



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Great Lakes Agency
916 Lake Shore Drive West
Ashland, Wisconsin 54806-1357



IN REPLY REFER TO:
Tribal Operations

Honorable Wallace A. Miller, President
Stockbridge-Munsee Tribal Council
N8476 Moh He Con Nuck Road
Bowler, WI 54416

July 22, 2015

Dear President Miller:

The Stockbridge-Munsee Tribal Council approved revisions to Chapter 22 – Forest Resource Ordinance, and adopted Resolution No.053-15 on July 7, 2015 with an affirmative vote of 4 for, 0 against, 0 abstained.

The revisions appear to be satisfactory with the exception of Section 22.15 (F) Temporary Use Permit. This section requires clarification to distinguish between tribal land and allotments, or land owned 100% by the Stockbridge-Munsee Tribe. All persons who request temporary access through an allotment are required to comply with 25 C.F.R. §169 and/or §162. As a result, approval of Section 22.15 (F) does not include access through allotments unless the appropriate approvals have been obtained from the Bureau of Indian Affairs.

Constitutional updates are always encouraged. Approval is provided for the remainder of the Forest Resource Ordinance pursuant to Article VII Section 1(F) of the Constitution and By-laws of the Stockbridge-Munsee Community, and pursuant to authority delegated to me in 10 BIAM 3.1 and Addendum to 10 BIA 3.1 dated March 17, 1994.

Excluding Sections 22.15(F) as it may pertain to allotted lands or property not 100% owned by the Stockbridge-Munsee Tribe we offer the following suggestions for future consideration.

Section 22.2 (M) 1 – add: See definition for “Timber.

Section 22.14 (C)(5) – add: The estimated value harvested by a permittee in one year cannot exceed \$5000 on trust lands.

Section 22.14 (C)(10) – add: Should be scaled, for monitoring and reporting.

Section 22.14(E) – add: Method of measurement for sap collected is the volume required to be reported annually.

Section 22.15 (B)(6) – add: Consider add this section to the firewood section also.

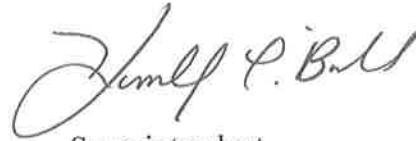
Section 22.15 (E) – add: on tribal fee lands.

Section 22.19 (2) – add: All timber must be paid for before cutting begins.

By copy of this letter, we are providing a copy of the Ordinance and Resolution to the Regional Director of the Midwest Regional Office, who may, within 90 days from the date of enactment, rescind the resolution for any cause, by notifying you of such action.

If you have any questions, please feel free to contact Marion K. Duffy, Tribal Operations, at 715-682-4527 ext. 401.

Sincerely,

A handwritten signature in cursive script, appearing to read "James P. Bull".

Superintendent

Enclosure

Cc: Diane Rosen, Regional Director, Midwest Regional Office
Scott Sufficool, Deputy Regional Director – Indian Services

Stockbridge-Munsee Community

BAND OF THE MOHICAN INDIANS
TRIBAL COUNCIL OFFICES

RESOLUTION

July 7, 2015

No. 053-15

- WHEREAS, The Stockbridge-Munsee Community is a federally recognized Indian tribe with inherent sovereign powers, and is governed by the Stockbridge-Munsee Tribal Council pursuant to the 1937 Constitution, as amended;
- WHEREAS, The Stockbridge-Munsee Community has the authority under its Constitution and its inherent rights as a sovereign nation to adopt and amend ordinances;
- WHEREAS, In 2009, the Tribal Council approved revisions to Chapter 22, that were approved by the Bureau of Indian Affairs in 2012;
- WHEREAS, In 2010, the Tribal Council approved revisions to Chapter 22, primarily to add a maple sap collection permit, that were not submitted to the BIA for approval;
- WHEREAS, The Tribal Council and Forestry Committee desire to make substantial changes to clarify and improve the existing Chapter 22, Forestry Ordinance;
- WHEREAS, The revisions to Chapter 22 include the 2010 revisions, as amended, as well as additional substantive revisions adding language to clarify jurisdictional authority, definitions, harvest of ginseng, forest roads, permits for sale of firewood and on how sales of forest products are handled; and
- WHEREAS, These changes have resulted in whole-scale changes to Chapter 22 that include new sections and the re-numbering, re-organizing and revising existing sections.

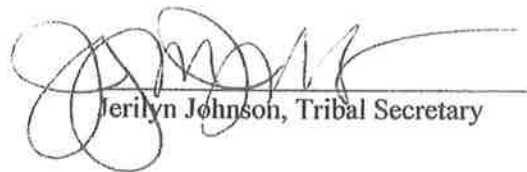
NOW THEREFORE BE IT RESOLVED, that the Stockbridge-Munsee Tribal Council hereby repeals the existing version of Chapter 22 and adopts the revised document that includes the recommended changes as a new Chapter 22, the Forestry Ordinance.

CERTIFICATION

I, the undersigned, as Secretary of the Stockbridge-Munsee Tribal Council, hereby certify that the Tribal Council is composed of 7 members, of whom 5 constituting a quorum, were present at a meeting duly called, noticed and convened on the 7th day of July, 2015 and that the foregoing resolution was duly adopted at such meeting by a vote of 4 members for, 0 members against, and 0 members abstaining, and that said resolution was not rescinded or amended in any way.



Wallace A. Miller, President



Jerilyn Johnson, Tribal Secretary

**CHAPTER 22
STOCKBRIDGE-MUNSEE COMMUNITY
FOREST RESOURCES ORDINANCE**

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Section 22.1 Findings, Purpose, Authority and Jurisdiction

Section 22.2 Definitions

PART II – STOCKBRIDGE-MUNSEE FORESTRY COMMITTEE

Section 22.3 Committee Mission Statement

Section 22.4 Committee Objectives

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Section 22.6 Tribal Council

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Section 22.9 Harvesting of Wild Crops

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PART I – GENERAL PROVISIONS

Section 22.1 Findings, Purpose, Authority and Jurisdiction

(A) Findings. The Tribal Council finds that:

(1) One of the most important short and long term resources of the Tribe is its forest resources.

(2) Properly managed forest resources will provide economic value to the Tribe.

(3) Properly managed forest resources will provide an excellent environment for fish, game, natural herbs and wildflowers.

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(4) Trust forest resources, such as timber on trust lands, are federal trust assets that are subject to management and oversight of the federal government in accordance with federal law.

(5) The Tribe's increasing land base and reforestation efforts necessitate increasing involvement and management of the forest resources by Forestry Staff, Forestry Committee and the Tribal Council.

(B) Purpose. The purpose of this ordinance is to establish a framework for how the Tribe will conduct its forestry operations, including the establishment of a Forestry Committee, as well as to regulate the use of forest resources in order to best protect those resources for the benefit of the Tribe and its members.

(C) Authority.

(1) The ordinance is authorized under Article VII (f) of the Stockbridge-Munsee Constitution and inherent tribal authority as an exercise of governmental powers to govern the members of the Stockbridge-Munsee Community, as well as the use, management and administration of lands and resources under its jurisdiction.

(2) In addition, the Stockbridge-Munsee Community has authority over lands that it owns in fee simple by virtue of its ownership of such land and may enforce this ordinance in relation to access to such lands and use of forest resources consistent with such authority.

(D) Jurisdiction.

(1) Territorial Jurisdiction. This ordinance shall apply on the Stockbridge-Munsee Reservation, which for purposes of enforcement of this ordinance includes proclaimed reservation lands and tribal trust lands as well as individual trust lands under the jurisdiction of the Stockbridge-Munsee Community. This ordinance shall also apply in relation to lands that the Stockbridge-Munsee Community owns in fee simple.

(2) Personal Jurisdiction. This ordinance shall apply in relation to members of the Stockbridge-Munsee Community, as well as such persons who consent to the jurisdiction of the Stockbridge-Munsee Community by entering tribal lands and impact forest resources.

(3) Subject Matter Jurisdiction. The Stockbridge-Munsee Tribal Court shall have jurisdiction over violations by Tribal members that occur on Tribal fee lands. The Stockbridge-Munsee Tribal Court shall have concurrent jurisdiction with federal court for any violations for all matters relating to this ordinance that occur on Tribal trust land or proclaimed lands.

Section 22.2 Definitions

Deleted: The Tribe's ownership of fee land, forest crop fee land, managed forest fee land, and the United States' ownership of federal trust and proclaimed lands for the benefit of the Tribe implicates Tribal, federal, and state law depending on the ownership of the land.

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- (A) "Approved Logger" means an individual and/or business that is on the Tribe's current Approved Loggers list.
- (B) "Authorized Law Enforcement" refers to both the Tribe's police officers and the Tribe's conservation wardens.
- (C) "BIA" refers to the U.S. Department of Interior, Bureau of Indian Affairs.
- (D) "BIA Forester" means a Forestry Staff member employed by the BIA on behalf of the Tribe and has authority over lands held in trust.
- (E) "Committee" refers to the Stockbridge-Munsee Forestry Committee.
- (F) "Cord" means 128 cubic feet of stacked wood.
- (G) "DBH" means Diameter at Breast Height which is accepted as four and one half (4.5) feet above the ground.
- (H) "Descendant" refers to a person who is registered as a descendant on the Tribe's descendant registry in accordance with Chapter 44-B.
- (I) "Elder" refers to a person who is age 55 or older.
- (J) "Emergency" means a situation usually caused by catastrophic events such as tornadoes, floods, storms, and other similar events that requires tree removal immediately.
- (K) "Enrolled member" means a person who is enrolled for membership in the Tribe.
- (L) "Forest-Officer-in-Charge" or "FOC" means a member of the Forestry Staff with authority over land that is part of the Reservation. The BIA Forester has authority over trust lands. The Tribal Forester has authority over lands held by the Tribe in fee simple. The Tribal Forester also is the FOC over any Enterprise Sale of Forest Products.
- (M) "Forest Products" refers to timber harvested with the intent of sale, wood chips and other similar timber-based materials.
- (N) "Forestry Staff" means all employees employed by the Tribe in the Forestry Department, as well as the BIA Forester.
- (O) "Greenery" means any material from an herbaceous plant or shrub, or a tree branch no larger than two inches (2") in diameter at the base.
- (P) "Motor Vehicle" means any vehicle powered by mechanical means. This includes, but is not limited to, cars, trucks, vans, all-terrain vehicles (ATVs), utility task vehicles (UTVs), snowmobiles, motorcycles and tractors.

(Q) "Personal use" means use by the tribal member holding the permit and his or her immediate household. Products intended for personal use may not be sold, given away or exchanged for cash, goods or other services unless specifically authorized under a permit.

(R) "Reservation," for purposes of this ordinance, refers to those lands that are proclaimed as the reservation of the Stockbridge-Munsee Community, lands held in trust for the Stockbridge-Munsee Community, individual trust lands under the jurisdiction of the Stockbridge-Munsee Community, and lands owned by the Tribe in fee simple.

(S) "Sapling" means any tree with a DBH greater than two (2) inches, but less than five (5) inches.

(T) "Seedling" means any tree with a DBH less than two (2) inches.

(U) "Shrub" means a woody perennial plant usually branched several times at or near the base, giving it a bushy appearance, usually less than seventeen (17) feet in height at maturity.

(V) "Timber" means any tree, or portion of a tree, that could be harvested as a forest product: pulp, bolt, saw log or veneer. Merchantable timber has a DBH of 5 inches or larger. Standing timber is merchantable timber that has not yet been harvested.

(W) "Tree" means a woody perennial plant with a single trunk (typically unbranched near the base), usually exceeding seventeen (17) feet in height at maturity.

(X) "Tribal Council" refers to the governing body for the Stockbridge-Munsee Community as established under its Constitution.

(Y) "Tribal Forester" means the Forestry Staff member hired by the Tribe to head the Forestry Department and have authority over lands owned in fee simple by the Tribe, as well as Tribal Forest Enterprise activities.

(Z) "Tribal Forest Enterprise" means an enterprise that is initiated and organized by the Tribe and, for purposes of this ordinance, typically occurs when the Tribe retains ownership of some or all forest products after harvest to sell to one or more third parties.

(AA) "Tribal Logger" means any enterprise that is at least 51% owned by one or more enrolled member(s) of the Stockbridge-Munsee Community. In order to be awarded sale contracts, a Tribal Logger must also be on the Approved Loggers list.

(BB) "Tribe" refers to the Stockbridge-Munsee Community.

PART II – STOCKBRIDGE-MUNSEE FORESTRY COMMITTEE

Section 22.3, Committee Mission Statement

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The Committee was created to aid in the protection and conservation of the forest resources of the Tribe. The purpose of the Committee is to act as an advocate for and make recommendations to the Tribal Council on all forestry-related matters.

Section 22.4, Committee Objectives

(A) The Forestry Committee's objectives are:

- (1) Protection of any and all forest assets of the Tribe;
- (2) Preservation and maintenance of our forests for future generations;
- (3) Maintenance of logging roads;
- (4) Assurance of proper logging practices; and
- (5) Consideration of all natural resources including, but not limited to, flora, fauna, water and wetlands.

Section 22.5, Committee By-Laws

ARTICLE I – NAME, ESTABLISHMENT AND PURPOSE

- A. **Name.** The name of the committee shall be the Stockbridge-Munsee Forestry Committee.
- B. **Establishment.** The Tribal Council, under its inherent authority as a tribal government responsible for tribal assets, establishes this Committee.
- C. **Purpose.** The Committee is vested with authority to make recommendations to the Stockbridge-Munsee Tribal Council regarding forestry management on lands held in trust for the Tribe and lands owned in fee simple by the Tribe in accordance with Chapter 22, the Forest Resources Ordinance, as amended.

ARTICLE II – MEETINGS

- A. **Regular Meetings.** The regular monthly meeting of the Committee shall be held on the 1st Wednesday of each month. Meetings shall be held at the Tribe's Environmental Offices or at a location designated by the Tribal Council.
- B. **Special Meetings.** Special meetings of the Committee may be held at any time to implement the provisions of the Tribe's approved Forest Management Plan.
- C. **Stipends.** Committee members shall be paid a stipend in the amount of allocated in the approved budget.

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Deleted: These meetings will include regular, on-site, and emergency meetings.

D. Open and Closed Sessions. All such meetings shall be open to Tribal members, except that a closed session may be called for purposes of discussing matters of a confidential nature. The meeting must be returned to open session after holding a closed session. All actions must be taken in open session.

E. Quorum. At least four (4) members of the Committee shall constitute a quorum to conduct business and exercise the powers of the Committee.

F. Notice of Meetings. A written notice stating the place, day, and hour of regular meetings of the Forestry Committee shall be delivered not less than five (5) working days before the date of the meeting to the members of the Committee and shall be posted to the public. Notice of any special meetings shall be given to Committee members, as well as posted to the public, at least 48 hours in advance. This notice will be done by the Forestry Staff. He/she will post notice at the Library, Health Center, Tribal Office, Headquarters, Housing, Elderly Center, Little Star and Casino.

G. Minutes. Minutes must be taken at Committee meetings and shall be in a format designed to generate an informative record of meetings. Minutes must be submitted to the Tribal Council for acceptance and shall be required before stipends are issued for meeting attendance.

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ARTICLE III - COMMITTEE ORGANIZATION

A. General Powers.

- 1) The Committee is authorized to oversee forest policy on the Reservation in accordance with this ordinance and Forest Management Plan.
- 2) The Committee may develop and recommend to the Tribal Council other rules and regulations of forestry which shall not violate the provisions of the Tribal Constitution, this ordinance, the Forestry Management Plan, other Tribal law, as well as federal and state law as applicable.
- 3) The Committee may exercise those powers authorized under this ordinance and as directed by the Tribal Council.

B. Composition and Qualifications of the Forestry Committee. The Committee shall be composed of seven (7) adult (21 years or older) enrolled members of the Tribes.

- 1) The Committee will follow all applicable Tribal law including Chapter 51, Code of Conduct.
- 2) The term of appointment shall be for five (5) years.

C. Duties and Responsibilities of the Committee. The Committee shall:

- 1) Meet on a regular basis and submit their meeting minutes to Tribal Council.
- 2) Make recommendations to Tribal Council regarding approval or denial of permits as outlined in this ordinance.
- 3) Make recommendations to Tribal Council regarding amendments to this ordinance.
- 4) Make recommendations to the Tribal Council regarding forest resource policy issues.
- 5) Make recommendations to Tribal Council regarding the Forest Management Plan.

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- 6) Seek approval from Tribal Council for any proposed actions outside the scope of an approved Forest Management Plan.
- 7) Have at least one member review all proposed management areas in a timely manner before taking any official action.
- 8) Request Forestry Staff to assist as needed.
- 9) Shall compile and regularly update a list of Approved Loggers.
- 10) Submit list of Approved Loggers to Tribal Council by July 1st, every year.

D. **Political Office.** In no event shall a member of the Committee serve as a member of the Tribal Council during his/her term as a Committee member.

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E. **Removal.** The Committee may make a recommendation to the Tribal Council for the removal of any Committee member for neglect of duty as a Committee member, including but not limited to, failure to appear at three (3) consecutive regular meetings without a valid reason or performing a duty that constitutes a conflict of interest. All such charges must be documented.

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F. **Conflict of Interest.** In carrying out the duties of the Committee, no member shall make or participate in making decisions which involve personal or family financial interest.

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ARTICLE IV – MEMBERSHIP

A. **Number.** The officers of the Committee shall be a Chairperson, Vice-chairperson, and Secretary. Each shall be elected by the Committee itself.

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B. **Elections.** Length and term of office shall be staggered appointments for continuity. Elections for officers will occur during the regular November meeting.

C. **Chairperson.** The Chairperson shall preside at all meetings of the Committee. At each meeting the Chair shall submit such recommendations and information as may be considered proper concerning the business affairs and operational policies of the Committee. The Chairperson shall not vote except in cases of a tie.

D. **Vice-Chairperson.** The Vice-Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson.

E. **Secretary.** The Secretary shall keep the records of the Committee and shall act as the recorder of all meetings. The Secretary shall keep minutes of every Committee meeting in a journal kept for such purpose and shall perform all duties incident to the office of Secretary, including sending meeting minutes to Tribal Council.

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F. **Removal of Officers.** Any officer elected by the Committee may be removed from office by Tribal Council.

ARTICLE V – AMENDMENTS

These bylaws may be altered, amended, or repealed upon resolution of the Committee, with final approval of the Tribal Council.

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PART III -- ADMINISTRATION

Section 22.6 Tribal Council

(A) The Tribal Council has overall authority to approve recommendations from the Committee and tribal employees in relation to issues, policies and procedures related to the use of forest resources. However, the Tribal Council acknowledges that the use of trust forest resources must be consistent with applicable requirements under federal law.

(B) The Tribal Council establishes a system for permitting the use of forest resources as outlined under this ordinance.

(C) The Tribal Council reserves the right to issue special permits upon such terms and conditions as the Tribal Council deems appropriate and to waive provisions of this ordinance for special cultural or ceremonial events.

(D) The Tribal Council authorizes the set aside of 100% of Proceeds of Labor funds (stumpage) from sales of forest resources on fee and trust lands for future land acquisition.

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Section 22.7 Forestry Staff

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(A) The Forestry Department is a department of the Tribal Government and is responsible for carrying out the functions and policies of the Tribe relating to the forest resources that are consistent with this ordinance.

(B) Forestry Staff shall have authority to enforce the provisions of this ordinance utilizing Authorized Law Enforcement personnel.

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(C) Forestry Staff shall also provide assistance as necessary and needed in order that the BIA can enforce provisions of this ordinance and/or federal law on trust land.

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(D) Forestry Staff shall work with the Fish and Game Board, Conservation Department, Ecology Department and Environmental Department to insure that all natural resources including, but not limited to, flora, fauna, water and wetlands are not harmed by activities controlled, regulated, or authorized by the Forestry Department.

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(E) Forestry Staff shall work with the Cultural Preservation Department and/or the Tribal Historic Preservation Officer to ensure historical and/or cultural resources are not harmed by the activities controlled, regulated or authorized by the Forestry Department.

PART IV -- GENERAL STANDARDS

Section 22.8 Rights and Responsibilities of Beneficial Usage

(A) All enrolled members of the Tribe shall have the right to share in the beneficial use of the forest resources as provided in this ordinance.

(B) All individuals with privileges under this ordinance also have a responsibility to be good stewards of the natural resources on the Reservation. While tribal members do have a right to share in the bounty from the land, they must do so in a responsible manner that ensures the long-term continuation of healthy and sustainable natural resource populations for the benefit of future generations. This responsibility extends to maintaining a healthy environment for forest resources as all life is inter-connected.

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Section 22.9 Harvesting of Wild Crops

(A) All enrolled members may harvesting wild crops,

(1) The following are considered to be wild crops: berries, mushrooms, greenery (herbs, shrubs and branches), roots, wildflowers, moss and wild vegetables,

(2) Wild crops may be harvested for personal use and this does not require a permit. Harvested wild crops may not be sold or exchanged for cash, goods or other services.

(3) Non-enrolled spouses and descendants may harvest wild crops so long as an enrolled member of the Tribe is present.

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(B) Wild ginseng (*Panax quinquefolius*) may only be harvested by an enrolled member for personal use, provided that person has a valid Free-Use Ginseng Permit.

(1) Only plants with 3 prongs or more may be harvested.

(2) Wild ginseng may only be harvested during ginseng season, which is September 1 to October 15.

(3) All wild ginseng harvested must be reported to and verified by Forestry Staff by the end of the season.

(4) Harvesters may retain roots, stalk and leaves, but all berries from the harvested plant must be planted within five (5) feet of the parent plant at the time of harvest.

Deleted: Harvested wild crops used for personal use may not be sold or exchanged for cash, goods, or other services. Wild Crops for sale are prohibited

Section 22.10 Forestry Activities by Waters,

(A) There will be no commercial harvest of standing timber within 300 feet of a river without prior approval of the Tribal Council. For the purposes of granting forestry permits, rivers are defined as the Red River, the West Branch of the Red River, and Silver Creek.

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(B) All trout streams will have a 100-foot no-cut buffer, unless the requirement for a buffer is waived by both the Committee and the Tribe's Fish and Wildlife Board.

Section 22.11 Disease or Infested Trees

(A) Insects, disease, or infestation may require or limit harvesting conditions or requirements.

(B) Oak Wilt. Cutting, pruning, or trimming an oak tree cannot be done between April 1 and September 1 of each year. On a case-by-case basis, some oak trees may be cut or manipulated under the Domestic Clearing Permit, but are subject to the restrictions listed under that permit.

Section 22.12 Forest Roads

(A) The forest road network is vital to the Tribe's logging operations and provides access to the Reservation for enrolled members. Keeping this network in good work condition is mandatory.

(B) Forest roads are not public rights-of-way, but rather are a private road network for the use of the Tribe. The following persons have permission to use the forest roads and/or access forested portions of the Reservation to the following persons: enrolled members, tribal employees who need access for their work and such other persons who have authorization from the Tribe.

(C) Use of Open Roads by Authorized Persons.

(1) Open forest roads may be used by any motor vehicle, which is not prohibited for any other reason, so long as no unnecessary damage is done to the road.

(2) Motor vehicle traffic may not make new forest roads without the consent of the Tribal Council.

(3) Motor vehicle traffic may not cause excessive damage which could inhibit the use of the forest road by any other tribal member or tribal department.

(4) Forest roads may not be blocked for any reason by any person other than Forestry Staff or Authorized Law Enforcement, without the consent of the Tribal Council.

(D) Spring Breakup Road Closure.

(1) To reduce degradation, the Tribal Forester will monitor conditions during spring breakup and will make the decision of when motor vehicle traffic will be prohibited from all forest roads and landings.

(2) ATVs, UTVs and snowmobiles are exempt from the spring breakup road closure.

(3) A notice will be posted in all Tribal Offices and Tribal posting locations at or before the time of closure.

Deleted: Section 22.9 Implied Consent¶
With the exception of lands enrolled in Managed Forest Law or Forest Crop with the State of Wisconsin, any person, department, entity, or business who enters Tribal fee lands, trust lands, or proclaimed lands, or who removes or damages any forest resources is deemed to have consented to the jurisdiction of the Tribal Court. ¶

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(4) A notice of road closure will be submitted for publication in the Mohican News. However, due to the potential emergency timeframe needed on some closures, the effective dates may occur prior to publication in the newspaper.

(E) Special Concern Road Closure.

(1) Forest roads may need to be closed to any and/or all motor vehicles at any time of the year for various reasons such as, but not limited to, safety hazards, invasive species infestations, erosion or other special concerns.

(2) Any Special Concern Road Closure must be brought before the Committee and approved by Tribal Council.

(3) If any Special Concern Road Closure is deemed necessary:

(a) A notice will be posted in all Tribal Offices and Tribal posting locations at or before the time of closure.

(b) A notice will be submitted for publication in the Mohican News. However, due to the potential emergency timeframe needed on some closures, effective dates may occur prior to publication in the newspaper.

(c) A physical obstruction will be placed at the beginning and end of the forest road subject to the Special Condition Road Closures and remain in place until the closure is lifted.

PART V – PERMITS

Section 22.13 Forest Permits – Generally

(A) Permits are required for nearly all activities relating to forest resources.

(B) Depending on the activity and the location of the activity, permit approval may be done by Forestry Staff, Committee, Tribal Council, and the BIA.

(C) All activities must be in accordance with the Forest Management Plan, Chapter 43 - Land Use Code, and all other applicable law.

(D) All timber harvested subject to a permit or contract must be scaled by Forestry Staff, except as follows: timber harvested under a free-use firewood permit; timber harvested under a domestic maintenance permit and kept for personal use; timber harvested under a permit or contract that allows scaling by other persons.

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Section 22.14 Forestry Staff Approved Permits

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(A) The following activities require permits and can be authorized and issued by the Tribal Forestry Staff.

(B) FREE-USE GINSENG PERMIT: Adult enrolled members may obtain a permit to harvest ginseng for personal use subject to the requirements of Section 22.9 (B).

(C) FREE-USE FIREWOOD PERMIT: Adult enrolled members may obtain an annual permit from Forestry Staff to harvest firewood for personal use. There is no stumpage charge.

(1) Forestry Staff is authorized to issue Free-use Firewood Permits, so long as there are no special conditions in relation to that permit.

(2) Free-use Firewood Permits with special conditions, such as those regarding who is authorized to harvest the wood, are subject to approval by the Committee and Tribal Council.

(3) No products harvested for personal use may be sold, given away, or exchanged for cash, goods, or other services. The prohibition on giving away wood does not apply to wood donations to an enrolled Stockbridge-Munsee Tribal Elder or for Stockbridge-Munsee cultural practices.

(4) A Firewood Permit is valid from March 15th until March 14th of the following year and is valid on all Reservation lands.

(5) Ten (10) full cords of firewood shall be the maximum allowable harvest per permit. Additional cordage may be requested after the allowable limit is used and must be granted at the discretion of the Committee.

(6) When applying for a Free-use Firewood Permit, the enrolled member must provide their enrollment number and indicate if the firewood is leaving the Reservation.

(7) Only enrolled members, non-enrolled spouses and descendants may assist the permit holder with harvesting firewood.

(a) The following persons are eligible to apply for a permit with special conditions to allow persons other than those identified in the above subsection to assist with harvesting firewood:

- (i) Non-enrolled parents or legal guardians of enrolled member children who are living on the Reservation; and
- (ii) Elder or disabled enrolled members.

(b) Any person providing harvest assistance without the presence of the permit holder must be identified on the permit.

(8) Firewood can only be cut from dead or down trees. Oak trees that are dead or down are subject on the seasonal bar on harvest under Section 22.11 (B).

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(9) The use of tractors, skidders or other type of machinery to remove firewood must be approved in advance by the Committee. If approved, precaution must be exercised to prevent damage to the forest and equipment may need to be washed and inspected upon request by Forestry Staff.

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(10) Scaling is not required. However, the Forestry Staff and Authorized Law Enforcement have the right to verify the volume of firewood is within the permit limits.

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(D) DOMESTIC MAINTENANCE PERMIT: Adult enrolled members may obtain a permit from the Forestry Staff to remove merchantable timber for safety or aesthetic reasons on their land assignment.

(1) Forestry Staff will approve and mark all trees prior to harvest.

(2) Oak trees may only be cut or manipulated during the times when there is no seasonal bar on harvest under Section 22.11 (B), except as provided under Section 22.14 (C)(5).

(3) A Domestic Maintenance permit is valid from January 1st through December 31st and is valid on all Reservation land.

(4) The enrolled member may cut the forest products or may choose anyone to cut the forest products at their own expense.

(5) Downed trees from storms may be cut on an enrolled member's land assignment without obtaining a permit.

(a) The enrolled member must notify Forestry Staff of the cut as soon as reasonably possible, if they do not possess a firewood permit.

(b) Downed oaks may be cut or manipulated so long as Forestry Staff is notified. The resulting oak stump must be burned or buried or may be chemically-treated by Forestry Staff.

(6) Personal Use.

(a) No stumps will be charged so long as the forest products retained for personal use by the enrolled member holding the permit and their immediate household.

(b) No products cut for personal use may be sold, given away, or exchanged for cash, goods or other services. The prohibition on giving away wood does not apply to wood donations to another enrolled member.

(c) Scaling is not required. However, Forestry Staff and Authorized Law Enforcement have the right to verify that the volume of wood.

(7) Sale of Wood.

- (a) If the permit holder intends to sell the wood or exchange it for cash or goods, then stumpage will be charged on timber harvested under this permit.
- (b) A receipt for the stumpage payment must be received by the Forestry Department prior to the sale of the timber.
- (c) Scaling is required. Forestry Staff and Authorized Law Enforcement have the right to verify that the volume of wood.

(E) MAPLE SAP COLLECTION PERMIT. Adult enrolled members may obtain an annual permit from the Forestry Department to drive a motor vehicle on logging roads for sap collection, even during such times as when forest roads are closed for spring breakup.

(1) Permit holders must designate which roads they wish to use when requesting the permit.

(2) Permit holders are allowed to use motorized vehicles on forest roads for the purpose of hauling sap from collection points to their processing area.

(3) Forestry Staff will inspect the forest road to verify whether the road was restored as required.

(4) The permit holder must restore the forest road to its original condition before June 1st of the permit year.

(5) If the permit holder fails to restore the forest road as required, then:

- (a) the Forestry Department will have the road restored at the permit holder's expense; and
- (b) the permit holder will be barred from obtaining another permit for the use of any forest roads for sap collection.

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Section 22.15 Tribal Council Approved Permits

(A) The following activities must be brought to the Committee and approved by the Tribal Council before the permit can be issued by Forestry Staff.

(B) **DOMESTIC USE PERMIT:** Adult enrolled members may obtain a permit to harvest forest products such as cedar, white birch bark, balsam boughs, white pine, etc., for their own personal use such as for fences, decorations or other projects. There is no stumpage charge. Applicants shall state what materials are needed and the amount needed. The prohibition on giving away products does not apply donations to an enrolled elder or for Stockbridge-Munsee cultural practices.

(1) The enrolled member must submit a written request to the Committee notifying them of the quantity, type of product to be harvested and how the product will be used. Depending on the size of the project the Committee will ask for submission of detailed plans.

(2) The Forestry Staff will determine the availability of the forest product and may designate where the product will be harvested, should the permit be issued.

(3) The Committee will make a recommendation to the Tribal Council. A maximum allowable cut will also be recommended to the Tribal Council.

(4) If Tribal Council approves the request, the Forestry Staff will issue the permit. The permit will be valid for a specified time, not to exceed one year.

(5) The enrolled member, with assistance from other enrolled members, a non-enrolled spouse or descendants, may harvest the forest products. The permit holder must be on-site during the harvest unless the holder is an elder or disabled.

(6) The Forestry Staff will track and prepare an annual estimate of the total amount of product and value of such product harvested from trust lands under this type of permit. If the product is harvested from trust land, then this information will be provided to the BIA at the end of each fiscal year.

(C) **DOMESTIC PERMIT FOR USE IN CONSTRUCTION.** This permit allows the permit holder to harvest timber that will be used for the construction of the building identified in the permit.

(1) The enrolled member must submit a written request to the Committee that includes detailed plans of the building including a realistic timeline for construction completion. The member must obtain all other required permits, such as in relation to land use, before this permit can be approved.

(2) The project can only be for the enrolled member's personal use and be located on the Reservation.

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(3) If the Committee approves the request, the recommendation to Tribal Council will include a time limit on the project and the amount of timber to be harvested.

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(4) The enrolled member must provide a bond for the stumpage value of all timber to be harvested before the permit may be issued or construction may begin.

(a) The amount of the bond will be determined by Forestry Staff based on an estimated value of the timber to be harvested.

(b) Upon completion of the project within the identified timeframe, then the stumpage bond will be refunded in full.

(c) If the project is not completed within the identified timeframe or consistent with permit requirements, then the bond may be forfeited to the Tribe in part or in full.

(5) If the permit is approved by Tribal Council, Forestry Staff will designate the area to be cut and mark the trees. Forestry Staff will also scale the harvested timber and record/file the stumpage amount and value.

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(D) DOMESTIC CLEARING PERMIT: Adult enrolled members may obtain a permit to harvest timber and/or forest products for the purpose of clearing a specific limited area for a dwelling, garage or other outbuilding, or business on their land assignment, lot, or leased land.

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(1) The enrolled member must submit a written request to the Committee that includes detailed plans of the proposed building, including a realistic timeline for construction completion.

(a) The member must obtain all other required permits, such as in relation to land use, before this permit can be approved.

(b) If the building site is located on tribal trust land, the enrolled member will also be required to obtain any applicable BIA permits, such as a forest products harvesting permit.

(2) No clearing is allowed beyond three hundred (300) feet from the centerline of a public right-of-way road.

(3) The enrolled member must provide a bond for the stumpage value of all timber to be harvested before the permit may be issued or construction may begin.

(a) Upon completion of the project within the identified timeframe, then the stumpage bond will be refunded in full.

(b) If the project is not completed within the identified timeframe or consistent with permit requirements, then the bond may be forfeited to the Tribe in part or in full.

(4) The enrolled member is responsible for the cost of service to harvest the forest products.

(5) The permit request should indicate the species and expected volume to be harvested. Forestry Staff will coordinate with the enrolled member by assisting in staking the proposed harvest area and calculating the expected volumes.

(6) The Committee will make a recommendation to the Tribal Council. A positive recommendation will be made contingent on a successful perc test. No cutting, except to perform the perc test, may occur unless the site has a successful perc test.

(7) If Tribal Council approves the permit request, Forestry Staff will issue the permit and mark the trees to be harvested. The permit will be valid for a specified time, not to exceed one year from date of issuance.

(8) Forestry Staff will provide the Approved Loggers list to the enrolled member on request.

(9) Forestry Staff will scale the timber or forest products.

(10) On a case-by-case basis, some oak trees may be cut under this permit during the timeframe when normally barred under Section 22.11 (B). If a live oak tree is cut during the normal oak will bar timeframe, then the resulting oak stump must be burned, buried or chemically-treated within 48-hours of the tree being cut.

(E) FIREWOOD-FOR-SALE PERMIT. Adult enrolled members may obtain a permit to harvest and sell or trade firewood.

(1) The enrolled member must present a written request to the Committee identifying the desire to sell firewood.

(2) The Committee will make a recommendation to the Tribal Council.

(3) If permit is approved by the Tribal Council, then the Firewood-for-Sale Permit will be issued and managed by the Tribal Forester.

(4) A Firewood-for-Sale Permit is valid from March 15th until March 14th of the following year and is valid on Reservation lands.

(5) The enrolled member is responsible to pay a nonrefundable stumpage charge of \$200.00 to the Tribe before the permit will be issued by the Tribal Forester. This charge is subject to change according to fair market value of hardwood pulp and will be determined before the first of each year.

(6) The amount of timber harvested is not to exceed 10 full cords. It is the responsibility of the permit holder to notify the Forestry Staff of wood to be scaled and verified. The

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volumes of timber from trust lands will be reported to the BIA by the end of the fiscal year.

(7) This is an individual permit and the permit holder must be on site when harvesting or selling. Descendants and the permit holder's non-enrolled spouse may assist the permit holder.

(F) TEMPORARY USE PERMIT;

(1) Persons who are not enrolled members may apply for a permit to temporarily enter the Reservation for a specific purpose, such as removing wood from their property, or gaining temporary access to a land-locked property.

(2) The applicant must submit detailed written plans of the proposed purpose including area where access is needed, reason needed, and the expected length of time the permit is needed.

(2) The Committee will make a recommendation to the Tribal Council regarding the temporary permit request.

(3) The Tribal Council may instruct Forestry Staff to issue a temporary use permit subject to the conditions the Tribal Council desires.

Section 22.16 Tribal-Departmental Permits

Tribal departments, entities, and committees must apply for permits as provided for in this ordinance in the same manner and process as other allowable permits. Under a departmental permit, any employee of that tribal department may carry out the task authorized under the permit.

Section 22.17 Denial of Permit(s) and/or Contract

(A) Anyone owing any forestry-related debt to the Tribe shall not be granted any permit.

(B) The Tribe may deny permits or contracts for any of the following reasons:

- (1) poor past logging practices,
- (2) stumpage debts owed,
- (3) timber trespass(es),
- (4) past violations, misuse of process, procedures, or permits,
- (5) proposal denied under the Tribe's land impact review process;

Deleted: ~~PERMIT/CONTRACT ON TRIBAL FEE LAND, INCLUDING MANAGED FOREST LAW AND FOREST CROP LAW LANDS~~ ¶
(1) The Tribal Forestry Staff will advertise all timber sales on the open market on Tribal fee lands ¶
(2) The advertisement will identify area to be cut, acreages to be cut and insurance requirements ¶
(3) Tribal bidding preference, Section 22.22 will apply ¶
(4) Sealed bids are to be sent to the Tribal Secretary ¶
(a) Bids will be opened on the record ¶
(b) The Forestry Committee will make a recommendation to Tribal Council regarding the bid ¶
(c) If the Tribal Council awards a bid, a contract will be prepared by the Forestry Staff and Legal Staff ¶
(5) A validly executed contract will be considered the Timber Sale Permit ¶
(6) The Forestry staff will mark all trees and supervise the entire timber sale ¶
(7) The Forestry staff will scale the timber and forest products. ¶
(8) Tribal fee lands enrolled in the State of Wisconsin Managed Forest Law or Forest Crop ¶
(a) Tribal fee lands enrolled in the State of Wisconsin Managed Forest Law or Forest Crop program may have requirements for timber sales that differ from this ordinance. If there is a conflict, the state law will apply. In all other cases, this ordinance shall apply ¶
¶
EMERGENCIES ¶
(1) Emergencies generally include blow down, disease, flood and other acts of the Creator ¶
(2) The Forestry staff will present a plan to address the emergency to the Forestry Committee ¶
(3) The recommendation may be in excess of the Annual Allowable Cut ¶
(4) The Forestry Committee will make a recommendation to the Tribal Council ¶
(5) If the Tribal Council awards a bid, a contract will be prepared by the Forestry Staff and Legal Staff ¶
(6) A validly executed contract will be considered the Timber Sale Permit ¶
(7) The Forestry Staff will oversee all aspects of the sale. ¶
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PART VI – SALES OF FOREST PRODUCTS

Section 22.18 Forest Product Sales – Generally

(A) In order to generate revenues and best manage its forest resources, the Tribe may sell forest products subject to terms of this ordinance, its forest management plan, and other applicable laws.

(B) The Tribe shall sell forest products by written contract.

(1) Such sales will be by: an open market sale of standing timber; a tribal forest enterprise sale of standing timber; a tribal forest enterprise sale of forest products; or an emergency/small lot forest enterprise sale.

(2) The Tribe may sell some forest products by open market and other forest products by tribal forest enterprise as part of the same sale.

(C) Sales of timber from lands held by the United States in trust for the Tribe shall be conducted through the BIA consistent with federal law.

(D) Persons authorized to access the Reservation as part of timber sales are required to comply with tribal law, as well as the terms of the applicable contract(s).

Section 22.19 Open Market Sale of Standing Timber

(A) The open market sale of standing timber is the default process that the Tribe uses to sell standing timber. It has the most checks and balances, is the most transparent and is the most straightforward to administer.

(B) An open market sale of standing timber occurs when the Tribe sells standing timber to a selected bidder and that bidder is responsible to harvest and remove that timber from the Reservation.

(1) The Tribal Timber Sale Bid Policy shall apply in relation to such sales.

(2) Successful bidders will be required to pay a stumpage bond prior to the harvest of the standing timber.

(3) Scaling by Forestry Staff is required prior to the harvested timber being removed from the Reservation, unless scaling by another person at another location is authorized by contract.

(C) The Tribal Council, based on recommendation of the Committee, must approve an open market sale of standing timber prior to the sale being conducted.

Section 22.20 Tribal Forest Enterprise Sale of Standing Timber

(A) A tribal forest enterprise sale of standing timber occurs when the Tribe contracts or subcontracts an Approved Logger to harvest, sort, and deck timber on the Tribe's behalf.

(1) The Tribe will retain ownership of part or all of the timber, which the Tribe then sells directly to one or more mills or other third-parties by a tribal forest enterprise sale of forest products.

(2) The Tribal Timber Sale Bid Policy shall apply in relation to the tribal forest enterprise sale of standing timber.

(3) Successful bidders will be required to pay a stumpage bond prior to the harvest of the standing timber.

(4) Scaling by Forestry Staff is required prior to the harvested timber being removed from the Reservation, unless scaling by another person at another location is authorized by contract.

(B) The Tribal Council, based on recommendation of the Committee, must approve a tribal forest enterprise sale of standing timber prior to the sale being conducted.

(C) The Tribe must enter into an agreement with the BIA in order to purchase standing timber located on tribal trust land for purposes of tribal forest enterprise sale of standing timber.

Section 22.21 Tribal Forest Enterprise Sale of Forest Products

(A) A tribal forest enterprise sale of forest products is used to sell harvested forest products in which the Tribe had retained ownership to one or more buyers.

(B) A tribal forest enterprise sale of forest products may be used in the following types of situations: when a harvest contains high volumes of veneer or specialty products; or when the enterprising of forest products is believed to provide a greater benefit to the Tribe than an open market sale.

(C) The Tribal Council, based on recommendation of the Committee, must authorize the use of the tribal forest enterprise sale of forest products process prior to the sale being conducted.

(D) The Tribal Council, based on recommendation of the Committee, will approve the sales to individual buyers as part of these sales, except, when there are time constraints that prevent prior approval in order to maximize the benefit to the Tribe. In the event of such time constraints, then

Tribal Forester shall inform the Committee and Tribal Council as soon as reasonably possible about the terms of the sale and the sale will be handled based on the following process:

(1) The Tribal Forester is the Forest-Officer-in-Charge of tribal forest enterprise sales of forest products.

(2) The FOC must make a reasonable effort to obtain quotes and/or price lists from interested local mills or potential purchasers with a minimum of at least three (3) requested.

(3) All Tribal Loggers on the Approved Logger list must be contacted.

(4) Tribal preference does not apply in relation to these sales of forest products.

(5) The FOC will use their best professional judgment to choose the buyer that will provide the highest benefit to the Tribe and document all decisions.

(E) At the conclusion of the sale, the FOC will inform the Committee about the sale, including who purchased the forest products and an accounting of costs and revenues from the sale.

Section 22.22 Emergency/Small Lot Tribal Forest Enterprise Sale

(A) The process for an emergency/small lot tribal forest enterprise sale will be used when there is a harvest or sale of harvested timber that need to be handled quickly in order to retain the highest benefit to the Tribe.

(B) The emergency/small lot tribal forest enterprise sale will be used when the normal processes cannot be done in a timely manner and/or when the harvest is for a small amount of forest product making it impractical to conduct an open market sale, such as disease treatments, localized blowdowns, clearings for development and ceased thefts.

(C) The need, prescription, and Scope of Work for the harvest/salvage must be recommended by the Committee and approved by the Tribal Council. Such approvals will be obtained prior to the harvest unless the nature of the emergency requires immediate action. In the event immediate action is required, the approvals will be obtained as soon as possible after the fact.

(D) Timber will be harvested by either tribal staff or a hired contractor. The contractor may be from the Approved Logger list, but this is not required depending on the scope of the project. This determination will be made on a case-by-case basis by the Tribal Forester.

(E) Emergency harvests, salvages, or mitigation may be in excess of the Tribe's annual allowable cut per its Forest Management Plan.

Section 22.23 Tribal Timber Sale Bid Policy

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(A) Purpose. The purpose of this policy is to refine the bidding process for sales of forest products by the Tribe and the BIA. The intent of this Policy is to facilitate the Tribe in obtaining the best possible timber sales, consistent with federal law, while encouraging Tribal loggers to participate in the bidding process in a meaningful manner.

(B) Coverage and Scope.

(1) This Policy applies to the open market sale of standing timber and the tribal forest enterprise sale of standing timber (except for emergency and small lot tribal forest enterprise sales).

(2) Certain federal laws, including 25 C.F.R. Ch. 163, or other contracts and grants may supersede or contain provisions that are inconsistent with this Policy. If the federal law/contract/grant provisions are mandatory, those provisions of the contract/grant contract shall control, and the remaining portions of this Policy shall be adhered to.

(3) If the Tribal Council has approved a tribal forest enterprise sale of standing timber, then the Tribe reserves the right to have the BIA negotiate the tribal timber sale directly with the Tribe at appraised rates as per 25 C.F.R. 163.13(c).

(4) This Policy does not apply to change orders or change directives, which are added work or services within the general scope of an on-going project.

(5) This Policy does not prohibit the Tribe retracting any invitation for bids.

(C) Approved Loggers.

(1) The Committee shall compile and regularly update a list of Approved Loggers. The Committee shall submit the list of Approved Loggers to Tribal Council by July 1 of every year.

(2) The criteria for determining Approved Loggers include the ability to obtain and maintain comprehensive and worker's compensation insurance, ability to obtain and maintain bonding, experience, reliability, previous references, background/portfolio of the enterprise, technical ability, financial ability, applicable certification and/or licenses, proof of ownership of equipment, tax numbers or other factors the Forestry Committee deems important.

(3) The Committee reserves the right to remove an enterprise from the Approved Logger's list for non-compliance with tribal law and/or their contract.

(3) If the Committee determines that a Tribal Logger is ineligible to be an Approved Logger, the Tribal Loggers must be notified in writing regarding what the specific deficiencies are and/or what must be corrected to gain or maintain status.

(D) Tribal Logger Preference.

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(1) "Advertisement for bids" means an invitation by the BIA for soliciting bids for a Tribal Timber sale

(2) "Approved Enterprise Agreement" means an agreement between the Tribe and the Tribal Forest Enterprise, which has been approved by parties, and the BIA. ¶

(3) "BIA" means the United States Bureau of Indian Affairs. ¶

(4) "Bid documents" means collectively, the bidding requirements and the proposed contract documents, including addenda issued prior to receipt of bids ¶

(5) "Complete bid" means a complete properly signed offer submitted in accordance with the Advertisement for bid requirements, by a logger to contract or perform the work designated, or portion thereof for the amounts stipulated therein. It shall be comprehensive enough that the offer requires no further inquiry, explanation, or clarification ¶

(6) "Emergency" means a situation usually caused by catastrophic events such as tornadoes, floods, storms, and other similar events that requires tree removal immediately. ¶

(7) "Enrolled Member" means a person who is an enrolled member of the Stockbridge-Munsee Community. ¶

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(1) The Committee shall apply preference when an Approved Tribal Logger's submitted bid at least meets the BIA's or Tribe's minimum bid rates.

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(2) The Approved Tribal Logger's submitted bid is within 10% of the highest submitted bid.

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(3) An Approved Tribal Logger whose bid is within 10% of the highest submitted bid, shall be required to match the highest submitted bid, with the understanding that the Tribe will rebate the matched amount (with no interest) upon successful completion of the timber sale.

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(a) The BIA may require that the Approved Tribal Logger, in writing or fax, affirmatively agree to match the highest submitted bid by 3pm, the next business day.

(4) For example:

Timber Company ABC bids	\$100,000
Tribal Logger bids #1	\$ 92,000
Tribal Logger bids #2	\$ 94,000
Tribal Logger bids #3	\$ 87,000

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Tribal Logger #3 bid is too low to be considered for preference. The bid is below the 10% maximum difference to be considered for the sale.

Tribal Logger bid #1 is within the 10% maximum difference. However, Tribal Logger bid #2 is the higher bid between the eligible Tribal Loggers. Therefore, Tribal Logger Bid #1 does not receive the timber sale contract.

Tribal Logger bid #2 is the highest preference bid with the 10% maximum difference. #2 would be required to match the \$100,000 bid, but will receive a rebate of \$6,000 upon the successful completion of the timber sale.

Timber Company ABC would not get the timber sale contract because Tribal Logger bid #2 would be awarded the timber sale contract. Because Tribal Logger #2's bid is within 10% of the highest bid (Timber Company ABC), and it would match the \$4,000 difference, Timber Company ABC and Tribal Logger #2 are essentially bidding at \$100,000.

(5) Preference shall not be adhered to if there are no Approved Tribal Loggers' bids within 10% of the highest bid.

(6) Although this Policy is intended to aid Tribal Loggers in obtaining timber sales contracts, no legal rights or remedies are created by this Policy.

(7) Applicant(s) for Indian preference will be required to provide certification of membership from the Tribe.

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(8) An applicant seeking preference has the burden to demonstrate that the enterprise is eligible for preference, by providing proof of at least 51% ownership at the time of bid submission.

(E) Compliance.

(1) The Forestry Department and Committee are bound by this Tribal Timber Bid Sale Policy and shall fully comply with all terms of this Policy. The Forestry Department and Committee shall not divide projects, or take other actions to avoid being subject to this Policy.

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(2) The Tribe's Legal Department shall review all contracts before the Tribe signs the contract.

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PART VII – VIOLATIONS AND ENFORCEMENT

Section 22.24 Timber Infraction(s) - General.

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The Stockbridge-Munsee Tribal Court shall have jurisdiction over violations by Tribal members that occur on Tribal fee lands. The Stockbridge-Munsee Tribal Court shall have concurrent jurisdiction with federal court for any violations for all matters relating to this ordinance that occur on Tribal trust land or proclaimed lands ¶

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(A) Each day or portion of a day during which a violation occurs or exists is a separate violation.

(B) Each violation of this ordinance shall be considered a separate violation.

(C) For any Timber Infraction defined under this ordinance, the Tribal Court may invoke, all or in part, the provisions of this ordinance.

(D) The Tribal Court shall inform the Forestry Department in writing of any permit(s) or privilege(s) revoked or suspended as the result of an adjudicated proceeding before the Court.

(E) The imposition of the civil penalties provided herein shall not be a defense by any person to any civil or criminal charge brought against such person by the United States Government as trustee of the forest resources of the Tribe.

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(F) All permits are subject to immediate suspension by the Tribe if Forestry Staff reasonably believe that a violation of this ordinance has occurred and it is in the best interests of the Tribe to immediately stop the activity.

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Section 22.25 Infractions Defined.

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(A) Violating the terms and/or conditions of any permit and/or contract issued pursuant to this ordinance shall be deemed a Class A Infraction.

(B) Harvesting, cutting, possessing, and/or taking forest resources without the requisite permit shall be deemed a Class A Infraction.

(C) Exceeding the amount of wood or wood products authorized for harvest under a permit issued pursuant to this ordinance shall be deemed a Class A Infraction.

(D) Removing wood or forest products harvested on the Reservation without first having it sealed by Forestry Staff shall be deemed a Class A Infraction.

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(E) Harvest or cutting of any live tree without the proper permit shall be deemed a Class A Infraction.

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(F) Fraud in the procurement of any permit shall be deemed a Class B Infraction.

(G) Placing or causing to be placed into the waters of any creek, stream, river or lake any tree or plant or portion thereof; or placing or causing to be placed into the waters of any creek, stream, river or lake any soil or timber resource debris resulting from any activity regulated by this ordinance shall be deemed a Class B Infraction.

(H) Refusal of any person engaged in harvesting, cutting and/or taking of forest resources, to display the proper permit or identification upon request of any authorized law enforcement personnel shall be deemed a Class C Infraction.

(I) Any other violation of this ordinance shall be deemed a Class A Infraction.

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Section 22.26 Enforcement

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(A) Authorized Law Enforcement has authority to investigate and enforce the provisions of this ordinance. Forestry Staff have authority to report violations of this ordinance to Authorized Law Enforcement and other implicated law enforcement agencies. Authorized Law Enforcement may consult with other law enforcement agencies on a case-by-case basis as needed.

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(B) Authorized Law Enforcement is authorized to investigate and enforce violations of this ordinance. This may include observing persons engaged in activities under this ordinance to ensure that activities are lawful. Authorized Law Enforcement shall conduct such activities in good faith and in accordance with good law enforcement practices and may take such actions as appropriate to the circumstances and under applicable laws.

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(C) Authorized Law Enforcement may issue warnings and/or citations to individuals or entities who violate this Ordinance. Such warnings and/or citations are considered to be civil in nature, rather than criminal. Such authorization does not affect the federal enforcement that may be available for enforcement purposes.

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(D) Authorized Law Enforcement has authority to confiscate and seize equipment, timber or other forest products, vehicles or any other equipment used in violating this ordinance.

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(1) If equipment, vehicles or weapons are confiscated and seized, such equipment, vehicles or weapons shall be considered evidence and properly recorded and secured with the Tribe's Public Safety Department.

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(2) Unless ordered by the Court or subject to confiscation under other applicable law, if the alleged violator pays the amount of the citation before the court hearing date, the confiscated and other evidence shall be returned to the violator.

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(E) The citation must be served on the person responsible for the violation in a timely manner with copies delivered to the Tribal Court and Tribal Prosecutor within three (3) business days of service.

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(1) The Tribal Prosecutor shall use his or her discretion to prosecute violations of this ordinance.

(2) Persons convicted of violations to this ordinance shall be subject to the penalties herein described.

(3) In addition to forfeiture actions the Tribal Prosecutor may seek enforcement of any and all parts of this ordinance by Tribal Court actions seeking injunctions or restraining orders. The Tribal Prosecutor may seek an emergency order from the Tribal Court to restrain or enjoin any violation that is jeopardizing the health or safety of any person. Such an order may be sought and issued ex parte if the Tribe shows a good faith effort to serve notice on the necessary parties.

(4) If the Tribal Court finds the person not guilty of the alleged violation, any property or equipment seized by the Authorized Law Enforcement shall be returned to the person.

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(F) Penalties.

(1) Any person found guilty of this ordinance shall be assessed of a fine ranging from \$200.00 to \$5,000. In assessing the fine, the Court shall consider the severity of the offense, the acceptance of responsibility by the charged person, the number of previous convictions, and deterrence to others.

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(2) Normal civil remedial money penalties are as follows:

(a) Class A Infractions, not less than \$500 or more than \$5,000.00.

(b) Class B Infractions, not less than \$300 or more than \$5,000.00.

(c) Class C Infractions, not less than \$200 or more than \$5,000.00.

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(3) When any person is found guilty of a violation, and such person has been convicted of a previous violation of this ordinance within a period of one year, there shall be a mandatory revocation of all privileges regulated under this ordinance for a minimum of

two years, and the infraction penalties may be enhanced as follows and other remedies as the Tribal Court deems appropriate:

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- (a) For a Class A Infraction, \$5,000.00.
- (b) For a Class B Infraction, not less than \$1,000.00 nor more than \$5,000.00.
- (c) For a Class C Infraction, not less than \$500.00 nor more than \$5,000.00.

(4) For a third violation of this ordinance within a period of one (1) year the penalty shall be \$5,000.00 and a mandatory lifetime revocation of all privileges regulated under this ordinance and other remedies as the court deems appropriate.

(5) In lieu of or in addition to any other penalty, the Tribal Court may also order that equipment or property seized by Authorized Law Enforcement not be returned to the violator and the equipment or property to become permanent property of the Conservation Department to be used of or disposed of at the Tribal Council's discretion.

(6) In lieu of or in addition to any other penalty, any person found guilty of violating this ordinance may be required by the Tribal Court to provide community service.

(7) The Tribal Court may also order suspension of privileges to harvest forest products for a period not to exceed five years.

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(8) The Tribal Court may, in addition to the money penalty described herein grant such other relief as is necessary and proper for the enforcement of this ordinance.

Section 22.27, Parties to a Violation - Attempt to Violate

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(A) Whoever is concerned in the commission of a violation of this ordinance is a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(B) A person is concerned in the commission of a violation if the person:

- (1) Directly commits the violation;
- (2) Aids and abets the commission of the violation; or
- (3) Is a party to a conspiracy with another to commit a violation or advises, hires, or counsels or otherwise procures another to commit it.

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(C) Any person who attempts any violation of this ordinance shall be subject to the same class of infraction if they had completed all the steps for a violation. An attempt to commit a violation requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation and that the actor does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent

and would commit the crime except for the intervention of another person or some other extraneous factor.

Section 22.28 Burden of Proof and Statute of Limitations

(A) The burden of proof for citations issued under this ordinance, unless specified otherwise, shall be by preponderance of the evidence, which is a showing that it is more likely than not that the facts alleged are true.

(B) A citation for a violation of this ordinance must be issued within one (1) year after the commission of the violation.

Section 22.29 Civil Damages

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In addition to an action to impose civil remedial money penalties, the Tribe may also seek civil action for recovery of damages against any person or entity who violates this ordinance.

Section 22.30 Severability

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In the event that any provision of this ordinance is ruled illegal by a court of competent jurisdiction, the remaining provisions of this ordinance shall remain unaffected.

LEGISLATIVE HISTORY

1. Conservation Code was adopted by Tribal Council at a meeting held November 14, 1978 (Resolution #0637).
2. Sent to BIA - Great Lakes Agency approved on 11/17/78 by the Superintendent.
3. Letter from Elmer T. Nitzschke, Field Solicitor to Edwin Demery, Area Director of Minneapolis Area Office on comments dated January 24, 1979.
4. Memo from Minneapolis Area Office Director to Superintendent of Great Lakes Agency enclosed was the Solicitor's review of the S/M Conservation Code dated Feb. 9, 1979.
5. Letter to Tribal Chairman from Acting Superintendent of Great Lakes Agency which stated the approval of the Code and Field Solicitor's comments to the Area Director dated February 15, 1979.
6. Resolution #0641 making changes to the Conservation Code (Section 22.01) dated January 29, 1979.
7. Resolution #0730 is adopting Forestry Committee's Policies and Procedures to govern the forestry resources dated November 8, 1980.
8. Resolution #0746 making changes to Section 22.01 and 23.02 of the Conservation Code dated May 2, 1981.
9. Resolution #0766-1 making changes to Section 13.02 and 13.03 of the Conservation Code dated August 8, 1981. Resolution #0766 making changes to Section 32.04 and 32.04(a)(b) of the Conservation Code dated August 8, 1981.
10. Resolution #1026 adding a new section titled "Denial of Permit(s)" and adding new provisions to appropriate sections dated June 2, 1987. It was approved on June 16, 1987 by Council.

11. Ordinance Committee approved to go to Tribal Council for review at the November 28, 1988 Committee meeting with appropriate changes.
12. Tribal Council action to post at January 3, 1989.
13. Tribal Council approved on February 7, 1989 - Resolution #1127.
14. Recommended changes by the BIA passed by Tribal Council Resolution #1161 on July 18, 1989.
15. Section 20.16 (W) and 20.23 (C) added by Council resolution 102-97, January 8, 1997.
16. Ordinance amended by Tribal Council on February 7, 2006, Resolution No. 021-06. All sections updated, including adding committee by-laws and adding preference section, 22.17 into ordinance. (Section 22.17 originally approved as a policy by Council Motion, 4-3-01).
17. Amended by Tribal Council on February 7, 2006 and June 6, 2007 by incorporating the existing forestry committee by laws, existing policies including the Tribal preference policy, and many updates throughout the existing Chapter 22, including amending 22.6, Resolution No's 021-06 and 045-06.
18. On May 6, 2008, Tribal Council repealed existing Chapter 22 and adopted a new Chapter 22 that renumbered and had changes clarifying numerous sections and incorporated enforcement and other relevant sections of Chapter 20. This was done by Resolution No. 031-08. BIA reviewed Chapter 22 revisions and had comments, but did not approve the 2008 revisions.
19. The proposed 2008 revisions were amended by the Tribal Council on September 18, 2009 through Resolution No. 083-09. The revisions include amending Sections 22.4 (Article I.B), 22.4 (Article II.A), 22.10, 22.12(A), 22.12(B), 22.12(C)(1), and 22.13 (C)(2); creating new Sections 22.12(A)(9), 22.12(A)(10), and 22.12(C)(8); deleting Section 22.12(B)(3); and renumbering Sections 22.12(B)(4-6).
Approved by the BIA on April 16, 2012, except for Section 22.24, and with the correction of a typo in the citation to 25 CFR in Section 22.13. Section 22.24, regarding the need for BIA approval of future amendments, was deleted.
20. On August 17, 2010, a new Section 22.11 (A)(3) was added and typographical corrections to Section 22.22 were made by the Tribal Council by Resolution No. 054-10.
21. On July 7, 2015, Tribal Council repealed existing Chapter 22 and adopted a new version of Chapter 22 that renumbered, reorganized and made changes clarifying numerous sections. Substantive changes include the 2010 revisions, as amended, as well as additional language to clarify jurisdictional authority, definitions, harvest of ginseng, forest roads, permits for sale of firewood and on how sales of forest products are handled. This was done by Resolution No. 053-15. Approved by the BIA on _____.

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All timber, except firewood, removed from tribal boundaries will be scaled by the forestry staff. This section does not apply to lands enrolled in State of Wisconsin Managed Forest Law or Forest Crop Law.

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ON TRIBAL TRUST OR TRIBAL FEE LAND

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No products cut for personal use may be sold, given away, or exchanged for cash, goods, or other services.

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All products harvested under this permit are to stay within the 1856 reservation boundary.

The maximum allowable cut will be up to five full cords.

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Personal use means use by the tribal member holding the permit and his or her immediate household.

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ON TRIBAL TRUST OR TRIBAL FEE LAND

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HOME BUILDING OR OTHER SIMILAR LARGE BUILDINGS

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Section 22.13 Forestry Practices on Tribal Trust Lands

The following activities require the activity to be brought to the Forestry Committee and approval by the Tribal Council. In addition, the activity needs approval and a permit by the Bureau of Indian Affairs pursuant to 25 C.F.R. §163.26(a). Except for the provisions specifically listed below, the Bureau of Indian Affairs controls all aspects of the contract. Additionally, federal enforcement and penalties may be used in addition to Tribal penalties.

TIMBER SALE CONTRACT:

The BIA Forester presents a proposed sale to the Forestry Committee.

The Forestry Committee makes a recommendation to Tribal Council.

The BIA Forester will advertise all timber sales for trust land areas.

All Timber Sale advertisements will be advertised on the open market.

Tribal bidding preference, Section 22.22 will apply.

The advertisement will identify area to be cut, acreages to be cut and insurance requirements.

Timber sale contracts are sent to and awarded by the Tribal Council and the Bureau of Indian Affairs.

Except as specifically identified in this ordinance, the Bureau of Indian Affairs will oversee all aspects of the timber sale.

FOREST PRODUCT FOR SALE PERMIT. Adult Tribal members may obtain a permit from the Bureau of Indian Affairs to harvest and sell or trade forest products, such as cedar, white birch, firewood, moss, flora, etc., but not ginseng.

- (1) The Tribal member must present a plan to the Forestry Committee identifying the purpose, designating the amount of forest product to be removed and the area where the forest product will be harvested from.
- (2) The Forestry Committee will make a recommendation to the Tribal Council.
- (3) If the Tribal Council approves the request, the request will be forwarded to the BIA Forester.
- (4) The Forest Product for Sale Permit will be awarded and managed by the Bureau of Indian Affairs.
- (5) The Tribal member is responsible to pay stumpage as determined by the Bureau of Indian Affairs.
- (6) Except as specifically identified in this ordinance, the Bureau of Indian Affairs will oversee all aspects of Forest Product for Sale Permit.

EMERGENCY PERMITS

- (1) Emergencies generally include blow down, disease, flood and other acts of the Creator.
- (2) The BIA Forester will present a plan to address to the emergency to the Forestry Committee when the emergency is on trust land and the Tribal Forester will present the plan when the emergency is on tribal land owned in fee simple.
- (3) The recommendation may be in excess of the Annual Allowable Cut.
- (4) The Forestry Committee will make a recommendation to the Tribal Council.
- (5) Emergency timber sale contracts are sent to and awarded by the Tribal Council and the Bureau of Indian Affairs.
- (6) Except as specifically identified in this ordinance, the Bureau of Indian Affairs will oversee all aspects of the emergency timber sale.

Definitions.

- (1) "Advertisement for bids" means an invitation by the BIA for soliciting bids for a Tribal Timber sale.
- (2) "Approved Enterprise Agreement" means an agreement between the Tribe and the Tribal Forest Enterprise, which has been approved by parties, and the BIA.
- (3) "BIA" means the United States Bureau of Indian Affairs.
- (4) "Bid documents" means collectively, the bidding requirements and the proposed contract documents, including addenda issued prior to receipt of bids.
- (5) "Complete bid" means a complete properly signed offer submitted in accordance with the Advertisement for bid requirements, by a logger to contract or perform the work designated, or portion thereof for the amounts stipulated therein. It shall be comprehensive enough that the offer requires no further inquiry explanation, or clarification.
- (6) "Emergency" means a situation usually caused by catastrophic events such as tornadoes, floods, storms, and other similar events that requires tree removal immediately.

- (7) "Enrolled Member" means a person who is an enrolled member of the Stockbridge-Munsee Community.
- (8) "Enterprise" means any business, corporation, partnership, sole proprietorship, or joint venture.
- (9) "Indian Tribe" means a federally recognized Indian Tribe.
- (10) "Preference" means the Tribal logger will be selected for contracting according to a priority list so long as the Tribal logger is responsibly qualified.
- (11) "Tribal Forest Enterprise" means a Tribal enterprise that is initiated and organized by the Tribe.
- (12) "Tribal logger" means any enterprise that is at least 51% owned by one or more enrolled member(s) of the Stockbridge-Munsee Community.
- (13) "Tribe" means the Stockbridge-Munsee Community.

- (a) In emergencies, the Tribal Forestry Department shall make reasonable efforts to notify all current Approved Tribal Loggers.
 - (i) Approved Tribal loggers must meet the requirements of Subsections 22.22 (E)(7)-(8)5(G)-(H).
 - (ii) Approved Tribal loggers shall be required to meet appropriate bid deadlines, project completion dates, and other applicable conditions and requirements of the project.