

Information for First Nations Requiring Timber for a Traditional and Cultural Activity

Access to Timber

While a First Nation may be able to demonstrate the likelihood that it has an aboriginal right to use of wood for domestic purposes, the Province of British Columbia continues to assert its authority to regulate for forest management and ensure forest conservation. First Nations wishing to obtain free use of timber for a traditional and cultural activity will need to obtain a free use permit from a forest district office.

Ministry of Forests and Range (MFR) staff can only issue a free use permit if the application meets criteria set by the *Forest Act*. For the purposes of free use permits, the *Forest Act's* Free Use Permit Regulation defines *traditional and cultural activity* as an activity that:

- (a) *has historically been carried out in British Columbia by members of a group to which the person carrying out the activity belongs,*
- (b) *is carried out for a traditional or cultural purpose of the group,*
- (c) *is not carried out for profit or for a commercial purpose, including trading and bartering, and*
- (d) *is not carried out for the purpose of constructing a residential dwelling except for a residential dwelling constructed by an aboriginal community with an aboriginal right to timber that includes constructing residential dwellings.*

Applications

An application will provide information that the district manager or authorized forest officer needs to evaluate the request for timber. Things to consider:

- The applicant can be a First Nation person or an Indian Band.
- The requested timber can only be used for a traditional and cultural activity, and cannot be sold, traded or bartered*.
- A traditional and cultural activity is defined in terms of a group or community so the application must have support from the First Nation community.
- The applicant should propose an area with the desired volume and quality of timber that is within the area traditionally harvested by the First Nation. The applicant is encouraged to work with MFR staff or established licensees who have specialized knowledge of legal and forest management factors that should be identified and considered.
- If the timber is intended to be used for the construction of a building (examples: longhouse, community hall, residence), the application should state where the building will be located and whether the applicant has the necessary present legal land occupancy rights for a building proposed to be located outside of Indian Reserve land.
- If the timber is to be used for the construction of a residential dwelling, the application needs confirmation that the First Nation asserts and is likely to be able to demonstrate that it would have an aboriginal right to timber for constructing residential dwellings.
- The total volume under application cannot exceed 50 m³ unless the timber is to be used for construction of a longhouse, community hall or other similar structure, or a residential building.
- Applications for more than 50 m³ will require building plans, calculations and a written endorsement from the First Nation.

*Trading and bartering may be a significant part of a local First Nation economy but free use permits for traditional and cultural activities are not the appropriate tenure for obtaining timber for commercial purposes. Free use permits will always prohibit selling, trading and bartering of any timber cut under the permit.

Costs

Although the free use permit is free, the holder of the FUP will be responsible for all costs associated with logging, yarding, loading, transporting, milling, drying and any other incidental costs that may come up in association with harvesting timber. These costs should be considered before applying for a free use permit. Depending on the circumstances, purchasing lumber from a retailer may actually be cheaper and more convenient.

Using the Permit

Permit Provisions

Once the free use permit is issued, please become familiar with the conditions in the permit. Typical provisions:

- Cutting can only occur within the permit area shown on the map.
- Volume limits cannot be exceeded.
- Timber can only be removed from the permit area if it will be used for a traditional and cultural activity and the timber cannot be sold, traded or bartered.
- The free use permit must be carried or in a nearby vehicle while harvesting or transporting timber.
- Before moving the logs, label your load with the timber mark indicated in the free use permit.
- Scaling is not required but if the free use permit authorizes more than 50 m³, an estimate of the volume actually harvested may need to be reported to the Ministry of Forests and Range.
- The permit does not authorize road construction.

Legislation Requirements

In addition to the permit provisions, harvesting and transporting must follow applicable legislation including the *Forest Act*, the *Forest and Range Practices Act*, and the *Wildfire Act*. Common requirements:

- A Notice of Commencement must be provided to the compliance and enforcement staff of the forest district office that issued the free use permit. [*Forest and Range Practices Act*, Forest Planning and Practices Regulation section 85]
- Harvesting on the free use permit may be considered an industrial activity [*Wildfire Act* section 7] and a high risk activity [Wildfire Regulation section 6] so the person carrying out the activity is required to abate fire hazards.

Best Practices and Operational Logistics

If you are operating over a period of time, you should regularly contact the forest district office for fire hazard and road use updates information.

Branches or unused portions of the tree stem are potential fuel for a forest fire. There will be a greater risk of a forest fire if any of this slash is elevated (in piles or leaning against trees) or if the slash is left in an opening where the sun can dry it out. You can reduce the fire hazard:

- Prevent concentrations of flammable material by spreading the slash around (ideally in shady areas where the slash can stay moist and rot faster).
- Cut large pieces and place close to the ground to avoid creating a fire hazard of suspended fuel.
- Use other methods of abatement appropriate for the circumstances.

Please help protect wildlife trees. Read the brochure: [Firewood or Wildlife Tree?](#)