

THE NIPISSING FIRST NATION

Natural Resources Management

FOREST STEWARDSHIP
Policy & REGULATIONS

Established & Implemented November 12, 1999

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Introduction

This policy is the result of a concerted effort between Chief and Council and the Forestry Department of the Nipissing Band Office. It is designed to assist Band Resource Managers in the management of the Garden Village Reserve forestry program.

Though this policy is intended to be a binding document, it is subject to review and revision by Chief and Council

General Overview

The present and future generations of the Nipissing First Nation members own the forests on the Nipissing First Nation Reserve. The forests are considered an intimate part of both their heritage and identity. This policy is the direct result of an evident need to institute a management system which will ensure that the Nipissing Forests are always governed in a manner which will ensure their healthy existence in perpetuity.

This policy is to be interpreted and implemented in a way consistent with consummate forest practices, and administered responsibly and in an accountable manner. Consistent with the visions of our forefathers, the health and state of the forest is paramount to any other concerns, and decisions made respective to this policy must reflect this significant tangible. Any activities conducted on Nipissing forest lands must be conducted in a sustainable manner which recognizes and respects the importance of maintaining an ecological balance.

Those charged with the responsibility of administering this policy must ensure that decisions are made responsibly, and not for political reasons. They must ensure that all permit holders have and maintain a vested interest in the activities identified on the permit.

1.0 Policy Administration

1.1 The administration of this policy is the responsibility of the Band Offices Forestry Department.

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- 1.2 No one shall have the right to conduct forestry activities of any kind on Nipissing forested lands without a permit to do so issued by the Forestry Department.
- 1.3 A permit cannot be issued by anyone which contravenes any of the provisions set forth in this policy.
- 1.4 The Forestry Department will identify the areas within the Nipissing forested lands which are eligible for timber removal on April 1 of every year.
- 1.5 Timber eligibility's referred to in article 1.4 above will be determined by a forest plan for Nipissing forested lands developed by a professional forester
- 1.6 Permits to remove timber can only be issued for areas identified by article 1.4 above.
- 1.7 The permit holder must be a registered Nipissing Band member,.
- 1.8 The permit holder must have a vested interest in the operation and demonstrate this by owning the main equipment required to fulfill the permit obligations.
- 1.9 The permit holder or the permit holders spouse must be one of the daily workers required on site.
- 1.10 A permit is not valid unless ratified by Chief and Council. Any changes to a permit, or any discrepancies of an kind associated to the permit once ratified by Chief and Council, must be administered through the Forestry Department. Should any concerns arise which require Chief and Councils' attention, they must be presented to Chief and Council by the Forestry Department.
- 1.11 The term of a permit must not exceed one year in duration.
- 1.12 Chief and Council must ensure that any areas where timber has been removed subsequent to the issuance of a permit to do so, are regenerated to adequate levels no later than five years after the timber was removed.

- 1.13 It is the responsibility of the Forestry Department to ensure that permits issued to remove timber from the Nipissing forested lands do not authorize the over harvest or over cutting of the Nipissing forested lands.
- 1.14 The Forestry Department must develop a set of timber harvesting regulations designed to ensure that the provisions of this policy are administered fully.
- 1.15 Everyone conducting forestry activities on Nipissing forested lands will be bound by the this policy and it's regulations referred to in article 1.14 above.
- 1.16 It is the responsibility of all who either administer this policy or are bound by this policy, to ensure that whenever possible and practical the activities conducted on the Nipissing forested lands are done so by Nipissing Band members in accordance with article 4 "Band Member Content and Administration", of this policy, except where in the view of Chief and Council, it is impractical.
- 1.17 The Forestry Department will conduct an orientation session with every prospective permit holder prior to issuing a permit to conduct activities covered by this policy. This orientation will include a review of this policy, the permit responsibilities, the timber regulations, and the responsibilities required of the permit holder . The permit holder and Forestry Department will each sign a release form acknowledging this before any permits can be issued.
- 1.18 Ownership of all natural resources belongs to the Nipissing Band until the Nipissing Band receives payment of stumpage associated to the resources. At his point the Nipissing Band will relinquish ownership of the resources to the permit holder.
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- 1.18.1 Should the permit holder deliver timber to a milling facility for processing, and fail to compensate the Nipissing Band in accordance with section 5 of this policy "stumpage and Royalties", the Nipissing Band may terminate the permit and seize the remaining timber from the permit holder.

2.0 Operations

- 2.1 Harvesting operations on the Nipissing forested lands must be conducted in a manner which protects the environmental integrity of the site being operated.
- 2.2 All operations associated to this policy must be conducted in manner consistent with the timber regulations produced through this policy.
- 2.3 All timber harvesting activities must be performed with the intent of fully utilizing all merchantable timber on the permit site.
- 2.4 No person shall waste timber as defined by the timber regulations, and no "high grading" or discriminate choosing of better timber over lesser quality timber of the same species is permitted on Nipissing forested Land. All merchantable timber as defined by the timber regulations of a species identified on a permit must be utilized fully.
- 2.5 Access roads constructed on the Nipissing lands by the permit holder directly adjacent to or within permit sites become the property of the Band once the permit is completed or expired.
 - 2.5.1 Access roads constructed by the permit holder to access sites but are not adjacent to or within the permit sites become the property of the Band once the permit is completed or expired. The permit holder will be compensated for these roads by the Band through a stumpage rate reduction.
 - 2.5.2 Access roads used by a permit holder but not constructed by the permit holder, will be paid for by the permit holder through a stumpage rate increase.
 - 2.5.3 No permit holder shall restrict the use of any road by any Nipissing Band member at any time.
 - 2.5.4 The permit holder will erect signs which are clear and legible to inform the public of its activities, the hazards associated to use of the road at that time, and that the public uses the roads at their own risk.

- 2.6 No timber operations will be conducted with one half of a kilometer from any housing developments, communities, or Lake Nipissing.

3.0 Procedures

3.1 Timber Permit Application

- 3.1.1 Any Band member can apply for a permit to remove timber from the Nipissing forested lands.
- 3.1.2 An application must be retrieved from the Forestry Department and completed fully and legibly.
- 3.1.3 The application must be returned to the Forestry Department and stamped by the Forestry Clerk to indicate when it was received.
- 3.1.4 The Forestry Department has up to fourteen days to review the application and make any requests for further information from the applicant. If further information is required, the fourteen day review period starts over. At the end of the review period the Forestry Department will present the application to the Band Manager to request a review by Chief and Council. On the application, the Forestry Department will either recommend acceptance to Chief and Council, or recommend refusal of the application to Chief and Council.
- 3.1.5 The Band Manager must ensure that the application is complete and in a format acceptable to Chief and Council before accepting the application from the Forestry Department, and placing the application on the official Council docket.
- 3.1.6 Chief and Council must rule on the application within three convening's after the Band Manager places the application on the official Council docket.
- 3.1.7 At this point Chief and Council may pass a Band Council Resolution ratifying the application, or refuse it with an explanation.

- 3.1.7.1 If the application is refused, an explanation must be attached to the application, and the Band Manager must deliver the application back to the Forestry Department, and the Forestry Department must deliver the decision to the applicant.
- 3.1.7.1.1 The applicant must reapply to pursue the desire for a permit to remove timber from the Nipissing forested lands.
- 3.1.7.2 If the application is ratified, the Band Council Resolution must be attached to the application, and the Band Manager must deliver the application back to the Forestry Department.
- 3.1.8 At this point the Forestry Department will inform the applicant in writing of Chief and Councils decision.
- 3.1.9 If the application is successful, the applicant is then required to secure sales contracts for the timber identified on the permit. These can be either formal contracts or letters of commitment from the buyers. The applicant is also required to indicate in writing an operating plan which will be used to identify where they will commence operations, the method of operating (cut and skid vs. mechanical, full tree versus slashed wood, shelterwood cut versus clearcut, etc...), and the expected time frame associated to each phase of the operation (March 1st to September 15th 1999 harvesting, June 1st to September 21st skidding, and September 1st to September 30th Hauling). The plan will clearly identify a proposed haul schedule, and any changes to this schedule need to be identified to the Forestry department at least twenty four hours before the change.
- 3.1.10 The Forestry Department will assess the validity of the operating plan required in article 3.1.9 and ensure it demonstrates the ability of the applicant is sufficient to, and the proper planning is in place to perform the requirements of the permit. Upon receipt of an acceptable operating plan as described in this policy, the Forestry Department will prepare the permit and hold an orientation meeting with the applicant to review the provisions set forth in this policy. Both the Forestry Department and applicant will sign a release form acknowledging the applicants responsibilities.

- 3.1.11 The Forestry Department will now issue the applicant the permit to remove timber from Nipissing forested lands.

3.2 Changes to Timber Permit

- 3.2.1 Any changes required by the permit holder to the timber permit must be presented to the Forestry Department in writing.
- 3.2.2 The Forestry Department will either rule on the request in writing within forty-eight hours, or schedule a meeting between the permit holder and the Forestry Department within forty-eight hours to discuss the request.
- 3.2.3 If a meeting was required by the Forestry Department, they will have another forty-eight hours to rule on the request commencing at the end of the meeting itself.
- 3.2.4 If the Forestry Department agrees to the request, they can either institute the changes and indicate such in writing, or present the request to the Band Manager to schedule a meeting with the Forestry Department and Chief and Council.
- 3.2.4.1 Should the request be reverted to Chief and Council, the Band Manager will schedule the meeting on the official Council docket for the next scheduled Council sitting.
- 3.2.4.2 At this point, Chief and Council will rule on the request in writing.
- 3.2.5 The Forestry Department will have twenty-four hours to deliver the ruling by Chief and Council to the permit holder.

3.3 Appeals Process

- 3.3.1 At any time, an applicant or permit holder may apply to the Band Manager to invoke the appeals process. The Band Manager will ensure that the applicant or permit holder follow through with the complete procedure(s) undertaken before permitting the appeals process to be invoked, and that the appeals process will be used as a last resort mechanism.
- 3.3.2 Should the Band Manager decide to invoke the appeals process on behalf of the applicant or permit holder, he/she will have seven days to organize the appeals panel as described in this policy.

- 3.3.3 The appeals panel will have two days to review the issue(s) and convene with the aggrieved party, and any other parties named in the request for appeals process, to hear their concerns.
- 3.3.4 The appeals panel will have forty eight -hours to make a ruling and deliver the ruling to the Band Manager in writing.
- 3.3.5 The Band Manager will have twenty-four hours to inform the applicant or permit holder of the panels decision in writing, and in duplicate to each of the Forestry department, and Chief and Council.

4.0 Band Member Content & Administration

- 4.1 Band members as required by permit holders in article 1.16 to perform activities associated to this policy must be qualified in accordance with this policy to perform the activities.
- 4.2 The Human Resources Department of the Band will make every reasonable effort to train as many interested Band Members as practicably possible to be available to the permit holders for the purposes of performing forestry tasks.
- 4.3 The Human Resources Department will ensure that a list of these individuals identifying the information pertinent to the permit holder, will be available to the permit holder upon request, and kept up to date.
- 4.4 Chief and Council jointly with the Human Resources Department will develop an incentive system which will positively impact the use and development of band members in forestry activities, and influence permit holders to develop and train Band Members in their operations.
- 4.5 The permit holder must exhaust all reasonable opportunities to acquire someone from the list of available personnel before hiring an individual who is not a registered Band Member of the Nipissing Band.
- 4.6 The permit holder is required to make every reasonable effort to develop the individual into a competitive forestry worker.

- 4.7 The individual is required to make every reasonable effort to progress and excel as a forestry worker and minimize the impact on the permit holder throughout the process.

5.0 Stumpage & Royalties

- 5.1 The Forestry Department will develop and keep up to date a schedule of fees (stumpage) to be paid for the extraction of Band resources from Band Forestry. The schedule of fees must be ratified by Chief and Council before being implimented.

- 5.1.1 Any changes to the schedule of fees must be made through a Band Council Resolution.

- 5.2 The permit holder will be responsible to pay the Band the stumpage described in article 5.1 in a timely manner consistent with the provisions set forth in this policy.

- 5.3 The Forestry Department will identify the units of measure, the scale, and the details of payment to be used in determining the stumpage on the permit issued to the permit holder.

- 5.4 At least 90% of the stumpage and/or fines collected by the Band in accordance with this policy must be reinvested back into the development of the Band Land timber resources

6.0 Compliance Auditing

- 6.1 Chief and Council will ensure that the Forestry Department has sufficient and qualified individuals exist to allow for weekly visits to the sites of ever permit holder for the purposes of auditing.

- 6.2 The individuals will be referred to as field technicians, and their responsibilities will include the site auditing of the permit holder to ensure that the provisions of this policy are being adhered to completely.

- 6.3 The Forestry Department will develop a site inspection form which the field Technicians will be required to complete on a weekly basis.

- 6.4 The site inspection form will be kept in the permit holders file along with a copy of the permit.
- 6.5 Permit holders must report any contravention's to this policy either committed by them or another permit holder that they are aware of to the Forestry Department.

7.0 Non-Compliance

- 7.1 The Field Technicians will have the authority to shut down an operation immediately should they determine that environmental damage is occurring or about to occur.
- 7.2 The Forestry Manager will have the authority to recommend suspension to a permit, and/or fine a permit holder, should it deem that any of the provisions of this policy are in non-compliance by the permit holder
- 7.2.1 ythe permit holder in writing to meet in person with him/her to explore possibilities of resolving the issue without proceeding to formal suspension. The meeting must be scheduled to take place within fourty-eight hours of notification to the permit holder.
- 7.2.2 Should the Forestry Manager determine sufficient grounds exists for suspension and/or fine of a permit, he/she must inform the permit holder immediately in writing, and deliver the suspension to the Band Manager within twenty-four hours of suspending the permit.
- 7.2.2.1 The Band Manager will schedule the suspension and/or fining to be presented to Chief and Council and place the suspension and/or fining on the Council docket within fourty-eight hours.
- 7.2.2.1.1 Chief and Council must review the suspension and/or fining at their next convening.
- 7.2.2.1.2 Chief and Council must pass a resolution at this convening to either terminate the permit, or recommend punitive action, and to decide what will be done with the natural resources seized by the suspension.

- 7.2.3 The permit holder must stop all activities associated to the permit immediately upon being issued a suspension in writing from the Forestry Manager, and until Chief and Council have ruled in accordance with this section of the policy.
- 7.2.4 All natural resources including timber and gravel will be seized by the Forestry Department, and will no longer be in the control of the permit holder. At this point the permit holder will not be at liberty to move or transport the natural resources, and will be bound by the ruling of Chief and Council as expressed in this section of the policy.
- 7.3 Any contravention's to or infractions of this policy will be sufficient grounds for permit termination.

8.0 Appeals

- 8.1 Either the permit holder, applicant or Forestry Department may appeal decisions or actions associated to this policy.
- 8.2 An appeal will be issued through the Band Manager by the aggrieved party in accordance with section 3 "Procedures" of this policy.
- 8.3 The Band Manager will put together an appeals panel consisting of one band members from the community who is not employed by the Band Office, one Council member, and one Band member who is an elder of the community.
- 8.4 The Band Manager or Forestry staff cannot sit on the appeals panel.
- 8.5 The appeals panel will be briefed by the Land's Manager on the circumstances of the grievance, plus issue the grievance in writing signed by t the grieyed party to the panel.
- 8.6 The appeals panel will interview the two parties in concern together to hear their explanations and defenses.
- 8.7 The appeals panel will issue a ruling based on a majority vote.

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- 8.8 The appeal once voted, will be final and binding upon the parties involved, and will not be subject to further review.
- 8.9 The appeal process cannot be used to reverse a decision made by Chief and Council unless the decision breaches the covenants of this policy.
- 8.10 No ruling of the appeals panel can circumvent or contravene the provisions set forth in this policy.
- 8.11 The ruling must be made in writing and signed by each member of the panel.

9.0 Definitions

- ❖ "forestry activities" are any activities which are associated to the removal or replacement of timber on the Nipissing First Nation Reserve.
- ❖ "eligible", "timber eligibilities" is the sustainable amount of timber available for removal from the Nipissing First Nation Reserve, as determined by a professional forester .
- ❖ "regenerated" is the replacement of trees removed to allow for restocking of an area at a rate of no less than 40% at 2 meter by 2 meter spacing, and free to grow without canopy competition no later than five years after timber removal.
- ❖ "over harvest", "over cutting" is when timber is removed at quantities which do not allow for the sustainable growth of the forest.
- ❖ "no cut" means absolutely no timber is removed, damaged, or disturbed in any way from its natural state. No activity will be conducted in any way which disturbs the site in any way from its natural state.
- ❖ "environmental integrity" is the state of a given site which allows for it's natural existence in perpetuity, as it existed before intervention.

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- ❖ "high grading" is the act of removing a timber based solely on its dollar value, while leaving timber of lesser dollar value behind. It is the process of selecting timber to be removed by the quality of that timber while ignoring the rest of the timber on a given site. It is a process which leaves the forest with a lower quality gene pool when performed.
- ❖ "access roads" are roads which are either created or maintained by a permit holder to access and/or transport timber from a site.
- ❖ "primary roads" are roads which either provide access or will be used in the future to provide access to forestry activities other than those of the permit holders immediate permit requirements. These roads should be identified on the permit as being primary roads. These roads have a use expectancy of more than one year.
- ❖ "tertiary roads" are roads which provide access to the immediate requirements of the permit and are directly adjacent to the areas being operated. These roads usually have a use expectancy of not more than one year.
- ❖ "ratified" is the passing by Chief and Council of a resolution and the issuance of a Band Council Resolution.
- ❖ "haul" is the transporting of timber from a site to another site by use of an access road.
- ❖ "reverted" is the giving back of an issue, or the turning over of an issue to another.
- ❖ "forestry tasks" are the responsibilities issued to one which are related to the performance of work related to forestry activities.
- ❖ "environmental damage" is changing the integrity of a site by deteriorating it or causing it to be in a state which undermines the sustainability of the ecology it supports or is forecasted to support.
- ❖ "natural resources" are all resources which are part of the ecology of the Nipissing First Nation Reserve. They can be, but are not limited to, gravel, sand, dirt, trees, wildlife, lakes and rivers.

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- ❖ "siezed" to take possesion and/or control of the natural resources processed in any way by the permit holder, away from the permit holder, and place possesion and/or control with the Band.
- ❖ "water course" is any body of water which can be identified on a 1:50 000 scale topographical map, and is not intermitent in nature.
- ❖ "site damage" is the disturbance of the ground by any means which causes the ground to be broken or physically altered from its original state.
- ❖ "diameter breast hieght" is the area of a tree located at 1.3 meters from the ground

10.0 Regulations

a) Environmental Protection

- i) Fines considered for punitive damages will be unlimited for contraventions of this environmental protection article.
- ii) Water crossings must be constructed to allow for the natural flow of the water course without changing any of it's existing physical characteristics.
 - (1) No machanical equipment of any kind shall cross directly through a water course without the use of a suitable water crossing.
 - (2) A suitable water crossing will conform with article 10.1.1 and be constructed in a manner which does not allow for the deposition of materials into the water course which is detrimental to the healthy state of the water, and/or it's ability to support it's current fish population.
 - (3) No scalping of the banks of the water course is permitted unless stated by the Forestry Department on the permit issued to the permit holder.
- iii) Site damage, as viewed by the Forestry Department, and caused by the operations of the permit holder is stricly prohibited.
- iv) No activity will take place which disturbs or threatens the natural existence of wildlife.
 - (1) Activities must be kept at a distance from wildlife nesting or rousting area's which will allow for natural and undisturbed wildlife activity.
- v) Timber "no cut" zones will be established by the Forestry Department which protect sensitive environmental areas. The zones will be described on the permit and identified on a map accompanying the permit.
- vi) Littering of the site with garbage or unwanted materilas unnatural to the site is strictly prohibited.

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- vii) Any materials spilled on site which are not natural to the site will be considered "hazardous materials". Should hazardous materials be spilled on site, the area of the spill must be immediately contained to prevent the spill from spreading. The site must be immediately excavated to prevent the absorption of the material by the ground, and transported to a provincially approved waste disposal site. Should the spill occur in a water course the permit holder must inform the Forestry Department immediately of when and where the spill took place, and what is the nature of the hazardous material(s).

b) Timber Operations

- i) Fines for considered for punitive damages for contraventions to this timber operations article will be limited to \$10 000.00.
- ii) Any timber harvested and/or processed in a manner not consistent with the timber permit will be considered a wasteful practice. Wasteful practices will be strictly prohibited.
- (1) Operating by "high grading" the forest will be considered a wasteful practice and be strictly prohibited.
- (2) The cutting of trees smaller than 10 centimeters at diameter breast height is prohibited.
- (3) Topping of trees will conform to the following parameters
- (a) Coniferous trees will not be topped at sizes larger than 10 centimeters.
- (b) Deciduous trees will not be topped at sizes larger than 20 centimeters.
- (4) No piece of timber will be left on site which is described on the permit as being as a timber product which can be sold to an end user.
- iii) No timber will be skidded directly through water courses. Any timber transported either by vehicle or otherwise across a water course must be done so on a water crossing approved by the Forestry Department.

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- iv) Operations being conducted outside of the boundaries identified by the Forestry Department on a map accompanying the permit will be considered a trespass by the permit holder. Tresspasses are strictly prohibited.
 - (1) Timber harvested in an area of trespass will be immediately siezed by the Forestry Department.
 - (a) The minimum fine to be assessed by either the Forestry Department or Chief and Council on a first offence in this situation is set at between three and five times stumpage.
- v) Timber being transported form the permit site to a milling facility or any other site must be done so in a safe manner.
 - (1) Any liabilities associated to timber spilled or detained while in transport from the permit site to a milling facility or any other site, are the responsibility of the permit holder.
 - (a) The permit holder must act in a timely and responsible manner when mitigating a timber spill.
 - (b) The permit holder must inform the Forestry Department of any spills immediately following the spill.
 - (2) The permit holder must ensure that the roads being used on the Nipissing forested lands for transporting timber are signed adequately to inform the general public of the activity and the dangers associated to the activity. As well, there must be signage which identifiy's a phone number for the general public to report to the permit holder any dangerous circumstances associated to the transporting of the timber.
- vi) Skidding timber and/or processing timber adjacent to or on primary roads is prohibited. Skidways will be kept to tertiary roads not used for general forest access.
- vii) The spring thaw period will be the time when spring temperatures cause roads and sites to deteriorate and become unstable due to rapid thawing. The Forestry

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Department will issue a notice to all permit holders advising them of when the spring thaw period will be in effect, at least seven days prior to its inception.

- (1) During the spring thaw period, no transportation of timber along primary roads will be permitted which may cause the road to be damaged.
 - (a) The Forestry Department will identify which roads will be effected by the spring thaw at the time of giving noticed under subsection vii) above.
- (2) During the spring thaw the Forestry Department will advise the permit holders of which sites will be required to seice operations due to the potential of thawing damage, in accordance with article 10 section a) above.