



QUINAULT INDIAN NATION
QUINAULT DIVISION OF NATURAL RESOURCES
MINOR FOREST PRODUCTS
OPERATIONS
MANUAL

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QUINALT DIVISION OF NATURAL RESOURCES

Minor Forest Products Operations Manual

INTRODUCTION

The Quinault Indian Nation (Nation) created the Quinault Division of Natural Resources (QDNR) to manage its natural resources found on the Quinault Indian Reservation (QIR) and within the Nation's Usual & Accustomed Area. The goal of this manual is to promote effective efficient administration of the Nation's minor forest products operations which are owned by the Nation and/or under the control of the Nation or its entities.

The Quinault Division of Natural Resources (Division) shall manage the minor forest product resources to meet two purposes: 1) provide and protect the opportunities for the gathering of cultural resources and 2) provide and protect the opportunities for the commercial harvest of minor forest products by tribal members. The Division intends to operate by meeting the following objectives:

Objectives

- A. Implement the minor forest products program in a consistent manner;
- B. Provide opportunities for long-term employment to tribal members;
- C. Promote minor forest products entrepreneurship within the tribal membership
- D. Manage the minor forest products resources in an effective and efficient manner, beneficial to the Nation and its people; and
- E. Reserve cultural use areas for the exclusive use by tribal members.

The Division will be responsible for the development, administration, coordination, and execution of the Nation's minor forest products program. To meet the Nation's goal, the Division will follow these procedures to insure the spirit and intent are met. The implementation of these procedures will be the responsibility of the Division's Director.

AUTHORITY

The Division's Director is recognized, as the Nation's representative in the management and selling of minor forest products. The Director shall have the authority to sign and execute contract and/or paid permits for sale of minor forest products on QIN forestlands, as authorized by the Quinault Indian Nation.

DEFINITIONS

See the Natural Resource Management Act, Title 61 and the Minor Forest Products Regulations, NRMR 61-26 for a full set of definitions, but the following are key to the implementation of this manual.

Cultural Resources means archaeological and historic sites and artifacts and traditional religious, ceremonial, and social uses and activities of members of the Quinault Indian Nation.

Cutter means any person who cuts, digs, loads, handles, breaks or otherwise harvest minor forest products.

Designated Agent means a person designated in writing by an operator to act as his/her agent and to supervise forest products operations. Designated Agents shall meet the following qualifications:

- a) Be able to read, write and speak English
- b) Have one year of experience as a cutter,
- c) Have a valid Quinault Business License,
- d) Have a valid Minor Forest Products Work Permit,
- e) Able to maintain contract compliance (i.e., stumpage payments, reconciliation of citations), and
- f) Have a working knowledge of and involvement in the operation.

Tribal Fee Lands: Those tribal fee lands recently purchased by the Nation or QLTE, which have not been converted to Trust.

Minor Forest Products includes forest products such as: cedar (block, shake, shingle post and pole), Christmas trees, firewood, other wood products (excluding timber), salal, huckleberry, scotch broom ferns, cascara bark, seeds, cones, bear grass, mushrooms, seedlings, moss boughs, and aquatic plants.

Minor Forest Product Work Permit means the documentation of a person's authorization to carry on activities as a cutter.

Operator means any person engaging in natural resource practices except an employee with wages as his sole compensation and who has the documentation of a person's authority to engage in natural resource activities. Operators who conduct business on Nation's owned forestlands shall meet the following qualifications

- a) Be an enrolled member of the Quinault Indian Nation.
- b) Have a minimum of two years of experience as a cutter,
- c) Comply with the Quinault Business License Ordinance,
- d) Hold a Minor Forest Products Work Permit,
- e) Able to maintain contract compliance, such as stumpage payments and reconciliation of any citations, and
- f) Have an approved Tribal Employees Rights Ordinance (TERO) operating plan on file at QDNR.

Restricted Lands: BIA sales will be excluded.

DIVISION/OPERATOR RESPONSIBILITY

To implement this manual, the Division has identified the following responsibilities of the Division, Operators, and Cutters in order for the program to function in an efficient manner.

Quinault Division of Natural Resources

- A. The Division will maintain a list of tribal members who meet the minimum qualifications of an Operator, Designated Agent, and Cutter.
- B. Supply accurate information, maps and photocopy of aerial photos of potential units that Operators can use in the unit assessment process.

- C. Maintain a program that will permit access by all Operators to the Nation's minor forest products resources.
- D. Complete the administrative steps in preparing a unit for sale in a timely manner.
- E. Coordinate the implementation and enforcement of the Nation's Regulations with the Bureau of Indian Affairs and Washington State natural resources and enforcement agencies to assure availability and protection of these limited resources.

Operators

- A. Complete and submit the Minor Forest Products Operators' Application form. The form shall include:
 - 1) Name,
 - 2) Address,
 - 3) Phone Number,
 - 4) Tribal Affiliation,
 - 5) Enrollment Number,
 - 6) Type of Minor Forest Products interested in,
 - 7) Years of experience harvesting the product interested in,
 - 8) Year of experience of managing a small business,
 - 9) List of workers names, addresses, and phone numbers, tribal affiliation, and
 - 10) A copy of their QIN Business License.
- B. Obtain a Quinault Indian Nation Business License.
- C. Obtain a Minor Forest Products Work Permit/Cutter Card.
- D. Inspect the allotments or units made available for a cedar salvage operation.
- E. Notify the Division of the allotments or units the Operator wants to salvage.
- F. The operator is responsible for locating all cutting block boundaries.
- G. The operator shall identify his/her Designated Agent and Cutters intended to be employed or contracted for each harvest unit.
- H. Unit Representation: The Operator or the Operator's Designated Agent shall be present on the work site 100% of the time.
- I. Obtain a Quinault Indian Nation vehicle decal
- J. Notify Officer in Charge (OIC) if alternate haul routes will be needed. All haul routes must be pre-approved in writing by the OIC.

- K. The Operator is responsible for completing all road maintenance or reconstruction that may be necessary to access the proposed harvest unit
- L. The Operator is responsible for complying with all contract obligations and clauses as stated in each signed and approved contract.
- M. Pay all BIA road use/maintenance fees;
- N. Maintain Logger's Broad Form B insurance in the amount of \$1,000,000.00 as part of the Quinault Minor Forest Products Operations Manual policy and a \$3,000.00 certificate of deposit (performance bond) for all operations.

Cutters

- A. Follow all laws of the Quinault Indian Nation.
- B. Obtain a Quinault Indian Nation Business License.
- C. Obtain a Minor Forest Products Work Permit.
- D. Obtain a Quinault Indian Nation vehicle decal (if operating a vehicle with the QIR)>

HARVEST UNIT PREPARATION

I. Program Coordination

In preparing the Nation's forestlands for future minor forest products harvest opportunities, the Division will coordinate the development of the harvest units with the Nation's other Divisions and the Bureau of Indian Affairs. This coordination will include activities such as participation in interdisciplinary teams, road use planning, road maintenance, and shared enforcement efforts.

II. Harvest Unit Preparation

The Division is responsible to prepare all minor forest product units for sale. The tasks that must be completed include all stages of development, including:

- A. An *investigation* of the potential harvest area and a determination made whether an opportunity exists for a minor forest products operation.
- B. An *office review* of the potential harvest area. The office review is completed when all resource files, ownership records, and aerial photographs have been reviewed. Through this process the Division will identify potential unit boundaries, access routes, adjacent land ownership, and any sensitive issues (i.e., cultural areas, Threatened & Endangered Species).
- C. A *reviewing memo* is sent to each Department of the Division to seek site information and operational concerns. If no response is provided by each division by the time allotted, it is assumed I

- D. A *pre-work conference* will be held between the OIC and the operator to establish a field trip, confirm office findings, etc. A pre-work form will be signed by the Officer in charge and operator prior to commencing work.

A harvest unit report is completed summarizing the information gathered from the office and field investigations.

- E. The following documents may be completed for each contract that is issued for tribal trust lands, a Finding of No-Significant Impact (FONSI), Forest Officer's Report (FOR), Contract and/or Paid Permit, Fish & Wildlife Report, Biological Assessment (if required), Forest Practices Application, Hydraulic Project Approval Application Form and project consistency form.

If the proposed harvest operation poses a threat to a listed Threatened & Endangered Species and a Biological Opinion is required from the United States Fish & Wildlife Service (FWS), the Division shall then submit a Biological Assessment to the Bureau of Indian Affairs for processing and approval. It takes approximately 120 days for the Biological Opinion to be issued from the FWS.

- F. If the operation is to occur on Tribal-Fee lands, a FONSI and related environmental documents are processed within the Division.

- G. The sale contract is completed upon the approval and signature of the Quinault Indian Nation and Bureau of Indian Affairs. The sale contract and/or paid permit document includes:

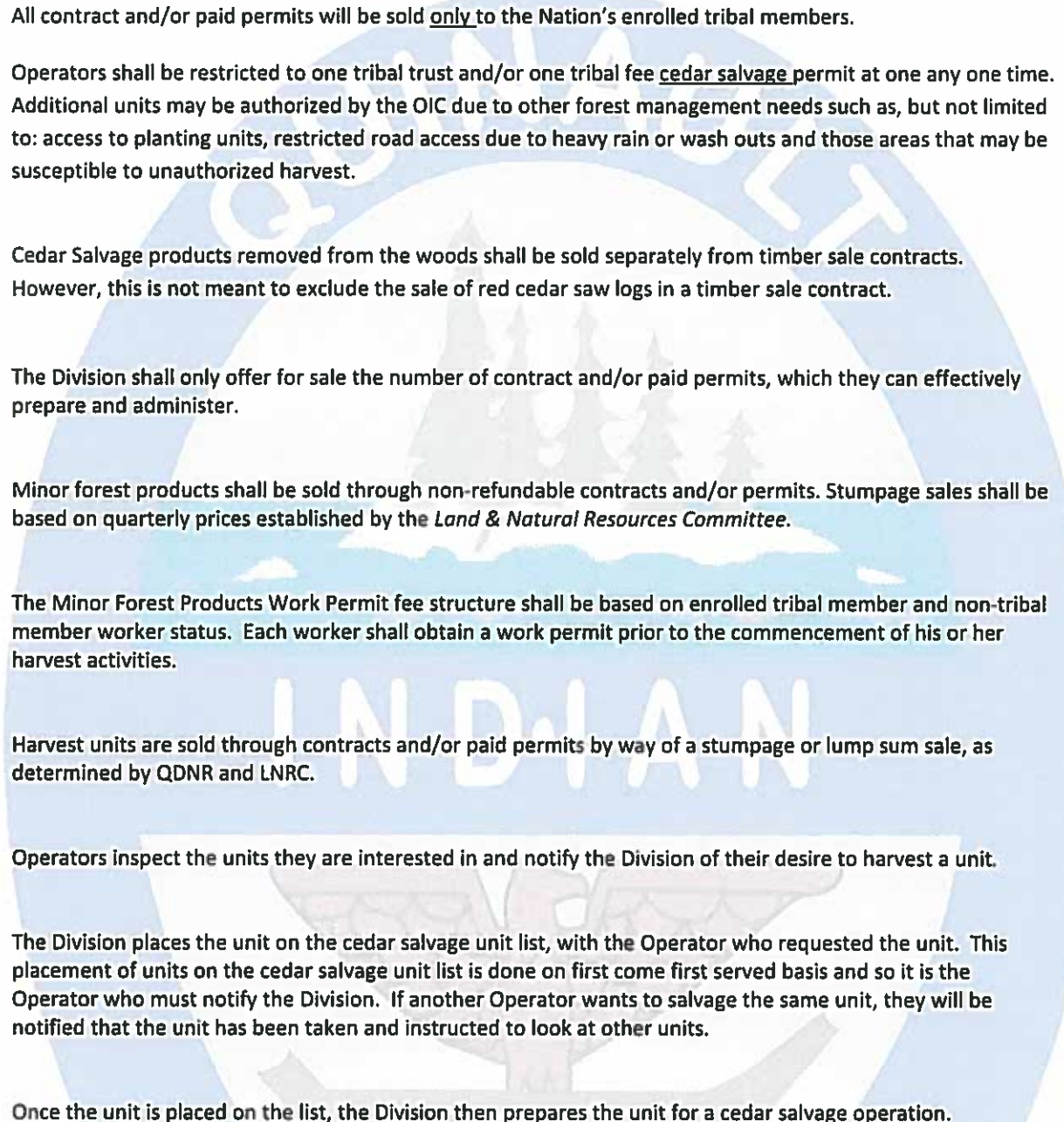
- FONSI,
- Contract and/or Paid Permit,
- Harvest area and unit map,
- Identification of the haul route and scaling station locations as designated by the OIC,
- Identification of road use fees and maintenance fees,
- Forest Practices Application/Notification,
- Hydraulic Project Approval (if required),
- Quinault Indian Nation MFP hauling permit.

- H. Locate and mark the buffer from any allotment corners and boundary lines (this may be a safe distance from any line or corner, but at least one chain, 66 feet. If the allotment corners are missing cutting block boundary not located will be at a safe distance of at least 66 feet or one chain, the Division will research and utilize existing BLM information to relocate the corner prior to releasing the allotment for a minor forest products operation. The Division's goal is to avoid any potential risk of an Operator trespassing during a minor forest products operation.

- I. Locate and mark (if necessary) the harvest unit boundaries;

ALLOCATION PROCESS

The following process describes how the Division intends to sell the Nation's minor forest products. By adhering to the following principles, the Division believes that the Operators interested in working in the minor forest products industry will have an equal opportunity to the limited resources.

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- A. All contract and/or paid permits will be sold only to the Nation's enrolled tribal members.
 - B. Operators shall be restricted to one tribal trust and/or one tribal fee cedar salvage permit at one any one time. Additional units may be authorized by the OIC due to other forest management needs such as, but not limited to: access to planting units, restricted road access due to heavy rain or wash outs and those areas that may be susceptible to unauthorized harvest.
 - C. Cedar Salvage products removed from the woods shall be sold separately from timber sale contracts. However, this is not meant to exclude the sale of red cedar saw logs in a timber sale contract.
 - D. The Division shall only offer for sale the number of contract and/or paid permits, which they can effectively prepare and administer.
 - E. Minor forest products shall be sold through non-refundable contracts and/or permits. Stumpage sales shall be based on quarterly prices established by the *Land & Natural Resources Committee*.
 - F. The Minor Forest Products Work Permit fee structure shall be based on enrolled tribal member and non-tribal member worker status. Each worker shall obtain a work permit prior to the commencement of his or her harvest activities.
 - G. Harvest units are sold through contracts and/or paid permits by way of a stumpage or lump sum sale, as determined by QDNR and LNRC.
 - H. Operators inspect the units they are interested in and notify the Division of their desire to harvest a unit.
 - I. The Division places the unit on the cedar salvage unit list, with the Operator who requested the unit. This placement of units on the cedar salvage unit list is done on first come first served basis and so it is the Operator who must notify the Division. If another Operator wants to salvage the same unit, they will be notified that the unit has been taken and instructed to look at other units.
 - J. Once the unit is placed on the list, the Division then prepares the unit for a cedar salvage operation.

STUMPAGE CALCULATIONS

The *Land & Natural Resources Committee* shall establish the minimum value of the Nation's minor forest products. The minimum value will be that value which insures the Nation will receive the stumpage value of the products, all encumbrances and harvest associated costs (i/e. costs operating in the unit,).

To assist the *Land & Natural Resources Committee* in the establishment of the minimum values, the Division shall estimate the costs of salvaging each unit and will monitor regional resource values on a quarterly basis.

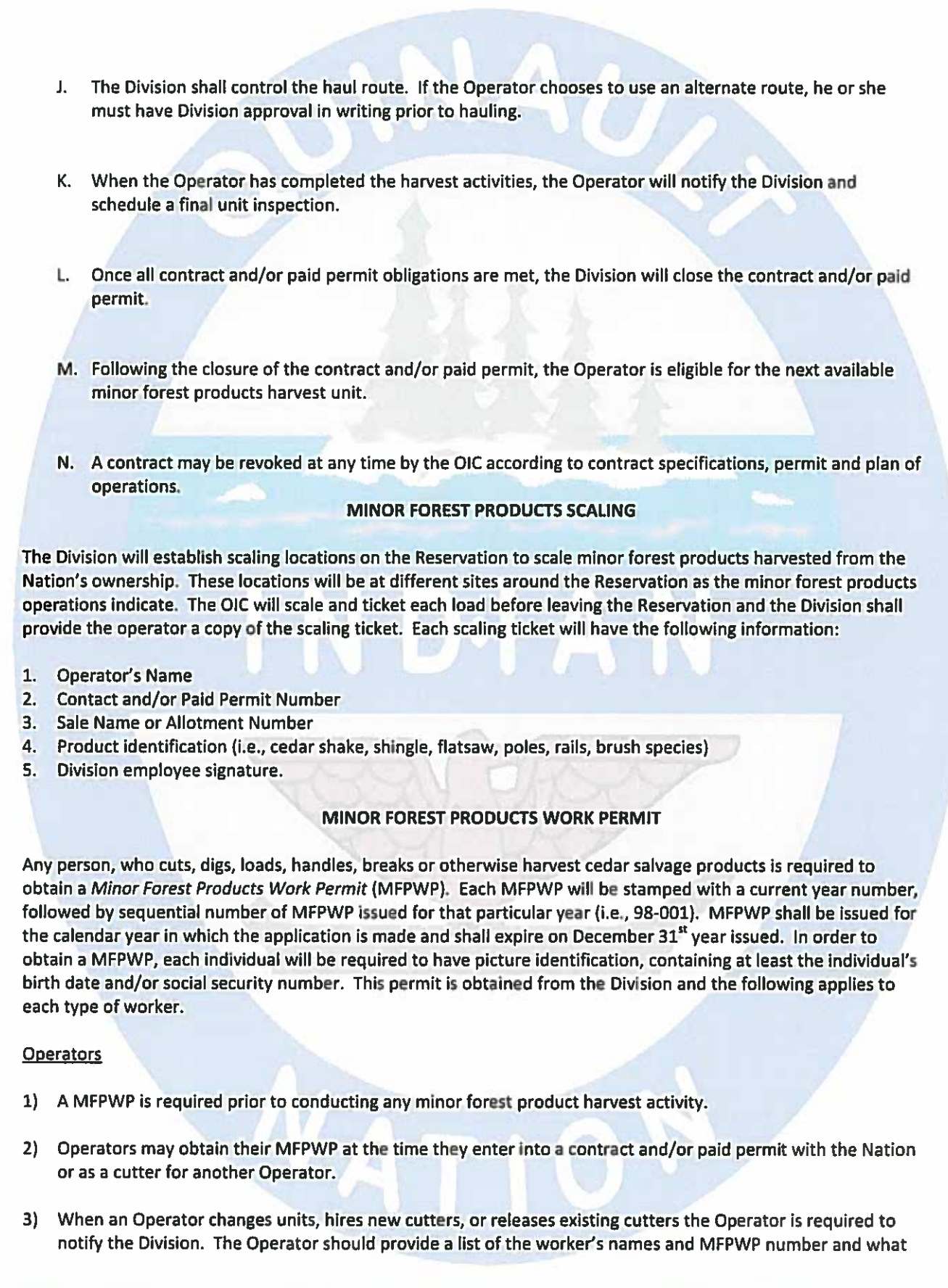
The Director will report the Division's findings on a quarterly basis to the *Land & Natural Resources Committee*, who in turn will determine the stumpage rates for the following quarter. The stumpage rates will be confirmed at the beginning of each quarter (January 1st, April 1st, July 1st, and October 1st).

SALE ADMINISTRATION

Contract and/or Paid Permit Administration

It is the responsibility of the Division to administer the minor forest products operations by enforcing the terms of the contract and/or paid permit and the Natural Resource Management Act, Title 61. The Division will work with the Operators to assure their understanding of the contract and/or paid permit and regulatory requirements of their contract and/or paid permit prior to their commencing operations to minimize the following:

- A. The Operator and the Division will complete a *Plan of Operations during the pre-work conference*. The *Plan of Operations* explains the harvest and unit management strategy the Operator and Division agree to. The Plan shall be completed prior to the commencement of the harvest operation.
- B. The Division Director approves the signed contract and/or paid permit.
- C. The QIN approved contract and/or paid permit is submitted to the Bureau of Indian Affairs for approval, if necessary.
- D. The Operator completes the following.
 - 1) Obtains a necessary QIN MFP hauling permit and Washington State *Specialized Minor Forest Products Harvesting Permit* (If hauling on State Highways),
 - 2) Pays all fees associated with the unit (i.e., road use fees)
 - 3) Identifies haulers and registers the operation's vehicle(s) with the Division,
 - 4) Obtains a vehicle decal for each registered vehicle.
 - 5) Identifies the Designated Agent and all Cutters, and
 - 6) Obtains a Tribal Employment Rights Ordinance (TERO) plan.
- E. The Division will administer the contract and/or paid permit, by making unit inspections, verifying contract compliance, and/or paid permit language.
- F. The Operator or Designated Agent must be present on the work site 100% of the time.
- G. The Operator shall provide the Division with proper notice *prior to Fly-outs*, as specified in NRMR 61-26.
- H. The Division shall provide the Operator with the scaling location to which the Operator is required to bring all loads of products.
- I. The Operator shall assure that all materials removed from the harvest units are scaled and ticketed at the appropriate scaling location.

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- J. The Division shall control the haul route. If the Operator chooses to use an alternate route, he or she must have Division approval in writing prior to hauling.
 - K. When the Operator has completed the harvest activities, the Operator will notify the Division and schedule a final unit inspection.
 - L. Once all contract and/or paid permit obligations are met, the Division will close the contract and/or paid permit.
 - M. Following the closure of the contract and/or paid permit, the Operator is eligible for the next available minor forest products harvest unit.
 - N. A contract may be revoked at any time by the OIC according to contract specifications, permit and plan of operations.

MINOR FOREST PRODUCTS SCALING

The Division will establish scaling locations on the Reservation to scale minor forest products harvested from the Nation's ownership. These locations will be at different sites around the Reservation as the minor forest products operations indicate. The OIC will scale and ticket each load before leaving the Reservation and the Division shall provide the operator a copy of the scaling ticket. Each scaling ticket will have the following information:

1. Operator's Name
2. Contact and/or Paid Permit Number
3. Sale Name or Allotment Number
4. Product identification (i.e., cedar shake, shingle, flatsaw, poles, rails, brush species)
5. Division employee signature.

MINOR FOREST PRODUCTS WORK PERMIT

Any person, who cuts, digs, loads, handles, breaks or otherwise harvest cedar salvage products is required to obtain a *Minor Forest Products Work Permit* (MFPWP). Each MFPWP will be stamped with a current year number, followed by sequential number of MFPWP issued for that particular year (i.e., 98-001). MFPWP shall be issued for the calendar year in which the application is made and shall expire on December 31st year issued. In order to obtain a MFPWP, each individual will be required to have picture identification, containing at least the individual's birth date and/or social security number. This permit is obtained from the Division and the following applies to each type of worker.

Operators

- 1) A MFPWP is required prior to conducting any minor forest product harvest activity.
- 2) Operators may obtain their MFPWP at the time they enter into a contract and/or paid permit with the Nation or as a cutter for another Operator.
- 3) When an Operator changes units, hires new cutters, or releases existing cutters the Operator is required to notify the Division. The Operator should provide a list of the worker's names and MFPWP number and what

action is to be taken. Notice shall be in writing, delivered either by fax, mail, and e-mail. There will be no fees charged for deleting or adding cutters.

- 4) A MFPWP shall be in the possession of the Operator at all times. The Operator shall present the card for inspection on demand from any law enforcement officer, Division employee, or Bureau of Indian Affairs enforcement employee.

Cutters

- 1) Each cutter must be identified by an Operator as an employee or contract and/or paid permit for a particular unit(s)
- 2) A MFPWP shall be in possession of the Cutter at all times. The Cutter shall present the card for inspection on demand from any law enforcement officer, Division employee, or Bureau of Indian Affairs enforcement employee.

Once the Division receives a notice from an Operator that a worker is either released from employment or a new hire, the Division shall complete the necessary record changes and send a copy of the changes to the Operator and the resource enforcement staff.

MINOR FOREST PRODUCTS HAULING

- (1) The Division has established procedures for the hauling of minor forest products on the Quinault Indian Reservation. These procedures are established to minimize the potential for minor forest products to be removed from the Reservation without permission of the legal owner.
- (2) If the Operator intends to haul cedar products the Operator is required to obtain a Washington State *Specialized Minor Forest Products Harvesting Permit*.

The Operator shall follow these procedures:

General Procedures

- 1) The vehicle being used to haul or transport operators, cutters, or minor forest products shall be registered with the Division.
- 2) A vehicle decal must be in the registered vehicle while operating on the Quinault Indian Reservation.
- 3) Upon Registration the driver of the vehicle must show:
 - a. Proof of Insurance
 - b. Vehicle Registration
 - c. A valid driver's license
- 4) If the above information is not provided then the vehicle will not be granted access on the Quinault Indian Reservation.
- 5) Vehicles used for minor forest product activity that are not registered with the Division will be considered trespassing on the Quinault Indian Reservation.

- 6) All vehicles hauling Minor Forest Products shall stop for inspection when passing any scaling or check station on the Reservation.
- 7) The last three numbers of the hauling permit will be visibly displayed on the back of each vehicle hauling minor forest products.

Quinault Indian Nation Minor Forest Products Hauling Permit Procedures

- 1) The Operator will fill out the Nation's hauling permit application form and submit it to the Division.
- 2) The Division will complete the Hauling Permit form and have the Operator sign it.
- 3) The Division will stamp and approve the Hauling Permit.
- 4) If the Operator needs to have more than one copy of the Hauling permit, the Operator must request additional copies. After receiving the request, the Division will make the necessary copies and authorize each one.

Washington State Specialized Minor Forest Products Harvesting Permit Process

- 1) Operator picks up the permit from the Division.
- 2) Operator takes the permit to the Grays Harbor County Sheriff's Office in Montesano, Washington for approval.
- 3) Operator returns to the Division and has the permit stamped and approved by the Division.
- 4) If the Operator needs to have more than one copy of the Hauling Permit, the Operator must request additional copies and authorize each copy.
- 5) The Division may revoke a hauling permit at any time for contract violations.

MINOR FOREST PRODUCTS FEES

The Quinault Indian Nation has determined that the minor forest product operations must supplement the Nation's costs of operating the program.

Fee Schedule

Business License

<u>Products</u>	<u>Tribal Member</u>	<u>Non-Member</u>
Operator w/one cutter	\$17.50	\$30.00
Cutter	\$17.50	\$30.00
Hauler/Transporter	\$17.50	\$30.00
Additional cutter under Operator License	\$12.50	\$30.00

Minor Forest Products Work Permit

<u>Product</u>	<u>Tribal Member</u>	<u>Non-Member</u>
Cedar Salvage, Firewood (commercial use), Brush, Bark, Mushrooms, Seedlings, Cones, Beargrass	\$25.00	\$50.00
Firewood (personal use)	Free	N/A
Vehicle Permit	Free	\$20.00

PERSONAL USE PERMIT

The Division encourages the person use of minor forest products by the Nation's members. Personal use includes the harvest of all forest resources for non-commercial use. The forest resources harvested cannot be sold in their raw form, but following manufacturing into a commercial product, the product can be sold.

The harvest of the following minor forest products requires a *free use* permit:

- A. Firewood
- B. Ceremonial Cedar logs
- C. Cedar blocks, poles, posts
- D. Christmas trees

The permits are free to individual tribal members, spouses of tribal members, and Nation's employees, based on the availability of the forest resource. Firewood and cedar products are available only in harvest units released for cultural or subsistence use.

When individuals are hauling five or more cedar products, they are also required to have a hauling permit.

REPORTS

As part of the overall management responsibilities, the Division shall complete quarterly and annual summary reports of all minor forest product activities on the Reservation.

These documents will report the following:

- a. Number of sales prepared,
- b. Number of sale acres prepared,
- c. Number of Contracts and/or Paid Permits entered into,
- d. Number of Minor Forest Products Worker Permits issued,
- e. Number of approved operators,
- f. Number of approved minor forest products workers,
- g. Number of active Operators,
- h. Identification of resources harvest (i.e., type of product, plant species, number of cords, number of pounds),
- i. Stumpage rates and suggested changes to those rates for the upcoming quarter.
- j. Amount of funds collected (i.e., road use fees, performance bonds, FMD \$, stumpage fees, permit fees),
- k. Number of Enforcement Action taken (i.e., number of Notice to Complies, Stop Work Orders, infractions),
- l. General problems encountered, and
- m. Successes of the period.

DISPUTE RESOLUTION

The Division intends to follow the process described in this manual and believes with the implementation of this manual, the disputes should be minor in nature. The Division does believe most disputes can be handled by the Division and should a dispute occur, it shall be addressed through the following dispute resolution process. This process is intended to resolve conflicts at the lowest decision level possible and to resolve them quickly.

When a dispute does occur, the Operator or tribal member should address it with the Officer in Charge. The Officer should be able to resolve most issues, but if the dispute does not get resolved to the Operator's or tribal member's satisfaction they may raise the issue to the Division's Forest Manager. Again, if the dispute is not resolved to the satisfaction of the Operator or tribal member, they may raise the issue to the Division's Director. The Director's decision will be issued in writing within 10 working days and considered the final Administrative decision of the Division.

Any person directly affected by an order or decision of the Director relating to remedial action may appeal such order or decision to the Quinault Tribal Court. Such an appeal shall be filed with the court, as a civil matter under the Quinault Tribal Code, within 10 days of the decision of the Director. The case shall follow the civil procedures of the Quinault Tribal Code.