Quinault Indian Nation

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Natural Resource Management
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NATURAL RESOURCE MANAGEMENT

61.01.010 Findings

(a) From time immemorial, the Quinault Indian Nation has conserved and protected the invaluable wildlife and natural resources subject to its jurisdiction from waste and excessive exploitation, and has been proud of the great natural beauty of lands and water now included within the boundaries of the Quinault Reservation.

(b) The Quinault Business Committee, as a governing body of the Quinault Indian Nation, hereby finds and declares that the forest resources within the Reservation are of primary importance to the economic and esthetic well-being of the Quinault Reservation and its inhabitants and the surrounding community; that a properly managed forest products industry is of prime
importance; that it is in the tribal and the public interest that the forest resources be managed consistently with the best available knowledge and technology; that such proper management in the past has been lacking; and that the proper care of the Reservation resources is important to fishery, water, air, scenic beauty and other natural resources of the Reservation.

(c) The Business Committee finds that minor forest products are an important Reservation resource; that they provide jobs and income for Reservation residents; that current minor forest products harvesting methods are often very destructive of forest regeneration, watersheds and other natural resources; that minor forest products are regularly stolen from Reservation lands and landowners; that such thefts deprive the Reservation economy of jobs and income; and that this Title and regulations adopted pursuant to this Title are
necessary and appropriate to protect minor forest products, other natural resources and Reservation landowners.

(d) The Business Committee of the Quinault Indian Nation finds that activities in and around streams or utilization of ground waters causing reductions or changes in the courses of streams or natural stream flows or the addition of materials or substances to waters of the Reservation or the diversion or blockage of streams are likely to detrimentally affect the treaty protected fishery resources of the Reservation. The Quinault Reservation was established specifically to provide protection to the fisheries resources upon which the people of the Reservation depended for their livelihood. The people of the Reservation still depend on those resources and this Title is enacted to protect them and their habitat.

(e) The Business Committee further finds and
declares that these and other consideration
will be furthered by the passage and adoption
of this Title.

(f) The policies and goals of this Title include,
but are not limited to:

(1) Protection, enhancement and perpetuation
of the timber growing capacity of
Reservation lands and the requirements
for minimum reforestation that will
reasonably utilize the timber growing
capacity of these forest lands and ensure
uninterrupted, perpetual timber harvest
opportunities.

(2) Recognition of the need to stabilize and
balance the ecosystems of the Reservation
by reasonable long-range controls on the
timing of forest harvest activities
within major drainages.

(3) Protection of cleanliness of the air of
the Reservation and the productivity and
purity of its waters.
(4) Promotion of efficiency by permitting maximum operating freedom consistent with the other policies and goals of this Title.

(5) Consideration of land use planning goals contained in tribal zoning regulations.

(6) Recognition and achievement of the objectives set out in the Code of Federal Regulations at 25 CFR 163, especially as they pertain to Indian self-determination, sustained yield and conservation.

(g) The Business Committee declares its intent to create and maintain a comprehensive system of natural resource practice regulations to assure:

(1) An ecologically balanced environment that is compatible with the desired life style of Reservation residents.

(2) Protection to waters, forest soils and other Reservation resources by utilizing
all reasonable methods of technology in conducting forest practices.

(3) Protection and enhancement of Reservation fisheries resources.

(4) Protection and enhancement of wildlife, Coastal Districts, and locations having traditional tribal significance.

(5) Reasonable standards of operation for harvest activities and other forest land activities associated with timber and minor forest product harvests.

(6) Adequate regeneration with acceptable commercial species on all harvested forest lands.

(7) Recognition of both the Reservation and private interests in the profitable growth and harvesting of timber.

(8) Reasonable standards for operations and activities occurring in or near any stream, lake, river, marshes, springs, groundwater, tidal area, pond, slough.
wetland or other body of water.

61.02.010 Jurisdiction of the Quinault Indian Nation

This Title shall be applicable to all persons acting within the boundaries of the Quinault Indian Reservation.

61.03.010 Definitions

(a) Application shall mean the natural resource practice or minor forest product work permit application. Approved Application shall mean the legal authority to work, conduct activities, or conduct projects subject to the terms and conditions of the approval and subject to the rules and regulations adopted pursuant to this Title and the laws of the Quinault Indian Nation.

(b) Bureau of Indian Affairs (BIA) means the agency of the United States Department of the Interior charged with carrying out the United States' trust responsibilities and policies in relation to Indian tribes.

(c) Business Committee shall mean the Business
Committee of the Quinault Indian Nation, as defined in the Constitution of the Quinault Indian Nation.

(d) Cedar means shakes, shingles, shake and shingle bolts or blocks, cedar fence posts or poles, cedar hop poles, cedar pickets or any other cedar logs when harvested for manufacture into shakes, shingles or any other products other than lumber.

(e) Christmas Trees means any trees commonly known as Christmas trees of any species, not including logs, poles or other forest products from which substantially all of the limbs have been removed.

(f) Contiguous shall mean land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right of way shall be considered contiguous.

(g) Conversion to a Use Other than Commercial Timber Operations shall mean a bona fide
conversion to an active use which is
incompatible with timber growing.

(h) Court means the Quinault Tribal Court.

(i) Cutter means any person who cuts, digs, breaks
or otherwise removes any minor forest
products. An operator may be a cutter.

(j) Minor Forest Product Work Permit means the
documentation required by this Title, or
regulations adopted pursuant to this Title, of
a person's authorization to carry on
activities as a cutter.

(k) Department shall mean the Quinault Department
of Natural Resources. Director shall mean the
Director of the Department of Natural
Resources or his or her designated agent.

(l) Designated Agent means a person designated by
an operator to act as his agent and to
supervise a forest products operation.

(m) Forest Land shall mean all Reservation land
which is capable of supporting a merchantable
stand of timber and is not being actively used
for a use which is incompatible with timber growing.

(n) **Forest Landowner** shall mean any person in actual or constructive control of forest land, whether such control is based on legal title or equitable title or some combination thereof or on any interest that entitles the holder to sell or otherwise dispose of any or all the timber on such land in any manner, provided that, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition unless such lessee or other person has the right to sell or otherwise dispose of any or all the timber located on such forest land.

(o) **Natural Resource Practice** shall mean any activity conducted on or directly pertaining to forest lands, tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwater, wetlands, marshes and any other body of water,
including but not limited to:

(1) Road and trail construction.
(2) Harvesting, final and intermediate.
(3) Pre-commercial thinning.
(4) Reforestation.
(5) Fertilization.
(6) Prevention and suppression of disease and insect damage.
(7) Salvage of trees and down logs.
(8) Brush control.
(9) Gravel and mineral extraction.
(10) Any activity with the potential to effect tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwater's, wetlands, marshes and any other body of water.

(p) Natural Resource Practice Regulations/Regulations shall mean any rules promulgated and authorized pursuant to this Title.

(q) Forest Product means timber or minor forest
product as defined in this Title.

(r) *General Council* shall mean the General Council of the Quinault Indian Nation, as defined by the Constitution of the Quinault Indian Nation.

(s) *Hauling Permit* means the documentation required by this Title of a person's authority to haul minor forest products.

(t) *Hydraulic Project* means any activity in or near or potentially effecting tidelands, rivers, lakes, springs, streams, sloughs, ponds, groundwaters, wetlands, marshes and any other body of water.

(u) *Operator* shall mean any person engaging in forest practices except an employee with wages as his sole compensation.

(v) *Intermittent Stream* shall mean a stream or stream segment that normally goes dry for a portion of any calendar year.

(w) *Minor Forest Product* means cedar, Christmas trees, foliage, bark, firewood, other wood
products, seeds, cones, beargrass, mushrooms and seedlings.

(x) Operator means the documentation required by this Title of a person's authority to engage in activities as a forest products operator.

(y) Person shall mean any individual, partnership, private, public or municipal corporation, county, state, local, federal or tribal governmental entity or association of individuals of whatever nature.

(z) Public Roads for purposes of this Title only, shall mean that portion or the whole of the following roads and streets within the boundaries of the Quinault Indian Reservations: U.S. Highway 101, State Highway 109, the Moclips Highway (Cook Creek Road), and while the vehicle traveling it is properly licensed by the Tribe, Cape Elizabeth Road. All other roads and streets within the boundaries of the Quinault Indian Reservation for purposes of this Title are declared...
private and/or tribal.

(aa) Quinault Indian Reservation/Reservation shall mean all lands and waters included or intended to be included within the boundaries of the Quinault Indian Reservation as set out in the Executive Order of the President of the United States of November 4, 1873 (I Kappler 923), or Public Law 100-638, 102 Stat. 3327.

(bb) Reservation Resource shall mean land, water, trees and other vegetation, fish and wildlife and capital improvement within the exterior boundaries of the Quinault Indian Reservation.

(cc) Slash shall mean pieces of woody material containing more than 3 cubic feet resulting from natural resource practices.

(dd) Stocking/Acceptable Stocking shall mean the minimum number of well distributed, vigorous seedlings, saplings or trees per acre of approved species, all as shall be defined and determined by the Quinault Department of Natural Resources and contained in the natural

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resource practice regulations promulgated pursuant to this title.

(ee) **Stumpage** means the fee or rate paid to landowners for the removal of minor forest products.

(ff) **Timber** shall mean forest trees, standing or down, of commercial species, including Christmas trees.

(gg) **Timber Owner** shall mean any person having any part or all of the legal interest in timber, including a contract purchaser.

(hh) **Unlawful Harvest** means any unauthorized cutting, harvesting or removal of any timber or forest product in the absence of excusable mistake. For this purpose, excusable mistake shall not include the failure to properly survey or make property lines or any failure to comply with the terms of this Title.

(ii) **Wildlife** shall mean any animal, fish, shellfish, aquatic animal or bird, normally not domesticated, which permanently or
periodically inhabits Reservation lands.

6.04 Regulations

61.04.010 Natural Resource Management Regulations -

Promulgation - Reviews - Revisions

(a) Where necessary to accomplish the policies and goals stated in this Title and to implement the provisions of this Title, the Department shall promulgate Natural Resource practice rules and regulations that will, along with this Title, become the rules governing the conduct of any forest product or minor forest product activity or operation or any hydraulic project occurring within the boundaries of the Quinault Indian Reservation. The regulations shall establish the minimum standards and guidelines for Reservation wildlife protection and the necessary administrative procedures to achieve the policies and goals of this Title and may include reasonable application fees.

(b) The regulations shall be administered and enforced by the Department or Quinault Indian
Nation law enforcement officers, except as otherwise provide in this Title. Enforcement shall be exclusively by civil proceedings.

(c) The regulations adopted by the Department shall be based on the factors that significantly affect the present and future condition of Reservation forest land, wildlife and aquatic habitat.

(d) In promulgating these regulations, the Department shall consider recommendations of persons and agencies of expertise in the fields of forestry, land use, fisheries and other fields related to natural resource practices. The Department shall take into consideration other tribal, federal and applicable state laws and shall provide for cooperation in their enforcement.

(e) The regulations shall be continuously reviewed and may be revised from time to time by the Department as technical expertise and Reservation conditions permit. Prior to any
such revisions, the Department shall seek and evaluate recommendations of persons and agencies with expertise or interest in the subject matters.

61.04.020 Rules Establishing Classes of Natural Resource Practices - Applications for Classes of Natural Resource Practices - Approval or Disapproval

(a) The Department shall establish, by rule, which natural resource practices shall be included in each of the following classes:

**Class I:** Minimal natural resource practices that have no potential for damaging a Reservation resource that require an application which must be approved or disapproved by the Department within 7 days.

**Class II:** Natural resource practices that have little potential for damage to a Reservation resource that require an application which must be approved or
disapproved within 7 days. Class II shall not include practices:

(1) On lands being or declared to be converted to another use.

(2) On lands identified in this Section or in the regulations as lands requiring a Class IV natural resource practice application.

Class III: Natural resource practices that have a significant potential for damage to a Reservation resource that require an application which must be approved or disapproved by the Department within 14 calendar days after receipt by the department. Class III shall not include practices:

(1) On lands being or declared to be converted to another use.

(2) On lands identified in this Section or in the regulations as lands requiring a Class IV natural resource practice application.
application.

(3) Identified in this Section or in the regulations as Class I, II or IV natural resource practices.

Class IV: Natural resource practices having a potential for major impact on critical Reservation resources that require an application which must be approved or disapproved by the Department within 30 calendar days after receipt by the Department unless the Department determines that a detailed environmental statement must be made, in which case the application must be approved or disapproved within 60 days, unless the Department promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. If the Department determines that a detailed environmental statement is required, within 10 calendar days
of the receipt of the application, it shall so notify the applicant; at least 10 days prior to promulgation of a formal order by the Department, the applicant shall be given written notice that the Department is requesting such extension. When a Class IV application involves lands to be converted to another use, the application shall be approved or disapproved within 14 business days from transmittal to the Planning Commission.

(b) No natural resource practice shall be commenced or continued after the enactment of this Title unless the Department has received and approved an application containing all information required by this Title and the rules and regulations adopted pursuant to this Title, as now or hereafter amended, provided:

(1) That any person commencing a Class I, II or Class III natural resource practice prior to the enactment of this Title may continue such practice for a period of 28
calendar days if such person has submitted an application, as appropriate, to the Department within 14 calendar days after the enactment of this Title.

(2) That any person commencing a Class IV practice prior to the enactment of this Title may continue such practice for a period of 44 calendar days if such person has submitted an application to the Department within 14 calendar days after the enactment of this Title.

(c) If an application is delivered in person to the Department, the Department shall immediately provide a dated receipt thereof. In all cases, the Department shall immediately mail a dated receipt to the operator.

(d) Natural resource practices shall be conducted in accordance with the natural resource practice rules, regulations, orders and directives as authorized by this Title or the natural resource practice regulations and the

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terms and conditions of any approved applications.

(e) The Department shall notify the applicant, in writing, of either its approval or disapproval of the application and the specific manner in which the application fails to comply with the provisions of this Title or the natural resource practice rules and regulations.

(f) If seasonal field conditions prevent the Department from being able to evaluate the application, the Department shall issue an approval conditional upon further review within 60 days.

(g) If the Department fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved, and the operation may be commenced, provided that, this provision shall not apply where:

(1) The application involves lands to be

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converted where the Planning Commission right of objection is 14 business days, which may be longer than the approval time limit.

(2) The Department is prohibited from approving the application pursuant to this Title.

61.05

Applications/ Licenses and Permits

61.05.010 Business License Required; Other Applicable Tribal Laws: Compliance Required

(a) A natural resource practice application shall not be approved unless the person submitting the application has obtained a Quinault Tribal business license. A person applying for an endorsement of a hauling permit, or hauling permit, may not receive such endorsement or permit until the person obtains a Quinault tribal business license, provided that, such license need not be obtained if the hauler is affiliated with an operator who has obtained a Quinault tribal business license, has listed

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said hauler on the application and has paid the necessary tax on the hauler.

(b) A natural resource practice application or application shall not be approved unless the applicant has complied with other applicable tribal laws, and is current on all payments or fines owed to the Quinault Indian Nation or an entity of the Quinault Indian Nation.

61.05.010 Approved Application Required

(a) It shall be a violation of this Title for a person shall carry on the activities of a forest products operator or conduct an hydraulic project without an approved natural resource practice application.

(b) A natural resource practice application shall be made to the Department. Such application shall provide the minimum following information:

(1) The applicant's name and address and acknowledgement that all notices and, in the event a suit is brought against the
applicant by the Department, all pleadings are properly served if mailed to the applicant at the address shown on the application.

(2) The precise location of the operation.

(3) The approximate duration of the operation.

(4) The name of the landowner and resource owner.

(5) A list of cutters, contractors, employees and/or haulers who will be affiliated with the operation (when appropriate).

(6) The name of the designated agent (when appropriate).

(7) Such other information as the Department may require this Title or the rules and regulations adopted pursuant to this Title require.

(c) The Department shall prescribe the form and content of the application and may prescribe modifications to form and content, from time
to time, as conditions warrant. The Department may require such information as it deems necessary to establish legal and operational responsibility, determine natural resource practice methods to be used and identify soil, water and other critical resource circumstances.

(b) At the option of the applicant, the application may be submitted to cover a single natural resource practice or project or any number of activities within reasonable geographic boundaries, as specified by the Department.

(c) The application shall indicate whether any land covered by the application will be converted or is intended to be converted to a use other than commercial timber production within 3 years after completion of the natural resource practice described in it. If the application states that any such land will be or is intended to be so converted:
(1) The reforestation requirements of this Title and of the natural resource practice regulations shall not apply if the land is, in fact, so converted.

(2) Completion of such natural resource practice operations shall be deemed conversion of the land to another use.

(3) If conversion to such other use is not initiated within 3 years after completion of the natural resource practice operations, the reforestation requirements of this Title shall apply and such reforestation shall be completed within 1 additional year.

(4) The application shall be either signed by the land owner or accompanied by a statement signed by the land owner indicating his intent with respect to conversion and acknowledging that he is familiar with the effects of this paragraph.
(d) When an approved application authorizes a forest product activity or hydraulic project which has a potential for causing material damage to a Reservation resource, as determined by the Department, the applicant shall, when requested on the approved application, notify the Department 2 days before the commencement of the actual operations.

(e) Before the operator commences any forest product activity or hydraulic project in a manner or to an extent significantly different from that described in a previously approved application, there shall be submitted to the Department a new application form in the manner set forth in this Section.

(f) The approval of an application given by the Department shall be effective for a period of 1 year from the date of approval unless the Department specifies a period of time less than one year. Renewals may be granted at the
discretion of the Department.

(g) Notwithstanding any other provision of this Section, no prior application shall be required for any emergency action necessitated by fire, flood, windstorm, earthquake or other emergency defined by the Department, but the operator shall submit an application, whichever is applicable, to the Department within 48 hours after commencement of such practice.

(h) An approved application for designation as a cutter or for authorization to haul forest products within the Reservation shall be necessary before a permit or endorsement is issued.

(i) No permit, license or contract issued by any agency other than the Department shall be sufficient to meet the requirements of this Title.

61.05.020 Grounds for Denial; Appeal

Where applicable, any one of the following reasons
shall be sufficient grounds for denial of an application:
(a) The applicant is not the real party in interest.
(b) The Department has reasonable cause to believe that the applicant or his designated agent will not be at the site of operation to supervise the operation at least 100% of the working time of the operation.
(c) Fraud or material misrepresentation of fact in the application.
(d) One or more instances of failure of the applicant to comply with the provisions of this Title or its predecessor or any other tribal law, rule or regulation within the last 3 years.
(e) Issuance of the application will allow more operations to be carried on than the Department can adequately supervise.
(f) The applicant has committed a timber trespass within the last 3 years.

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(g) Failure to provide information required in the application.

(h) Any of the grounds set forth for the disapproval of an application in the Quinault Tribal Code or the rules and regulations adopted pursuant to this Title.

(i) The applicant has violated any other applicable law, rule or regulation in the past which, in the Department's judgment, provides a reasonable basis for the Department to deny the application.

(j) The applicant has failed to pay a valid fine, payment or fee due and owing the Quinault Indian Nation or an entity of the Quinault Indian Nation.

(k) The Department may, in its discretion, waive any of these grounds and approve an application. In such a case, the Department may condition the approval of the application on compliance by the operator with specific conditions set by the Department and related
to the grounds for denial.

(1) An applicant denied approval may appeal the
denial in accordance with this Title.

61.05.030 Conditions: Violations
The Department may approve an application subject
to specific conditions and terms. Conditions or
terms may be altered as appropriate and necessary
after approval of the application, upon 24 hour
written notice to the operator. Violations of such
conditions and terms shall be deemed violations of
this Title.

61.05.040 Exemptions
Employees of the Quinault Nation, when conducting
tribal business may in the Departments' desecration
be exempted from obtaining an approved natural
resource practice application.

61.05.050 Possession and Display
The operator or his designated agent shall have the
approved application or a copy thereof in his
possession at all times during which operations are
carried on. The operator or his designated agent
shall present the application for inspection on demand from any law enforcement officer, Department employee or BIA enforcement employee.

**Fee**

The Department may charge a fee for processing an application. The fee shall be in an amount calculated to offset the costs of issuance and enforcement.

**Deposit**

As a condition of approval of an application, the Department may require the posting of a reasonable deposit. The deposit shall be posted by the applicant. The deposit shall be deposited in an account at a commercial bank in the name of the Quinault Indian Nation and shall be released to the applicant upon satisfactory completion of all conditions contained in the application. In the event that the conditions of the application are not met, the Department may declare, in writing, the forfeiture of all or part of the deposit. Forfeiture of a deposit shall be in addition to any
other remedies allowed under this Title. Return of the deposit shall not be unreasonably delayed by the Department or its agents or employees.

61.05.080 Revocation: Appeal

(a) The Department may revoke an approved application, upon 24 hours written notice to the applicant, for any of the following reasons:

(1) The existence of any grounds for denial of an application.

(2) Noncompliance by the operator or the operator's agents, contractors, cutters or employees with any term or condition of the application.

(3) Conduct of the operation in a manner that violates the Quinault Tribal Code or its regulations.

(4) Violation by the operator, his employees or agents or contractors of any other applicable law, rule or regulation which reasonably relates to the conduct of the
operation, including but not limited to, use of cutters and haulers who do not have a valid, approved minor forest product work permit or hauling endorsement.

(b) An operator whose application is revoked may appeal the revocation in accordance with this Title.

Minor Forest Product Work Permit Required; Application; Fee; Display

It shall be a violation of this title for any person to engage in the activities of a cutter without having, in his or her possession, a minor forest work permit issued by the Department. The Department shall issue permits to all applicants not subject to grounds for denial and shall do so, in writing, within 15 working days of the application. If the Department fails to approve or deny the application within 15 working days, the application shall be deemed approved, and the cutter may begin working, provided that, this

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provision shall not apply where the Department is prohibited from approving the application pursuant to this Title. The Department may charge a fee for the permit in an amount calculated to offset the costs of issuance and administration of the cards. The cutter shall display the permit on demand by any law enforcement officer, Department employee or BIA enforcement employee.

61.05.10

Minor Forest Work Permits - Scope of Authority; Renewal, Reapplication

Each permit shall specify the scope of authority of the holder. Such specification may limit the holder to work as a cutter on specified tracts. Whenever a cutter changes his affiliation with an operator, he shall be required to apply for a new permit.

61.05.11

Minor Forest Work Permits - Grounds for Denial or Revocation

The Department may deny an application for a permit or may revoke an issued permit, without prior notice, for any of the following reasons:
(a) The applicant or cutter has no affiliation with an approved operator.

(b) The applicant or cutter has committed timber trespass within the last 3 years.

(c) Fraud or material misinformation in the application.

(d) Violation of this Title or its predecessor or any other tribal law, rule or regulation within the last 3 years.

(e) The applicant has violated any other applicable law, rule or regulation in the past which, in the Department's judgment, provides a reasonable basis for the Department to deny the application.

(f) The applicant owes a valid fine, judgment or contract payment to the Quinault Indian Nation or an entity of the Quinault Indian Nation.

(g) The Department may waive any such grounds and issue or continue the permit conditioned on compliance with specific written conditions related to the grounds for refusal or
revocation. A cutter whose permit is denied or revoked may appeal such decision by following the procedures of this Title.

Hauling Permit Required; Washington Forms; Fee; Display

(a) It shall be a violation of this Title for any person to haul forest products without having, in his or her possession, a valid Washington hauling permit endorsed by the Department or a Quinault Indian Nation hauling permit. The Department shall endorse hauling permits or issue a Quinault Indian Nation hauling permit within 15 working days of a request for endorsement or request for a permit unless it is found that the request is subject to denial or revocation. The Department may charge a fee for the endorsement of the hauling permit or for a hauling permit. The hauler shall display the hauling permit upon demand by any law enforcement officer, Department employee or BIA enforcement employee. The hauling
permit may indicate on its face whether material hauled under the permit must be scaled and whether hauling under the permit is restricted to specific roads or hours. The Department is hereby authorized to impose such restrictions in furtherance of this Title's purposes. If the Department fails to endorse the hauling permit or issue a hauling permit within 15 working days of the request, the hauling permit shall be deemed approved, and hauling may be commenced, provided that, this provision shall not apply where the Department is prohibited from endorsing or issuing a hauling permit pursuant to this Title or the rules and regulations adopted pursuant to this Title.

(b) The Department shall prescribe the form and content of the application for a Quinault Indian Nation Hauling permit and require such information as it deems necessary in order to satisfy the purposes of this Title.
61.05.13  Hauling Permit - Grounds for Denial of Endorsement or Revocation of Endorsement

The Department may refuse to endorse a hauling permit or issue a hauling permit and may revoke its endorsement or revoke a hauling permit, without prior notice, for any of the following reasons:

(a) The hauler has violated the provisions of this Title or its predecessor or any other tribal law, rule or regulation within the last 3 years.

(b) Fraud or material misrepresentation on the request for endorsement or permit application.

(c) Failure to provide information required in the request for endorsement or permit application.

(d) The hauler has violated any other applicable law, rule or regulation in the past which, in the Department's judgment, provides a reasonable basis for the Department to deny the application.

(e) The hauler owes a valid fine, judgment or contract payment to the Quinault Indian Nation
or an entity of the Quinault Indian Nation.

(f) The Department may waive any such grounds and endorse the hauling permit or issue a hauling permit conditioned on compliance with specific written conditions related to the grounds for denial or revocation. A hauler whose request for endorsement or application is denied or whose endorsement or permit is revoked may appeal such decision pursuant to the procedures of this Title.

Transportation and Scaling of Minor Forest Products: Hours: Hauling Products Harvested Off-Reservation

(a) The driver of any vehicle hauling minor forest products shall have, in his or her possession, a valid hauling permit. All vehicles hauling minor forest products shall stop for inspection when passing any scaling or check station on the Reservation. At such stops, the hauler shall exhibit the hauling permit and any other permit or card and the forest
products shall be scaled, if required. Any vehicle hauling minor forest products and passing a scaling or check station without stopping and exhibiting the hauling permit shall, along with its driver, be deemed in violation of this Title. Hauling shall be restricted to the hours between 8:00 a.m. and 5:00 p.m., provided that, no hauling shall be done on weekends or holidays. The Department is hereby authorized to modify these provisions regarding hours, upon request for such a modification received by the Department from any person holding a current hauling permit, combined with a showing for a substantial need for such modification. Denial of a modification request may not be appealed. If such a modification is granted, the Department shall promptly notify the Chief of the Quinault Nation Police Department.

(b) Any person hauling minor forest products on the Quinault Reservation not harvested on the
Quinault Reservation shall have a valid Washington hauling permit in his possession and shall produce and display that permit at the request of any law enforcement officer, Department employee or BIA enforcement employee. Violation of this Section shall subject the person hauling the products to the enforcement and penalties Section of this Title.

Denial of Application: Revocation of Approved Application or Permit-Appeal
(a) A person may appeal the Department's denial or revocation of a natural resource practices application, minor forest product work permit, hauling permit or hauling permit endorsement to the Director within 10 business days after receiving notice of the denial or revocation. The Director shall schedule a hearing on the denial, revocation no more than 10 business days from receipt of the notice of appeal. Notice shall also be given to the Department

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(b) At the hearing, the operator, cutter or hauler may be represented by counsel, may present evidence and cross examine evidence against him or her. The Director shall hear all relevant evidence pertaining to the operation, reasons and events leading to the denial or revocation. The Director may inspect the site of the operation, provided that, if the Director is accompanied by Department employees, then the operator or the operator's counsel shall be afforded an opportunity to accompany the Director on the inspection.

(c) Within 10 business days after the hearing, the Director shall provide a written decision. The decision shall be based on the evidence presented at the hearing and/or the inspection of the site of the operation. The decision may grant the application, reinstate the application or permit, revoke the application
or permit or modify the application or permit
by adding or deleting specific conditions.
The Director's decision may be appealed to the
Tribal Court within 20 days from the date of
the Director's decision, provided that,
appeals taken from decisions made by the
Director under this Title shall be reviewed by
the Court sitting without a jury in accordance
with the rules and laws governing appeals from
administrative decisions. In no event shall
the Court enter a judgment for damages against
the Department, the Quinault Indian Nation or
an employee of the Quinault Indian Nation.

(d) Service of all Department decisions and
notices may be made by personal service or by
mail to the appellant's last known address.
In the event of service by mail, the decision
shall be deemed received on the third day
following the mailing.

(e) An appeal of the decision shall be served on
the Director and the Office of Reservation
Attorney by certified mail.

61.06  Unlawful Harvest

61.06.010  Liability

It shall be a violation of this Title for any person to willfully harvest, take possession of or injure any forest product on any land without lawful authority of the owner thereof.

61.06.020  Failure to Locate Boundary - Liability

It shall be a violation of this Title for any person to harvest, possess or injure any forest product on any land without lawful authority of the owner thereof due to the failure of the person to accurately locate the land for which he or she has such authority or due to the failure of the person to accurately establish the boundary line of land for which he or she has such authority.

61.06.030  Traditional, Non-Commercial Use of Minor Forest Products: Firewood - Tribal Permit

This Title and its provisions shall not apply to tribal members who are gathering minor forest products on the Reservation for personal or family
traditional, non-commercial use. This Title and its provisions shall not apply to persons who are cutting or hauling firewood under a tribal firewood permit.

61.07

Hydraulic Projects

61.07.010

Approved Hydraulic Application Required

(a) It shall be a violation of this Title for any person to divert any stream or river or remove water from any river, stream, spring, pond, tidal area, lake, or any other body of water on the Quinault Indian Reservation, including ground waters, without obtaining an approved application to do so from the Department. It shall be a violation of this Title for any person to conduct work in or near (within 200 feet) of a stream, river, lake, tidal area, pond, groundwater, or any other body of water on the Quinault Indian Reservation without obtaining an approved application from the Quinault Department of Natural Resources to do so.

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(b) The Quinault Department of Natural Resources may delegate, by regulation, the responsibility for investigating requests for, and the issuing of, hydraulic applications to any agency of the Quinault Indian Nation, or any other agency with whom the Quinault Business Committee may enter into agreement or contract for such purpose. The Quinault Department of Natural Resources or any other agency to whom the Quinault Department of Natural Resources has delegated any responsibility for issuing or investigating hydraulic applications shall consult the Fish and Game Commission, tribal fisheries and tribal forestry technicians before issuing any approved application.

(c) The Quinault Department of Natural Resources may, by regulation, condition the consideration or issuing of an approved hydraulic application on:

1. The payment of a permit fee.
2. An investigation fee sufficient to cover
the cost of providing the information necessary to decide whether or under what conditions a permit should be issued.

(3) Provision of all information required by the Department or its delegated agency.

(d) Hydraulic applications may include conditions which require the applicant to:

(1) Allow unlimited inspection by the staff of the Quinault Indian Nation.

(2) Pay for waters diverted or polluted.

(3) Pay for damage to fish spawning beds or other natural or man-made resources of the Quinault Indian Nation caused by work carried out under the application; or

(4) Agree to any other condition reasonably related to the purpose and intent of this Title.

(e) All applications requested under this Section shall be approved or denied or an alternative offered within 120 days of the filing of the request. If an application is not approved or
denied or an alternative offered with 120 days, it shall be considered to have been granted as requested.

61.08 Water Classifications

61.08.010 Types of Water - Requirements

(a) The Department shall establish no more than 4 types of waters. These types of water shall be defined to identify all waters of the Reservation, grouped according to the size of the water, its sensitivity as a fish-supporting water or its sensitivity for other resource protection. The types of waters shall be grouped as follows:

Type 1 Water - All waters identified as a sensitive resource.

Type 2 Water - Waters not classified Type 1 water. Perennial or intermittent streams having a well-defined channel 8 feet in width or greater between ordinary high water marks along the majority of the length of the stream segment, and impoundments having a surface
area greater than 0.5 acres at seasonal low water.

**Type 3 Water** - Waters not classified as Type 1 water. Perennial or intermittent streams having a well defined channel less than 8 feet in width and greater than 4 feet in width between ordinary high water marks along the majority of the length of the stream segment, and impoundments having a surface area greater than 0.2 acres and less than 0.5 acres at seasonal low water.

**Type 4 Water** - Waters not classified as Type 1, 2 or 3 waters.

(b) The Department shall identify those waters which are known to constitute a critically sensitive resource for purposes of fish rearing, flood control, stream bank protection, wildlife protection, water quality, and other conditions unique or critical to maintaining the life style of the Reservation residents. These waters shall be
defined as Type 1 waters and identified on a map or sketch, such map or sketch to be titled "Stream Classification Map" and be available for public review at reasonable times. Streams, stream segments and other waters may be added to or deleted from the Stream Classification Map from time to time, as conditions warrant.

(c) The Department may, at its discretion, expand the scope of the Stream Classification Map to include Type 2, 3 and 4 waters. The classification of these waters shall be updated from time to time, as the physical characteristics of streams and other waters change.

61.09  

Reforestation  

61.09.010  

Reforestation - Requirements - Procedures - Bond  

(a) After the completion of a logging operation, satisfactory reforestation as defined by the rules and regulations promulgated by the Department shall be completed within 4 years.
The Department shall require a natural resource practices applicant to submit a reforestation plan with any application, except where no reforestation is required under tribal law or regulation. The Department may not approve an application unless a reforestation plan is submitted and has been approved by the Department.

(1) Provided that, a longer period may be authorized if seed or seedlings are not available.

(2) Provided further, that a period of up to 5 years may be allowed where a natural regeneration plan is approved by the Department.

(3) Upon the completion of a reforestation operation, a report on such operation shall be filed with the Department. Within 12 months of receipt of such a report, the Department shall inspect the reforestation operation and shall
determine either that the reforestation operation has been properly completed or that further reforestation and inspection is necessary.

(4) The natural resource practices regulations may provide alternatives to or limitations on the applicability of reforestation requirements with respect to forest lands being converted in whole or in part to another use which is incompatible with timber growing.

(b) The Department shall establish requirements for and limitations on forest site preparation sufficient to protect Reservation resources from unreasonable damage while, at the same time, ensuring site conditions suitable for adequate reforestation.

(c) The natural resources practice regulations may identify classifications of forest land which have the likelihood of conversion to a use other than commercial timber operations.

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Reforestation requirements may be modified or eliminated on such lands.

(d) The Department may require an operator or timber owner to post a reforestation bond prior to approving an application for a Class III or IV natural resource practice to ensure that reforestation is accomplished in accordance with tribal laws and regulations.

Coastal District

Coastal District - Restrictions - Exceptions

(a) The purpose of this section is to provide protection for and retain the natural beauty of the lands and other resources within the Coastal District. Forest practice operations within the Coastal District shall be a Class IV natural resource practice.

(b) The Department shall develop standards for natural resources practices within the Coastal District which shall include, but shall not be limited to, the following:

(1) The removal of standing, live timber from
any proposed harvest unit shall not exceed 1/3 of the merchantable volume of timber standing on the proposed harvest unit during any 10 year period of time, provided that, the Department may approve additional harvest when, in the opinion of the Department, such removals are necessary to control, salvage or abate wind-throw, insect or disease infestation or other casualty.

(2) The use of heavy equipment within the Coastal District shall be restricted to minimize damage to soil, vegetation and water resources.

(3) Shoreline protection strips of appropriate width but no less than 200 feet, shall be left undisturbed along coastal bluffs, beach fronts and coastal wetlands and marshes when the Department determines that such control is necessary to protect the water resource, wildlife
resource, prevent accelerated erosion or protect against windstorm damage. Minor clearing may be allowed within 200 feet of coastal beaches, beach fronts, coastal wetlands and marshes in those areas where such clearing is authorized by the Quinault Indian Nation's zoning laws or regulations and the clearing activity will not harm the water resource, wildlife resource, accelerate erosion or cause potential windstorm damage.

(4) Upon completion of the natural resource practice, slash abatement and site rehabilitation shall be accomplished, according to the approved plan, to minimize the residual damage to the aesthetic and recreational values of the District and to the extent reasonably possible, return the land to the condition that existed prior to the natural resource practice.
61.11 Fire Control

61.11.010 Fire Controls - Policy - Requirements

(a) The Department shall evaluate the risk of wild-fire hazard on Reservation lands and promulgate regulations for forest fire prevention and suppression which shall include, but not be limited to rules, governing:

(1) Required fire tools and equipment.

(2) Fire watchmen.

(3) Fire drills.

Provided that, such regulations shall, in no respect, be less stringent than those required under laws of the state of Washington.

(b) The Department may identify areas of extreme fire hazard and establish special regulations to deal with conditions which exhibit a greater than normal fire risk.

(c) The Department may enter into cooperative and/or contractual agreements with other persons or agencies for fire protection and
fire suppression support, as necessary to protect Reservation resources.

61.12 Enforcement

61.12.010 Civil Enforcement: Civil Money Penalty: Restitution: Operator Responsibility

(a) This Title is civil in nature and applies to Indians and non-Indians alike.

(b) Violations of the requirements of this Title regulations adopted pursuant to this Title, conditions or terms of an approved Natural Resource Practices Application, conditions or terms of a hauling permit or endorsement or Minor Forest Product Work Permit, or orders issued by the Department or Director shall constitute a violation of This Title and may be enforced by injunction and any combination of civil money penalties, rehabilitation to the land, water and wildlife, enforcement costs, restitution and forfeiture. Appointed legal representatives of the Quinault Indian Nation are empowered, under this Title, to
pursue civil enforcement remedies on behalf of the Nation and individuals whose ownership interests are affected by violations of this Title.

(c) Any license, permit, identity card, or other authority granted by the Quinault Nation to any person, to commit any act or engage in any activity governed by this Title or regulation made pursuant to this Title, shall be forfeited and void if such person violates this Title or regulations made pursuant to this Title governing the activity allowed by the license, permit, etc. and shall be suspended during the pendency of any proceedings under this Title.

(d) Every person who violates this Title, as now or hereafter amended, shall be required to pay (1) civil monetary damages in the full amount of the costs of detecting and repairing or rehabilitating any damages done to the land, wildlife or water as a result of the violation, (2) the costs of enforcement and
collection of such damages, (3) 3 times the fair market value of any timber or forest products harvested, possessed, injured or destroyed, (4) a civil penalty not to exceed $5,000.00 for each violation and (5) court costs and attorney fees and (5) restitution.

(e) Violations of a separate term or condition of a permit or approved application, a rule, regulation or provision of this Title shall each constitute a separate violation regardless of whether the violations are the result of single occurrence or transaction. Each day a violation occurs shall also constitute a separate violation.

(e) Operators are liable for the violations committed by their affiliated cutters and haulers, contractors or employees. The Quinault Indian Nation may pursue civil remedies and penalties against operators for violations committed by their affiliated cutters, haulers, contractors or employees.
Civil Enforcement Procedures

Civil enforcement proceedings under this Title shall be conducted in accordance with the Tribal Court Rules of Civil Procedure except that the parties shall not be entitled to a trial by jury.

Products and Equipment Subject to Seizure; Forfeiture; Probable Cause

(a) Any equipment, including vehicles, used in violation of this Title or used to effect a violation of this Title, may be seized and may be forfeited to the Quinault Indian Nation. Any timber or minor forest products cut, harvested, transported or possessed in violation of this Title may be seized and may be forfeited to the Quinault Indian Nation.

(b) Whenever any law enforcement officer has probable cause to believe that minor forest products or timber are being cut, harvested, transported or possessed in violation of the provisions of this Title, such officer may seize and take possession of the minor forest products and equipment subject to seizure.
products, timber or equipment used to effect the violation of this Title.

Seizures and Civil Forfeiture of Property Procedure

(a) When property or items are seized pursuant to the provisions of this Title, the person seizing said items must at the time of seizure issue a receipt for all items seized of a form substantially similar to the form provided as Appendix A to this Title. If the owner or claimant is not present to receive the receipt, the person seizing the items must follow the procedure outlined in subsection (i) below.

(i) Contents of receipt. The receipt must contain the date of the seizure, Incident Number associated with the seizure, a complete description of the item seized including any existing damage to the item, the serial number of the item (if applicable), the number of units of a particular item, the estimated value
of the item, an indication of whether the item is perishable, and space for the owner or claimant to register any dispute over the description, etc. of any item.

(2) Receipt to be signed  The receipt must be signed by the person seizing the item and by the claimant or owner of the item seized.

(3) Disposition of the receipt  A copy of the receipt must be given to the owner or claimant at the time of seizure. The original of the receipt is to be attached to and remain with the incident report.

(4) Failure of the claimant or owner to sign receipt  If the claimant or owner of the receipt fails or refuses, or is otherwise unable to sign the receipt, when practicable the items seized shall immediately be brought to the Tribal Police Department and a complete inventory of the item or items seized

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shall be made in the presence of the shift supervisor or another law enforcement officer. The inventory shall be signed by the person seizing the item or items and witnessed by the shift supervisor or another law enforcement officer. The inventory shall contain the same information as the receipt described above (a receipt may serve as an inventory) and shall be kept with the incident report.

(2) The owner or claimant may, at any time, ask for a receipt based upon the inventory and may register any dispute over the description, etc. of any item on the receipt.

(3) Failure to issue receipt. Failure by the seizing person to issue a receipt at the time of seizure shall be a bar to any forfeiture action under this Title and will require the immediate return of all
seized items to the lawful owner or claimant.

(2) Filing of Civil Action  The Quinault Indian Nation shall file a forfeiture motion at the same time complaint is filed against the alleged violator(s). A hearing on the forfeiture motion shall be held at the same time as the hearing on the underlying complaint unless the seized property has been forfeited or returned in a prior proceeding. If a complaint is not filed within 60 days from the date the property was seized, the Quinault Indian Nation shall bring a separate civil action to forfeit the property.

(3) Notice  Notice of a separate action to forfeit property shall be given to the claimant of the property seized by certified mail.

(4) Procedure  Except as otherwise provided
in this Title, the Quinault Tribal Rules of Civil Procedure shall apply to civil actions to obtain forfeitures of property for violation of this Title.

(5) **Emergency Forfeitures**

Upon a determination by the person seizing any item, or any person in the same department charged with making such a determination, that said item is perishable and will lose all, or substantially all, of its value if not sold or otherwise disposed of, an action may be brought for emergency forfeiture of the seized item or items. (A form motion and order is attached as Appendix B).

(i) The Tribal Court shall have exclusive jurisdiction of such actions;

(ii) The action must be filed by the person who made the seizure, or another person of the same department charged with
bringing such actions, within ten (10) court days of the seizure;

(iii) Any action for emergency forfeiture shall be ex parte in nature and no notice need be given of the action, provided that the owner or claimant may appear and ask to be heard on the record;

(iv) If the owner or claimant appears, the court shall set a hearing in the matter no later than the end of business of the next court day;

(v) Any action for emergency forfeiture must be reviewed by the court within one (1) day of the bringing of such action;

(vi) Failure to bring an emergency forfeiture action within the time limit set under section (ii) above shall bar any emergency forfeiture action without due notice to the owner or claimant;

(vii) Any moneys received from emergency forfeiture shall be held by the Nation in
an escrow account signified by the Incident Number under which the seizure occurred and held therein pending the filing of any action by the Nation, through the Nation's appointed attorney, to recover said moneys.

(6) **Procedure for Seizure** In the event of a seizure, whether any item was the subject of an emergency forfeiture action or not, the rightful owner, lien holder, or claimant may petition the court in a separate action for the return of any item seized, provided that;

(i) Such actions shall be governed by the Quinault Tribal Court Rules of Civil Procedure;

(ii) The seizing party or department shall be designated as the Respondent and the person filing an action under this section shall be designated the Petitioner;
(iii) The Nation's appointed attorneys is here-with designated the representative of the person or department named as Respondent and shall be duly notified by the Tribal Court of any actions filed under this section;

(iv) In all actions brought under this section the Tribal Court may:

A. Order the immediate return of any or all of the items seized to any person having lawful claim to said items upon a showing that a reasonable person could not have believed that the items seized were used or obtained in violation of this Title;

B. Order that the items seized shall remain in the custody of the person or department that seized the items;

C. Order that any or all of the items be returned to any person having

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lawful claim to said items in exchange for bond or cash surety

61.13.050

Proceeds of Forfeitures

Any cash or other proceeds from forfeiture of products, equipment or other goods under this Title shall be applied, in the following order:

(a) The costs, including court and related expenses, of detecting the violation, seizing, storing and handling any goods, prosecuting the case, collecting any judgment, selling forfeited goods and other goods and other costs reasonably associated with enforcing this Title.

(b) The cost of rehabilitating the land, wildlife and waters affected by the violation.

(c) Compensation for damages or other loss suffered by the rightful owner of any minor forest products or timber when such damage or loss leads to the forfeiture proceeding, provided that, any person wishing to claim such compensation must make a written demand

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to the Court at least 1 day prior to sale or other disposal of forfeited goods. This compensation shall not be available to the owner if the owner is also the violator whose goods are being forfeited.

(d) Any fines or penalties imposed as a result of the violations.

(d) Any remaining funds shall be turned over to the Court for forwarding to the Department which shall use the funds solely for the enhancement of the land, water and wildlife of the Quinault Reservation.

61.13.060 Custody of Seized Property

All property seized pursuant to this Title shall be kept in the custody and/or control of the Quinault Tribal Police Department unless otherwise ordered by the Court. The property shall be kept available for disposal by order of the Court in forfeiture or other judicial proceedings.

61.14 Stop Work Order

61.14.010 Stop Work Order - Grounds - Contents - Procedures

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(a) The Department may serve upon a person a stop work order which shall be a final order of the Department if there is a reasonable belief that:

1. A violation of the provisions of this Title or the rules and regulations adopted pursuant to this Title has occurred or is occurring; or

2. There is or has been a violation or deviation from the terms or conditions of an approved application or permit; or

3. Immediate action is necessary to prevent continuation of or to avoid material damage to a Reservation resource.

(b) The stop work order shall set forth:

1. The specific nature, extent and time of the violation, deviation, damage or potential damage.

2. An order to stop all work connected with the violation, deviation, damage or potential damage.
(3) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to Reservation resources which has resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource, and/or those courses of action necessary to prevent continuing damage to Reservation resources where the damage is resulting from the natural resource practice activities but has not resulted from any violation, unauthorized deviation or negligence.

61.14.020 Failure to Obey Stop Work Order - Departmental Action Authorized - Liability of Owner or Operator For Costs

(a) When a person fails to obey a stop work order, or having undertaken such course of action as
required by the stop work order, but fails to complete it within a reasonable time, the Department may expend any funds available to undertake and complete such course of action, and such operator, timber owner, and forest land owner shall be jointly and severally liable for the actual direct cost thereof, in addition to any other fines, restitution or costs allowed under this Title. Such amount shall become a lien on such forest land.

(b) The Department may take immediate action to prevent continuation of or avoid material damage to public resources, including but not limited to, seizure of the operator's equipment. The Department may determine the cost thereof and give written notice of such cost to the operator, the timber owner and the owner of the forest land upon or in connection with which such activity was being conducted. The operator, timber owner or forest land owner, shall be jointly and severally liable
for such emergency costs in addition to any other remedies allowed for under this Title. Such costs shall become a lien on the forest land.

b) If the costs expended under this section are not paid to the Department within 15 days after completion of any activity by the Department and written notice of the amount due and owing is mailed to the liable parties, a Notice of Infraction shall issue.

c) Failure to comply with a stop work order shall be a distinct violation of this Title.

61.15 Notice to Comply
61.15.010 Notice to Comply

(a) If there is a reasonable belief that a violation of this Title or regulations adopted pursuant to this Title, a deviation, material damage or potential for material damage to a Reservation resource has occurred or is occurring and the Department determines that a stop work order is unnecessary, then the
Department may issue and serve upon the operator or landowner a notice, which shall clearly set forth:

(1) The specific nature, extent and time of failure to comply with the approved application or identifying the damage or potential damage; and/or

(2) The relevant provisions of this Title or of the forest practice regulations relating thereto.

(3) The right of the operator or landowner to a hearing before the Department; and

(4) The specific course of action ordered by the Department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to Reservation resources which resulted from any violation, unauthorized deviation or willful or negligent disregard for potential damage to a Reservation.
resource, and/or those courses of action necessary to prevent continuing damage to Reservation resources where the damage is resulting from the natural resource practice activities but has not resulted from any violation, unauthorized deviation or negligence.

(b) The Department shall mail a copy thereof to the forest landowner and the timber owner at the addresses shown on the application, showing the date of service upon the operator.

(c) If a person fails to undertake the course of action contained in the Notice to Comply the Department may issue a Stop Work Order and/or a Notice of Infraction.

(c) Failure to undertake the course of action contained in the Notice to Comply constitute a distinct violation of this Title.

Notice of Infraction

Notice of Infraction-Content

(a) The Department or any law enforcement officer
shall serve a Notice of Infraction on any person who has been issued an approved application where there is a reasonable believe that:

(1) A violation of the provisions of this Title or the rules and regulations adopted pursuant to this Title has occurred or is occurring; or

(2) There is or has been a violation or deviation from the terms or conditions of an approved application or permit; or

(4) There is a failure to comply with a Stop Work Order, Notice to Comply or final order of the Department or final decision by the Director after a hearing.

(b) A Notice of Infraction shall be contain the following:

(1) The specific nature, extent, and time of the violation(s), and the provisions, rules, regulations, terms or conditions violated.
(2) A copy of the receipt of any items, products or equipment seized.

(3) The amount of the costs, fines, and restitution authorized by this Title and imposed by the Department.

(c) Notwithstanding any other provision of the Quinault Tribal Code, the Notice of Infraction may be personally served or mailed to a person's address as shown on an application.

(d) If the amount of the costs, fine and restitution contained in the Notice of Infraction are not paid within 15 days from the date the Notice of Infraction is mailed, upon the request of the Department, the Nation's appointed attorney shall bring an action in Tribal Court.

61.17 Citation

61.17.010 Citation-Content

(a) Where law enforcement officer or Department employee has a reasonable belief a person has
violated this Title or the rules and regulations adopted pursuant to this Title and the person has not filed an application with the Department, the person shall be issued a citation.

(b) A citation shall contain the following:

(1) The time of the violation(s), and the provisions, rules, regulations, terms or conditions violated.

(2) A copy of the receipt of any items, products or equipment seized.

(3) The amount of the costs, fines, and restitution authorized by this Title and imposed by the Department.

(4) A certification by the person issued the citation that he or she has been served the citation and is a party to a lawsuit and that the address indicated on the citation is the person's true and correct address and that all further notices and pleadings are properly served if mailed

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to that address.

(c) If the amount of the costs, fine and restitution contained in the citation are not paid within 15 days from the date the citation is served or mailed, upon the request of the Department, the Nation's appointed attorney shall bring an action in Tribal Court.

61.18.010 Limitation

(a) No person shall be under any obligation under this Title to prevent, correct or compensate for any damage to Reservation resources which occurs more than 2 years after the date of completion of the activities or operations involved, exclusive of reforestation, unless such operations or activities were not conducted in accordance with natural resource practices rules and regulations, provided that, this provision shall not relieve the forest land owner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing
road maintenance. (b) No action to recover damages for unlawful harvest or violations of this Title shall be filed more than 2 years after the date the damage or violations occur or were discovered or could have been reasonably discovered, whichever is later.

61.18.010 Inspection - Right of Entry

(a) The Department shall make inspection of forest lands, before, during and after the operation or activity as necessary for the purpose of ensuring compliance with this Title, the regulations adopted pursuant to this Title and to ensure that no material damage occurs to the natural resources of the Reservation as a result of such practices.

(b) Any duly authorized representative of the Department shall have the right to enter upon forest land at any reasonable time to enforce the provisions of this Title and the regulations adopted pursuant to this Title.

61.19.010 Civil Complaints
This title shall be enforced by civil complaint in the Courts of the Quinault Indian Nation and, where necessary, in other courts of competent jurisdiction. Notwithstanding any other provision of this Code, a civil complaint filed in the Courts of the Quinault Indian Nation shall be served by mailing a copy of the complaint by certified mail to the address provided by the party defendants on any application filed with the Department or any citation issued by the Department.

61.20.010 Actions affecting Water

All waters, including ground waters, of the Quinault Indian Nation or the Quinault Indian Reservation are hereby found to be necessary for the conservation of fish and wildlife on the Quinault Indian Reservation. It shall be, unless otherwise stated, a violation of this Title for any person to commit any act affecting the flow, quality, fish productivity or quantity of waters in any stream, lake, or other body of water within the Quinault Indian Reservation or elsewhere within the...
tribal jurisdiction except in accordance with this Title or other applicable tribal laws.

61.21.010

Failure to Obtain License or Permit or to Pay Tax

(a) It shall be, unless otherwise stated, a violation of this Title for any person, required by this Title, or by regulation adopted pursuant hereon, to pay a specific tax or obtain a specific license, permit or written authorization, to commit the specific act requiring a tax, license, permit or written authorization without paying the tax or obtaining the necessary license, permit or written authorization.

(b) Any person engaged in any activity governed or permitted by this Title shall have on his or her person any license, permit, identification card, or other document required by regulations adopted pursuant to this Title while engaged in such activity. Failure to have a required document on one's person shall be a violation of this Title.

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(c) No license, permit, identification card, or other document required by this Title or regulations adopted pursuant to this Title shall be transferable. All such documents shall be signed by the holder. A transferred document shall be confiscated and shall be void.

Aiding and Abetting

It shall be a violation of this Title for any person to aid or abet another person in perpetuating a violation of this Title or any regulations duly adopted pursuant to this Title, or attempt any act which violates this Title or any regulation duly adopted pursuant to this Title.

Cooperation With Public Agencies - Grants And Gifts

The Department shall represent the Tribe's interest in matters pertaining to forestry, natural resource practices, forest land fire control, hydraulic projects and stream protection and may consult with and cooperate with state and federal agencies, as well as other agencies in the study and enhancement
of these matters. The Department is authorized, subject to approval of the Business Committee, to accept, receive, disburse and administer grants or other funds or gifts from any source, for the purposes of carrying out the provisions of this Title.

61.24.010 Statutes Not Modified

Nothing in this Title as now or hereafter amended shall modify or waive any requirements to comply with federal statutes or other permit requirements under the Code, provided that, compliance with the requirements of this Title regarding hydrologic structures shall constitute adequate compliance with the hydrologic structures Section of this Title.

61.25.010 Effective Date

This Title shall become effective 30 days after the date of official adoption. On the effective date of this Title former Titles 61 and 62 shall be deemed repealed.

61.26.010 Saving Clause. Severability Pending Actions

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If any paragraph, sub-paragraph, clause, sentence or phrase of this Title or regulations adopted pursuant to this Title shall be declared invalid, or declared invalid as applied to any person or circumstance, such decision shall not affect the validity of the remaining portions of the Title, and those remaining portions shall remain in full force and effect and to this end, provisions of this Title and any regulations adopted hereunder are declared severable. Any action pending at the date of enactment of this Title shall not be affected by enactment of this Title, and the action shall proceed pursuant to prior provisions of the Quinault Tribal Code or regulations enacted pursuant thereto.
MEMO

To: Legal
From: Margie Valdillez, Secretary Quinault Indian Nation
Subject: Title 61
Date: October 24, 1995


[X] APPROVED  [ ] DENIED  [ ] TABLED  [ ] OTHER

Move to Approve.
WHEREAS, the Quinault Business Committee is the governing body of the Quinault Indian Nation; and,

WHEREAS, under Article V, Section 3 (k) and (p) of the Constitution of the Quinault Indian Nation, the Quinault Business Committee is charged with the duty of protecting and managing the wildlife, natural resources, land and timber of the Nation; and,

WHEREAS, the Quinault Business Committee finds that current Titles 61 and 62 of the Quinault Tribal Code of Laws, which were enacted to protect and manage the natural resources, land and timber of the Quinault Indian Nation is outdated, confusing and no longer provides adequate management of the natural resources, timber and land of the Quinault Indian Nation; and,

WHEREAS, the proposed amendments to Title 61 of the Quinault Tribal Code better reflects the policies of the Quinault Indian Nation and better addresses the protection of the management of natural resources than the current Titles 61 and 62 and consolidates the laws regarding such management into one Title, Title 61; and,

WHEREAS, public hearings were held in Queets and Taholah on September 18 and 19, 1995, on proposed amendments to Title 61 and 62 of the Quinault Tribal Code and comments taken at those hearings on the proposed Title;

NOW, THEREFORE, BE IT RESOLVED that the attached amended Title 61 is enacted into law and Title 62 is repealed; and,

BE IT FURTHER RESOLVED, that the above provision shall take effect January 1, 1996.

Business Committee Resolution No.
CERTIFICATION

I hereby certify that the above resolution was duly adopted at a regular meeting of the Business Committee at Taholah, Washington, on the 23rd day of October 1995, at which time a quorum was present by a vote of __ FOR, ___ AGAINST and 1 ABSTAIN.

Margie Valdillez, Secretary
Quinault Business Committee