



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 05- 74

of the

### SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

**WHEREAS**, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

**WHEREAS**, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

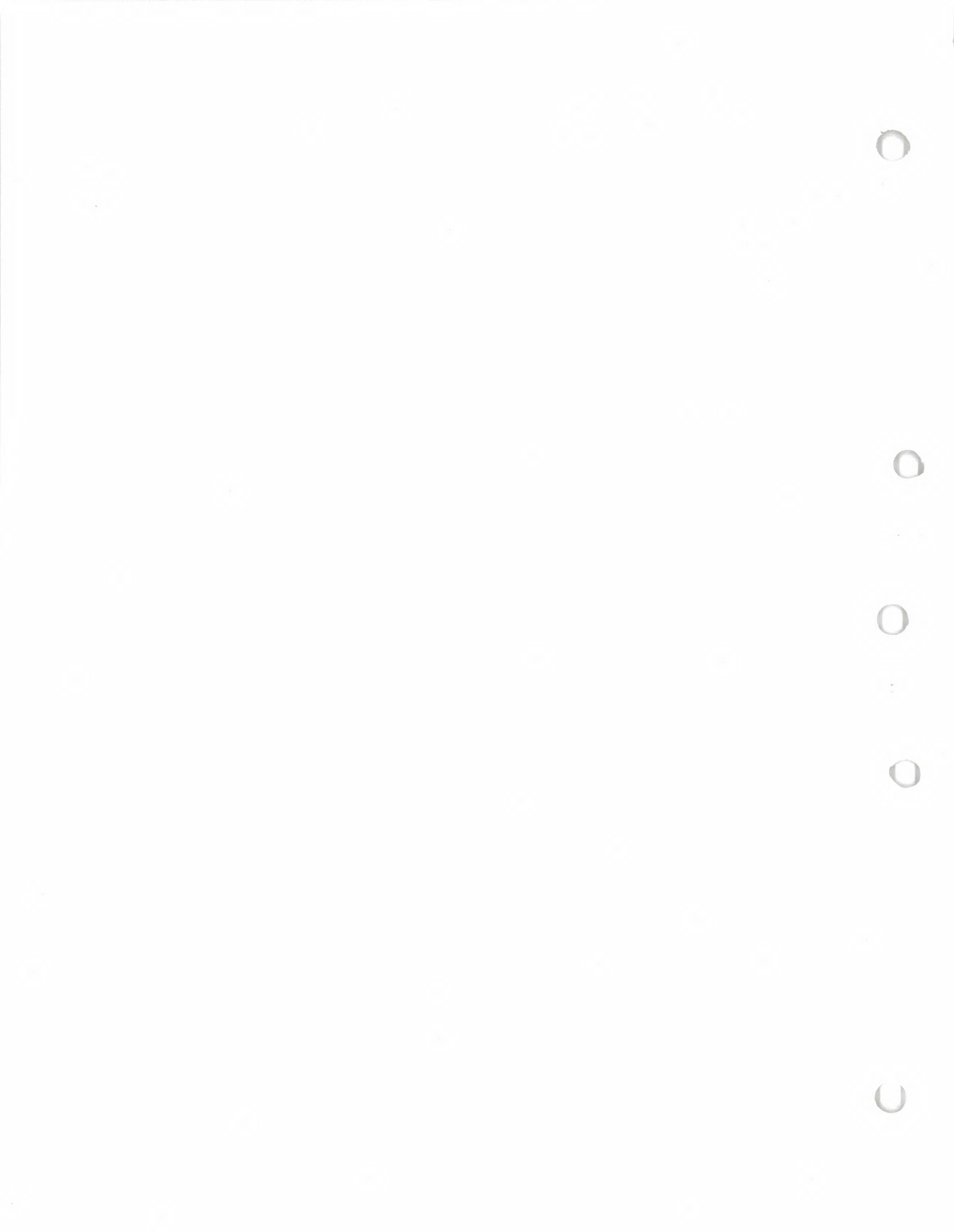
**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

**WHEREAS**, it is in the best interests of the Squaxin Island Tribe to manage the forest resources of the Reservation so that healthy forest stands and potential timber yield may be sustained over the long term while minimizing harm to other natural and cultural resources of Squaxin Island; and

**WHEREAS**, the Tribal Council adopted the Squaxin Island Forest Practice Act & Regulations on February 11, 1982, but the Squaxin Island Forest Practice Act & Regulations was not codified at that time; and

**WHEREAS**, on August 26, 2004, by Resolution No. 04-56, the Tribal Council approved the Squaxin Island Forest Practice Act as Chapter 7.36 of the Squaxin Island Tribal Code; and

**WHEREAS**, the Tribal Council now desires to amend the Forest Practice Act to incorporate corrections as well as modifications to the Forest Management Plan;



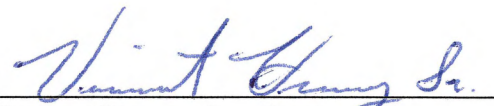
**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council hereby adopts the Squaxin Island Forest Practices Act and Regulations, as amended (copy attached hereto).

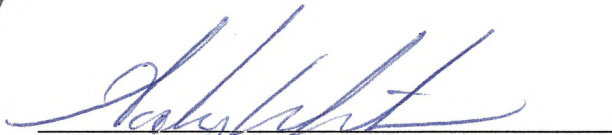
**CERTIFICATION**

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 25<sup>th</sup> day of August, 2005, at which time a quorum was present and was passed by a vote of 4 for and 0 against, with 0 abstentions.



**James L. Peters, Chairman**

Attested by:   
**Vincent Henry, Sr., Secretary**



**Andrew D. Whitener, Vice Chairman**



## Chapter 7.36

### FOREST PRACTICES ACT AND REGULATIONS

**Sections:**

- 7.36.005 Purpose.**
- 7.36.010 Authority.**
- 7.36.020 Definitions.**
- 7.36.030 Applications and notification procedures.**
- 7.36.040 Road construction and maintenance.**
- 7.36.050 Timber harvest.**
- 7.36.060 Reforestation.**
- 7.36.070 Fire controls.**
- 7.36.080 Forest chemicals.**
- 7.36.090 Wildlife.**
- 7.36.100 Supplemental directives.**

**7.36.005 Purpose.**

A. The purpose of the Forest Practices Act (FPA) and Regulations is to protect the forest land environment, to insure the enhancement of all Squaxin Island natural resources, both commercial and environmental, and to promote responsible forest management.

B. Within the scope of the stated purposes, these regulations have been prepared to exercise the right of the Squaxin Island Indian Tribe and its members to make its own laws and be governed by them and to exercise the treaty right of self-government guaranteed the Squaxin Island Tribe by its inherent sovereignty, the Medicine Creek Treaty, and the laws of the United States. The goal of this chapter is to contribute to the maintenance of the Squaxin Island Tribe and the Squaxin Island Reservation as a social, cultural, political and economic unit for the continuing benefit

and prosperity of the members of the Squaxin Island Tribe. These regulations shall be interpreted so as to implement this goal so long as all persons subject to these regulations are guaranteed due process and equal protection under the laws of the Squaxin Island Tribe Specific objectives to be implemented by these regulations are listed below:

1. To insure an ecologically balanced environment that is compatible with the desires of tribal members as expressed by the Squaxin Island Tribal Council;
2. Afford protection to allow timber growth and require such adequate reforestation of approved tree species on forest lands as will reasonably utilize the timber growing capacity of the soil following current timber harvest;
3. Afford protections to aquaculture, forest soils, water and other reservation resources by utilizing all reasonable methods of technology in conducting forest practices;
4. Recognize both tribal and private interests in the marketable growing and harvesting of timber;
5. Achieve compliance with all applicable requirements of federal and tribal law with respect to sources of water pollution from forest practices; and
6. To insure compliance with land use planning goals and concepts contained in tribal zoning regulations. (Res. 04-56 (part))

**7.36.010 Authority.**

The statutes of this chapter and the regulations pursuant thereto, are enacted and enforced by the Squaxin Island Tribe for the purposes stated in this chapter. The authority of the Squaxin Island Tribe to regulate resource management practices pre-dates



written history, and is based on the inherent sovereignty of the Squaxin Island Tribe, the Medicine Creek Treaty, and the Constitution and the laws of the Squaxin Island Treaty and the United States of America.

A. Policy.

1. The Squaxin Island Tribal Council has determined it to be in the best interest of the Squaxin Island Tribe to create and maintain a system of Forest Practices Act laws and forest practice regulations applying to all of Squaxin Island Reservation to ensure that the healthy forest lands of the reservation be managed consistent with sound forest management practices and a policy of natural resource and aquaculture protection.

a. Pursuant to Resolution No. 04-56 of the Squaxin Island Tribal Council, the Squaxin Island Tribal Council has authorized and directed the promulgation of a Forest Practices Act and forest practices regulations establishing minimum standards for forest practices establishing guidelines for reservation fish, aquaculture and wildlife protection, and setting forth necessary administrative provisions and procedures necessary for implementation of the Act and regulations.

b. Forest practice regulations shall be administered and enforced by the Natural Resources Department except as otherwise provided in the Act.

2. Classes of Forest Practices.

a. Class I forest practices are operations that require an application and notification to conduct forestry activities involving environmental risk. The process requires an environmental checklist in compliance with Squaxin Island Tribe Department of Natural Resources guidelines. Class I forest practices are defined as having the potential for a

substantial impact on the environment. The Natural Resources Department must approve or disapprove forest practice applications within thirty (30) days except in cases wherein additional time is requested by Tribal Council under the regulations.

b. Class II forest practices are minimal operations determined to have no direct potential for damaging a tribal resource or the environment. The Natural Resources Department requires an application and notification for compliance. This definition includes gathering nontimber forest products.

3. Emergency Forest Practices. In certain emergencies, as specified in the regulations, the application or notification may be submitted within forty-eight (48) hours after commencement of the practice.

4. Alternate Plans. All forest practice operations must comply with this Act and further with the regulations promulgated pursuant to it unless an alternate plan has been approved by the Natural Resources Department. Applicants may propose and the Natural Resources Department may accept an alternate plan for any or all of the activities described in the application or notification to the extent that the alternate proposal provides compliance with the purposes and policies of this Act and the regulations as well or better than could be achieved through applications of the specific provisions of the Regulations.

The alternate plan process can be used as a tool to deal with a variety of situations, including where the cumulative impacts of regulations disproportionately impact a landowner. In some instances, an alternate plan may be used to make minor on-the-ground modifications which result in significant operational efficiencies. The

alternate plan process may be used to address circumstances where a landowner has an economically inaccessible unit. The alternate plan process may also be used to facilitate voluntary landscape, riparian or stream restoration. In all cases, the alternate planning process will result in a plan that provides protection to tribal resources at least equal in overall effectiveness as provided by the Act and rules while seeking to minimize constraints to the management of the affected lands.

Contents of alternate plans:

a. A map of the area covered, at a scale acceptable to the department showing the location of any affected streams and other waters, wetlands, unstable slopes, and existing roads. The map must also show the location of proposed road construction, timber harvest and other forest practices;

b. A description of how the alternate plan provides tribal resource protection to meet the approval standard, including a description of the proposed alternate management strategy, prescriptions, and where applicable, aquatic resource enhancements;

c. A list of the forest practices rules that the alternate management plan is intended to replace;

d. Where applicable, descriptions of an implementation schedule; and

e. When multiple forest practices applications are submitted with the same alternate plan or when an alternate plan has been used for previous applications, justification that the sites included in the plan share sufficient common physical characteristics and elements to be considered together.

5. Notices to Comply, Stop Work Orders.

a. Violations. When a forest practice has been completed, the Natural Resources Department may issue a notice to comply, as specified in Section 7.36.100(E)(3) of these regulations, requiring the operator or landowner to correct or compensate for damage to a reservation resource where there was:

- i. A violation of this Act or regulation;
- ii. A deviation from the approved application of notification; or
- iii. A willful or negligent disregard for damage to reservation resources.

b. Other Required Action. Before a forest practice has been completed, the Natural Resources Department may issue either a notice to comply to the operator and/or landowner, as specified in Section 7.36.100(E) (3) of this chapter or a stop work order to the operator, as specified in Section 7.36.100(E) (4) of this chapter requiring him to prevent potential or continuing damage to reservation resources.

6. Administrative and Judicial Appeals. Forest landowners, allottees, timber owners, operators and any person aggrieved by the approval or disapproval of an application or notification to conduct a forest practice may appeal to the Squaxin Island Tribal Council certain actions and omission of the Natural Resources Department and to the Tribal Court certain actions and omissions of the Tribal Council including: approval or disapproval of an application or notification, notice to comply, stop work orders, or civil penalties assessed. (Res. 04-56 (part))

### **7.36.020 Definitions.**

A. General Definitions.

“Act” means the Forest Practices Act of the Squaxin Island Tribe.



“Basal area” means the area in square feet of the cross-section of a tree bole measured at four and one-half feet above the ground.

“Borrow pit” means an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

“Chemicals” mean substances applied to forest lands of timber to accomplish specific purposes and including pesticides, insecticides, rodenticides, plant-growth regulators, fungicides, fertilizers, desiccants, fire retardants when used in controlling burning, repellants, oil, dust-control agents (other than water), silt and other materials that may present hazards to the environment.

“Commercial tree species” means any species which are capable of producing a merchantable stand of timber on the particular site.

“Completion of harvest” means one or more of the following:

1. Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas;

2. Scheduled completion of any slash disposal operations where the Natural Resources Department and the applicant agree within six months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

3. Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application of receipt of a notification, provided that delay of reforestation under this subsection is permitted only to the extent reforestation would prevent or

unreasonably hinder such site preparation or rehabilitation of adjoining lands.

“Contamination” means the introducing into the atmosphere, soil, or water sufficient quantities of substances as may be injurious to health, safety or to domestic, commercial, aquaculture or recreational uses, or to wildlife, fish or other aquatic life.

“Conversion to use other than commercial timber” means a legal conversion to an active use which is incompatible with healthy forest or timber growing.

“Cultural resource” means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of Squaxin Island Tribe.

“Debris” means woody vegetative residue less than three cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a reservation resource.

“Drainage structure” means a construction technique or feature that is built to relieve surface water runoff and/or intercepted groundwater from roadside ditches to prevent excessive buildup in water volume and velocity. A drainage structure is not intended to carry any typed water. Drainage structures include structures such as: cross drains, relief culverts, ditch diversions, water bars, or other such structures demonstrated to be equally effective.

“End hauling” means the removal and transportation of excavated material, pit or quarry overburden or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

“Erodible soils” means those soils exposed or displaced by a forest practice

operation that would be readily moved by water.

“Fertilizers” means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

“Forest land” means all land which is capable of supporting a merchantable stand of timber and is not being actively used for an activity incompatible with timber growing.

“Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing forest products including, but not limited to:

1. Road and trail construction;
2. Harvesting, final and intermediate;
3. Pre-commercial thinning;
4. Reforestation;
5. Fertilization, or the application of any chemical;
6. Prevention and suppression of disease and insects;
7. Salvage of trees;
8. Brush control;
9. Firewood cutting, if not for personal use.

Forest practice shall also include preparatory work such as tree marking, surveying, timber cruising and road flagging; or removal or harvest of specialized forest products from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms and other products which cannot normally be expected to result in damage to forest soils, timber or other reservation resources.

“Herbicide” means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any tree, bush, weed or algae and other aquatic weeds.

“Improved stock” means seed or seedlings resulting from a tree improvement program, tested and verified.

“Insecticide” means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any insect, other arthropods or mollusks.

“Key wildlife habitat” means the habitat of any threatened or endangered species, or where specific management practices are needed to prevent destruction of critical wildlife habitat.

“Limits of construction” means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

“Load bearing portion” means that part of the road, landing, etc., which is supporting soil, earth, rock, or other material directly below the working surface and only the associated earth structure necessary for support.

“Low impact harvest” means use of any logging equipment, methods or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the Department of Natural Resources.

“Major tractor road” means one that involves extensive side casting or similar disturbance of soil which may cause material damage to a reservation resource or would destroy the integrity of a shoreline protection zone or streamside protection zone.

“Merchantable stand of timber” means a stand of trees that will yield logs and/or fiber:



1. Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

2. Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

“Notice to comply” means a notice issued by the Natural Resources Department and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to reservation resources which resulted from forest practices.

“Operator” means any person engaging in forest practices except an employee with wages as his or her sole compensation.

“Ordinary high-water mark” means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continues in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, provided, that in any areas where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining marine water shall be the line of mean higher high tide.

“Partial cutting” means the removal of a portion of the merchantable volume in a stand of timber so as to leave a well distributed stand of residual, healthy commercial timber that will reasonably utilize the productivity of the soil as determined by the Natural Resources Department.

“Pesticides” mean any insecticide, herbicide or rodenticide but does not include non-toxic repellants or other chemicals.

“Plantable area” means an area capable of supporting a commercial stand of timber

excluding lands devoted to permanent roads and other rights-of-way, that portion of the shoreline protection zone or streamside protection zone where scarification is not permitted and any other area devoted to use incompatible with commercial timber growing.

“Power equipment” means all machinery operated with fuel burning or electric motors, including heavy machinery, chain saws, portable generators, pumps and powered backpack devices.

“Rehabilitation” means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

“Relief culvert” means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

“Reservation” means land, timber, water, fish, wildlife, and aquaculture and in addition shall mean capital improvements of the Squaxin Island Indian Reservation.

“Residual old-growth” means the stand of timber or individual trees remaining after harvest of a portion of the volume of an old-growth stand.

“Riparian function” means and includes bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

“Rodenticide” means any substance or mixture of substance intended to prevent, destroy, or mitigate rodents or any other vertebrate animal which may be declared a pest.

“Salvage” means the removal of snags, down logs, windthrows or dead and dying material.

“Scarification” means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

“Shoreline protection zone” means all of Squaxin Island and other specified areas alongside natural marine waters where specific attention must be given to the measures that can be taken to protect reservation resources. This zone shall be measured from the ordinary high-water mark of the body of water and measure:

1. Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high-water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Natural Resources Department;

2. One hundred (100) feet measured on a horizontal plane from the ordinary high-water mark on each side of any other water (measured from bankfull as determined by the Natural Resources Department).

“Side casting” means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

“Site class” means a grouping of site indices that are used to determine the fifty (50) year or one hundred (100) year site class by using the state soil survey and an associated table.

“Skid trail” means a route used by tracked or wheeled skidders to move logs to a landing or road.

“Slash” means pieces of woody material containing more than three cubic feet resulting from forest practice activities.

“Spoils” means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

“Stop work order” means the stop work order described in Section 7.36.100(E)(4) of this chapter and may be issued by the Natural Resources Department to stop violations of the Forest Practices Act or to prevent damage and/or to correct and/or compensate for damages to reservation resources resulting from forest practices.

“Streamside protection zone,” measured one hundred (100) feet on each side of any wetland, bog or nonfish-bearing tributary not included in the shoreline protection zone (measurement taken horizontally from bankfull width as determined by the Natural Resources Department).

“Timber” means forest trees, standing or down, of a merchantable tree species.

“Water bar” means diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

“Weed” means any noxious or invasive plant which tends to overgrow or choke out native vegetation.

“Windthrow” means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

B. Water Typing—Types 1, 2 and 3 Waters.

1. Type 1 water: all marine water between higher high tide and one-half mile seaward surrounding the island within its ordinary high-water mark, including all associated beaches, estuaries, and marshes. The Squaxin Island Tribal Council has determined that these waters constitute a critically sensitive resource that is absolutely necessary to tribal and individual tribal member's aquaculture.

2. Type 2 water: all waters which are not classified as Type 1 water, or Type 3 water, including:

a. All perennial or intermittent streams or drainages which have a well-defined channel which may or may not drain into a Type 1 water;

b. All land-locked waters including but not limited to lakes, ponds, swamps, bogs and marshes.

3. Type 3 water: all ground or subsurface water used for domestic or public water supply.

Natural waters: only excludes water conveyance systems which are artificially constructed and actively maintained from irrigation or aquaculture.

Intermittent streams: are those segments of streams that normally go dry for a portion of a calendar year.

Drainages or drainage ways: have short periods of seasonal or storm runoff.

C. Classes of Forest Practices. There are two classes of forest practices under this Act. These classes include all activities conducted on forest land in categories that recognize their potential environmental impact on reservation resources. All forest practices, regardless of whether or not they require an application or notification for approval, must be conducted in accordance with the Forest Practices Act.

1. Class I Forest Practices. All those operations which the Natural Resources Department has determined to have a potential for major significant impact on critical reservation resources. Helicopter logging will be prioritized for approval in order to reduce environmental impacts. A detailed environmental statement will be required before these forest practices may be conducted. An application for a forest practices permit must accompany all application/notification paperwork.

Class I forest practices include:

a. All logging using any type of cable yarding system, tractors or other heavy equipment, or helicopter logging;

b. Road construction and/or maintenance;

c. Site preparation or scarification;

d. Rehabilitation;

e. Aerial or ground application of chemicals;

f. Slash or brush control;

g. Log rafting and log storage, including log dump facility construction, pile driving, and the construction of any temporary or permanent structure affecting the beach or Type 1 water;

h. Transporting any vehicle or equipment for forestry purposes in excess of two thousand (2,000) pounds across any beach;

i. Pit development;

j. Other critical activities which may be identified from time to time by the Natural Resources Department prior to the approval or disapproval of a forest practice application.

2. Class II Forest Practices. All those operations that have been determined by the Natural Resources Department to have no direct significant potential for damaging a

resource are Class II forest practices. Class II forest practices require a permit application and approval by the Natural Resources Department.

The following operations may not be commenced without notification or application:

- a. Culture and harvest of Christmas trees and seedlings;
  - b. Tree planting and seeding;
  - c. Forestry or other research studies and tests by an established research organization;
  - d. Removal of live trees, shrubs, and plants, where the root system is attached, so long as removals are not conducted below the ordinary high-water line of any waters;
  - e. Removal of any forest products (including live, dead and down material) for personal use; i.e., firewood, fence posts, poles, ferns, fungi, salal, cascara bark and other medicinal species or floral greens etc.;
- Note: The removal and transportation of these materials may require an operator's card, cutter's card, hauling permit for transportation on public roads, or tidelands access permit. Contact Natural Resources Department for information.
- f. Emergency fire control and suppression;
  - g. Precommercial thinning;
  - h. Slash burning pursuant to a burning permit;
  - i. Camping, hunting and fishing by tribal members.

D. New Review or Forest Practices Classification.

1. The Natural Resources Department shall establish which forest practices not already covered in subsections above, shall be included in each of the two classes, and directs that these rules:

a. Exclude from Class II any categories of forest practice which the Squaxin Island Tribal Council finds to have a direct potential for damage to reservation resource; and

b. Include in Class I all categories of forest practice which the Natural Resources Department finds to have potential for a substantial impact on the environment of the type justifying an evaluation as to whether or not a detailed statement must be prepared.

2. The Squaxin Island Tribal Council finds that the regulations contained in subsections (D)(2)(a) and (b) of this section meet those criteria to the maximum extent feasible in light of the limited information now available, but that further refinement of these sections may be necessary as additional experience develops under the Forest Practices Act. Therefore, the Natural Resources Department is requested to report to the Squaxin Island Tribal Council at least annually on any categories of forest practice which, in the opinion of the Natural Resources Department, should be reclassified:

a. To make the classifications better conform to these criteria;

b. To provide greater clarity and certainty for potential applicants and others as to which forest practice activities are in Classes I and II. (Res. 04-56 (part))

### **7.36.030 Applications and notification procedures.**

A. Application and Notification Policy.

1. Definition.

a. Application: required for any logging or associated activity. The application process includes acquiring a forest practices permit and a Tidelands Access Permit (code reference). The Natural Resources

Department shall have thirty (30) days to approve or disapprove an application. The Natural Resources Department shall have the authority to require special restrictions when needed.

b. Notification (notification request): required when owner plans to log his or her timber by hiring an independent contractor. The Natural Resources Department shall have sixty (60) days to approve or disapprove a notification. The Natural Resources Department shall have the authority to require special restrictions when needed.

2. No Class I forest practice shall be commenced or continued unless the Natural Resources Department has received and approved an application or notification for Class I forest practices pursuant to the Act. Where the time limit for the Squaxin Island Tribe to act on the application or notification has expired, and none of the conditions in subsection B of this section exist, the operation may commence.

3. At the option of the applicant, applications or notifications may be submitted to cover a single forest practice or any number of forest practices within reasonable geographical boundaries as specified by the Natural Resources Department.

4. The Natural Resources Department shall prescribe the form and contents of the application and notification which shall specify what information is required for the Natural Resources Department to approve or disapprove the application/notification.

5. Applications shall be signed by the landowner and timber owner, if different, and operator. A consent form shall also be signed by the landowner, timber owner and operator acknowledging that they are

familiar with the Forest Practices Act and Regulations, specifically site preparation agreeing to be bound by tribal laws.

6. Transfer of an approved notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the Natural Resources Department. Before transfer can be approved a consent form must be signed by the new landowner, timber owner or operator (pursuant to subsection (A)(5) of this section) acknowledging that they are familiar with the site preparation and reforestation requirements of the Forest Practices Act and Regulations.

7. Applications and notifications should be delivered to the Natural Resources Department at the Squaxin Island Tribal Offices in Kamilche, S.E. 10 Squaxin Lane, Shelton, WA 98584. Requests should be in person or by registered or certified mail.

8. Notifications shall be required to furnish the following information but not limited to:

- a. Type of operation;
- b. Method of operation;
- c. Type of equipment;
- d. Legal subdivision and proof of survey;
- e. Plan of operation compatible with the Forest Practices Act;
- f. Acreage involved. Contact the Squaxin Island Natural Resources Department for acreage determinations (Forest Management Plan, Ch. 3, p. 15; Ch. 4, p. 18));
- g. Proximity to Type 1 or 2 waters;
- h. A map or set of maps (furnished by Natural Resources Department) delineating the operating area(s);



i. A list of all identified sites of archaeological, cultural or historical significance;

j. Necessary permits required by the Tribe, Corps of Engineers, state and federal agencies, etc., including BIA approval where required and tribal tideland access permits.

#### B. Application/Notification Time Limits.

1. An application shall be approved or disapproved within thirty (30) days. A properly completed notification shall be approved or disapproved within sixty (60) days for Class I forest practices. Exceptions include:

a. To the extent the Natural Resources Department is prohibited from approving the application/notification by the act, tribal, or federal law;

b. For application/notification when the Natural Resources Department has within thirty (30) days determined that a potential for significant harm to the environment exists, the applicant must respond in detail in writing to specific concerns of the Natural Resources Department within ninety (90) days. The applicant must then be approved/disapproved within thirty (30) days after receipt of this response;

c. If seasonal field conditions prevent the Natural Resources Department from being able to properly evaluate the application/notification, the Natural Resources Department shall delay consideration until the weather permits adequate field evaluation. The proper time period shall commence only upon completion of adequate field evaluation;

d. Where the applicant has requested more time to secure necessary permits.

2. If the Natural Resources Department fails to approve or disapprove an application/notification of any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may commence; provided, that the applicant(s) adhere to all regulations set forth in the Forest Practices Act and Regulations and the Natural Resources Department has not been prohibited by law from approving the application/notification.

e. Approval and Disapproval Policy.

1. Application/notification shall be approved except to the extent the Natural Resources Department finds:

2. The application is incomplete, improperly filed or inaccurate.

3. The Natural Resources Department determines that the application/notification for the proposed operation is inconsistent or incompatible with the goals and policies of the Forest Practices Act and Regulations and no acceptable alternate plan has been provided.

4. The operator has been enjoined from conducting forest practices by the Tribal Council under the act.

5. Natural Resources Department finds that the proposed activity would cause significant and irreversible harm to the reservation or the proposed operator poses a significant risk of environmental harm.

6. All permits have to be secured by the time of approval.

a. If a notification is properly filed but portions of it must be disapproved, no portion of the proposed operations may be conducted until suitable alternate plans have been approved by the Natural Resources Department.

b. The Natural Resources Department shall notify the applicant of particular

operations or parts thereof disapproved and the reason for all disapprovals, citing the provision(s) of these regulations with which the proposed operations do not comply.

c. Approvals shall be effective for twelve (12) months from the date issued.

d. In all cases, the operator shall notify the Natural Resources Department seven days before the commencement of actual operations.

e. All approvals are subject to any conditions stipulated on the approved application/notification and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

D. Conversion to a non-forest use.

1. Those lands which an applicant has declared are to be converted to a nonforest use and are in fact converted within three years of completion of harvest.

2. Those lands the department determines should be exempted in whole or in part where the forest land has the likelihood of being reserved for future conversion. The applicant is encouraged to propose an alternate plan for reforestation on these lands.

3. Utility Rights-of-Way. Reforestation is not required for initial clearing or reclearing of utility rights-of-way in actual use for utility purposes or scheduled for construction of utility facilities within ten (10) years from the date of completion of harvest, provided that if the scheduled facility is not completed, the area shall be reforested within one year.

4. Public Lands. Reforestation is not required on the following lands unless required by regulation of the agency owning or acquiring the lands:

a. Lands owned in fee by a public agency which has budgeted for construction

within ten (10) years a specific project inconsistent with commercial timber production;

b. Lands being acquired by a public agency for construction within ten (10) years of a project that is inconsistent with timber production, if at the time of completion of harvest the public agency has entered into a binding contract for the purchase of the lands or initiated legal proceedings for the condemnation of the lands consideration.

E. Deviation from Prior Application or Notification. Substantial deviation from a notification of an approved application requires a revised application/notification. Other deviations may be authorized by a supplementary directive.

F. Emergency Forest Practices. No prior application/notification shall be required for emergency forest practices necessitated by or commenced during or immediately after fire, flood, windstorm, earthquake, or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator shall submit an explanation to the Natural Resources Department why such action was taken. Such emergency forest practices are subject to these regulations, provided, however, that the operator may take any reasonable action not unnecessarily damaging to the environment to minimize damage to forest lands, timber or reservation resources from the direct or indirect effects of the catastrophic event and provided further, the operator shall comply with any requirements of a notice to comply or stop work order as if conducted pursuant to an approved application/notification.

G. Application and Notification Expiration. The approval given by the Squaxin Island Tribal Council to an application/notification to conduct a forest

practice shall be effective for a term of one year from the date of approval. Included in the approval form shall be notification that the tribal Natural Resources Department may issue a stop work order. (Res. 04-56 (part))

**7.36.040 Road construction and maintenance.**

A. Policy. Roads covered in this section are designed only for use in forest practices and as temporary structures that will be abandoned. This section covers the location, design and construction, maintenance and abandonment of roads, bridges, stream crossings, quarries, borrow pits and disposal. Roads constructed for use in forest practices will be abandoned and rehabilitated no longer than three (3) years after becoming inactive (Forest Management Plan, Ch. 4, p. 22).

The appropriate design standard and the road location should be chosen to best balance economics and environmental objectives, including but not limited to:

1. Use the minimum design standard that produces a road sufficient to carry the anticipated traffic load safely;
2. Fit the road to the topography so that a minimum of alterations to the natural features will occur;
3. Minimize the locations in narrow canyons, marshes, wet meadows, natural drainage channels, in streamside protection zones and shoreline protection zones, nesting sites or key wildlife habitats, and sites of archaeological or historical significance;
4. Minimize the number of stream crossings;
5. Whenever practical cross streams at right angles to the main channel;

6. Avoid duplicative roads by keeping the total amount of construction to a minimum. Use existing roads and abandoned roads whenever practical and avoid isolating patches of timber which, when removed, may require unnecessary road construction;

7. Avoid locating roads on steep or unstable slopes or known slide-prone areas unless approved by the Natural Resources Department.

B. Location and Design.

1. Subgrade width should average not more than twenty (20) feet for single lane roads, exclusive of ditches, plus any additional width necessary for safe operation on curves and turnouts.

2. Design or construct cut and fill slopes to the normal angle of repose for the materials involved or at a lesser angle whenever practical.

3. All roads should be outsloped or ditched on the uphill side and appropriate surface drainage should be provided by the use of adequate cross drains, ditches, relief culverts, water bars, or diversion ditches.

4. Cross drains, relief culverts, and diversion ditches should not discharge onto erodible soils or overfill slopes unless adequate outfall protection is provided.

5. Install adequate cross drains, culverts, or diversion ditches on all forest roads to minimize erosion of the road bed and cut bank. These drainage structures shall be installed at all identifiable low points in the road gradient and where topography dictates, at other points specified by the Natural Resources Department.

6. Relief culverts installed on forest roads shall meet the following minimum specifications:



a. Be at least sixteen (16) inches in diameter or the equivalent;

b. Be installed sloping toward the outside edge of the road at a minimum gradient of three percent.

7. Special Situations. Problem areas should be reviewed with the Natural Resources Department or their delegated representatives.

C. Road Construction.

1. Right-of-Way Timber.

a. Merchantable right-of-way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

b. Avoid decking logs in draws.

c. Fall all trees that lie within the required right-of-way boundary.

d. Square buck all merchantable tops and buck to produce optimum grades and maximum utilization.

2. Danger Trees, Snags and Leaners.

a. Prior to subgrade construction, fall all danger trees, snags, leaners, as directed by the Natural Resources Department, which could unpredictably fall and hit the road.

b. Deck merchantable logs with right-of-way logs.

3. Grubbing and Debris Removal.

a. Remove all stumps and organic debris from load bearing portion of road profile.

b. Remove all stumps that fall within two feet of cut slopes.

c. Stumps may be permissible on steep slopes where they will aid in holding fill from slipping.

d. No debris shall be side cast within two hundred (200) feet of any Type 1 water or one hundred (100) feet of any Type 2 water.

e. All debris shall be cleaned out of ditches. When required by the Natural Resources Department, debris will be piled or end-hauled to a specific location.

4. Grade and Alignment Controls.

a. Horizontal and vertical alignment will be free flowing and consistently smooth without abrupt changes in direction.

b. The minimum radius of curve shall be eighty (80) feet, except as otherwise approved.

c. Maximum grade shall be twelve (12) percent.

d. Occasional grades of up to fifteen (15) percent shall require prior approval of the Natural Resources Department.

5. Fill Slopes and Fills.

a. During road construction, fills or embankments shall be built up by layering. Layers shall not exceed eighteen (18) inches, compacted.

b. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer.

c. Chemical compacting agents may be used only when approved by the Natural Resources Department.

d. Fill slopes shall normally not exceed the normal angle of repose.

e. Fills under six foot height must have at least two feet extra subgrade.

f. Fills over six foot height must have at least four feet extra subgrade.

g. Fill slope ratios, unless otherwise approved:

Common earth	1.5: 1
Rock	1.5: 1
Sandy soil	2: 1

6. Cut Slopes.

a. Cut slope ratios shall be as follows except as otherwise approved.

b. Cut slope ratios:

Common earth (on slopes over 70%)	0.75: 1
Common earth (on slopes to 70%)	0.5: 1
Hardpan, broken or soft rock	0.5: 1
Rock	0.25: 1

7. Stabilize Soils. When soil exposed by road construction appears to be unstable or erodible and is so located that slides, slips, slumps or washing may reasonably be expected to cause unreasonable damage to a water resource, then such exposed soil areas shall be seeded with native ground cover or be treated with means acceptable to the Natural Resources Department.

8. Channel Clearance. Clear stream channel of all debris and slash generated during operations immediately.

9. Drainage.

a. All required ditches, culverts, cross drains, drainage dips, water bars and diversion ditches shall be installed concurrently with the construction of the roadway.

b. Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outslowing or cross draining. Water bars, and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation.

10. Moisture Conditions. Construction should be accomplished when moisture and soil conditions are least likely to result in excessive erosion and/or soil movement.

11. End Haul Sidecasts. End haul or overhaul construction is required within two

hundred (200) feet of any Type 1 water (Shoreline Management Zone) and within one hundred (100) feet of any Type 2 water (Streamside Management Zone) or where there is a potential for massive soil failure from overloading on unstable slopes or for damage to an island resource as determined by the Natural Resources Department.

12. Waste Disposal. When spoil, waste and/or other debris is generated during construction, this material may be deposited or wasted in suitable areas or locations and be governed by the following:

a. Spoil or other debris shall be deposited no closer than two hundred (200) feet from any Type 1 water or one hundred (100) feet from any Type 2 water. Spoil or debris shall not be deposited in a location from which it will reasonably be expected to re-enter those waters, channels, or drainages.

b. When the spoil or other debris is deposited in appropriate locations, embankments so formed shall be compacted by layering as in subsection (C)(5) of this section, or so stabilized that the risk of its later entering streams is minimal.

13. Ballast. Applicable only if suitable ballast material is found to be available. As of this date, no known rock source exists on Squaxin Island.

a. Ballast shall be used from approved pits only.

b. Minimum ballast width shall be twelve (12) feet.

c. Maximum ballast depth shall be eighteen (18) feet, exclusive of turnouts, except as otherwise approved.

d. Minimum ballast depth shall be eighteen (18) inches.

e. Entire ballast shall be machine compacted.

f. Approved types of ballast may be used in lieu of a portion of the required ballast.

14. Turnouts.

a. Turnouts shall be intervisible except as otherwise approved.

b. The minimum width shall be eight feet, and shall be of sufficient length to permit a loaded log truck to completely clear the normal running surface of the road bed.

c. Turnouts shall be machine compacted and ballasted to provide a drivable surface.

15. Temporary Roads. A roadway which has been constructed or opened for the purpose of the forest practice operations in question, and thereafter will be an inactive or abandoned road.

a. Temporary roads may or may not have surfacing material. Landing spurs will often be classed as temporary roads.

b. Relief culverts may be twelve (12) inches in diameter.

c. Surfacing shall be to logger's standard and of sufficient width to carry equipment used.

d. Cross culverts and bridges shall be installed and removed pursuant to subsection (D) of this section.

D. Water Crossing Structure.

1. Bridge Construction. It has been determined by the Squaxin Island Tribal Council and the Natural Resources Department that bridges are unnecessary and therefore will not be allowed on Squaxin Island. Properly placed culverts (see following subsection) shall be acceptable for stream channel or drainage crossing when approved by the Natural Resources Department.

2. (Temporary) Culvert Installation. All culverts installed in forestry roads shall be of a size that is adequate to carry the

expected seasonal water flow. Culverts will be removed and channels restored at the time the associated roadway is abandoned and rehabilitated. In most cases, installation will be after June 1st and removed by September 30th of the same year. The applicant(s) has the option of adjusting the timing of the culvert installation and removal with the Squaxin Island Tribe Department of Natural Resources using the application process.

a. The alignment and slope of the culvert shall parallel the natural flow of the stream whenever possible.

b. Culverts must be designed and installed so they will not cause scouring of the stream bed and erosion of the banks in the vicinity of the project.

c. When fish life is indicated, construct the bottom of the culvert at or below the natural stream bed at the inlet and outlet.

d. Terminate culverts on materials that will not readily erode, such as riprap, the original stream bed (if stable) or other suitable materials.

e. If water is diverted from its natural channel, return this water to its natural stream bed via culvert, flume, spillway or the equivalent.

f. When flumes, downspouts, downfall culverts, etc., are used to protect fill slopes or to return water to its natural courses. The discharge point must be protected from erosion by: (1) reducing the velocity of the water, (2) use of rock spillways, (3) riprap, (4) splash plates.

g. Stream beds shall be cleared for a distance of one hundred (100) feet upstream from the culvert inlet of such slash or debris that reasonably may be expected to plug the culvert.

h. The entrance of all culverts should have adequate catch basins and headwalls to minimize the possibility of erosion or fill failure.

E. Road Maintenance.

1. Active Roads. An active road is a forest road being actively used for hauling of logs, pulpwood, chips or other major forest products or rock and other road building materials (FMP, Ch. 4, p. 23). To the extent necessary to prevent damage to resources the following maintenance shall be conducted on such roads:

a. Culverts and ditches shall be kept functional. Culverts must be capable of passing fish when fish are present;

b. Road surface shall be maintained as necessary to minimize erosion of the subgrade.

2. Inactive Roads. An inactive road is a forest road the use of which for commercial hauling is discontinued for one or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities occasional or incidental use for minor forest products, harvesting or similar activities. The Natural Resources Department or the Squaxin Island Tribal Council will determine if inactive roads will remain on the island for these purposes or abandoned and rehabilitated.

On such inactive roads:

a. Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion;

b. Thereafter, except as provided below, the landowner shall clear or repair ditches or

culverts which are known or should be known to be nonfunctional and causing or likely causing material damage to a reservation resource; and

c. The operator shall not be liable for penalties or monetary damages, under the Act, for damage occurring from a condition brought about by public use, unless there is failure to make repairs as directed by a notice to comply.

3. Abandoned Roads. An abandoned road is a forest road which the forest landowner does not intend to be used again for the commercial hauling of forest products. Abandoned roads must be rehabilitated and restored to natural conditions of the forest floor.

4. Brush Control. Either mechanized or chemical control of roadside brush is permitted, however, chemical control of roadside brush shall not be done where chemicals will directly enter any Types 1, 2 or 3 waters, and shall not be applied closer than one hundred (100) feet to any waters. The use of any chemical herbicide requires the approval of the Natural Resources Department and/or fisheries biologist.

5. Road Surface Treatment. The treatment of any road surface with petroleum products or chemicals is prohibited.

F. Rock Quarries, Gravel Pits, Borrow Pits and Disposal Areas. No rock in commercial quantities is known to exist on Squaxin Island. Should rock be discovered in the future, the Natural Resources Department shall be directed by the Act to implement regulations to be incorporated into the act covering the development, maintenance and rehabilitation of rock quarries, gravel pits and borrow pits. (Res. 04-56 (part))





### 7.36.050 Timber harvest.

A. Policy. To the extent practical, the Squaxin Island Tribal Council and Natural Resources Department shall coordinate the activities subject to these regulations on a multiple disciplinary planning approach (FMP, Ch. 4, p. 17).

#### B. Harvest Unit Planning and Design.

1. Logging System. The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding will have minimal environmental impact and can be accomplished with some economic benefit.

#### 2. Landing Locations.

a. Landings shall be on firm ground, no closer than two hundred (200) feet from any Type 1 water, and no closer than fifty (50) feet from any Type 2 water, channel or drainage way. Excessive excavation shall be avoided.

b. Landings shall be located no closer than eight hundred (800) feet from any bald eagle nesting tree or six hundred sixty (660) feet from any Blue Heron rookery.

c. Landings shall be located no closer than one hundred (100) feet from any identified area of historical or archaeological significance.

d. Landings involving sidecast or fill shall be located where the toe of the sidecast or fill does not lie, and will not move within two hundred (200) feet of any Type 1 water or one hundred (100) feet from any Type 2 water, channel or drainage way.

#### 3. Landing Construction.

a. Landings requiring sidecast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.

b. Where the average general slopes exceed sixty-five (65) percent, fill material used in construction of lands shall be free of loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor to prevent soil erosion and mass soil movement.

c. Truck roads, skid or fire trails shall be outsloped or cross drained uphill of landings and the water diverted onto the forest floor away from the toe of any landing fills.

C. Shoreline and Streambank Protection Zones. The land extending two hundred (200) feet inland from the shoreline of any Type 1 waters at mean higher high water is designated as a shoreline protection zone. Similarly, the land within one hundred (100) feet from each bank of a Type 2 stream is designated a streamside protection zone. Within these buffer zones, reasonable care shall be taken to:

1. Avoid disturbing brush and similar under story vegetation;

2. Avoid disturbing stumps and root systems;

3. Leave high stumps where necessary to prevent felled and bucked timber from entering the water;

4. Leave all undamaged wind firm vegetation which can reasonably be expected to remain standing after removal of the merchantable timber.

#### D. Felling and Bucking.

1. Felling into Type 1 and 2 Waters and Tidal Zones.

a. No trees will be felled into Type 1 and 2 waters or onto beaches except for those trees which cannot practically and safely be felled outside the stream, pond, beach or slat water using techniques in



general use, and these trees must then be removed promptly. Trees felled with the intention of creating habitat must be permitted by the Squaxin Island Tribe Natural Resources Department. Prior approval of felling of these trees shall be secured from the Natural Resources Department.

b. Operator shall be required to use tree jacks, cable tree-pulling systems, or other recognized methods for directional falling, when these methods are appropriate and their use would eliminate the need to fell trees into Type 1 or 2 waters.

c. When a tree must be felled into Type 1 or 2 waters, reasonable efforts will be made to fell the tree as nearly perpendicular to the stream bed as feasible or to fell the tree in a manner to disturb a minimum area of stream or beach embankment.

#### 2. Bucking in Streams and Beaches.

a. No bucking or limbing shall be done on trees or portions thereof lying between the banks for Type 1 or 2 waters, except as necessary to remove the timber from the stream or beach.

b. Where breakage occurs or bucking or limbing is done within the highwater mark of any Type 1 or 2 waters, "slash" or "debris" so deposited as a result of breakage, bucking or limbing shall be removed immediately to an area outside the shoreline protection zone or the streamside protection zone, whichever the case may be, except when an alternative plan is approved by the Natural Resources Department.

#### 3. Felling in Streamside and Shoreline Protection Zones.

a. Individual trees within a shoreline protection zone or streamside protection zone otherwise restricted from cutting may be harvested if reasonably expected to fall

into the stream or tidal area from natural causes. Approval must be obtained from the Natural Resources Department.

b. Care shall be taken to fall any trees cut within the streamside protection zone or shoreline protection zone in a manner to prevent damage to the stream or tidal area and streamside protection zone or shoreline protection zone.

4. Felling Near Streamside Protection Zone or Shoreline Protection Zone and Setting Boundaries. Reasonable care shall be taken to avoid felling trees into streamside protection zones and shoreline protection zones and areas outside the harvest unit.

5. Felling in Selective and Partial Cuts. Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

E. Helicopter Yarding. Helicopter yarding is considered the least detrimental way of processing timber to the surrounding environment. It must be considered a priority for timber harvest operations and will be mandated as such by the Department of Natural Resources. All safety precautions must be taken to ensure successful operations (FMP, Ch. 3, p. 14).

Helicopter operations are restricted within eight hundred (800) feet of bald eagle nest sites and great blue heron rookeries for the period of February 1 through July 15. In the case of marbled murrelets the Department of Natural Resources will determine limitations of helicopter activity using the best available science (FMP, Environmental Assessment, pp. 57-58).

#### F. Cable Yarding.

1. Type 1 and 2 Waters. No timber shall be cable yarded in or across a Type 2 water except where:



a. The logs will not materially damage the stream bed, banks or streamside protection zone or shoreline protection zone;

b. Necessary to remove trees from the stream; or

c. Part of a stream restoration and improvement project approved by the Natural Resources Department.

2. Deadfalls. Any logs which are firmly embedded in the bed or embankment of a Type 1 or 2 waters shall not be removed or unnecessarily disturbed without approval of the Natural Resources Department.

3. Yarding in Streamside Protection Zone and Shoreline Protections Zone. Where timber is yarded from or across a streamside protection zone or shoreline protection zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or tidal area. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie until clear of the streamside protection zone or shoreline protection zone.

4. Direction of Yarding.

a. Uphill yarding is required.

b. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

c. When yarding parallel to a Type 1 or 2 water channel below the one hundred (100) year flood level, reasonable care shall be taken to minimize rutting and to prevent logs from rolling into the stream, tidal area or streamside protection zone or shoreline protection zone.

G. Tractor and Wheeled Skidding Systems.

1. Streams and Tidal Areas.

a. Tractors and wheeled skidders shall not be used in any water or tidal area except with the approval of the Natural Resources Department.

b. When approved, skidding across any water shall be minimized and when done temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

c. Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

2. Streamside and Shoreline Protection Zone.

a. Logging will be permitted within the zone, provided that tractors and wheeled skidders may not be used within the zones unless approved by the Natural Resources Department.

b. Where skidding in or through the streamside protection zone or shoreline protection zones is necessary, the number of skidding routes through the management zone shall be minimized.

c. Logs shall be skidded in the direction in which they lie until clear of the streamside protection zone or shoreline protection zone to the extent practical and consistent with good safety practices.

3. Deadfalls. Any logs which are firmly embedded in the bed or embankment of a Type 1 or 2 waters shall not be removed or unnecessarily disturbed without approval of the Natural Resources Department.

4. Moisture Conditions. Tractor and wheeled skidders shall not be used on exposed, erodible or compactable soils, except as approved by the Natural Resources Department.

5. Protection of Residual Timber. Reasonable care shall be taken to minimize



damage from skidding to the stems and root systems of residual timber and to young reproduction.

6. Skid Trail Construction.

a. Skid trails shall be kept to the minimum feasible width.

b. Reasonable care shall be taken to minimize the amount of sidecast required and shall not be permitted within one hundred (100) feet of any Type 2 water or within two hundred (200) feet of the high water mark of any Type 1 water or tidal area.

c. Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

7. Skid Trail Maintenance. Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion. Skid trails shall also be grass seeded at the end of seasonal use as directed by the Natural Resources Department.

8. Slope Restrictions. Tractor and wheeled skidders shall not be used on slopes where in the opinion of the Natural Resources Department this method of operation would cause unnecessary or material damage to a reservation resource.

H. Landing Cleanup. Except as approved by the Natural Resources Department, the following rules shall be met within sixty (60) days after completion of hauling logs from any landing:

1. Drainage.

a. Clean any ditches and culverts obstructed by dirt or debris during operation(s).

b. Establish a slope that will prevent water from accumulating on the landing or

running from the landing down any erodible fill.

2. Other Erosion Control Measures.

a. Cut slopes shall be cut back to an angle expected to remain stable.

b. Where exposed soil is unstable or erodible and may be reasonably expected to cause damage to a resource, it shall be seeded with native ground cover, or compacted, ripped, water barred, benched or mulched. Treatment by other means must be approved by the Natural Resources Department.

3. Cleanup.

a. Slash accumulations which would prevent reforestation of otherwise plantable fills, sidecast or cut slopes of landings shall be disposed of or be piled on the landing floor for future disposal.

b. Slash shall not be buried in any filled portion of the landing in connection with landing cleanup operations.

c. All cables, machine parts and other inorganic debris resulting from harvest operation(s) shall be removed at the time of landing cleanup.

I. Post-Harvest Site Preparation. Unless the application or notification indicates that the landowner or timber owner specifically agrees to assume responsibility for compliance with this section, the operator shall leave the site in a condition suitable for reforestation following any clear cutting or any partial cutting where eighty (80) percent or more of the merchantable cubic volume is removed within any five consecutive years unless the Natural Resources Department determines that the live conifer trees remaining will reasonably utilize the timber growing capacity of the soils.



1. The following site preparation is required when necessary to establish a condition suitable for reforestation:

a. Cutting or slashing of all noncommercial tree species or non-merchantable size trees commonly known as ‘whips’ which will not reasonably utilize the growing capacity of the soil (as determined by the Natural Resources Department) except in the streamside or shoreline protection zone;

b. Pile windrow slash; or

c. Mechanically scatter slash

2. Streamside protection zone and shoreline protection zones may require special treatment to establish conditions suitable for reforestation.

J. Site Preparation and Rehabilitation.

1. Heavy Equipment. Heavy equipment shall not be used in connection with site preparation or rehabilitation work:

a. When soil moisture conditions (as determined by the Natural Resources Department) or the type of soils, undue compaction or erosion would result;

b. In any water, except as approved by the Natural Resources Department; or

c. In streamside and shoreline protection zones except as permitted in subsection C of this section.

2. Surface Water Draining. Where site preparation or rehabilitation involves contouring or terracing of slopes, drainage ditches, or similar work:

a. The gradient of ditches or other artificial water courses in erodible soils shall not cause significant stream or pond siltation;

b. Ditches and other artificial water courses shall not discharge onto any road, landing, fill or tidal area;

c. Ditches and other artificial water courses shall not be constructed to discharge onto the property of other parties without their consent.

3. Stream Channel Alignment. Where work involves deepening widening, straightening or relocating the channel; or bulkheading, riprapping or otherwise stabilizing the banks of any water, the work shall be done only:

a. After submission of a stream, channel, alignment plan to the Natural Resources Department and their approval of such plan;

b. Where no adverse affect on either the peak of minimum water levels or flows downstream can be expected;

c. In a manner not expected to result in damage to reservation resources, beaches shellfish or tribal fisheries operations, or to adjacent or downstream property.

K. Slash Disposal.

1. Slash Disposal Techniques.

a. Except on sites where the Natural Resources Department determines that a particular method would cause unreasonable risk to resources, any conventional method of slash disposal may be used, such as: pile or windrow; mechanical scatter and compaction; chip, mulch or lop and scatter; burying and physical removal from the forest lands.

b. All slash burning requires a burning permit from the Natural Resources Department and reasonable care to prevent damage to streamside and shoreline protection zones, soil, residual timber, reservation resources and other property.

c. Location of Slash Piles. Slash shall not be piled or windrowed within two hundred (200) feet of any Type 1 water or within one hundred (100) feet of any Type 2

water, drainage or channel, or in locations from which it could be expected to enter any stream, tidal area or marine water.

d. Slash piles or windrows shall be fire trailed a minimum of eight feet to mineral earth and shall be located no closer than twenty (20) feet from any standing tree or snag.

e. Slash piles or windrows shall contain only vegetation, lumber and other wood products.

2. Slash disposal is required when abatement of extreme fire hazard is required, as determined by the Natural Resources Department.

3. Slash disposal is required where the forest landowner has applied for or been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

4. Removing slash and debris from streams, tidal areas and marine water. "Slash" or "debris" shall be removed from Type 1 and 2 waters and beaches and left in a location designated or approved by the Natural Resources Department and in a manner eliminating risk of reentry into the stream, drainage channel, tidal area or any marine water. Slash disposal is required.

L. Fire Trails. Any existing or inactive logging roads will be considered as the main fire trail system. There will be no additional fire trailing to protect the resource.

1. Fire trails shall be constructed around all clear-cut logging units where directed by the Natural Resources Department.

2. Fire trails shall be constructed around all landings created by timber harvest operations including clearcuts, commercial thinnings, salvage, and relogging operations. Lands that have been previously fire trailed,

and later reopened for subsequent operations, shall require clean-up of the fire trail to the standard that existed prior to reopening.

3. Fire trails may be required around commercial thinning, salvage, shake salvage and relogging operations when the Natural Resources Department determines that special conditions warrant.

4. Fire trails shall have dips, water bars, cross drainage and ditches as necessary to control erosion.

5. Reasonable care shall be taken to minimize excavation. Sidecast shall not be permitted within two hundred (200) feet of any Type 1 water or tidal area or one hundred (100) feet of any Type 2 water or drainage channel.

6. Fire trails shall be constructed by any tractor, skidder or "cat" tractor with a dozer blade attachment. Trails will be bladed down to mineral soil throughout the width of the dozer blade (minimum eight feet).

7. When slopes are too steep for safe tractor operation, or other conditions prevent the use of a tractor, hand trails shall be constructed. Hand trails shall be cleared of debris and slash for a width of at least six feet with a portion at least twenty-four (24) inches wide cleared down to the mineral soil.

8. Slash and debris resulting from fire trail construction shall be deposited within the permit operation area (excluding any shoreline and streamside protection zone).

9. All roads - temporary, abandoned or otherwise - should be replanted with erosion resistant native groundcover at the end of use.

M. Housekeeping. During timber harvest and all other forest land operation, all repair work will be done on equipment in areas

where grease, oil and other pollutants cannot wash into any water or waterway, seep into the soil, or kill vegetation. Under no circumstances will trash, equipment, or other inorganic materials be buried or disposed of on reservation lands without approval of the Natural Resources Department. (Res. 04-56 (part))

### **7.36.060 Reforestation.**

A. Policy. It is the policy of the Squaxin Island Tribe that all harvested forest lands shall be regenerated promptly with the approved native tree species for the purpose of ecosystem health, and that the regenerated forest shall be protected to ensure optimum health of the forest lands. To accomplish this policy, a judicious regeneration practice shall be implemented on all reservation forest lands (FMP, Ch. 4, p. 19).

#### B. Reforestation Requirements.

1. Reforestation is required for forest lands harvested after the adoption of these regulations in the following instances:

a. Clearcutting; or

b. Partial cutting where fifty (50) percent or more of the timber volume is removed within any five-year period, unless the Natural Resources Department determines that the live Douglas fir trees remaining will reasonably utilize the timber growing capacity of the soils.

2. Reforestation is not required where:

a. Individual dead, dying, down or windthrown trees are salvaged;

b. A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes; for example, removal of individual trees from lands used for farming or grazing;

c. Trees are removed under a thinning program reasonably expected to maximize the long term production of commercial timber; or

d. After harvest activities are completed, there exists stocking levels equal to the minimum acceptable stocking specified in subsection (C)(2) of this section, unless the Natural Resources Department, after examination of the harvest area determines that equivalent acceptable stocking exists which fully utilizes the timber growing capacity of the site.

#### 3. Satisfactory Reforestation—Clearcuts.

a. Satisfactory reforestation of a clear-cut harvest occurs if, within three years of completion of initial harvest or subsequent relogging, the site is restocked by planting such that restocking meets specifications in subsection (C)(2) of this section provided, that regeneration failures from cause beyond the applicants control will not result in a violation of this subsection.

b. In the event that acceptable stocking is not achieved within the time limits specified. Site preparation and supplemental planting or seeding may be required.

c. The Natural Resources Department may grant an extension of time for planting if suitable seedlings or seeds are not available, or if weather conditions or other circumstances beyond the forest landowner's control require delay in planting.

4. Satisfactory Reforestation—Partial Cuts. Where reforestation is required in connection with a partial cut, the harvest application shall include a plan for stocking improvement. The plan shall be approved unless the Natural Resources Department determined that it will not reasonably utilize

the timber growing capacity of the site to the extent practical.

5. Natural Regeneration Standards. Natural regeneration can be an acceptable method of reforestation but only with the approval of the Natural Resources Department.

6. Brush Control. Competing vegetation shall be controlled to the extent necessary to allow the proper succession of a healthy forest after reforestation.

C. Reforestation, Species, Stocking, Standards.

1. Reforestation Species.

a. Douglas fir is the only species approved for reforestation, except when an alternate species is approved by the Natural Resources Department because of habitat requirements and soil conditions.

b. The Natural Resources Department may approve the use of the alternate species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

- i. Site data indicates better potential production for the proposed species;
- ii. Control of forest insects or diseases;
- iii. Greater economic return;
- iv. Development of special environmental, recreational, aesthetic, or cultural conditions.

2. Acceptable Stocking. The Island consists of a number of site and soil conditions which require a variety of treatments to best utilize the growing capacity of each site. The following defines the general site groupings, the approved species by grouping and the minimum acceptable stocking for each site group, subject to the limitations of subsection (C)(3) of this section.

Site	Approved Species	Minimum Acceptable Stocking
Coastal or wetland site	Sitka Spruce, Western Hemlock, Western Red Cedar	300 trees per acre
Medium Site	Douglas Fir preferred	400 trees per acre
High site	Douglas Fir preferred	500 trees per acre

3. Limitation on Stocking. There shall be a limitation to the number of Western Red Cedar seedlings that may be counted when determining the stocking level per acre. The maximum number of Western Red Cedar seedlings that may be included as countable seedlings per acre shall be:

Coastal or wetland	75 Western Red Cedar per acre
Medium site	75 Western Red Cedar per acre
High site	100 Western Red Cedar per acre

4. Seedling or Seed Standards.

a. Shall be acquired from an approved source and shall be of improved stock of appropriate quality and seed source zone, to the extent of availability. The Natural Resources Department shall establish guidelines for their use.

b. Competing vegetation shall be controlled to the extent necessary to allow survival and growth of selected and approved species from regional stocks.

5. Definition of Restocking.

a. "Acceptable stocking" for the purpose of this subsection shall be defined

as the “minimum acceptable stocking” number of well distributed, vigorous seedlings per acre of approved species having survived on the site for at least one growing season, as specified in subsections (C)(2) and (3) of this section.

b. “Well distributed” means that no significant plantable area contains fewer than the equivalent of the “acceptable stocking” levels specified in subsection (C)(2) of this section.

D. Reforestation: Plans, Reports, Inspections.

1. Reforestation Plans. Reforestation plans must be submitted with the application or notification.

2. Reforestation Reports. The landowner, forest landowner or his designee shall file a report with the Natural Resources Department either at the time of completion of planting or at the end of the normal planting season.

3. The reports in subsection (D)(2) of this section must contain at least the following:

a. The original application or notification number;

b. Species planted or seeded;

c. Age of stock planted or seed source zone;

d. Description of actual area planted or seeded.

4. Inspection: Supplemental Planting Directives.

a. Within twelve (12) months after a reforestation report is received, the Natural Resources Department shall inspect the reforested lands.

b. If the inspection shows that acceptable stocking levels have not been achieved, the Natural Resources Department shall direct the forest owner to perform

supplemental planting in accordance with the reforestation standards of the Portland Bureau of Indian Affairs, provided that:

i. In lieu of such supplemental planting, the Natural Resources Department and the forest landowners may agree on a supplemental reforestation plan;

ii. Supplemental planting shall not be required if the Natural Resources Department determines that there is little probability of significantly increasing the stocking level;

iii. Except where stocking improvement is necessary to protect reservation resources and is feasible, further supplementary planting shall not be required where acceptable stocking levels have not been achieved after two properly performed supplemental plantings.

5. Evidence of Compliance. If the Natural Resources Department determines on inspection that acceptable reforestation has been achieved, on the request of the forest landowner the Natural Resources Department shall confirm in writing that no further reforestation obligations remain. If no supplemental planting directive has been issued within thirty (30) days after the deadline for the inspection, reforestation shall be deemed satisfactory unless the Natural Resources Department has informed the landowners prior to the deadline that further inspections by the Natural Resources Department on the area are needed. (Res. 04-56 (part))

#### **7.36.070 Fire controls.**

A. Policy. The Squaxin Island Tribe considers concentration of logging slash and debris on the reservation to be a major fire hazard to life and reservation resource, and detrimental to adequate reforestation. It is

the policy of the Squaxin Island Tribe to implement and maintain all reasonable controls to prevent wildfires and minimize the severity of accidental fires.

B. General Fire Prevention Requirements. All landowners, timber owners or operators operating upon the reservation shall furnish and maintain in good and serviceable condition such fire tools and equipment, and provide such fire protection as may be required by the Natural Resources Department. In the absence of specific regulations, the requirements shall not be less than are required under laws of the state of Washington (Forest Management Plan, Appendix III).

C. General Operating Procedures During "Fire Season."

1. Spark Emitting Equipment Regulation. It is unlawful for anyone to operate during the closed season, as defined in RCW 76.04.252, any steam, internal combustion or electric engines or any other spark emitting equipment or device on Squaxin Island, where in the opinion of the Natural Resources Department within reason, fire could be spread to the forest land, without first complying with the requirements for each situation and type of equipment listed as follows:

a. Any fixed position machine unless equipped with the following:

- i. Two fire extinguishers, each of at least a 5 BC rating;
- ii. An approved exhaust system;
- iii. An appropriately mounted shovel.

b. Any tractor or mobile machine unless equipped with the following:

- i. One fire extinguisher of at least a 5 BC rating;
- ii. An approved exhaust system;
- iii. An appropriately mounted shovel.

c. Any truck or vehicle used for hauling unless equipped with the following:

i. One fire extinguisher of at least a 5 BC rating;

ii. An approved exhaust system;

iii. An appropriately mounted shovel.

d. Any portable power saw unless equipped with the following:

i. A suitable chemical fire extinguisher, approved by the Natural Resources Department, of at least eight ounce capacity, fully charged and in good working order, to be kept in the immediate possession of the operator;

ii. An approved exhaust system;

iii. A shovel, which shall be kept within two minutes round trip on the operator.

Provided, a watchman shall be required on all operations identified in subsections (C)(1)(a), (b) and (d) of this section when directed by the Natural Resources Department in writing.

e. Any passenger vehicle unless equipped with the following:

i. A fire extinguisher of at least a 5 BC rating;

ii. An approved exhaust system.

f. During yarding, loading, milling, land clearing and right-of-way clearing, there must be kept at each landing, yarding tree, mill or more suitable place designated by the Natural Resources Department, two five-gallon backpack pump cans filled with water, provided, that such operations on the reservation must comply with the following additional requirements:

i. A pump truck or pump trailer or portable power pump to be kept on the landing or within five minutes round trip on the operation;

ii. A watchman;



iii. Adequate facilities to report a fire to the Natural Resources Department within thirty (30) minutes of detection.

g. Each helicopter used for yarding, loading or land clearing unless first complying with the following additional requirements:

i. A VHF radio maintained in operational use, a frequency 122.9 MHz;

ii. A portable water bucket of the appropriate following capacities, with necessary cargo hooks and tripping mechanism for dropping water on a fire, will be located at the heliport serving the operation.

<b>External Payload Helicopter</b>	<b>Minimum Required Bucket Size</b>
780 pounds and below	50 gallon
781—1600 pounds	100 gallon
1601 pounds—3900 pounds	200 gallon
3901 pounds and larger	300 gallon

iii. The following sized fire tool kit packaged for ready attachment to the cargo hook and located at the heliport serving the operation:

- (A) Three axes or Pulaskis,
- (B) Six shovels,
- (C) Six adze or eye hoes.

iv. Two fire extinguishers with a total UL or FM rating of at least 20 BC rating shall be kept with refueling equipment. They shall be appropriately mounted, suitably marked, and available for immediate use.

h. Skyline and other similar long-line or aerial logging systems with greater than one thousand two hundred (1,200) feet maximum distance between the yarder and

the tailblock unless first complying with the following additional requirements:

i. A pump truck or pump trailer or portable power pump shall be available and equipped in order to supply water to the further most extremity of the operation in a maximum of ten (10) minutes from the time of detection. A portable water supply may be substituted provided it contains a minimum of three hundred (300) gallons of water, and the complement of accessories and equipment identified in the definition the pump truck or pump trailer, and a pump capable of delivering twenty (20) gallons per minute at the end of fifty (50) feet of one-inch hose and a nozzle with three-sixteenths or one-fourth inch aperture. The pump shall be plumbed with a bypass or pressure relief valve. The water supply shall be located and outfitted for immediate use at the landing and so that it may also be readily lifted and transported by using the rigging system or cargo hook;

ii. The following sized fire tool kit packaged and located for ready attachment to the rigging for delivery to the portable water supply while it is in operation:

- (A) Three axes or Pulaskis,
- (B) Six shovels,
- (C) Six adze or eye hoes.

2. Additional Fire Equipment Requirements.

a. A pump truck or pump trailer or portable power pump shall be as defined under Washington State law. The pump may be a portable power pump or a suitable power take-off pump. It shall be plumbed with a bypass or pressure relief valve, except, that the list of tools and accessories required under Washington State law shall be modified as follows:



i. Minimum of one thousand (1,000) feet of one or one and one-half inch cotton or synthetic jacket hose;

ii. One shutoff nozzle with three-sixteenths inch or one-fourth inch aperture and one fog nozzle.

b. During fire season as defined by the Natural Resources Department (generally defined as June 15 to October 15), for all felling, yarding, loading, a land clearing and right-of-way operations, there must be on site a sling psychrometer or other device approved by the Natural Resources Department capable of accurately measuring humidity. The operator shall monitor humidity as necessary and shut down operations when the humidity reading is less than twenty (20) percent.

3. Extreme Fire Hazard Conditions. The Natural Resources Department may designate an area or operation as an "extreme fire hazard" at any time and specify additional fire prevention equipment, manpower, and/or procedures deemed necessary to prevent or control the spread of fire or abate fire hazard.

4. Prior to Beginning Operations.

a. All snags, stubs and dead trees over fifteen (15) feet in height shall be cut within fifty (50) feet of each fixed position machine which will operate for two consecutive days or more in one position.

b. The ground shall be initially cleared of all flammable debris under four inches in diameter beneath and within ten (10) feet of each fixed position machine which will operate for two consecutive days or more in one position.

c. The area around the tail, corner, and haul back blocks, must be kept clear of all flammable debris under four inches in diameter for a distance of six feet in all

directions. Each block must be equipped with one five-gallon backpack pump can filled with water, one shovel and one Pulaski. Operations with multiple blocks must have this complement of tools and water within one hundred (100) feet of each block. Any spark emitting engine used for purposes not specifically mentioned herein, which in the opinion of the Natural Resources Department may cause a forest fire to start shall be equipped with:

i. An approved exhaust system;

ii. One fire extinguisher of at least a 5 BC rating.

The Natural Resources Department, at their discretion, may further request operators in certain areas to restrict operations when, in the opinion of the Natural Resources Department current conditions are such that if a fire starts in that area it would probably spread to conflagration proportions regardless of men and equipment available for initial fire suppression purposes.

Penalties for Violation—Work Stoppage Notice. Any person, firm or corporation who wilfully violates these regulations (state regulations) shall by the authority of the Squaxin Island Tribe be guilty of a misdemeanor and by the authority of the Squaxin Island Tribe shall cease operations upon written notification until the provisions have been complied with and be subject to, upon conviction, a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00).

5. Smoking. It is unlawful to smoke during the closed season, April 15 through October 15, when in forest or brush areas except on roads, cleared areas or landings, or any similar area free of inflammable material.

6. Burning Permit Requirements. During periods of extreme fire hazards determined by the Natural Resources Department, all outdoor burning is prohibited unless prior written permission is obtained from the Natural Resources Department. Beach fires shall generally be exempt.

D. Extreme Fire Hazard Areas. Forest debris created within specified areas may require measures for abatement, reduction or isolation. The Natural Resources Department has promulgated rules and regulations as to what constitutes an area of "extreme fire hazard" requiring abatement, reduction or isolation.

The owner and/or person responsible is fully liable in the event a fire starts or where the "extreme fire hazard" on the property contributes to the spread of a fire if he fails to recognize and abate, reduce or isolate the hazard. If the owner or person responsible does not initiate the required measure, the Natural Resources Department may do so upon ten (10) days' notice and recover twice the costs from the owner or person responsible.

E. Definitions.

1. "Closed season" means the period between April 15 and October 15 unless different dates are designated by the Natural Resources Department because of fire weather conditions prevailing.

2. "Contiguous area" means those areas of additional fire hazard which are not:

a. Separated from the other by a natural barrier or constructed barrier as provided in the definition of isolation; or

b. Separated on from the other by areas not comprising an additional fire hazard of a width at the narrowest point of at least three hundred (300) feet.

3. "Isolation" means the division or separation of an additional fire hazard into compartments by natural barriers, such as streams or ridge tops and/or a constructed barrier, but in no instance shall the fire barrier be less than one hundred (100) feet in width at its narrowest point and must be free and clear of forest debris. 4.

"Reduction" means the elimination of that amount of additional fire hazard necessary to produce a remaining average volume of forest debris no greater than nine tons per acre of material three inches in diameter and less.

5. "Abatement" means the elimination of additional fire hazard by burning, physical removal or other means.

F. Snag Falling.

1. Policy. Standing dead trees constitute a substantial deterrent to effective fire control action in forest areas, but are also an important and essential habitat for many species of wildlife. To insure continued existence of these wildlife species and continued forest growth while minimizing the risk of destruction by conflagration, only certain snags must be felled concurrent with the logging. The following rules and regulations relating to effective fire control action to require that only certain snags be felled, taking into consideration the need to protect the wildlife habitat. Additionally, since Squaxin Island is within a low incidence area for lightning storms, most snags are to be left for wildlife foraging and nesting (FMP, Environmental Assessment, pp. 57-58).

2. Definition.

"Snag" means a standing dead conifer tree over sixteen (16) feet in height and fourteen (14) inches in diameter measured at

a point four and one-half feet about ground level at the base.

3. Felling of Snags.

a. Snags within areas of extreme fire hazard requiring abatement, shall be felled concurrently with the logging operation, unless:

i. Such snags contain a visible nest of a species of wildlife designated by the United States Fish and Wildlife Service as threatened or endangered (FMP, Environmental Assessment, pp. 57-58; or

ii. The Natural Resources Department, upon written request of the landowner, determines that such snags do not represent a substantial deterrent to effective fire control action.

b. The Natural Resources Department may designate in writing that additional snags be felled concurrently with the logging operation if in the Natural Resources Department's opinion they represent a substantial deterrent to effective fire control action, unless such snag contains a visible nest of a threatened or endangered species.

4. Clarification of Requirements. The operator is expected to recognize areas of extreme fire hazard, and to fell snags within these areas unless otherwise exempted. If other snags are required to be felled, these snags have been noted either on a map attached with the approved forest practice application or notification, or they will be designated through written notification during the logging operation.

5. Snag Related Regulation Not Affected. Please note that the preceding snag falling regulations do not void existing requirements for snag falling under the following state regulations, which shall apply to the reservation:

a. Falling of snags near machinery, landings, rigging, etc., as required under the state of Washington's Department of Labor and Industries' rules for worker safety;

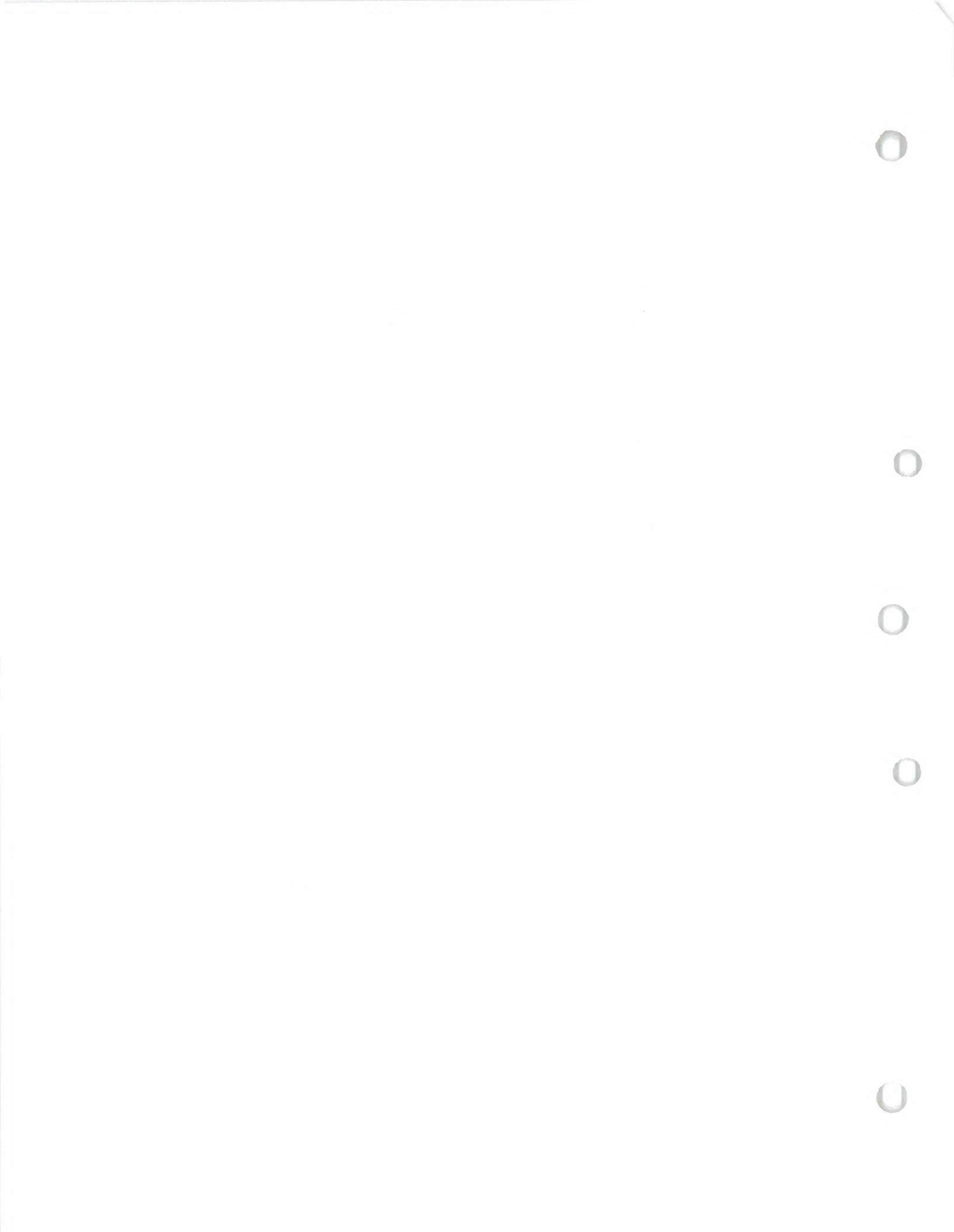
b. Falling of snags within fifty (50) feet of each fixed position machinery operating two or more days in one position during the closed season, April 15 through October 15, or as otherwise designated by the Natural Resources Department.

G. Extreme Fire Hazard Requiring Abatement. Shall exist under the following conditions:

1. An additional fire hazard within a distance of two hundred (200) feet and up to a maximum of five hundred (500) feet, if required in writing by the Natural Resources Department, which is adjacent to public campgrounds, or other areas of frequent concentrated public use, buildings in use as residences (furnished and being occupied or available for immediate occupancy), and other buildings or structures valued at one thousand dollars (\$1,000.00) or more, which are not owned by the owner of the land upon which such additional fire hazard exists;

2. The Natural Resources Department may identify other specific areas of additional fire hazard, of comparable high risk of ignition and/or a threat to life and property, and upon written notification, require abatement (FMP, Appendix III: Fire Management Plan).

H. Penalties for Violation—Work Stoppage Notice. Any person, firm or corporation who willfully violates any of the rules or regulations made by the Natural Resources Department regarding snag falling for the protection of the forest from fire or the protection of threatened or endangered species, shall be guilty of a misdemeanor, and by the authority of the



Squaxin Island Tribe shall cease operations upon written notification until the provisions have been complied with, and be subject to, upon conviction, a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00). (Res. 04-56 (part))

### **7.36.080 Forest chemicals.**

A. Policy. The purpose of these regulations is to regulate the handling, storage and application of chemicals in such a way that the public health, soils, wildlife and aquatic habitat will not be endangered by contamination.

1. The operator shall be required to hold a state certificate or have equivalent training in chemical handling approved by the Natural Resources Department.

2. The operator shall be required to abide by Environmental Protection Agency regulations pertaining to the handling and application of chemicals.

B. Handling, Storage, Application.

1. Leakage.

a. No significant leakage of chemicals into water or soil is permitted from any equipment used for their transportation, storage, mixing, or application.

b. The Natural Resources Department may suspend further use of any equipment responsible for any significant chemical leakage, until the deficiency has been corrected to the satisfaction of the Natural Resources Department.

2. Mixing - when water is used in mixing of chemicals:

a. Provide an air gap or reservoir between the water source and the mixing tank;

b. Use noncontaminated pumps, hoses, and screens.

3. Mixing and Landing Areas.

a. Mix chemicals and clean tanks and equipment only where any spills would not enter any water types.

b. Landing areas should be located where spillage of chemicals will not cause them to become contaminated. If any chemical is spilled, immediate appropriate procedures should be taken to contain or neutralize it.

4. Aerial Application.

a. Leave at least two hundred (200) feet untreated on each side of all Types 1 and 2 waters and other areas of open water, such as ponds or sloughs or known wells.

b. Where practical, apply the initial swath parallel to the untreated zones in subsection (B)(4)(a) of this section on Types 1, 2 or 3 waters and other areas of open water, such as ponds or sloughs.

c. Use a bucket or spray device capable of immediate shutoff.

d. Shut off chemical application during turns and over open water.

e. There shall be no direct or indirect entry of chemicals into any Types 1, 2 or 3 waters.

f. In the event people (other than authorized operator or other authorized personnel) are observed in the aerial treatment zone, all spraying shall be stopped immediately, and not resumed until the people have been warned that aerial spraying of chemicals is to occur.

g. Because aerial application of chemicals is the least discriminate method available, hand application or ground application with power equipment should be evaluated and utilized in whole or in part when required by the Natural Resources Department or fisheries biologist.

5. Stream Protection—Ground Application With Power Equipment.

a. Leave at least one hundred (100) feet untreated on each side of every Types 1 and 2 waters.

b. There shall be no direct or indirect entry of chemicals into any water.

c. Avoid exceeding intended or allowable dosages.

6. Stream Protection—Hand Application.

a. Apply only to specific targets, such as a stump, burrow bait or trap.

b. Keep chemicals out of all water.

7. Limitations on application—chemicals shall be applied only in accordance with all limitations:

a. Printed on the Environmental Protection Agency container registration label; and/or

b. Established by the Federal Occupational Safety and Health Administration, as they relate to safety and health of operating personnel and the public.

8. Container disposal—chemical container shall be either:

a. Removed from the reservation;

b. Removed and cleaned for reuse in a manner not inconsistent with any applicable regulations of the state Department of Agriculture or the state or local health departments.

9. Daily Records—Aerial Application of Pesticides. On all aerial applications of pesticides, the operator shall maintain for three years daily records of spray operations (FMP, Ch. 4, pp. 20, 22).

10. Reporting of Spills. All potentially damaging chemical spills shall be immediately reported to the Natural Resources Department and the fisheries biologist. (Res. 04-56 (part))

**7.36.090 Wildlife.**

A. Policy. This section is written to encourage forest practices that will enhance and protect desirable wildlife habitats on Squaxin Island; provided that such actions shall not unreasonably restrict landowners' actions without compensation. Mitigation for loss of habitat and diversity of endemic species is considered a priority.

B. Threatened, Endangered or Protected Species and Habitats.

1. Protected and Threatened Species.

a. Bald eagle nest sites are usually found in large trees near water. Any known nest site of the bald eagle shall be identified on the forest practice application or notification. Road construction, timber harvest, aerial spraying and site preparation in the vicinity or identified bald eagle nests shall be conducted within the following limitations:

i. None of the activities specified above shall be permitted within one-eighth mile (six hundred sixty (660) feet) of any active nest site during the period from February 1 to July 15. Exception to this distance is the use of helicopter yarding which is excluded from the nesting sites of these two species by and 800 ft. radius.

ii. Forest practices conducted within five chains (three hundred thirty (330) feet) of the nest site may require detailed plans for one or more of the following functions, as applicable:

(A) Method of and schedule for timber harvest,

(B) Slash abatement,

(C) Site rehabilitation,

(D) Reforestation.

Provided, that in all cases, when the specified area is harvested, by the nest tree

and any additional large trees as selected and marked by the Natural Resources Department shall be left intact and preserved.

iii. Limitations of harvest—the removal of standing, live timber from the five chain area shall not exceed one-third of the merchantable volume of the area during any ten (10) year period of time provided that additional removals may be approved by the Natural Resources Department when necessary to:

- (A) Recover windthrown timber,
- (B) Control insect or disease infestations,
- (C) Salvage timber damaged or killed by other natural or human causes.

b. Blue Heron Rookeries. Trees containing nests of the Great Blue Heron shall be left standing together with trees within fifty (50) feet of the nest tree, until such time as the young are reared and the nests abandoned.

c. Other Protected Species. The Natural Resources Department may establish reasonable constraints on the time and/or method of forest practice operations, when, in the opinion of the Natural Resources Department such constraints are necessary to protect such species.

C. Big Game and Other Wildlife Habitat (FMP, EA, p. 57).

1. The landowner and/or operator shall make every reasonable effort to cooperate with the Natural Resources Department for the protection and enhancement of desirable wildlife habitat, which may include but is not limited to deer and game bird habitat. The applicants shall:

- a. Identify locations of concentration of wildlife in the application or notification;
- b. Meet conditions for the protection of desirable wildlife habitat as part of the

proposed forest practice operation as specified by the Natural Resources Department;

c. Provide a mitigation plan for any concurrent loss of habitat or species diversity found to be a result of a particular forest practice.

The applicant is permitted to assist the Natural Resources Department in efforts to control wildlife damage to land and timber resources by reporting evidence of resource damage. This may include instance of flooding caused by beaver populations, tree damage caused by porcupine, extensive browsing of seedlings by deer, or girdling of seedlings by rabbits or bears. (Res. 04-56 (part))

#### **7.36.100 Supplemental directives.**

A. Purpose of Supplemental Directives. The Natural Resources Department may issue supplemental directives to the forest landowner, timber owner and operator, advising them to take or not take as part of any forest practice operations specified actions the Natural Resources Department determines to be preferred courses of action or minor changes in the operation to provide greater assurance that the purposes and policies set forth in the Act will be met.

B. Content of Supplemental Directives. Supplemental directives shall indicate the reason for their issuance and shall give specific direction for accomplishing preferred course of action.

C. Form, Service. All supplemental directives shall either be in writing or be confirmed in writing. The supplemental directive shall be given to the operator and a copy mailed promptly to the forest landowner and to the timber owner if different than the forest landowner.

D. Directive Constitutes Approval. No other approval of the Natural Resource Manager shall be necessary to conduct forest practice operations in compliance with the terms of a supplemental directive.

E. Informal Discussions. The Natural Resources Department shall provide an opportunity for an informal discussion before issuing, withdrawing or modifying a supplemental directive.

1. Policy—Enforcement. It is the policy of the Act to encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to reservation resources. It is also the policy of the Act, consistent with the principles of due process, to provide effective procedures for enforcement. This part of the regulations provides the following enforcement procedures: informal conferences, notices to comply, stop work orders, corrective actions by the Natural Resources Department, civil penalties, injunctions and other civil judicial relief. The enforcement procedure used in any particular case shall be appropriate in view of the nature and extent of the violation or the damage or risk to reservation resources and the degree of bad faith or good faith of the persons charged as determined by the Natural Resources Department.

2. Informal Conferences.

a. Opportunity Mandatory. The Natural Resources Department shall afford the operator or his representative reasonable opportunities to discuss proposed enforcement actions at an informal conference prior to taking any enforcement action, unless the Natural Resources Department determines that there may be imminent damages to the reservation resource. Informal conferences may be used

at any stage in enforcement proceedings, except that the Natural Resources Department may refuse to conduct informal conferences with respect to any matter then pending before the Squaxin Island Tribal Council.

b. Reports Required. At informal conferences, the Natural Resources Department shall keep written notes of the date and place of the conference, the persons in attendance, the subject matter discussed, and any decisions reached with respect to further enforcement action.

c. Records Available. Copies of written notes shall be sent by certified or registered mail, or delivered in person, to each participant in the conference, be kept in the Natural Resources Department files for at least one year after final action on the application involved, and be open to inspection by those directly involved.

3. Notice to Comply.

a. If a violation, deviation, material damage or potential for material damage to a reservation resource has occurred and the Natural Resources Department determines that a stop work order is unnecessary, then the Natural Resources Department shall issue and serve upon the operator a notice which will clearly set forth:

i. The specific nature, extent and time of failure to comply with the approved application or notification, identifying the damage or potential damage,

ii. The relevant provisions of the Forest Practices Act or of the forest practices regulations relating thereto,

iii. The right of the operator or landowner to a hearing before the Squaxin Island Tribal Court, and

iv. The specific course of action ordered by the Natural Resources 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 reservation resource and/or those courses of action necessary to prevent continuing damage to reservation resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

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

c. No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to reservation resources which occurs more than one year after the date of completion of the forest practices operations involved. This is exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules and regulations, and provided that this provision shall not relieve the forest landowner from any obligation to comply with forest practices and regulations pertaining to providing continuing road maintenance no more than two years after the date the damage involved occurs.

d. When the operator has failed to obey a notice to comply, the Natural Resources Department may take immediate action to prevent continuation of or avoid material damage to reservation resources.

#### 4. Stop Work Orders.

a. The Natural Resources Department shall have the authority to serve upon an

operator a stop work order which shall be a final order of the Natural Resources Department, if it finds that:

i. There is any significant and serious violation of the provisions of the Forest Practices Act or these regulations,

ii. There is a significant and serious deviation from the approved application, or

iii. 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:

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

ii. An order to stop all work connected with the violation, deviation or potential damage,

iii. The specific source of action need 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 wilful or negligent disregard for potential damage to a reservation resource; and those courses of action necessary to prevent continuing damage to reservation resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation or negligence,

iv. The right of the operator to a hearing before the Squaxin Island Tribal Court. The Natural Resources Department shall immediately file a copy of such order with the Squaxin Island Tribal Council, Tribal Attorney, and Tribal Court, and send by certified or registered mail a copy thereof to the timber owner and forest landowner at the addresses shown on the application.

c. When the operator has failed to obey a stop work order, the Natural Resources Department may take immediate action to prevent continuation of or avoid material damage to reservation resources.

5. Corrective Action.

a. Normal Time Schedule.

i. Written Notice. If any operator has received a stop work order or notice to comply and fails to undertake and complete any course of action as required by such notice or order, the Natural Resources 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 the subject forest practice was conducted.

ii. Failure to Act. If such operator, timber owner or forest landowner fails within thirty (30) days after such notice is given to complete corrective action, the Natural Resources Department may expend any funds available, including operator's performance bond, undertake and complete such course of action and the operator, timber owner, or forest landowner shall be jointly and severally liable for the actual, direct cost thereof, but in no case more than the amount set forth in the written notice from the Natural Resources Department.

iii. Failure to Pay. If not paid within thirty (30) days after the Natural Resources Department completes such course of action and notifies such operator, timber owner or landowner in writing of the amount due, such amount shall become a lien on severed timber, subject to real property, or operator's equipment. The Natural Resources Department may also take immediate actions to halt all activities by the operator

on the reservation until the amount due is paid.

6. Civil Remedial Actions.

a. Monetary Compensation for Violation.

i. Every person who fails to comply with the provision of the Act, as now or hereafter amended, of these Forest Practice Regulations shall be required to pay civil monetary damages in the full amount of the costs of detecting and repairing any damages done as a result of the violation, plus the costs of enforcement and collection of such damages.

ii. In case of a failure to comply with a written notice from the Natural Resources Department, every day's continuance thereafter serving the written notice shall be a separate and distinct violation.

b. Other Participants. Every person who through an act of commission or omission procures, aids or abets in any violation shall be considered to have violated the provisions of this section and shall be subject to the remedial action herein provided for.

c. Written Notice. The remedial action herein provided for shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service to the violator from the Natural Resources Department describing the violation with reasonable particularity. Within fifteen (15) days after the notice is received, the person incurring the remedial action may apply in writing to the Natural Resources Department for the remission of mitigation of such remedial action. Upon receipt of the application, the Natural Resources Department may remit or mitigate the remedial action upon whatever terms it shall in its discretion deem proper.

In any case, the Natural Resources Department shall respond to the application within seven (7) days.

d. Compensation Due. Any compensation imposed hereunder shall become due and payable thirty (30) days after receipt of a notice imposing the same unless application for remission or mitigation is made, any compensation incurred hereunder shall become due and payable thirty (30) days after receipt of notice setting forth the disposition of such application.

e. Foreclosure. If the amount of any compensation is not paid to the Squaxin Island Tribal Council within thirty (30) days after it becomes due and payable, the Tribal Attorney, upon request of the Squaxin Island Tribal Council shall bring action in the Squaxin Island Tribal Court to recover such compensation.

7. Injunctions, Civil Suits. The Natural Resources Department, through the Squaxin Island Tribal Court, may take any necessary action to enforce any final order, or final decision, or to enjoin any forest practices by any person for one-year period after such person has failed to comply with a final order, or a final decision.

#### 8. Appeals.

a. Right to Review. Any operator, landowner or timber owner who is aggrieved by certain actions of the Natural Resources Department may appeal to Tribal Court for a reversal of such actions as a civil matter, under Tribal Rules of Civil Procedure.

Only final actions of the department shall be subject to judicial review. Final actions are those for which there is no further forum within the department under these regulations or departmental policy.

Actions subject to judicial review shall be disapproved of notification, conditions

attached to approval of notification, decision of the department requiring specific practices, order of penalty for violation of fire equipment regulations, supplemental directive, notice to comply, stop work order, corrective action order, and civil remedied action order.

#### b. Immediate Relief Hearing.

i. Right to Immediate Relief. Any operator, landowner or timber owner who is aggrieved by certain actions of the department, and who can demonstrate that the appealed action will cause him immediate and serious harm, including financial harm, and that his proposed actions do not present a danger of significant harm to reservation resources, may take an immediate appeal of action.

ii. Procedure. When an aggrieved person files a civil complaint with the Tribal Court Clerk, orally or in writing, pursuant to subsection (I) (2) (a) of this section, he may also request immediate relief. Within forty-eight (48) hours of this request, excluding weekends and tribal holidays, an immediate relief hearing shall be held pursuant to this section.

If a tribal judge is not available to conduct this hearing, the court administrator shall do so.

The immediate relief hearing shall be informal and only concern the matters at issue. The judge or administrator shall determine procedures for each hearing so that the truth about each matter shall be revealed as much as possible. The appealing person shall have the burden of proving all matters at issue by a preponderance of the evidence.

iii. Matters at Issue. The appealing party shall be required to show the following:

(A) That the appealed decision of the department will cause the appealing person immediate and serious harm, including financial harm,

(B) That the actions the appealing party wishes to take that are contrary to the decision of the department do not present a danger of significant harm to reservation resources if permitted to continue pending a full trial, and

(C) That the decision of the department is probably wrong based on the Forestry Management Act, these regulations, other tribal law, or departmental policies.

iv. Decision. If the judge or administrator finds in favor of the appealing party in all the matters at issue, he may:

(A) Order that the decision of the department be stayed pending full trial, or

(B) Order a compromise that balances the interests of the department and the appealing party pending full trial.

If the judge or administrator finds in favor the department on any one or more of the matters at issue, he shall deny the request for immediate relief, and the matter may proceed as any other civil matter.

If the judge or administrator finds that the request for immediate relief was brought frivolously and/or not in good faith, he may impose the costs of the proceedings on the appealing party, including salaries and expenses of the judge or administrator and court clerk, attorney's fees for the department and any and all other costs associated directly with the hearing.

No verbatim record of the proceedings shall be kept, except for the decision. Evidence, testimony, or other parts of the proceedings may not be referred to or used in any later full trial.

The judge or administrator shall issue a decision within two (2) hours after the end of the hearing, or the action of the department shall be stayed pending the decision.

c. Waiver of Immunity. The Squaxin Island Tribe hereby waives its sovereign immunity from suit in Tribal Court for the limited purpose of providing a forum for judicial review of departmental actions. The Tribe waives the immunity for purposes of declaratory and injunctive orders only, and not for damages or remedial orders. The Tribe does not hereby waive the immunity of suit of individual council members, officers, agents or others who may be made parties to and action solely because of their relationship to the Tribe. (Res. 04-56 (part))