

**CONFEDERATED SALISH AND KOOTENAI TRIBES**

**OF THE**

**FLATHEAD RESERVATION**

**FORESTRY DEPARTMENT**

***DRAFT***

**TIMBER USE POLICY STATEMENT (TUPS)**

**FISCAL YEAR 2018**



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**TIMBER USE POLICY STATEMENT**  
**FISCAL YEAR 2018**  
**TIMBER CUTTING PERMITS (5-5331)**  
**CONFEDERATED SALISH AND KOOTENAI TRIBES**

## **I. POLICY AND SCOPE**

It is the policy of the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation that provisions be made for harvesting forest products other than under formal timber sale contract and these provisions be designed to accomplish three objectives, namely:

- To provide for utilization of forest products where volume and/or value are relatively low and use of a formal timber sale contract is unnecessary;
- To provide employment opportunities to members of the Confederated Salish and Kootenai Tribes, and;
- To provide forest products for the personal use of Tribal members.

This policy statement covers all timber cutting on Tribal or Allotted land, not done under formal timber contract, and authorizes the Superintendent, Flathead Agency, or his/her designated representative, to approve Timber Cutting Permits pursuant to 25 CFR 163.26(a), (b), (c), and (d), provided that said timber cutting is in compliance with:

1. **The Code of Federal Regulations pertaining to the objectives for management of Indian forest land and sustained yield management as outlined in 25 CFR 163.11(a), (b), and (c);**
2. **53 Bureau of Indian Affairs Manual (IAM) Supplement 4-H; Permit Sales of Forest Products**
3. **The Flathead Reservation Forest Management Plan, 2000; and**
4. **The CS&KT Tribal Forest Product Use Ordinance 61C (as amended)**

The Superintendent, through CS&KT Forestry Department, shall issue Permits and provide for collection and disbursement of stumpage payments. Forest management deductions shall be assessed when permit exceeds \$5,000 in value. The Superintendent, or his/her designated representative, shall authorize and approve all Timber Cutting Permits.

Timber Cutting Permits can be obtained from the CS & KT Forestry Department Office, 104 Main Street South East, Ronan, Montana.

## **II. DEFINITIONS**

As used in this policy statement and in any Permit provision or other attachments to the Permit:

"APPROVING OFFICER" shall mean the officer approving the Permit or his/her authorized representative. This is typically the Superintendent, Flathead Agency.

"BULL PINE" shall mean a young ponderosa pine, less than 80 years of age, that due to growing conditions, is characterized by dark bark and numerous limbs.

"COMMERCIAL" shall mean a product to be resold.

"COMMERCIAL ACTIVITY" shall mean the harvest of forest products for resale.

"CORD" shall mean a volume of wood equaling 128 cubic feet, usually measured in 4' x 4' x 8' dimensions.

"CUBIC SCALE" shall mean a vehicle load of forest products measured by the following formula in most instances:  $L \times W \times H / 144$ .

"CULL LOG" shall mean that portion of a tree meeting the criteria of a sawlog except that the net scale is less than one-third of the gross scale.

"CUTTER" shall mean any individual engaged in the activity of harvesting forest products or in making preparations to do the same.

"DBH (Diameter at Breast Height)" shall mean the measurement of the diameter of a tree taken at 4.5 feet above ground level.

"DIB (Diameter Inside Bark)" shall mean the measurement of the diameter of a sawlog inside of the bark at the small end (top) for scaling purposes.

"DEAD TREE" shall mean a fallen or standing tree with no green branches.

"ENTITY" shall mean one individual or would include any organized group of tribal members or an identifiable family unit. Different individuals would be considered an operating entity if those individual are using the same logging equipment (BIA NW Regional Director memo 11/2004).

For the purpose of issuance of Paid Permits within this policy statement, entity shall be defined as two or more individuals who would otherwise be eligible to receive a Paid Permit, who operate as a

partnership or any other legal business unit in which each shall have the ability to share in the profits or liability for losses, if any, in the conduct of said business operations.

"EMPLOYEE" shall mean any person or persons working under the Permit of another person.

"GREEN TREE" shall mean a tree with functional cambium, usually indicated by white or cream colored damp inner bark. (The cambium layer is located between the outer bark and the wood).

"HARVEST" shall mean the cutting and removal and/or transportation of any forest product.

"HOUSE LOG" shall mean a log harvested from a green or dead tree, for use in the manufacture of log buildings. House logs from green trees will be charged at the green house log stumpage rates for that species.

"IMMEDIATE FAMILY" shall mean a Tribal member, his or her current spouse, his or her dependent children 18 years of age or younger, his or her biological or adoptive parents or grandparents.

"INDIAN LOGGER" shall mean an enrolled member of the Confederated Salish and Kootenai Tribes who is engaged primarily in the logging business and who has on file with the Superintendent and/or the CSKT Indian Preference Office a valid Indian Logger Certification form.

"LANDING" shall mean an area used to facilitate decking and loading of logs or other forest products.

"LANDING CONSTRUCTION" shall mean any modification of the contour of the land or removal of natural vegetation for the creation of a "Landing".

"LOGGING TRUCK" shall mean a vehicle over 26,000 LBS GVW specifically constructed to haul logs in excess of eight (8) feet in length.

"MBF" shall mean one thousand (1,000) board feet, Schribner Decimal "C".

"NON-INDIAN" shall mean any person who is neither a Tribal member or an enrolled member of any federally recognized Indian tribe.

"NON-MEMBER INDIAN" shall mean any person who is an enrolled member of any federally recognized Indian Tribe other than the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

"NON-PERFORMANCE" shall mean the failure to harvest designated products in a timely manner and/or failure to actively pursue removal of products within any 30-day period during which time the area is accessible.

"FOREST OFFICER-IN-CHARGE" (FOIC) shall mean the CSKT Forestry Staff of highest rank assigned to the supervision of forestry work at the Agency having jurisdiction over the Permit area, or his/her authorized representative.

Typically follows the following command hierarchy:

Forest Technician assigned to the Permit

The Permits Officer that has oversight of the Permits Program

The Projects Planning Program Manager

The Projects Planning Division Manager, and then

The Forestry Department Head

"PERMIT" shall mean a document issued by the Superintendent, or his/her delegated representative, which authorizes the person to whom it is issued to harvest and transport the particular forest product(s) identified on the Permit in accordance with the rules and regulations established in the annual Timber Use Policy Statement then in effect. Secretary approved Form 5-5331 will be used for all Permit cutting.

"PERMITTEE" shall mean the Permittee, his/her employees, or his/her subcontractors.

"PERSONAL USE" shall mean designated types of forest products which may be harvested and transported without a Permit or Contract, and without charge, for the Indian's personal use, and shall not be sold or exchanged for other goods or services.

"PERSON" shall mean a natural being and, unless otherwise appears from the context, shall include Tribal members, non-member Indians and non-Indians, as defined elsewhere in this section.

"POLES" shall mean a forest product similar to a post but 8' to 24' in length and less than 6" DBH. Primarily used for corral construction.

"POST/CORNER" shall mean a forest product cut for purpose of anchoring a fence. Generally, 6' to 10' in length with a maximum DBH of 8". Corner posts will be scaled and charged as sawlogs at the green sawlog stumpage rates if not for Personal Use.

"POST" shall mean a forest product cut for the purpose of building a fence. Generally, a straight timber cut to a length of 8'3", and no more than 6" DBH.

"PULPWOOD" shall mean forest products that do not meet the criteria for sawlogs, and are harvested and transported for the manufacture of pulp.

"RAIL" shall mean a forest product which is 6.0" or smaller at DBH, and up to 24' in length.

"RESERVATION" shall mean all lands located within the exterior boundaries of the Flathead Reservation, Montana.

"ROAD" shall mean any pathway through the forest that is on the Flathead Reservation

transportation plan. Roads usually involve altering the contour of the land and are used for transportation of forest users.

"ROAD CONSTRUCTION" shall mean any type of soil displacement where the contour of the land is altered for the purpose of providing vehicular access.

"ROAD MAINTENANCE" shall mean maintenance of all roads used by the Purchaser to provide safe and efficient transportation of forest products and personnel.

Advanced Maintenance shall include preparation of a smooth running surface by removing brush and small trees, removing down timber from the cut slope, opening erosion control structures, cleaning cattle guards, and removing all berms and ruts on the roadway.

Periodic Road Maintenance shall be required throughout the duration of logging operations. This maintenance must be kept current with operations, and must be performed prior to seasonal shutdowns, major runoff periods, or as requested by the Forest Officer-In-Charge (FOIC).

Final Maintenance shall be required on all logging roads following use. This maintenance will require the removal of all berms by bringing the "fines" back onto the road surface where possible, filling in ruts and mud-holes, blading of the road surface with a grader (or similar equipment) to leave the designated running surface in a smooth condition, and cleaning out erosion control structures, culverts, and cattle guards.

"ROAD PREPARATION" shall mean the initial grading and clean-out work and minor road work done on existing roads. Typical activities include:

- Removing ruts, berms, and debris and preparing a smooth road surface by grading;
- Cleaning out existing ditches and rolling dips by grading;
- Cleaning out existing culverts, catch basins, and cattle guards or installing new culverts, catch basins, and cattle guards as may be determined by the Officer in Charge;
- Light brushing of the road surface ditches, and cut slope areas;
- Removing some merchantable trees and stumps in the road prisms that interfere with grading or are a safety hazard; and
- Day-lighting some blind corners.

"ROAD RECONSTRUCTION" shall mean an intermediate level or major initial roadwork done on existing roads. Typical activities include those listed under "Road Preparation" above and the following additional activities:

- Widening the roads and reshaping back-slopes;

- Removing large or rocky berms;
- Installing frequent rolling dips on climbing roads;
- Heavy brushing of the road surface, ditches, and the cut slope areas (excess brush and small trees are piled);
- Removing many merchantable trees and stumps in the road prisms that interfere with grading or are a safety hazard;
- Day-lighting many blind corners;
- Constructing ditches and culvert catch basins;
- Road realignment, road lift, or blasting; and
- Ripping, grid rolling, and re-grading of road surfaces.

"SAWLOG" shall mean a commercial tree species, which is cut for the purpose of being sawn into boards, house logs, ties, or other wood products. Generally, a log with at least a 5.5" small end diameter and at least 8'6" long.

"SELL" shall mean to offer or possess for the purposes of selling, bartering, exchanging or trading or the act of selling, bartering, exchanging or trading.

"SKIDDING EQUIPMENT" shall mean any mechanized device utilized for moving forest products from the woods to an established road. (This does not include a pickup equipped with a winch or cable, when pickup remains on established roads)

"SKID TRAIL" shall mean any pathway through the forest utilized for transporting forest products to an established road.

"SLASH" shall mean limbs, tops, cull material, damaged young growth, and other debris resulting from logging, road construction, or other operations of the Permittee.

"STUMPAGE RATE" shall mean the value per unit of measure.

"STUMPAGE VALUE" shall mean the value of uncut timber as it stands in the woods.

"SUPERINTENDENT" shall mean the Superintendent of the Flathead Agency, Bureau of Indian Affairs, or his/her authorized representative having jurisdiction over the Permit area.

"TIMBER TRESPASS" means 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 (25 CFR §163.1).

"TIMBER USE POLICY STATEMENT" shall mean the annual regulations, issued jointly by the Superintendent and Tribal Council, prescribing rules and regulations for the harvesting of timber products on trust lands within the exterior boundaries of the Flathead Reservation and a description of how minimum stumpage values for various timber products are determined.

"TRIBAL CHAIRPERSON" shall mean the duly elected representative of the Tribal Council who has been selected to serve as leader of the governing body of the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

"TRIBAL CONSERVATION OFFICER" shall mean an employee of the Tribal Wildlife and Conservation Department having the authority to enforce the annual Timber Use Policy Statement, CSKT Ordinance 61C, and other enacted laws promulgated by the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

"TRIBAL COUNCIL" shall mean the governing body of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

"TRIBAL MEMBER" shall mean an individual who is enrolled as a member of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

"TRIBE OR TRIBAL" shall mean of or belonging to the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

"TRUST LANDS" shall mean all lands within the exterior boundaries of the Flathead Reservation which are held by the United States in trust for a member of or the Confederated Salish and Kootenai Tribes and all lands title to which is held by the Confederated Salish and Kootenai Tribes.

### III. GENERAL REGULATIONS

A. These regulations apply to Free Use without Permit (Personal Use) and Paid Permits.

B. All timber cutting, with exception of Personal Use, will require an approved Timber Cutting Permit (federal form 5-5331).

C. Permits may be issued to any Tribal member 18 years of age or older, and to non-members where specifically provided for.

D. Timber Cutting Permit Form 5-5331, revised May 1975, will be used for all Timber Cutting Permits.

E. The Permittee is responsible for the actions of his/her employees while they are engaged in Permit activities; and the Tribal member is responsible for the actions of his/her non-member immediate family members while he/she is engaged in activities authorized by this statement.

F. For Paid Permits, the Permittee must be involved in all phases of Permit activities and have the Permit in his/her possession at all times when engaged in such activities. Employees of the Permittee engaged in Permit activities shall know the Permit Number under which he/she is working and know the whereabouts of the Permittee. Regulations concerning Permittee involvement in Paid Permits are contained in Section VI of this statement.

G. Performance Bonds may be required if, in the opinion of the Superintendent, it is necessary to insure compliance with terms of the Permit. A Performance Bond may be one of the following:

- For **Personal Use**, when using heavy equipment, a pledge of the Permittee's Per Capita can be made as long as there are no current holds on the Permittee's Per Capita. A Cashier's Check, Money Order, or Letter of Credit can be used for Personal Use permits.
- For **Paid Permits**, a bond may be a Cashier's Check, Money Order, Letter of Credit, or an assigned savings account, acceptable to the Approving Officer. The Performance Bond will be deposited in a Special Deposit Account with the BIA.

25 CFR §163.21 Bonds Required. Performance bonds will be required in connection with all sales of forest products, except they may or may not be required, as determined by the approving officer, in connection with the use of forest products by Indian tribal forest enterprises pursuant to this part in §163.13 or in timber cutting permits issued pursuant to §163.26 of this part. (1) In sales in which the estimated stumpage value, calculated at the appraised stumpage rates, does not exceed \$15,000, the bond shall be at least 20 percent of the estimated stumpage value. *Twenty (20%) of \$15,000 is equal to \$3,000.*

The size of the bond shall be determined by the Approving Officer (Superintendent) and shall be based on the scale of the operation and the potential for loss or damage to the Tribes.

H. The following areas are specifically closed to all activities covered by this statement:

- The Mission Mountain Wilderness as defined in Tribal Ordinance 79.A is closed to all activities.
- The Jocko Primitive Area as defined in Resolution No. 4575 and 92-74 is closed to all activities covered by this statement except for harvesting Personal Use fuelwood.
- Thompson Peak Wilderness Area is closed to all activities.
- Sleeping Woman Wilderness Area is closed to all activities.
- Chief Cliff Semi-Primitive Area is closed to commercial harvesting activities.
- Little Bitterroot Canyon is closed to all activities except for harvesting Personal Use fuelwood.
- The Mission Mountain Wilderness “Buffer Zone” starts in the North at Ashley Creek, Sections 28 & 33, T. 22 N., R. 19 W., and the Pablo Feeder Canal to the southwest by the Mission Reservoir “A” Canal and in the south by the Dry Creek Canal. This area is closed to all activities except for harvesting Personal Use fuelwood.
- Recreation areas including: Twin Lakes, St.Marys Lake, Mission Reservoir, McDonald Lake, Dog Lake, Flathead Lake, Flathead River, Jocko Lakes, and Jocko River are closed to all activities.

The boundaries of these recreation areas are to be designated in one of two ways:

- The more developed recreation areas will have a boundary line established on site and marked with 12" wide yellow bands painted on trees along the boundary.
- Where not so marked the buffer zone is 300 feet wide as measured on the slope from the high water level.

In addition:

- Tribal land within 300 feet of other developed or impromptu recreation sites as indicated by recreation facilities including tables, toilets, fire rings, hitch racks, trails, tent sites, or other such evidence associated with camper or other recreation use.
- Cultural and Archeological Sites are closed to all activities. Each permitted harvest area shall be reviewed by staff from the Tribal Preservation Office. A cultural clearance

form shall be included in the NEPA document for each Paid Permit.

- All land within 132 feet of any body of water, flowing or standing, is closed to all activities covered by this statement unless specific authorization is given by the FOIC of the Permit.

I. Road construction, road reconstruction, and landing construction will require written authorization from the Forest Officer-in-Charge prior to such activities.

J. Permittees are required to keep roads open and passable at all times unless otherwise authorized in writing in the Permit.

K. All activities covered by this statement are subject to suspension due to fire danger and seasonal limitations (hunting, wetness, spring breakup).

L. All roads may have weight limitations imposed when road conditions are such that damage to the road may occur. The FOIC shall determine when such conditions exist and impose the necessary limitations.

M. In addition to Item 11 on the reverse side of the Permit form, all slash will be:

- Cleared from roads from a point two (2) feet back of the upper cut slope and two (2) feet below the outside edge of the road.
- Cleared from roadside ditches and natural drainage.
- Removed from fences and fence lanes in such a way that access for fence repair and maintenance is not obstructed.
- Landing slash will be piled in compact, and as dirt free as possible, piles suitable for burning, or as otherwise directed by the FOIC.
- Lop and scatter concentrations where directed by the Forest Officer-in-Charge.
- The standard slash treatment procedure is to lop and/or scatter all slash so that no woody material is over 18 inches above the natural ground level. Additional slash treatment methods shall be specified in the Permit.

N. The Permittee or his/her workforce shall not litter. All debris resulting from the Permittee's activities shall be removed by the Permittee from the Permit area prior to final acceptance.

O. The removal of forest products by motorized vehicles is prohibited on roads that have been closed by gates, slash, signs, or other methods.

P. Penalties for non-compliance with this policy statement or any Permits issued pursuant to it may include any combination of the following:

- The Superintendent may cancel the Permit for non-compliance.
- The Performance Bond, if applicable, may be held for damage or loss to Tribal land, water, timber, or improvements.
- Privileges granted herein may be revoked if a Permittee fails to make timely restitution for damages assessed by administrative action of the Superintendent or legal action of a recognized court of law.

Q. Violations involving theft or injury to Tribal property may be handled as a timber trespass as outlined in 25 CFR §163.29, Tribal Ordinance 61C and/or referred to the Tribal legal system under the Law and Order Code of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, or Federal Court.

"VIOLATION" means a theft or injury of one of the following:

- Operations without a Permit, when one is required.
- Harvesting outside of designated area described on the Permit.
- Of such an extent that the Performance Bond and/or advance stumpage deposits are insufficient to cover the monetary value.
- There are elements of theft or damage that are criminal in nature.
- Of such an extent that the Performance Bond and/or advance stumpage deposits are insufficient to cover the monetary value.
- Causing damage to the natural resources or existing improvements in the area.
- Harvest or Removal of more than the permit allows.

## **IV. FREE USE WITHOUT PERMIT (Personal Use Only)**

A. The authority to allow free use harvesting is outlined in:

25 CFR§ 163.26

(b) Free use harvesting permits issued shall specify species and types of forest products to be removed. It may be stipulated that forest products removed under this authority cannot be sold or exchange for other goods or services. The estimated value which may be harvested in a fiscal year by any individual under this authority shall not exceed \$5000.

B. The forest products described in this section are authorized to be harvested under a Free-Use Without Permit (Personal Use).

C. These regulations are standard, whereas specific environmental or administrative constraints may require specific provisions.

D. Tribal members may harvest Personal Use fuelwood, posts, poles, and Christmas trees Without a Permit, as long as the products are not sold or exchanged for other goods and services. Non-members may participate in these harvest activities in accordance with the following:

1. The Non-member is the immediate family of the Tribal member and is in possession of a valid Tribal Recreation Use Permit, or otherwise approved by Tribal Council.
2. The Non-member is accompanied by his/her Tribal member immediate family during all phases of harvest activities, or otherwise approved by Tribal Council.

### **Personal Use Christmas trees**

E. Christmas trees will not be cut from areas specifically closed to Christmas tree cutting. The public will be notified of any closed areas.

F. Christmas trees may be cut from any tree four (4) inches or less in diameter at breast height (DBH) (DBH = 4.5 feet above ground level).

G. Christmas trees shall be completely severed from the stump.

H. Christmas trees shall be cut below the lowest live limb or as close to the ground as possible.

### **Personal Use Fuelwood**

I. Fuelwood shall not be cut from any log decks without prior written approval of the Superintendent or his representative.

J. The Forestry Department will designate areas with standing dead or blown down trees of any species, which may be harvested as fuelwood for personal use except from areas temporarily closed for commercial salvage operations.

K. Fuelwood may/may not be harvested with the benefit of skidding equipment unless otherwise approved by the FOIC.

L. There is a limit of ten (10) cords each twelve (12) month period per Tribal family and Tribal activities.

M. Firewood may not be hauled in lengths exceeding eight (8) feet unless approved in advance by the Tribal Council.

### **Personal Use Post and Poles**

N. Permission is granted to Tribal members to harvest posts and poles for personal use.

O. Standing dead or down and green lodgepole pine may be utilized.

P. Skidding equipment may be used with prior written approval of the FOIC. Material may be sawed with a power saw.

Q. Only trees less than 6 inches diameter at breast height (DBH = 4.5 feet above ground level) may be cut.

R. Stump height from post and pole cutting shall not exceed 8 inches.

S. There is a limit of 200 each (post & pole) per Tribal family each twelve (12) month period.

### **Personal Use Houselogs, Barn poles, and Saw Timber**

T. Tribal members may harvest houselogs, barn poles, and sawlogs for personal use. These products shall not be sold or exchanged for other goods and services.

U. The FOIC will designate the trees to be cut.

V. Skidding equipment may be used with prior written approval of the FOIC and after an appropriate Bond is submitted.

X. Skidding practices will be conducted in a manner prescribed by the FOIC to minimize soil erosion and damage to site quality.

Y. The Tribal member will be required to use such log accountability procedures as may be prescribed by the FOIC.

Z. There is a limit of 10,000 board feet per Tribal member (head-of-household or spouse) issued once per lifetime for construction of a home.

The process for the issuance of the 10,000 board feet, free use, permit is as follows:

1. Permittee shall deliver materials list and building plans to the Forestry Department
2. The FOIC will designate the trees to be cut. Utilization standards are specified in the Permit.
3. Skidding equipment may be used with prior written approval of the OIC. A bond shall be required if skidding equipment is used.
4. Skidding practices will be conducted in a manner prescribed by the OIC to minimize soil erosion and damage to site quality.
5. Permittee shall be responsible for cost of harvesting, yarding, loading, hauling, and milling.
6. Permittee will be required to use such log accountability procedures as prescribed by the OIC.



## V. FREE COMMERCIAL USE WITH PERMIT

**(Free Commercial Use means that the Tribes are not asking payment for the forest product and the products can be sold)**

A. Only **TRIBAL MEMBERS OF THE CSKT** may be issued permits to harvest Christmas trees, Fuelwood, and Post & Poles for resale.

B. **NON MEMBERS OF CSKT shall not participate** in any activities under this permit.

### **Commercial Christmas Tree Cutting**

C. Christmas tree buyers determine the grade of tree they will buy and reserve the right to reject any or all trees. Permittee should check with the buyer to determine what grade of tree will be accepted.

D. No Christmas trees will be cut from areas that have been planted or thinned. The Permittee should request information if they do not understand how to recognize these areas. Christmas trees may be salvaged from active thinning areas with written permission from the Permits Officer

E. Cutting of Christmas trees on Tribal home sites or other areas mandated by Council action is prohibited.

F. Christmas trees must be harvested without the benefit of any gas or electric powered saws, or hand powered saws that exceed 18" in length.

A tree may be cut under this Permit if:

1. The tree is smaller than 4" in diameter at DBH;
2. The tree is a Douglas-fir, grand fir, alpine fir, lodgepole pine, or Engelmann spruce.

G. Permission will be required for harvest of ponderosa pine. These Permits will be issued for specific areas where cutting of ponderosa pine will not conflict with other land uses such as desired regeneration.

H. Permittee are authorized to harvest Christmas trees from Tribal land not closed to Christmas tree cutting.

I. The Permittee is asked to leave some young trees for future sawlog production. When all Christmas trees have been harvested from an area, the remaining young trees should be spaced 13 feet to 15 feet from each other and be:

1. Ponderosa pine, Douglas-fir, western larch, lodgepole pine, or Engelmann spruce;

2. Free of dwarf mistletoe, or other diseases, of good form, and showing better than average height growth; and

3. At least 5 feet tall.

J. The tree will be cut below the lowest live limb.

### **Commercial Fuelwood and Post & Poles**

K. Persons operating under this permit are authorized to harvest fuelwood from the area describe in the permit. The FOIC may further limit the area to protect Tribal land, water or improvements.

L. Skidding equipment may be used with prior written approval of the FOIC.

M. A Performance Bond will be required for the use of skidding equipment.

N. Skidding practices will be conducted in a manner prescribed by the FOIC that will minimize soil erosion and/or damage to site quality.

O. Standing dead or blow down timber of any species may be utilized except in areas temporarily closed for commercial salvage operations.

P. Fuelwood will not be cut from log decks without prior written approval of the Approving Officer.

Q. Fuelwood may not be hauled in lengths exceeding 8 feet, unless approved in advance by the Tribal Council.

R. Fuelwood harvesting for commercial use shall be limited to dead trees within 200 feet from a roadway to assure snag retention. (FMP 2000, Standards-Wildlife)

S. To provide employment for Tribal members, Tribal Council has chosen not to charge a fee for harvesting of Fuelwood, Christmas trees and Post & Poles by Tribal members. Removal of dead wood and Christmas trees is considered to be a positive benefit in terms of fuel reduction. Council recognizes that charging stumpage may reduce the benefit of fuel wood removal.

## VI. PAID PERMITS

A. The Superintendent is authorized to offer for sale from tribal trust lands, and as the market allows, sawlogs, wood logs or pulp logs, and various specialty products such as houselogs, utility poles, props, or other wood product, under a Paid Permit and in accordance with the policy and regulations contained herein. Additional provisions may be added as needed to facilitate Permit

### 25 CFR §163.15 Advertisement of sales

Except as provided in §163.13, §163.14, §163.16, and §163.26 of this part, sales of forest products shall be made only after advertising. (a) The advertisement shall be approved by the officer who will approve the instrument of sale. Advertised sales shall be made under sealed bids, or at public auction, or under a combination thereof. The advertisement may limit sales of Indian forest products to Indian forest enterprises, members of the tribe, or may grant to Indian forest enterprises and/or members of the tribe who submitted bids the right to meet the higher bid of the non-member. If the estimated stumpage value of the forest products offered does not exceed \$15,000, the advertisement may be made by posters, and circular letters.

### 25 CFR §163.16 Forest product sales without advertisement

(a) Sales of forest products may be made without advertisement to Indians or non-Indians with consent of the authorized tribal representatives for tribal forest products or with the consent of the beneficial owners of a majority Indian interest of individually owned Indian land, and the approval of the Secretary when: (1) Forest products are to be cut in conjunction with the granting of a right-of way; (2) Granting an authorized occupancy; (3) Tribal forest product are to be purchased by an Indian tribal forest enterprise; (4) It is impractical to secure competition b formal advertising procedures; (5) It must be cut to protect the forest from injury; or (6) Otherwise specifically authorized by law.

### 25 CFR §163.17 Deposit with bid

(a) A deposit shall be made with each proposal for the purchase of Indian forest products. Such deposits shall be at least: (1) Ten (10) percent if the appraised stumpage value is less than \$100,000 and in any event not less than \$1,000 or full value whichever is less.

***For the issuance of Paid permits, ten percent equals \$1,500.***

### 25 CFR §163.19 Contracts for the sale of forest products

(a) In sales of forest products with an appraised stumpage value exceeding \$15,000, the contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved by the Secretary.

25 CFR §163.26 (c) Paid permits subject to forest management deductions., as provided in §163.25 of this part, may be issued. Unless otherwise authorized by the Secretary, the stumpage value which may be harvested under paid permits in a fiscal year by any individual under this authority shall not exceed \$25,000. For the purpose of issuance of paid permits, individual shall mean an individual or any operating entity comprised of more than one individual.

administration. The sale of forest products under a Paid Permit is done by either Advertisement and bid, or by Sale without Advertisement. The Advertisement and sale is done by sealed bid and may be limited to Tribal members only. Sales without advertisement is done only when the sale meets criteria outlined in 25 CFR 163.16.

**Common Species Sorts**

B. Common Species Sorts and Definitions are included in the following table:

<b>Common Species Sorts</b>	<b>Log Specification for each Sort</b>
Small Douglas-fir/Larch sawlogs	Greater than or equal to 4.6 inches top diameter to 7.5 inches top diameter
Large Douglas-fir/Larch sawlogs	Greater than 7.6 inches top diameter, preferred lengths of multiples of 8 feet 6 inches long
Small Ponderosa pine	Greater than or equal to 5.6 inches top diameter to 11.5 inches top diameter
Big Ponderosa pine	Greater than or equal to 11.6 inches top diameter in preferred lengths of multiples of 8 feet 6 inches long
Yellow pine (Veneer)	Greater than or equal to 18 inches top diameter with at least 2 clear panels in preferred lengths of 17 feet 6 inches multiples
White woods (lodgepole pine, alpine fir, Grand fir, Engelmann spruce)	Greater than or equal to 4.6 inch top diameter, preferred lengths of multiples of 8 feet 6 inches long
Lodgepole whips	Greater than or equal to 2.5 inches top diameter with a bottom diameter not more than 8 inches
Dead Dry sawlogs (any species)	Any diameter and greater than 2/3 sound
Dead Dry (house logs) (any species)	Greater than a 8 inch top diameter, Straight-twist or spiral cannot exceed 1 inch per 1 foot in length and greater than 2/3 sound
Green Houselogs	Greater than a 8 inch top diameter, Straight-twist or spiral cannot exceed 1 inch per 1 foot in length and greater than 2/3 sound
Fuel wood logs (any species)	Any diameter, less than 8 feet in length and less than 1/3 sound
Pulp wood (any species except Western red cedar and burnt logs)	Greater than or equal to 2.5 inch top diameter at least 12 feet in length

**Appraisal**

C. A Cost Approach Appraisal will be done for each Paid Permit. The appraisal will be based on the value of the weighted average of timber products minus logging and hauling costs. The Appraisal documents Forestry’s effort to obtain “fair market value” for the Tribes.

D. Phone calls will be made to local mills to get current 'gate prices' for each log sort. Mills have different sorts based on log grades and lengths. The Forestry Department will periodically solicit log grade information from local milling facilities.

E. Logging Cost are determined from using the Regional Data from the University of Montana, Business Network Research Project for 'ground based harvest systems' and updated as new research becomes available. Logging cost for Permit Loggers are higher per ton/MBF, because many do not use newer technology or specialized equipment.

F. Hauling Cost is determined using 'surveys' of local truckers, and from data from the University of Montana Business Network Research Project for 'log truck hauling' and will be updated as new research becomes available or local conditions change significantly.

G. The Superintendent is authorized to issue Paid Permits at or above the Appraised stumpage values for each species sort.

H. If the Negotiated stumpage rates for any particular species sort is below the Appraised value, then Tribal Council approval will be secured prior to the permit being issued.

### **Commercial Sawlogs, Woodlogs, Pulp, Post, Poles, and Other Specialty Products**

**I. Tribal members may be issued an approved Paid Permit when** it has been determined by the Forestry Department that a need exists for silvicultural treatment; and if;

1. There has been an environmental impact review including compliance with the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and Tribal Historic Preservation Act.
2. The appraised stumpage value of a project is less than \$15,000.
3. The stumpage value cut by any individual or entity under Paid Permits issued pursuant to 25 CFR §163.26 (c) shall not exceed \$25,000 in any one fiscal year. Unless authorized by the Secretary or his/her designee.
4. A Tribal member is the high bidder at the close of competitive bidding, or
5. It has been determined that conditions of the Permit meet criteria for forest product sale without advertisement as stated in 25 CFR 163.16.

J. The Superintendent is authorized to issue Paid Permits at or above the Appraised value, or a rate determined after competitive bidding. If the appraised rate for any particular Permit is below the Appraised rate, then Tribal Council approval by formal action will be secured prior to the Permit being issued.

K. Permittees shall register and comply with the CSKT Indian Preference Office before any harvest activity begins. The Indian Preference Office can be reached at (406) 675-2700 extension 1045.

L. A Timber Sale Contract (BIA Form 5-5324 Contract for Estimated Volume) shall be used on all sales when the appraised stumpage value is \$15,000 or more.

M. Advance payment or an Advance Deposit must be in place prior to Permit approval. Designated scaling points shall be identified on the permit form.

N. Payments shall be in the form of cashier's check, money order or other acceptable method. Cash payments are discouraged. All payments shall be sent to the federal depository into lock box with permittee name, permit number, date, and truck ticket numbers on the payment form, and sent to:

Flathead Field Office-BIA  
Department C124  
PO Box 105533  
Atlanta, GA 30348-5533

O. Unauthorized cutting or excessive damage to reserve trees will be charged against the Permittee at triple the permit stumpage rate.

P. Waste in long butts, oversized tops, improper bucking, excessive breakage, trees left standing (designated for cutting), and logs not delivered to the scaling point will be scaled to the nearest two (2) foot length, provided it is one-third (1/3) sound. Such material may be charged to the Permittee at triple stumpage rate.

Q. High stumps as defined by Item Seven (7) on the reverse side of the permit will be assessed to the Permittee at \$8.00 per stump.

R. Where it can be shown that the Permittee was responsible for deterioration of the road, he shall be required to blade roads before leaving the permit area to remove berm, ruts and debris, and to install erosion control structures where required to the extent necessary to restore the road to its former condition before use by the Permittee.

S. Permittee is required to use such log accountability procedures as the Approving Officer may prescribe. Failure to follow these procedures is considered Trespass. Penalty for Trespass is described in 25 CFR §163.29.

T. Ticket Book(s) will be issued by the FOIC before harvesting begins. All sawlogs delivered to a mill must be identified with a Truck Ticket stapled to the load, and the pertinent data painted on the logs. Truck Tickets may be kept inside the truck on rainy or snowy days but the pertinent data must still be painted on the logs. All Truck Tickets must be filled out before transportation of the logs.

U. The receiving mill will be required to return one truck ticket, with a copy of the scale or weight

sheet, or both, stapled to the Truck Ticket. This will be delivered or mailed to the Confederated Salish and Kootenai Tribes Tribal Forestry in Ronan, MT within 10 calendar days of receipt of the sawlogs.

V. In cutting activities adjacent to streams, particular care must be taken to keep streambeds clear of debris. Any material (limbs, tops, etc.) that lands in or near the streambed must be removed by hand and scattered at least ten (10) feet away from the stream channel.

W. No skidding is allowed within 132 feet of springs and streams without prior written approval. Logging practices will be conducted in a manner that will minimize soil erosion as directed by the FOIC.

### **Harvesting of Material**

X. All cutting of material shall be in designated blocks or cutting units designated by painted and ribbon boundary marking.

Y. A Bond is required when using heavy equipment such as a rubber tired skidder or dozer. The Bond can be a cashier's check, money order, or letter of credit.

Z. All included products shall be limbed and topped where felled. Except that, any tree that is felled in or near a stream will be skidded away from the stream and then limbed, bucked, and topped.

AA. All designated trees will be utilized to the following specifications:

1. Sawlogs must be at least one-third (1/3) net scale in accordance with Forest Service Scaling Handbook 2409.11 Amendment No. 6. If a sawlog does not meet this minimum standard and is delivered to a scaling point, it will be called a wood log and scaled gross.

BB. Permits and Truck Tickets will be required for removal of all material in lengths greater than 8 feet 6 inches.

CC. All spur roads and portions of the main haul roads will be bladed and out-sloped at the completion of the sale to remove ruts, debris, and berm. Advance road maintenance may be required by the FOIC.

DD. All slash on landings will be piled by the Permittee. Slash piles should be kept dirt free as possible to accommodate burning.

EE. This Permit may be canceled or suspended by the Superintendent, Flathead Agency, for non-performance.

FF. Permittee may be required by the FOIC to directional fall timber to designated skid trails.

GG. Skid trails shall be laid out in advance and approved by the FOIC. Permittee will be required to have a winch line or cable on a skidder and will restrict his skidding operations to these trails.

### **Truck Ticket Use**

HH. Hauling: All loads must be accompanied by a Truck Ticket. Truck Tickets are accountable forms and will be checked out through CS&KT Tribal Forestry. The Permittee must return all ticket books (used or unused) to Forestry when the Permit is completed or expires. Each Truck Ticket Book has three copies. The “Woods Receipt” should remain in the ticket book. The “Purchaser’s Receipt” and the “Scaling Receipt” will be in the possession of the truck driver after loading. The ticket will be folded over with the bold “BIA” readable on the outside. This will be stapled onto a log in back of the pickup truck or on a log in front of a logging truck before leaving the woods. All pertinent information is to be filled out before stapling the ticket onto a log. All three copies must be filled out before leaving the woods. In addition, the last three digits of the Truck Ticket Number will be painted on at least three logs on the front and back of a logging truck and on the back of a pickup truck. Noncompliance is considered unauthorized movement.

### **Method of Scale**

II. Weight Scale. Sale of products by weight from a consumer’s scales may be made when the scales are certified for interstate commerce and subject to periodic examination by a bonded or licensed inspector. Fiber products scales by weight will be converted to units specified on the permit for the measured species and product. The weight conversion factor should be specified in the permit (IAM 53 4-H chapter 5, B)

JJ. Stick Scale. Volume is determined by using a scale stick and/or tape to measure diameters, lengths, and dimensions of defects in logs to determine gross and net scale.

### **Enforcement, Violations**

KK. The Forestry Department is authorized to investigate and process apparent violations of this policy statement by order of the Superintendent, Flathead Agency and by denial of such a permit until restitution is made for the violation.

#### **Fuel wood Theft Violations:**

LL. A CSKT Conservation Officer or Staff from the Forestry Department shall confiscate fuelwood and therefore have such inventory available for the Elders fuel wood program.

#### **Timber Theft Violations:**

MM. The Forestry Department in cooperation with members of the Land Department, Natural Resources Department, and Tribal Law and Order will perform a detailed investigation of the incident.



NN. Trespass cases will be processed as outlined in 25 CFR §163.29, and Bureau of Indian Affairs Manual IAM, Handbook H.