

CHAPTER 4-12 FOREST PROTECTION

GENERAL PROVISIONS

4-12-1

Definitions

- (a) "BIA" means the Bureau of Indian Affairs of the U.S. Department of the Interior.
- (b) "Forest products" means and include logs, spars, piles, poles, boom sticks and shingle bolts and every form into which a felled tree may be cut, which shall include but not be limited to firewood, stove wood, cord wood, posts, etc.
- (c) "Forestry activity" means any conduct relating to the burning, sale, harvesting, cutting, logging, thinning, salvaging, dumping, and processing of timber or other forest product, such as firewood and pole posts.
- (d) "Merchantable Dead Timber" means unharvested dead timber resulting from insect damage, fires, and wind throw and other causes.
- (e) "Timber" means forest trees, standing or down, of a commercial species, including Christmas Trees.

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Authority

This Forest Protection Chapter was adopted by Tribal Resolution Number 1981-688 of the Colville Business Council, pursuant to authority granted by the Constitution and By-Laws of the Tribes approved on February 26, 1938, by the Commissioner of Indian Affairs.

(Amended 1/24/03, Resolution 2003-37)
(Certified 1/24/03)

4-12-3

Civil Penalties

- (a) All violations of this Chapter shall be considered civil in nature and the remedy imposed therefore shall not be deemed for any purpose a penal or criminal punishment and shall not effect or impair the credibility of a witness or otherwise of any person convicted thereof.
- (b) Unless otherwise provided by this Chapter, Civil Actions for violations of this Chapter or regulations adopted under it shall be taken as provided by the Infractions; Field Bonds; Other Civil Violations and Forfeitures Chapter under this Code.

4-12-4

Expulsion

Nothing in this Chapter shall be deemed to preclude the remedy of expulsion against nonmembers for violation of this Chapter. An action for expulsion may be taken in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

4-12-5

Trespassing

Violation of this Chapter by nonmembers shall be considered an immediate revocation of permission to enter the Reservation and may render the violator a trespasser as provided by 18 U.S.C. § 1165.

4-12-6

Federal Prosecution

This Chapter has been enacted to protect the natural resources of the Colville Tribes, and taking or using of said resources contrary to the terms of this Chapter constitutes theft of tribal assets. Federal prosecution for trespass (18 U.S.C. § 1165), theft of tribal assets (18 U.S.C. § 1163), unlawful cutting (18 U.S.C. § 1853), or any other federal law designed to protect tribal assets may be initiated in addition to or in lieu of any other enforcement procedures provided by this Chapter.

4-12-7

Injunctions

Any activity conducted in violation of any provision of this Chapter may be enjoined in action commenced
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by the tribal prosecuting attorney in any appropriate court. This section shall not be construed to limit any other civil action or remedy available to the Tribes under tribal, state or federal law.

4-12-8 Enforcement

It shall be the duty of all peace officers, law enforcement officers, all law enforcement agencies of the Tribes and BIA, including the Tribal Police Department, Tribal Fish and Wildlife Department, BIA Special Agents, and the Tribal Prosecuting Attorney to investigate, enforce, and prosecute all violations of this Chapter. Non-Tribal enforcement agencies shall not be deemed agents of the Tribes. Said law enforcement officers shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing this Chapter.

4-12-9 Right of Entry in Course of Duty by Representative of Tribes

Any authorized assistants, employees, agents, appointees or representatives of the Tribes may, in the course of their inspection and enforcement duties as provided for in this Chapter pertaining to forestry activity, enter upon any lands, real estate, waters or premises except the dwelling house or appurtenant buildings on the Reservation whether public or private and remain thereon while performing such duties. In no event other than an emergency such as fire fighting shall motor vehicles be used to cross a field customarily cultivated, without prior consent of the owner. None of the entries herein provided for shall constitute trespass.

4-12-10 Prior Inconsistent Codes and Ordinances Repealed

Any Code or Ordinance or any provision therein of the Tribes which conflicts in any way with the provisions of this Chapter is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purposes of this Chapter.

4-12-11 Severability

If any provision of this Chapter, or its application to any person or circumstances is held invalid, the remainder of the Chapter, or the application of the provision to other persons or circumstances is not affected.

4-12-12 Effective Date

This Chapter shall be effective from the date of its approval by the Business Council.

OFFENSES

4-12-40 Conducting Activity Without License as Violation

No person shall conduct any forestry activity for which a license or permit is required by rule or regulation of the Business Council, without the required license or permit issued by the Business Council, or its designee.

(a) It is unlawful to transport cut wood and/or cut poles without a current and valid resale, free-use and/or senior use transport tag issued by the Colville Tribes/BIA Forestry Department attached to said cut wood and/or poles.

(b) No transport tag shall be deemed valid unless it has been properly marked with the number of cords permitted on the tag. Unmarked tags shall be deemed to be in violation of this Chapter.

(Amended 1/24/03, Resolution 2003-37)
(Certified 2/5/03)

4-12-41 False or Misleading Statements as Violation

No person, in any application for a license or permit or in any book or record required to be maintained by the Business Council, or its designee, or in any report required to be submitted to the Business Council, or its designee, pertaining to forestry activity, shall make any false or misleading statement, or make any false or misleading entry or fail to maintain or make any entry required to be maintained or made, or refuses to

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produce for inspection by the Business Council, or its designee, any book, record, or document, pertaining to forestry activity, required to be maintained or made by tribal law or federal law.

4-12-42 Causing Person to Violate Chapter as Violation

No person shall cause, aid, abet, or conspire with another to cause any person to violate any provision of this Chapter.

4-12-43 Causing Person to Violate Rule or Regulation as Violation

No person shall cause, aid, abet, or conspire with another to cause any person to violate any rule or regulation pertaining to forestry activity on the Colville Reservation.

4-12-44 Violations Relating to Fraud or Deceit

No person conducting any forestry activity shall, directly or indirectly, in the course of such operation:

- (a) Employ any devise, scheme, or artifice to defraud;
- (b) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in light of the circumstance under which said statements are made; or
- (c) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person.

4-12-45 Obstruction of Public Servant in Administration or Enforcement as Violation

No person shall obstruct a public servant in the administration or enforcement of this Chapter by using or threatening to use physical force or by means of any unlawful act.

4-12-46 Working in Forest Activity Without License as Violation

No person shall work as an employee or agent or in a similar capacity for another person in connection with the conducting or operation of a forestry activity for which a license or permit is required by the Business Council, or its designee, without having obtained the applicable license or permit required by the Business Council, or its designee.

4-12-47 Unlawful Timber Cutting

- (a) No person shall, without proper authority, sell, harvest, cut, log, thin, salvage, or process any timber on any land on the Reservation.
- (b) All timber sales contracts shall carry the following provision:

"Prior permission of the Colville Business Council must be obtained, by tribal resolution, before the timber covered by this contract may be logged by other than Colville tribal enterprise or by certified Colville Indian Loggers."

4-12-48 Removal of Forestry Activity Landmarks

No person shall remove, alter, or destroy any boundary marker or other landmark erected by the Tribes or the BIA for use in forestry activity within the Reservation.

4-12-49 Firing Timber

No person shall set fire to any timber, woods, meadow, marsh, or field within the Reservation, except in accordance with a permit issued by the Business Council, or its designee.

4-12-50 Fire Fighting—Refusal of Aid

No person shall set, or fail to carefully guard or extinguish any fire, whether on his own land or the land of another, whereby the timber or property of another shall be endangered, or fail to respond to any lawful

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summons to aid in guarding or extinguishing any fire.

4-12-51 Permitting Spread of Fire

No person shall suffer fire originating on his own property to spread to the property of another.

4-12-52 Cutting or Destroying Trees Without Authority

No person shall go upon any lands owned by the Tribes or state, or by any person, firm or corporation, without the consent of the owner thereof, and cut down, cut off, top, or destroy any tree.

4-12-53 False Branding, Etc.

No person shall impress upon or cut in any forest products a mark or brand that is false forged, counterfeit, or unauthorized by the Business Council.

4-12-54 Forgery of Mark, Etc.

No person shall:

(a) Falsely make, forge or counterfeit a mark or brand registered or authorized by the Business Council and use it in marking or branding forest products;

(b) Sell, encumber or otherwise dispose of or deal in, or appropriate to his own use, any forest products having impressed thereupon a mark or brand registered or authorized by the Business Council;

(c) Cut out, destroy, alter, deface or obliterate any register mark or brand impressed upon or cut into any forest products; or

(d) Buy or otherwise acquire or deal in any forest products having impressed thereupon a registered mark or brand.

4-12-55 Rules and Regulations

No person shall violate any of the orders, rules, or regulations made by the Business Council, or its designee, pertaining to forestry activity. [The BIA Timber Use Policy shall apply to the Forest Protection Chapter.](#)

(Amended 1/24/03, Resolution 2003-37)
(Certified 2/5/03)

4-12-56 Stopping Motor Vehicles for Licenses or Permit Pertaining to Forestry Activity—Authorized

In order to investigate, enforce and prosecute all violations of this Chapter, all peace officers, law enforcement officers, and law enforcement agencies of the Tribes and the BIA Special Agents, are hereby empowered to require the driver of any motor vehicle being operated for the purpose of conducting forestry activity on any tribal land, tribal road, BIA road and any other land or highway within the Reservation to stop and display his or her license or permit to conduct forestry activity, for which a license or permit is required by the Business Council, and/or to submit the motor vehicle being used to conduct forestry activity to an inspection for possible violations of this Chapter. No person shall fail to stop as required by this section.

FORESTRY ACTIVITY AND TRANSPORTATION PERMITS

4-12-90 Forestry Activity Permit

All persons engaging in forestry activity within the boundaries of the Colville Reservation shall be required to have a forestry activity permit issued by the entity managing the timber on said land, unless such forestry activity occurs on fee land not owned by the Tribes or occurs on individual trust allotments, this section does not relieve fee and trust allotment owners from complying with applicable federal or other tribal law requirements and obtaining a permit if so required. A lawfully issued permit shall be deemed to also authorize the transportation of forest products, when said forest products are harvested in accordance with

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the permit.

(Amended 1/24/03, Resolution 2003-37)
(Certified 2/5/03)

4-12-91 Transportation Permit

Any person transporting forest products on the public roads within the boundaries of the Colville Reservation, who does not hold a lawfully issued forestry activity permit as required by tribal, federal or state law, or as required by a commercial timber manager, shall be required to have a tribal wood transportation permit issued by the Colville Tribal Natural Resources Department.

(Amended 1/24/03, Resolution 2003-37)
(Certified 2/5/03)

4-12-92 Administration of Permit System

The Colville Tribal Natural Resources Department shall be responsible for administering the permit system under this subchapter.

TIMBER SALVAGE

4-12-120 Timber Salvage

(a) Where feasible, merchantable dead timber shall be offered for sale under BIA regulations for timber sales without advertisement. Pursuant to BIA regulations for timber cutting permits, said sales shall be limited to enrolled members of the Tribes.

(b) The stumpage rates for such timber shall be established annually at twenty-five (25%) percent of the average stumpage rate for each species, as shown in the Annual Forestry Report for the Calendar Year most recently ended.

(c) Salvage cutting shall be limited to dead or wind throw material only, and cutting shall be along existing roads.

(Chapter 4-12 Adopted 9/8/81, Resolution 1981-688)