

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

- WHEREAS**, Tribal Forester Dennis Bierer has come before the Tribal Council this date for Council approval of General Miscellaneous Forest Products Use Rules and Instructions; and
- WHEREAS**, the Tribal Council is concerned about non-member intrusion into the forest and damage to the environment caused by unregulated or unsupervised cutting of miscellaneous wood products by non-members; and
- WHEREAS**, the Tribal Forester explains that approximately two million board feet of dead spruce snags are cut annually by non-members and approximately eighty percent (80%) of the board feet cut annually is used for fire wood, with the remainder being used for house logs for log cabins ; and
- WHEREAS**, the Tribal Forester explains that the price paid by the non-member cutters is approximately \$25.00 per thousand board feet; and
- WHEREAS**, the Tribal Council concludes that the price should be raised \$1.00 to \$26.00 per thousand board feet; and
- WHEREAS**, the Tribal Council is willing to allow non-members to cut the dead spruce snags for the foregoing purposes as part of the Miscellaneous Forest Products Use Rules and Instructions because it provides employment to tribal members and additional income for the Fort Apache Timber Company; and
- WHEREAS**, the Tribal Council is willing to continue allowing non-members to cut dead standing spruce at the rate of \$26.00 per thousand board feet on the condition that the material is harvested and transported in log form only, and that the logs be scaled and weighed at the FATCO mill prior to transportation off-reservation and that these conditions be written into the General Miscellaneous Forest Products Use Rules and Instructions; and
- WHEREAS**, pursuant to Section 163.26 of 25 C.F.R., Part 163, General Forestry Regulations, permits for harvesting of forest products will only be issued with the written consent of the beneficial Indian owners, in this case, the White Mountain Apache Tribe; and

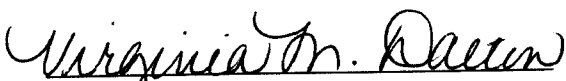
WHEREAS, the revised General Miscellaneous Forest Products Use Rules and Instructions, as revised and attached hereto and incorporated by reference herein, will allow for more equitable stumpage payments to the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the proposed General Miscellaneous Forest Products Use Rules and Instructions attached and incorporated by reference herein with the foregoing amendments included therein.

The foregoing resolution was on September 12, 1996 duly adopted by a vote of ten for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (b), (c), (f), (h), (i), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

SEP 2 1996

I. GENERAL MISCELLANEOUS FOREST PRODUCTS USE RULES AND INSTRUCTIONS

- A. Timber Cutting Permit (Form 5-5331) is required for harvesting miscellaneous forest products for any purpose, and permits will be issued to tribal members, except otherwise provided for in these rules and instructions. For tribal members a tribal census number (social security number) is required. Permits will be issued at the Fort Apache Agency Forestry office, Monday, Wednesday and Friday, except holidays, from 8:30 a.m. to 4:00 p.m. Vehicles transporting miscellaneous forest products will be identified on the permit with description of vehicle and license plate number. If an alternative vehicle is to be used the permittee must call the Tribal Forestry office and give them the new license plate number.
- B. The stumpage value of forest products harvested without formal contract in any fiscal year (October 1 through September 30) by any individual under free-use cutting authority shall not exceed \$5,000.00 {25 CFR 163.26 (b)}.
- C. The maximum stumpage value of forest products harvested without formal contract under paid permit authority in any fiscal year by any individual is \$25,000.00 {25 CFR 163.26 (c)}.
- D. Possession of a timber cutting permit is required for harvesting any miscellaneous forest products, except under section III of this policy statement. Violators will be subject to prosecution pursuant to the Tribal Law and Order Code, Chapter V, Part II, Section 52.21, Cutting Green Timber Without a Permit or the Tribal Game and Fish Code Fine Schedule, Section 7.2, (13).

Tribal Law and Order Code, Chapter V, Part II, Section 52.21, Cutting Green Timber Without a Permit: (A) A person who cuts or removes any green timber from tribal land without a tribal permit is guilty of an offense. (B) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed twenty (\$20.00) dollars, or both. OR Tribal Fish and Game Code Fine Schedule, Section 7.2 (13): Destroy, remove, injure or cut any green tree, dead tree, or other firewood on the Reservation without Tribal authorization - \$45.00 plus value of wood.

Violations by non-tribal individuals will be pursued by the Bureau of Indian Affairs as provided by the guidelines in 53 BIAM Supplement 7, Timber and Fire Trespass.

- E. Hauling miscellaneous forest products on the reservation without a bill of sale or timber cutting permit is prohibited, except under section III of this policy statement.

The bill of sale shall contain a description by local landmarks of where the forest products were cut, the volume or amount and species purchased, description of vehicle transporting the products, names, addresses and signatures of both purchaser and seller. The bill of sale or timber cutting permit must be carried by the person in charge of transporting forest products on the reservation and must be exhibited to any officer of the law, Tribal Game and Fish Department Officer, or BIA personnel, upon request.

Miscellaneous forest products transported on the reservation without a bill of sale or timber cutting permit, except as provided for in free use cutting without permit, will be subject to confiscation by the Tribal Police, Tribal Game and Fish officers, and Tribal Forestry personnel. Forest products species not identified on timber cutting permit will be considered illegal and subject to confiscation. Confiscated products will be impounded at the Tribal Forestry or Fish and Game compounds. Forest products will be distributed to four elderly rest homes or needy families on the reservation as directed by the tribal court.

- F. Christmas tree cutting by anyone is prohibited in the following areas: Mt. Baldy Wilderness Area; within 1/4 mile of any spruce clear cut blocks as defined in the Tribal Resolutions 79-165 and 79-166; within 1/4 mile of established lakes and campgrounds; Sunrise Ski Park; and within 200 feet of any state highway, which includes the Hawley Lake Road. Cutting a large tree just for the top section (to take home for the Christmas tree product) is not permitted and violators will be subject to prosecution pursuant to Tribal Fish and Game Code Fine Schedule Section 7.2 (13), refer to subsection D, paragraph 2.

Maximum stump height shall not exceed 10 inches on the uphill side for a legally cut Christmas tree.

- G. Non-tribal individuals married to tribal members must be accompanied by spouse and/or tribal member children when cutting and/or transporting miscellaneous forest products on the reservation. Non-tribal individuals cannot sell miscellaneous forest products personally; only the enrolled tribal member spouse has the right to sell forest products. This section will apply to all miscellaneous forest products harvested for resale or exchange for goods or services by tribal members.
- H. No firewood cutting will be allowed within 200 feet from the edge of streams, lakes, stock ponds, cienegas, campgrounds, homesite lot boundaries, state highways and Sunrise Ski Park. All tops and limbs shall be utilized to a four inch diameter. Maximum stump height shall not exceed 12 inches on the uphill side.

No firewood cutting will be allowed in areas where there is an active logging operation in progress. Violators will be subject to prosecution pursuant to the Tribal Game and Fish Code Fine Schedule, Section 7.2, (13).

- I. Dead down Ponderosa Pine along with dead standing and dead down Rocky Mountain juniper, Utah juniper, One-Seed juniper, Pinyon, Oak, Spruce, Aspen, Douglas-fir and White Fir may be harvested as firewood products for resale under a paid permit. GREEN SHAGGY BARK JUNIPER (ROCKY MOUNTAIN, UTAH & ONE-SEED) AND GREEN ALLIGATOR JUNIPER MAY BE CUT FOR FIREWOOD UNDER EITHER FREE USE OR PAID PERMIT BUT ONLY IN DESIGNATED AREAS ON THE RESERVATION. RESTRICTIONS APPLY REGARDING RESALE OF ALLIGATOR JUNIPER. (see subsection J below) Designated areas will be cutting blocks identified by B.I.A. Forestry personnel and will be cut to facilitate management of woodland species. These blocks will be identified at the time the permit is issued.
- J. Alligator juniper products may not be harvested for resale to anyone other than an enrolled member of the White Mountain Apache Tribe living on the reservation. Anyone cutting or transporting Alligator juniper for resale off the reservation or to any non-member of the White Mountain Apache Tribe on the reservation will be fined \$45.00 plus value of wood as specified in subsection D above. The firewood is subject to confiscation as specified in subsection E above.
- K. You may not cut standing Gambel oak or Aspen for firewood from October 15 to May 15. Gambel oak and Aspen leaves fall during the autumn and it is not easy to pick out dead trees from October to May. Anyone cutting standing or hauling green Gambel oak and Aspen for firewood between October 15 and May 15 will be fined \$45.00 plus value of wood as specified in subsection D. above. Value of one cord of Gambel oak firewood is \$125.00. One cord of Aspen firewood is valued at \$65.00
- Tribal members may cut dead and down Aspen or Oak Species for firewood.
- L. The entire reservation is open for firewood cutting except in buffer areas indicated in subsection H. above. Certain paid permits must be harvested only in areas designated by Forestry personnel, which will be indicated on maps.

- M. Cutting practices will be monitored by tribal and BIA forestry personnel. The Tribal Police, Tribal Game & Fish officers and Tribal Forestry personnel will have authority to enforce these regulations through field inspections. Copies of each permit issued will be sent to the Tribal Police and Game & Fish officers. National Forest Service Personnel and off reservation law enforcement officers will be contacted, periodically, to assist in monitoring firewood hauling off the reservation.
- N. Dumping of trash at firewood cutting sites is prohibited, including disposable diapers. All firewood cutting activity litter, such as oil cans, fuel containers, beverage cans, etc., will not be left scattered at wood cutting sites. All man-made litter will be hauled out of the forest along with the firewood. Violators may be prosecuted pursuant to the Tribal Game and Fish Department Code Fine Schedule, Section 7.2:(6) Litter roads, roadsides, campgrounds, waters or any tribal land on the Reservation - \$100.00.
- O. Cutting fences and clearing access routes to firewood sources from established forest roads is prohibited. Anyone damaging fences will be fined \$50.00. This fine is stipulated in the Tribal Game and Fish Department Code Fine Schedule, Section 7.2: (14) Cut, damage, or destroy any fence on the Reservation - \$50.00. ALSO THESE INDIVIDUALS WILL NOT BE ISSUED A PAID PERMIT FOR TWO (2) YEARS.
- P. A copy of instructions and map will be attached to each permit issued.

II. FREE USE PERMITS

- A. Free use permits will be issued for the entire reservation (except in restricted areas) to any enrolled adult (18 years old and older) tribal member for the following purposes:
1. Fence posts, poles and stays for personal use. No more than 200 green fence posts per year per household will be authorized.
 2. Firewood for personal use on the reservation. Each household will be limited to six cords per year.
 3. Firewood transported off the reservation by tribal members for personal use at their residences. No more than six cords per year per household will be authorized.
 4. Tribal members living off the reservation will be issued a Christmas tree permit for personal use with a limit of one tree per household.
- B. Free use permits will be issued to reservation schools, recognized religious organizations, tribal organizations and local public service units for forest products used within the reservation.
- C. Recognized religious organizations with non-tribal member pastors will have tribal members cut firewood for their respective churches. Churches that are heated solely by woodstoves will have access to unlimited supply of firewood.
- D. Free use permits will be issued for transplants for landscaping around homes on the reservation. Areas designated for transplant digging will be indicated on the permit.
- E. Free use permits will be issued for the annual limit of products to be cut and for the duration of present fiscal year.
- F. Free Use Products:

<u>PRODUCT</u>	<u>SPECIES</u>
Christmas Tree	Pinyon, Spruce, Douglas-fir and White Fir. Pinyon shall be six feet or less.
Firewood	All dead standing and down, except standing Ponderosa pine snags.
Fence Post/stays	Juniper, all species.
Poles	Aspen and Ponderosa pine (TSI slash only).
Transplants	All Reservation Species.

III. FREE USE WITHOUT PERMITS

- A. No permit is required for tribal members to cut willow, cottonwood, aspen, fir, pinyon, juniper, walnut or Gambel oak saplings/branches. Aspen will not be cut in highway rights-of-ways and within 200 feet of right-of-way fences. These products will be used for ceremonials, and other home uses.
- B. No permit is required for tribal members to cut firewood for wakes and ceremonials. No limit on amount is required under this section.
- C. No permit is required for tribal members living on the Reservation to cut one Christmas tree per household.
- D. No permit is required for campers with valid camping permits to gather and use firewood while camping on the Reservation.

IV. PAID PERMITS FOR TRIBAL MEMBERS

The following stumpage rates shall apply to all miscellaneous forest products harvested for resale or exchange for goods or services by tribal members and any tribal enterprise. Fort Apache Timber Company is included under this section for their annual Christmas trees donated to customers. Paid permits require payment in advance. Unused balances will not be refunded, nor the permit expiration date extended. Tribal members are prohibited from selling Christmas trees.

Product	Species	RATES	
		Tribal Member	Tribal Enterprise
Christmas Tree	Pinyon, Spruce, Douglas-fir and White Fir. Pinyon pine shall be six feet or less in height.	N/A	\$2.00/Tree
Firewood	All dead standing and down, except standing Ponderosa pine snags.	\$4.00/Cord	\$7.00/Cord
Fence Post	All Junipers, and Oak	\$0.10/Post	\$0.25/Post
Stays	All Junipers, Oak, Aspen, Ponderosa pine and dead snags.	\$0.02/stay	\$0.04/stay
Poles	Aspen	\$0.50/Pole	\$1.00/Pole
	Ponderosa pine (TSI slash only) Less than 4.0" dbh.	\$0.06/Pole	\$0.12/Pole
	4.1" to 6.0" dbh.	\$0.08/Pole	\$0.16/Pole

V. PAID PERMITS DURATION

<u>Value of Permit</u>	<u>Time Limit of Permit</u>
\$ 1.00 - \$ 5.00	3 Days
\$ 5.01 - \$ 10.00	7 Days
\$10.01 - \$ 20.00	15 Days
\$20.01 - \$ 40.00	30 Days
\$40.01 Plus	As Indicated

VI. PROVISIONS FOR NON-TRIBAL INDIVIDUALS HAULING PURCHASED FIREWOOD OFF THE RESERVATION

A. Non-tribal individuals are prohibited from picking up purchased firewood in the forest or woodland areas. The following designated areas in the respective communities will be pick up points for transporting large volumes of purchased firewood off the Reservation:

1. Hon Dah Woodyard
2. Whiteriver- across from BIA Fire Management office near the livestock corrals
3. Carrizo Junction
4. Cibecue- Police Station, or within limits of the community

VII. PERMITS FOR CONSTRUCTION PROJECTS ON THE RESERVATION

- A. All activities by any tribal or government entities which requires removal of commercial trees 5.0 inches at diameter breast height and larger shall require a paid permit.
- B. Trees designated for removal shall be measured and marked by BIA Forestry personnel.
- C. Prior to tree cutting operations the permittee shall pay in advance for the trees at the following authorized rates:

<u>Product</u>	<u>Stumpage Rate</u>	<u>Cash Bond*</u>
Sawtimber	25% of Previous Months WWPA Index for Rocky Mountain Ponderosa Pine	\$55.00/MBM
Pulpwood	\$10.00/Cord	\$25.00/Cord

* Minimum Cash Bond shall be \$40.00.

- D. The cash bond shall be deposited with the B.I.A. Agency Superintendent to ensure all slash is properly disposed of in a manner acceptable to B.I.A. Forestry. This will include burning or hauling to a proper disposal site. The Permittee is liable for all damages from the slash burning to adjacent reserve timber or property. Slash disposal shall be completed by the expiration date of permit or the bond will be forfeited.
- E. The period of time for which a permit is valid shall be determined at the time the permit is issued and may vary dependent upon the needs of a particular project.

VIII PROVISIONS FOR COMMERCIAL HARVEST OF DEAD SPRUCE, ASPEN and SALVAGE SPECIES

- A. By way of these Instructions and guidelines Resolutions 04-88-92, 04-88-93 and 08-88-207 are superseded. Timber cutting permits and/or sales may be made to harvest dead spruce, aspen and other salvage species of trees. Permits will not exceed a stumpage value (per person) of \$25,000 per year and will not be sold for less than \$26/MBF gross scale.

All products under this provision will be removed in log form and will be weighed at the FATCO sawmill in Whiteriver to facilitate accurate determination of volume harvested.

All permits issued under this section will be accompanied by a "Special Provisions" attachment to ensure environmental and regulatory concerns are addressed.

IX. RECOMMENDED MINIMUM SELLING PRICES FOR FIREWOOD SOLD OFF THE RESERVATION

- A. The following is the recommended minimum selling prices of various tree species sold for firewood products off the reservation.

<u>Species</u>	<u>Recommended Minimum Selling Price</u>	<u>1/2 Ton* Pickup</u>	<u>3/4 Ton* Pickup</u>
Oak	\$125/cord	\$75	\$95
Shaggy Bark Junipers	\$ 70/cord	\$45	\$55
Douglas-fir	\$ 70/cord	\$45	\$55
Aspen, Spruce	\$ 65/cord	\$40	\$50

* A 1/2 or 3/4 ton pickup loaded and stacked on a pickup without side boards or racks. Stacked this way a pickup will carry only a portion of a cord of wood.

- B. The following estimates firewood volume for two major types of vehicles used to haul wood off the reservation.

<u>Truck Type</u>	<u>Estimated Cords</u>
3/4 Ton Long Wheel Base pickup with side racks	Approximately 1 cord
1/2 Ton Short Wheel Base pickup with side racks	Approximately 3/4 of a cord