the Tribe.

(3) Free Use Permits can neither be transferred, exchanged, nor sold.

(4) Permits will include a description of the permit area, a map of the Reservation, any restrictions and any fire precautions that are in effect at the time of issuance; as well as name, address, vehicle description, license and permit expiration date.

(5) Posts, and poles will only be produced from down or dead material in need of salvage, from logging residue, or from approved pre-commercial thinned areas.

(6) Free Use Permits for any permittee in a fiscal year will not exceed the amounts as listed on Appendix A.

(7) Misuse of free use permit privileges may result in revocation of the permit and/or denial of future permits.

(8) An Authorized sticker will accompany the permit. The sticker will be visually displayed in the window of the vehicle while gathering and transporting material on Tribal land.

(9) It is prohibited to harvest within 100 feet of hiking trails, riparian areas and the day-use park.

(h) COMMERCIAL GREENERY HARVESTING WITH TRIBAL PERMITS:

(1) The harvesting of greenery materials will allow tribal members an opportunity to further market renewable resources from the Reservation.

(2) The Tribe will issue revocable greenery permits to tribal members only. Only one person is allowed to harvest for each permit issued. These materials can be sold, exchanged or traded for other goods or services. A permit will be issued for each forest product gathered.

(3) A fee shall be charged for cutting or gathering greenery that is to be sold, exchanged or traded. The fee amount shall be determined by the Timber Committee.

(4) An authorized sticker will accompany the permit. The sticker will be visually displayed in the window of the vehicle while gathering and transporting material on Tribal land.

(5) Permittee must have a valid permit in their possession while harvesting and/or transporting greenery materials on the Reservation.

(6) Misuse of permit privileges may result in revocation of the permit, or denial of future permits.

(7) It is prohibited to harvest within 100 feet of hiking trails, riparian areas and the day-use park.

(i) FIREWOOD CUTTING WITH TRIBAL PERMITS:

(1) The Tribe will issue its own Firewood Permits to provide a source of fuelwood to tribal members. Because the quantity of firewood is limited, the permits will be issued by

household only. The amount of firewood will be limited to 5 cords/household/year.

(2) The firewood permits will be issued depending on the amount of wood available. Firewood permits may be mailed if requested by permittee. Each permit will be for only one cord of wood.

(3) The permit will consist of one sheet printed on two sides. The signature side will contain information on the permittee, location and amount of firewood allowed. The back side will contain general information regarding all permits. A load ticket or tickets will accompany the permit, and will be visually attached to the load. If load tickets are lost no replacement load tickets will be issued and the permit will have to be turned in. However, a new permit and set of load tickets will be issued. There will be no replacement if load tickets are lost a second time.

(4) If a proxy is used, then the name, address and phone number of proxy must be listed on the permit. There will be no more than two proxies per permit. If the proxy changes then the permittee needs to inform us, mail back the old permit and load tickets, and we will then reissue them a new permit. The permit will be considered invalid if the correct proxy is not listed.

(5) Sale units may be gated to prevent unauthorized entry.

(6) An authorized representative of the Tribe may be present to monitor the permit area and to open and close the gates.

(7) Dates and times of entry to each firewood site will be set by the Natural Resources Manager or the Timber Committee.

(8) Where practical, pre-commercial thinning areas along roads will be marked and designated firewood areas. An authorized representative may be present during firewood cutting.

(9) Down material that cannot be sold economically as sawlogs or material that has only a firewood value may be designated firewood material and permits may be issued for the wood.

(10) Only light ground skidding equipment, such as winch and line, block and tackle, or cable attached to vehicle will be allowed in gathering firewood, unless otherwise authorized.

PART III
Permits, Rules and Regulations
BIA Permits

(j) FREE USE CUTTING WITH BIA PERMITS:

(1) The Tribal Natural Resources staff may issue revocable free use cutting permits for forest products that are to be sold, provided the proceeds from such sales are utilized to benefit Tribal Civic activities and provided that the Grand Ronde Tribal Council specifically authorizes each permit use.

(2) The permittee must be an enrolled member of the Confederated Tribes of Grand Ronde. The free use cutting permit is not transferable.

(3) Free use cutting permits for resale shall be issued on form BIA-5331, Timber Cutting Permit. Tribal Chairman and BIA Superintendent approval shall be required on all such permits.

(4) Free use cutting permits shall be specific as to maximum volume and location of harvest. A map shall accompany each permit designating the area of harvest. Any fire precautions that are in affect at the time of issuance will accompany each permit. The permit must be signed by the permittee to be valid and the license number(s) of the hauling vehicle(s) must be entered on the permit before hauling can commence.

(5) The maximum value of products that may be cut or removed in a single fiscal year by an individual permittee under this permit authority shall be \$2,500 [25 CFR 163.19 (d)]. Value of products shall be determined from the product values listed in Section-k, item 3.

(6) Misuse of permits may result in revocation of the permit and/or denial of future permits.

(k) PAID TIMBER CUTTING WITH BIA PERMITS:

(1) Revocable Paid cutting permits for sawlogs or minor forest products may be issued as needed to facilitate harvesting of site conversion projects and salvage of limited quantities of diseased timber or timber damaged by fire or weather factors.

(2) The Tribal Natural Resources staff will issue the paid cutting permits, on BIA form 5331 or other BIA approved form, to enrolled members of the Confederated Tribes of Grand Ronde. Tribal Chairman and BIA Superintendent approval shall be required. The Tribal Chairman will be authorized to sign paid permits.

(3) Stumpage rates for products harvested under paid cutting permits shall be the prevailing market values, but shall not fall below:

Sawlogs.....	Minimum appraised rate/MBF*
Pulpwood.....	Minimum appraised rate/ton*
Firewood.....	\$5.00/cord
Posts (fence).....	\$.50/piece
Poles (corral or Tee Pee).....	\$.40/piece
Smelter Poles.....	\$.05/piece

* Minimum appraised rate for Sawlogs and Pulpwood will be determined by acceptable appraisal methods.

(4) The maximum value of products that may be cut or removed in a single fiscal year by an individual permittee under this permit authority shall be \$25,000. An individual permittee shall mean an individual or any operating entity comprised of more than one individual.

(5) Salvage sales less than \$25,000 in value, are sold in two ways:

a. By sealed bid on sales above 10 MBF. These sales are advertised to tribal members listed on our approved purchaser's list. The list is approved by the Timber Committee. The sale is sold to the highest bidder. The highest bidder on any one sale will not be awarded another sale within a 30 day period unless no other bids are received by the bid deadline. If an advertised sale has no bidder, then the sale will be reappraised at the current market and readvertised or sold at a negotiated rate to an approved purchaser on our rotating list.

b. By minimum appraised rate on sales 10 MBF or less. These sales are offered to a tribal member who's name is next on our "rotating" approved purchaser's list. The "rotating" list ensures that all tribal members get a chance to be awarded a salvage sale with a volume of 10 MBF or less.

(6) Stumpage payment may be in the form of advance deposits for scaled sales of estimated volumes, or as advance payment for sales of predetermined volumes.

(7) Performance bonds may be required on paid permits. If required the amount will be 5% of sale value.

(8) The Natural Resources Manager or his representative will require a post harvest inspection of the site to ensure compliance with the provisions of the permit.

(9) Paid permits shall be specific as to maximum volume and location of harvest. A map designating the area of harvest, and a list of any fire precautions that are in effect at the time of issuance shall accompany each paid permit.

(10) Insurance coverage may be required. The type and amount of coverage will be determined by industry standards and must meet Tribal liability requirements.

PART IV Enforcement, Violations and Appeals

(l) TRIBAL ENFORCEMENT OF THE ORDINANCE:

(1) The Tribal Council hereby authorizes the Natural Resources Manager to enforce this ordinance. The Natural Resources Manager and his staff may deal with violations of this ordinance by suspending or revoking permits issued under it and by denial of such a permit for a period of up to three years following the violation.

(m) WOOD THEFT VIOLATIONS:

(1) Wood theft violations will be handled in the following manner: The Natural Resources Manager shall require violator to deposit wood at the Natural Resources Division stockpile, impose an automatic suspension for up to three (3) years, and notify the authorities.

(2) The Natural Resources Manager shall consider the amount of loss to the Tribe and recommend imposition of trespass penalties to the Timber Committee.

(n) GREENERY HARVEST VIOLATIONS:

(1) Greenery harvest violations will be handled in the following manner: The Natural Resources Manager will confiscate the violator's greenery harvest, impose an automatic suspension for up to three (3) years, and notify the authorities.

(o) NOTICE OF VIOLATIONS:

(1) The Natural Resources Division shall notify the tribal member of any reported violation alleged to have been committed by him or her. The notice shall be in writing and shall include the following:

(a) A statement of the facts constituting the alleged violation and penalty, as stated in the rules and regulations promulgated by the Timber Committee.

(b) A statement of the penalty to be imposed, including specific dates the penalty is to be applied, unless appealed.

(c) A statement that the penalty may be appealed to the Timber Committee with the date, time and place of the Timber Committee's next meeting, and that the tribal member may present any evidence relevant to the alleged violation to the Timber Committee at its next meeting.

(d) The notice shall be sent certified mail to the member's last known address. If the notice is not accepted within five working days, the Natural Resources Division shall send a second notice by certified mail. The second notice shall state, in addition to the information in the first notice, that it is the final notice and that the Natural Resources Division shall proceed with imposing the violation penalty.

(p) APPEALS TO TIMBER COMMITTEE:

(1) Upon receipt of the notice, the tribal member has the right to appeal to the Timber Committee. The appeal shall be automatically dismissed if it is not filed with the Timber Committee within ten (10) days of the member's receipt of said notice, or within (10) days of the mailing of the "second notice". If the member's appeals is dismissed, that member shall have no right of appeal to the Tribal Court, unless and only for the specific purpose of contesting whether or not the member's response was timely. The matter shall be heard at the Timber Committee's next scheduled meeting after receiving the appeal.

(2) Consideration by the Timber Committee: On appeal, the Timber Committee shall consider the facts and nature of the alleged violations and all reliable evidence regarding it. The Timber committee shall make its findings regarding the alleged violation and the penalty imposed in writing and with support reasons, within fourteen (14) days of the meeting in which it heard the appeal.

(q) TRIBAL COURT APPEALS:

(1) The tribal member may appeal the Timber Committee's decision to the Tribal Court in accordance with the Rules of Pleading, Practice and Procedure of the Tribal Court. The appeal must be filed (with supporting reasons) with the Tribal Court within fourteen (14) days of his or her receipt of the Timber Committee's final decision. The appeal may challenge the foundation of the sanctions or merely the severity of the sanctions themselves, or both.

(2) The court shall review the record created by the Natural Resources Division and the Timber Committee and shall determine whether or not the decision or penalty imposed was arbitrary and capricious. The evidentiary findings of the Timber Committee shall be accepted by the court unless arbitrary and capricious. The court may also hear testimony and/or request written and oral argument as it considers necessary to this determination. The Tribal Court may reverse the decision, modify the sanctions imposed or take other such action as justice requires. The decision of the Tribal Court shall be final and no other appeal may be taken.

I hereby certify that this is a true copy of the Confederated Tribes of the Grand Ronde Community of Oregon Annual Timber Use Policy and Minor Forest Products Ordinance.

ATTEST: Ed Pearson 10-8-96
Tribal Council Secretary Date

APPENDIX A

AMOUNTS OF FREE PERSONAL USE FOR FOREST PRODUCTS

PRODUCT	PERSONAL USE-FREE
Shrubs and bushes: transplants	Up to 6 < 2 ft. tall
Christmas Trees	2 < 12 ft. tall
Fern	10 bunches *
Moss	25 lbs.
Salal	25 lbs.
Oregon Grape	25 lbs.
Boughs	30 lbs.
Cones	3 bushels
Conks	6 each
Cascara	5 lbs. (green weight)
Berries, Nuts and Mushrooms	2 gallons
Poles (corral or Tee Pee)	40 each
Posts (fence)	25 each

* Established by industry standards.