

COQUILLE INDIAN TRIBE
CITC CHAPTER 405
COQUILLE TRIBAL TRUST RESOURCE MANAGEMENT ORDINANCE

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405.001 Title

This Ordinance shall be known as, and may be cited as, the “Coquille Tribal Trust Resource Management Ordinance” (“CTTRMO”).

405.005 General

405.010 Background and Intent

The Tribe is dedicated to the preservation of Coquille Indian culture and Tribal identity, as well as the enhancement of common resources. The authority of the Tribal government extends to all persons, property and activities within the jurisdiction of the Coquille Indian Tribe ("Tribe"), except as limited by the Constitution of the Coquille Indian Tribe (the "Tribal Constitution") and applicable Federal law. The Tribal Constitution provides, in part, that the jurisdiction of the Coquille Indian Tribe shall extend to the fullest extent possible over all lands, water, property, airspace, minerals and other natural resources, and any interest therein owned by the Tribe or held in Trust by the United States for the Tribe. The adoption of this Ordinance is an exercise of the Tribe's inherent sovereign authority. Nothing in this Ordinance cedes any aspect of Tribal jurisdiction over any matter.

405.020 Purpose

The Coquille Tribal Council adopts this Ordinance to:

- a. Establish formal Tribal government direction, standards and procedures for management of Tribal Trust forestland,
- b. Strengthen Tribal sovereignty,
- c. Advance the Tribe’s economic development, cultural restoration and realize Tribal self-governance by carrying out forestland management activities,
- d. Fully exercise Tribal authority in carrying out forestland management activities as authorized by Tribal law and provided for in the Indian Trust Asset Reform Act (ITARA -- P.L. 114-178), the National Indian Forest Resources Management Act (NIFRMA -- P.L. 101-630), the Indian Self-Determination and Education Assistance Act (ISDEAA -- P.L. 93-638) and other applicable Federal and Tribal law(s),
- e. Establish Tribal law for carrying out forestland management activities under the authority and Provisions of the ITARA and an Indian Trust Asset Management Plan (ITAMP).
- f. Replace certain federal regulatory standards, procedures and regulations with the Tribe’s own.

405.030 Jurisdiction

This Ordinance is enacted pursuant to authority from Tribal inherent jurisdiction, the Constitution of the Coquille Indian Tribe and applicable Federal law.

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405.040 Repeal of Inconsistent Law

To the extent that any prior Tribal regulations, resolutions, ordinances or other Tribal law(s) conflicts with this Chapter the provisions of this Chapter shall control.

405.050 Applicability

This Ordinance shall apply to all Trust assets derived from Tribal Trust forestland.

405.100 Definitions

The following definitions apply to this Indian Trust Asset Management Plan:

1. "Action" means a forest management action under consideration for approval;
2. "Agency" means the Coquille Indian Tribe and any Coquille Tribal board, commission, department, or officer;
3. "Approving Officer" means the Officer approving the permit or his/her authorized representative. For the Coquille Tribe will be the Tribal Chairman, Executive Director, or Natural Resources Director;
4. "CIT Forest Management Account" means an account that shall be used for post-harvest management activities;
5. "Conserve", "Conserving", "Conservation" means to use and manage, including methods and procedures designed to ensure integrity or restore Tribally Significant Species. Such methods and procedures may include, but not be limited to:
 - a. Research;
 - b. Population monitoring and management;
 - c. Law enforcement;
 - d. Habitat management, restoration, and acquisition;
 - e. Propagation; and
 - f. Quarantine
6. "Council" or "Tribal Council" means the Coquille Tribal Council;
7. "Cultural Resource" means:
 - a. Any product of human activity or any object, resource or place given significance by human action or belief;
 - b. Any archaeological materials or objects, including human remains, of cultural or historic significance obtained from cultural or historic sites; or
 - c. Any archaeological, cultural, or historical site
8. "Determination of Mitigated Tribal Impact" means the Executive Director upon complying with all requirements of the TEIEP requires mitigation measures to reduce the action below the threshold of significantly adverse environmental impacts;
9. "Determination of No Significant Tribal Impact" means that the Executive Director upon complying with all requirements of the TEIEP has determined that the proposed action will not result in significant adverse environmental impacts;
10. "Determination of Significant Tribal Impact" means that the Executive Director has identified one or more of the following conditions in the process of environmental review:

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- a. absent or insufficient information to perform a complete analysis of the potential environmental impacts;
 - b. failure to comply with applicable federal laws and/or with applicable Tribal laws, regulations or policies; or
 - c. the potential for significant adverse environmental impacts cannot be mitigated unless the project design and/or activities to occur under the proposed action are modified.
11. “Environmental Consequences” and “Potential Impact” means negative and substantial impacts to the environment, including air, water, land, minerals, flora, fauna, climate, ambient noise or cultural resources that are likely to occur;
12. “Executive Director” means the Tribe's senior executive officer or his/her designee;
13. “Forest” or “Forestland” means an ecosystem of at least one acre in size, including timberland and woodland, which is characterized by a more or less dense and extensive tree cover; contains, or once contained, at least ten percent tree crown cover; and is not developed or planned for exclusive non-forest resource use;
14. “Forest Conservation Transaction” means a transaction reflecting the Tribe’s determination that the highest and best use for all or a portion of a forest may be forest carbon sequestration, wetland mitigation, or conservation easements;
15. “Forestland Management Activities” means all activities deemed by the Tribal Council to be performed in the management of Tribal Trust forestland, including, but not limited to:
- a. all aspects of program administration and executive direction such as but not limited to:
 - i. development and maintenance of policies and operational procedures, program oversight, and evaluation,
 - ii. recordkeeping,
 - iii. adoption of policies,
 - iv. permitting and licensing of activities on Tribal Trust forestland,
 - v. securing of legal assistance and handling of legal matters,
 - vi. budget, finance, and personnel management, and
 - vii. development and maintenance of necessary databases and program reports;
 - b. all aspects of the development, preparation and revision of forest inventory and management plans, including aerial photography, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment as required by applicable law, and development and compilation of forest history;
 - c. all aspects of forestland development, including forestation, agricultural practices consistent with healthy forestland development, topsoil preservation or forestland retention, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest environment;
 - d. protection against losses from wildfire, including forest management techniques, salvage operations, acquisition and maintenance of fire-fighting equipment and fire detection systems, construction of firebreaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements;
 - e. protection against insects and disease, including:
 - i. all aspects of detection and evaluation,

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- ii. preparation of project proposals containing project description, environmental assessments and statements, and cost-benefit analyses necessary to secure funding,
 - iii. field suppression operations, including salvage and prevention-based harvest activities, and
 - iv. reporting;
 - f. assessment of damage caused by forest trespass, infestation or fire, including field examination and survey, damage appraisal, investigation assistance, and report, demand letter, and testimony preparation;
 - g. all aspects of the preparation, administration, and supervision of timber sale contracts, paid and free use permits, and other Tribal Trust forest product harvest sale documents including:
 - i. cruising, product marking, silvicultural prescription, appraisal and harvest supervision,
 - ii. forest product marketing assistance, including evaluation of marketing and development opportunities related to Tribal Trust forest products and consultation and advice to Tribe, Tribal and Indian enterprises on maximization of return on forest products,
 - iii. archaeological, historical, environmental and other land management reviews, clearances, and analyses,
 - iv. advertising, executing, and supervising contracts,
 - v. marking and scaling of timber, and
 - vi. collecting, recording and distributing receipts from sales;
 - h. provision of financial assistance for the education of Indians enrolled in accredited programs of postsecondary and postgraduate forestry and forestry-related fields of study, including the provision of scholarships, internships, relocation assistance, and other forms of assistance to cover educational expenses;
 - i. development and implementation of Tribal integrated resource management plans, including activities to coordinate current and future multiple uses of Tribal Trust forestlands;
 - j. improvement and maintenance of extended season primary and secondary Tribal Trust forestland road systems; and
 - k. research activities to improve the basis for determining appropriate management measures to apply to Indian forestland;
 - l. approval of pilot projects aimed at innovative use of Tribal Trust forestland consistent with Tribal objectives; and
 - m. the negotiation, execution and performance of Forest Conservation Transactions;
- 16. “Forest Management Plan (FMP)” means the principal document, approved by the Tribal Council and the Secretary, which provides for the regulation of the detailed, multiple-use operation of Tribal Trust forestland by methods assuring that such lands remain in a continuously productive state while meeting the objectives of the Tribe and shall include, but not be limited to:
 - a. Standards setting forth the funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and
 - b. Standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan;

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17. “Forest Product” means:
 - a. timber or a timber product, including lumber, lath, crating, ties, bolts, logs, pulpwood, fuelwood, posts, poles, split products, and bark,
 - b. Christmas trees, stays, branches, firewood, berries, mosses, nuts, roots, acorns, syrups, wild rice, and herbs,
 - c. other marketable material cultivated and harvested from Tribal Trust forestland,
 - d. other non-marketable material gathered by Tribal members for subsistence and cultural uses, or
 - e. natural resources which are extracted from, and/or utilized on, Tribal Trust forestland;
18. “Forest Product Sale” means compensation exchanged for the conveyance of a right, contractual or otherwise, to sever and remove prescribed forest products from Tribal Trust forestland;
19. “Forest Resource” means all the benefits derived from Tribal Trust forestland, cultivated or otherwise, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or cultural and other traditional values of Tribal Trust forestland;
20. “Forest Trespass” means the act of illegally removing forest products from, or illegally damaging forest products on, Tribal Trust forestland;
21. “Indian Trust Asset Management Plan” or “ITAMP” is a plan that is established by the Secretary under Title II of ITARA;
22. “Indian Trust Asset Reform Act” or “ITARA” means P.L. 114-178;
23. “Impact” means the effects or consequences of actions, and shall include direct and indirect effects as well as the effects of the action when added to past, present and reasonably foreseeable future actions;
24. “Manager” means the highest level, non-line authority person exercising staff decision making authority for forestry program activities such as the Tribal Natural Resources Director and the BIA Chief Forester;
25. “Mitigation” means any one or more of the following:
 - a. Averting the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or
 - e. Compensating for the impact by replacing or providing substitute resources or environments.
26. “Natural Resource” means biological resources including fish, wildlife, flora, biota, and their habitats; land resources including air, water, ground water, drinking water supplies, view shed, topographic, geologic, mineral, and paleontological components; non-traditional forest resources and other such resources, systems, and processes that are within, from, or are caused by the environment;
27. “Non-project Actions” means actions involving land use and other management plans that govern the development or management of land;
28. “Notice of Completion” or “NOC” means a written notice issued by the Executive Director (or his or her designee) to notify concerned parties that a determination has been made in the TEIEP;

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29. “Natural Resource Management Assessment” or “NRMA” means an assessment that will be completed under the Tribal Environmental Impact Evaluation Process;
30. “Officer-In-Charge” or “OIC” means the forest officer of highest rank assigned to the supervision of forestry work at the agency having jurisdiction over the sale area, or their designated representative. This term may describe officials at the Bureau of Indian Affairs or the Tribal government;
31. “Pre-commercial Activities” means those activities associated with the treatment of unwanted competition and vegetation;
32. “Proposed Action” means a forest management action under consideration for approval;
33. “Public” for purposes of commenting on the Tribal Environmental Impact Evaluation Process (TEIEP) means the enrolled members of the Coquille Indian Tribe, individuals who live or work on Tribal Trust forestland, and/or any person or entity with the potential to be significantly affected by the Tribal Trust forestland management activities that have a definable, concrete interest that may reasonably be affected by a Proposed Action;
34. “Purchaser” means the purchaser of timber under the contract and any successor(s) in interest;
35. “Qualified Dispute” means a matter in which the Tribe and the USDOJ, but no other parties, disagree regarding the interpretation and implementation of an ITAMP;
36. “Reforestation Activities” means the acquisition of and those activities needed to secure seeds, seedlings, plant and protect the crop;
37. “Restoration” means the action of returning a natural resource to a former condition or as close to a former condition as is possible using appropriate techniques;
38. “Right-of-way” means an easement or a legal right to go over, across, or under Tribal forestland for a specific purpose, including but not limited to: The ground within which one has rights to do work in relation to building, operating, and maintaining the roads, utilities, or lines. This term may also refer to the land subject to the grant of right-of-way; however, in all cases, title to the land remains vested in the landowner;
39. “Secretary” means the Secretary of the Interior;
40. “Seller” means the Indian Tribe(s) or the individual owners(s) of the timber sold under the contract;
41. “Significant Impact” means any direct or cumulative impact that through either context, intensity, or both substantively modifies Tribal Trust forestland and/or resources in a manner that is inconsistent with Tribal goals and objectives described in an approved Forest Management Plan;
42. “Site Preparation” means those activities associated with the removal of slash and preparing a site for planting and shall include scarification, slash treatment, treatment of unwanted competition and vegetation in order to increase the survival and growth rate of the desired trees, and beneficial modifications to the soil;
43. “Special Management Zones (SMZs)” means an area with Tribal significance. They may be cultural gathering places, culturally significant places, spiritual and/or historic places, have unique physical attributes or be environmentally sensitive;
44. “Sustained Yield” means the yield of forest products that a forest can produce continuously at a given intensity of management;
45. “Timber and Minor Forest Products Use Policy Statement” or “TUPS” means a policy that includes criteria, parameters and procedures for harvesting products under permit authority, and describes the prices, policies, and procedures for issuing paid and free-use permits and authorizing free-use cutting without permits on designated Tribal Trust

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forestlands. This timber use policy statement covers the cutting and subsequent removal of all forest products not performed under formal timber contract;

46. “Timberland” means Tribal Trust forestland stocked, or capable of being stocked, with forest products;
47. “Traditional Ecological Knowledge” means the way in which the Tribe and its members put into practice its cultural knowledge to live within, protect, benefit from, and sustain the environment;
48. “Tribal Categorical Exclusion” means an exemption, defined and established by the Tribe, to the requirement to prepare a TEIEP under this ITAMP;
49. “Tribal Chairperson” means the Chairperson of the Tribal Council;
50. “Tribal Critical Habitat” means a defined area(s), that is occupied or may become occupied by Tribal Significant Species, and that the Coquille Indian Tribe has determined to be critical, and may require management for, the conservation of those species within the Coquille Indian Tribe’s Tribal Trust forestland;
51. “Tribal Council” or “Council” means the Coquille Tribal Council;
52. “Tribal Environmental Impact Evaluation Process (TEIEP)” establishes formal Tribal government procedures to evaluate the environmental impacts related to Tribal Trust forestland management activities;
53. “Tribal Essential Habitat” means a defined area(s) that the Coquille Indian Tribe has determined to be crucial, and may require management, for the continued viability of Tribal Significant Species within the Coquille Indian Tribe’s jurisdictional authority or within the Tribe’s service area;
54. “Tribal Member” means a person who is enrolled as a member of the Coquille Indian Tribe;
55. “Tribal Trust Forestland” means those Tribal Trust lands, including commercial and non-commercial timberland and woodland that are considered significantly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inventory and/or land classification action has been completed;
56. “Tribal Trust Land” means any tract or interest therein, that the United States holds in Trust status for the benefit of the Coquille Indian Tribe. It includes all trust lands within the exterior boundaries of any Coquille Reservation lands, and includes all lands acquired or transferred into Trust after the effective date of this ITAMP;
57. “Tribally Significant Species (TSS)” means, for planning purposes only, any plant or animal species designated by the Tribal Government which may:
 - a. Hold cultural, ecologic, esthetic, recreational, scientific and economic significance to the Tribe,
 - b. Exist in such small numbers that it is in danger of being extirpated from Tribal lands, or
 - c. Exist in such small numbers that it is in danger of being extirpated from the Tribe’s congressionally defined service area. This includes those species reasonably expected, directly or indirectly, to diminish in numbers, reproduction, or distribution across their entire range within and outside of Tribal lands.
58. “Tribe” or “Tribal” means the Coquille Indian Tribe;
59. “Trust Asset” means Tribal Trust forestland, natural resources, Trust funds, or other assets held by the United States in Trust for Indian Tribes and individual Indians;

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60. “Trust Resource” means any element or matter directly derived from Indian Trust property;
61. “USDOJ” means the United States Department of Interior, or any of its bureaus, offices or agencies that are authorized to enforce Title II of ITARA;
62. “Woodland” means forestland not included within the timberland classification, stocked, or capable of being stocked, with tree species of such form and size to produce forest products that are generally marketable within the region for products other than lumber, pulpwood, or veneer.

405.150 Acronyms

BIA Bureau of Indian Affairs

BIA-DFWFM Bureau of Indian Affairs- Division of Forestry and Wildland Fire Management

CIT Coquille Indian Tribe

CTTRMO Coquille Tribal Trust Resource Management Ordinance (CITC Chapter 405)

ED Executive Director

FMP Forest Management Plan

ICFRMP Interim Coquille Forest Resource Management Plan

IDT Interdisciplinary Team

ISDEAA Indian Self-Determination and Education Assistance Act

ITAMP Indian Trust Asset Management Plan

ITARA Indian Trust Asset Reform Act

MOA Memorandum of Agreement

NEPA National Environmental Policy Act

NIFRMA National Indian Forest Resources Management Act

NOC Notice of Completion

NRMA Natural Resource Management Assessment

SMZs Special Management Zones

TEK Traditional Ecological Knowledge

TEIEP Tribal Environmental Impact Evaluation Process

TSS Tribally Significant Species

TUPS Timber and Minor Forest Products Use Policy Statement

USDOJ United States Department of Interior

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405.200 Forest Provisions

405.210 Management of Forestland Held in Trust for the Coquille Indian Tribe

1. Authorization of Forestland Management Activities

The Tribe is authorized to undertake forestland management activities subject to the terms of the Tribe's approved Forest Management Plan and ITAMP.

2. Primary Objective

The primary objective of Tribal Trust forestland is to generate sustainable, intergenerational revenues sufficient to support the Tribal government's ability to provide services to Tribal members over short, medium and long terms, including, but not limited to, health care, education, housing, nutrition, elder care, heat and energy assistance, and cultural restoration. The primary objective will be accomplished in an environmentally and culturally sensitive manner and guided primarily by the Tribe's vision and core values. The Tribe understands that nature is part of one ordered, balanced, and living whole. Each plant, animal, and mineral has a relationship with one another which individually and together are inseparable from the health of the ecosystem. However, Tribal Trust forestland are a relatively small portion of the Tribe's Service Area and will not be considered as a recovery resource to compensate for or mitigate other landowners' management.

3. Forest Management Decisions and Activities

Forestland management decisions and activities involving or affecting Tribal Trust forestland must:

- a. be consistent with, serve or preserve the primary objective;
- b. be consistent with direction and practices set forth in an approved Forest Management Plan (FMP) approved by the Tribal Council and the Secretary; and
- c. be consistent with the ITAMP if one is in effect.

4. Management Goals and Objectives

Tribal Trust forestland management activities undertaken by the Tribe shall be designed and carried out to achieve the Tribal goals and objectives set forth in the most current approved FMP.

405.220 Harvesting and Sale of Forest Products

Consistent with Tribal goals and objectives set forth in an approved FMP, sales of forest products from Tribal Trust forestland may be authorized by the Tribal Council. Such sales shall comply with Tribal laws governing forest management activities.

405.230 Timber and Minor Forest Products Harvesting Under Permit Authority

Individual harvesting of forest products from Tribal Trust forestland under permit authority or free-use without permits shall comply with requirements and procedures set forth in a Timber

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and Minor Forest Products Use Policy Statement (“Policy Statement”) approved by the CIT Tribal Council and the Secretary.

The Tribe has a current Policy Statement approved as of the effective date of CITC Chapter 405. No additional federal approval shall be required under CITC Chapter 405 for the Tribe’s Timber and Minor Forest Products Use Policy Statement (TUPS) to become effective.

405.240 Administration and Disbursement of Forest Products Receipts

405.250 Direct Payment of Gross Proceeds of Sales of Forest Products

Unless the Tribal law provides otherwise, all Forest Product Sales will be made by direct payment of the gross sale price (and other required deposits, if any) from the successful purchaser to the Tribe (or its designee entity).

405.260 Forest Management Accounts

1. Unless the Tribal Council provides otherwise by resolution, there shall be no forest management deduction for Forest Product Sales.
2. The Tribe will create a forest management account that will annually appropriate forest management funds, derived from a Tribal Council approved expenditure plan. Activities funded by the expenditure plan will include the following activities, but is not limited to: site preparation activities, reforestation activities, pre-commercial treatments, road maintenance/betterment/construction. Additional information can be found in the Coquille Tribal Trust Forest Regulations.

405.270 Protection and Management of Non-Timber Forestland Resources

Use of Tribal Trust forestland established in this Ordinance shall be accomplished in a manner that considers a wide range of resource values. Implementation of forest management actions shall address non-timber values at the site level and holistically across the landscape. Plans governing management of Tribal Trust forestland may establish design features, best management practices and mitigation measures appropriate to protect and manage non-timber forestland resources. Any such plans shall be consistent with Tribal goals and objectives and the primary objective.

405.280 Forest Protection, Rehabilitation and Recovery of Loss of Forest Values

When appropriate to fulfill the dominant purpose of Tribal Trust forestland, the Tribe may take pro-active prevention, control and recovery actions to mitigate damages and loss of forest values from wildfire, insects and disease and other damaging events. These actions may include, but are not limited to: harvesting to salvage windthrow or fire damaged trees, harvesting to salvage trees to prevent disease or insect damage,

405.290 Timber Trespass

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1. See CITC Chapters 650 and 652; and
2. Nothing in this Section limits the ability of any state, federal or Tribal court to exercise criminal jurisdiction, concurrently or otherwise, over any alleged timber trespass.

405.300 Environmental Provisions

Unless the Tribal Council provides otherwise by resolution:

1. All Tribal Trust forestland management activities shall be implemented consistent with Tribal environmental and cultural resources laws and regulations; and
2. The following procedures (405.320) shall be used to consider environmental impacts of proposed forestland management activities.

405.310 Mission

The mission of these Provisions is to encourage a productive and sustainable harmony between the Tribe and the environment; to consider the impacts of proposed forest management activities as described below; to stimulate the health and welfare of Tribal members; and to enrich the understanding of the ecological systems and natural resources important to the Coquille Indian Tribe, using traditional ecological knowledge (TEK) and other methods. This Provision seeks to achieve responsible stewardship of all Tribal Trust forestland resources.

405.320 Tribal Environmental Impact Evaluation Process (TEIEP)

The TEIEP establishes formal Tribal government procedures to evaluate the environmental impacts related to forest management activities. The Natural Resource Management Assessment (NRMA) is an analysis and determination of Tribal environmental impact(s) used to complete the TEIEP.

405.330 Applicability

1. When the TEIEP applies:

The TEIEP applies to forest management actions or proposed actions that may have a potential impact to the environment on Tribal Trust forestland.

2. When the TEIEP does not apply:

The requirement to prepare a TEIEP shall not apply to:

- a. a proposed action that qualifies as a Tribal Categorical Exclusion; or
- b. all prior Federally approved or on-going forest management actions in existence on the date that CITC Chapter 405 was adopted.

405.340 Regulations, Policies and Procedures

The Executive Director may issue regulations to implement TEIEP. The regulations may include, but not be limited to:

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1. Provisions for interpreting and implementing the TEIEP and for providing uniform guidelines to the designated NRMA team;
2. The development of, and updates to, a NRMA review to be used as a tool to assess the impacts of a proposed action;
3. Procedures to be applied to the preparation of a NRMA, including rules for timing of review, comment, data collection and other information;
4. Identification of additional Tribal Categorical Exclusions and the procedures and standards for their establishment;
5. Procedures and standards for the addition of Tribal Categorical Exclusions; and
6. All other reasonable guidance as may be required to fulfill the intent of this TEIEP.

405.350 Natural Resources Management Assessment (NRMA)

A Natural Resources Management Assessment (NRMA) must be completed for review under the TEIEP, so that the Executive Director may issue a determination (see below). The NRMA is completed by an interdisciplinary team comprised of individuals from the Tribe's Natural Resources Department, Culture, Education, and Learning Services, and other applicable departments at the discretion of the Executive Director, with input from the Natural Resources Department Director. A NRMA must be completed for an individual project or for programmatic activity.

405.360 Time Limits

Time limits imposed in this TEIEP are guidelines and shall be appropriate for the project under review. The review will be constructed in a manner that accomplishes the goals of this Ordinance. If the time limit expires on a weekend or holiday, the next business day will be considered the end of the review period.

405.370 Consultation Requirements

The Executive Director will consult with affected or involved Tribal departments during the TEIEP commensurate with the potential impacts of the proposed action. Consulted departments have a responsibility to respond in a timely and specific manner to requests for comments. In some circumstances there may be a need to consult with outside organizations. This will be done on a project by project basis with organizations that would have subject matter expertise.

When practicable, the TEIEP may be conducted concurrently with any other impact analyses and related surveys and studies required by other applicable Tribal laws, regulations and policies, and other applicable laws.

405.380 TEIEP Framework

405.385 Example of TEIEP Work Flow

See attachment A.

1. Appointment of NRMA IDT

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Unless a Tribal Categorical Exclusion applies or a proposed action is otherwise not subject to the TEIEP, before the approval of any proposed forest management activity, the Executive Director shall appoint a NRMA interdisciplinary team (IDT) to analyze the potential impacts of the proposed action. The NRMA will be written by the appointed NRMA IDT in a reasonable amount of time. Members of the NRMA IDT will reflect supportive perspectives and relevant expertise; additionally they will collectively identify a NRMA team lead. The NRMA IDT, with approval by the Executive Director, will establish a reasonable completion schedule for the NRMA, which may be modified as appropriate. The Executive Director may at any time change the composition of any NRMA IDT.

2. NRMA Development

Information or data that is relevant to a NRMA and is a matter of public record or is generally available to the public need not be repeated in its entirety in the NRMA. Such public information may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, its relationship to the NRMA shall be indicated, and the source of such information will be reasonably available for inspection by Tribal members at a location on Tribal Trust lands that is open during regular business hours. The NRMA shall provide detailed information about the potential impacts for the proposed forest management activity, and shall include a detailed statement setting forth all of the following:

- a. a description of the Proposed Action and purpose and need for action;
- b. consistency with approved management direction and current FMP;
- c. affected environment and environmental consequences of Proposed Action which will consist of, at the very least:
 - i. Forest products;
 - ii. Soil productivity;
 - iii. Water;
 - iv. Fisheries;
 - v. Wildlife;
 - vi. Recreation;
 - vii. Aesthetics;
 - viii. Cultural and other traditional values;
 - ix. Economic Value;
 - x. Climate Change;
 - xi. and other applicable natural resources;
- d. cumulative actions considered; and
- e. mitigation measures recommended or required.

In the NRMA, the potential impacts shall be clearly identified and described, giving due consideration to both the short-term, long-term and, if any, irreversible effects.

3. NRMA Review

A review of the NRMA will be completed by members of a review team, as defined by the Executive Director; the team should include at least two Coquille Tribal members, the Executive

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Director shall invite Coquille Tribal member(s) to fill the role. The NRMA review will be completed using a checklist form that will be adopted by, and that may be revised by, the Executive Director. The NRMA review should take no more than 15 business days to complete.

- a. After review of the NRMA is completed, the review team may recommend to the Executive Director that no further analysis is required and the Proposed Action can move forward for drafting of a Notice of Completion (NOC); or
 - b. After review of the NRMA is completed, the review team may recommend to the Executive Director that the impacts of the Proposed Action would be so significant that the Proposed Action should not be approved as currently planned; or
 - c. The review team may determine that more information is needed from the NRMA IDT to complete the NRMA review. The review team will request more information on specific questions that were raised during their checklist review from the NRMA IDT.
 - i. The NRMA IDT will complete additional analysis and submit it to the review team as an addendum to the original NRMA. This process may continue until the NRMA IDT has satisfied questions raised during the initial review team checklist review; or
 - d. The review team may recommend that the Executive Director require mitigation measures in addition to those included in the NRMA, to reduce the action below the threshold of significantly adverse environmental impacts. The Executive Director will work with necessary experts within the Natural Resources Department on what additional mitigation measures should be included in the draft NOC.
4. Draft Notice of Completion (NOC)
- a. Within no more than 15 business days following the completion of the NRMA and/or any recommendations from the review team, the Executive Director should post the draft NOC and a copy of the NRMA on the Tribal member portal on the Tribe's website and/or provide by posting the draft NOC on information bulletin boards within Tribal offices. The draft NOC shall include all of the following information:
 - i. a brief description of the Proposed Action;
 - ii. the location of the Proposed Action;
 - iii. a location where copies of the NRMA are available to Tribal members;
 - b. The draft NOC, as written by the Executive Director, will include one of the following determinations:
 - i. The Proposed Action is categorically excluded; or
 - ii. No further action due to unmitigated significant Tribal impacts; or
 - iii. A "Determination of No Significant Tribal Impact", which means that the Executive Director upon complying with all requirements of the TEIEP

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has determined that the Proposed Action will not result in significant adverse environmental impacts; or

- iv. A "Determination of Mitigated Significant Tribal Impact", which means the Executive Director upon complying with all requirements of the TEIEP requires mitigation measures to reduce the action below the threshold of significantly adverse environmental impacts; or
- v. Additional information gathering and analysis, including presentation of new information, modification of the Proposed Action, or consideration of alternatives may be undertaken to address these conditions and subsequent analysis completed so that the Proposed Action may be reconsidered and comply with this ITAMP.

5. Public Comment to Certain NOCs

- a. For Proposed Actions that have impacts requiring mitigation measures, the public may submit comments in accordance with the following procedures:
 - i. Comments must be in writing and sent to the Executive Director by postal service or email as described in the NOC to be received on or before the comment closing date;
 - ii. Only substantive comments will be considered. A substantive comment provides new information about the proposed action, an alternative or the analysis; or identifies a different way to meet the proposed need and purpose, points out a specific flaw in the analysis; recommends alternative methods and the reason(s) they should be used; makes factual corrections to the analysis or identifies a different source of credible research which, if used in the analysis, would result in different effects; and
 - iii. Comments must include: Name, contact information, and enrollment number (if Tribal member).
- b. Response to Public Comment. After the comment period has ended, the Executive Director and/or his/her designee will review and consider all comments received. Prior to the approval and execution of the Proposed Action, the Executive Director will provide written responses to relevant and substantive public comments, if any, concerning the Proposed Action and describe recommended mitigation measures addressing any potential impacts. The Executive Director's written responses will be posted or otherwise made available on the Tribal member portal and/or in the offices of the Tribe.
- c. After completion of this public comment process, the Executive Director may authorize a Final NOC.

405.390 Changes in Proposed Action Subsequent to TEIEP

Any significant change to a Proposed Action subsequent to completion of the TEIEP and issuance of a determination shall be evaluated to determine if a new or updated NRMA analysis is required.

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405.395 Review of Executive Director’s Determination

Only a Tribal member (Appellant) who has provided comments concerning the Proposed Action may request a review of the Executive Director’s determination. Tribal members may commence a review by requesting in writing that the Tribal Council evaluate and reconsider the Executive Director’s determination.

Any appeal of the determination must be filed no later than 15 business days from the date the determination was issued. The request for reconsideration shall be made in writing and shall be served by certified mail, return receipt requested, to the Tribal Council Chairperson. A copy will be provided to the Executive Director by the Tribal Council Chairperson. The request for reconsideration shall contain a brief description of the Proposed Action, the specific reasons for the request, a summary of why the Executive Director’s determination is erroneous and a statement of the Appellant’s proposed recommendations and/or remedies to adequately address environmental concerns. The Tribal Council will provide the Executive Director with 10 business days to respond.

The Tribal Council may decline to consider any appeal. If it accepts an appeal, the Tribal Council may reverse or remand a determination of the Executive Director only if the Tribal Council determines, during a Tribal Council meeting by majority, that clear and convincing evidence demonstrates that the Executive Director abused his/her discretion in the decision making process, or acted arbitrarily and capriciously; or if the project action is demonstrated to not be in compliance with this Ordinance. Appeals to the determination may not be filed in Tribal Court.

405.500 Cultural Resources Policy

1. Purpose

The purpose of the Tribal Historic Preservation Office (THPO) is to provide guidance to land and facility management activities, including forest activities, that ensure the protection, preservation, and or enhancement of identified Tribal cultural and historic properties and values; and to ensure that all management activities comply with all appropriate and applicable historic preservation laws.

The THPO additionally provides information, education, training, and technical assistance to Tribal programs and departments, as well as to the Tribal community, partners, and public to: 1) strengthen the understanding of the Tribe’s cultural history and heritage; and 2) provide opportunities for the learning and continuation of traditional cultural practices.

2. Jurisdiction

The THPO advises and assists Tribal departments and entities, federal and state agencies, and local governments to carry out their respective historic preservation responsibilities. THPO is responsible to ensure the Tribal government takes into account the effect of the undertaking on cultural resources and is in compliance with applicable historic preservation laws and

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regulations. THPO likewise coordinates with other organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.

THPO shall work collaboratively and cooperatively with all Tribal departments to incorporate the Tribe's Cultural Resource Management Plan into the processes and procedures of current and future management activities. This document will be automatically updated to conform to changes in applicable laws.

a. Tribal Trust Lands

The implementation and subsequent compliance with the Cultural Resources Management Plan will be facilitated and administered by the THPO in accordance with certain authorities and functions assigned to the Tribe through an agreement with the National Park Service (see initial Agreement in appendices; revised and expected to be renewed on an annual basis).

Tribal law and the National Historic Preservation Act 54 USC § 302702 authorize the establishment of a THPO in place of the State Historic Preservation Office. The Tribal Historic Preservation Officer, appointed and authorized by Tribal law, has jurisdiction over all Tribal Trust lands, including all Tribal forestlands.

Delegated Authority and Responsibilities

The THPO is responsible to ensure the Tribal Government takes into account the effect of all Tribal and federal undertakings on cultural resources which take place on Tribal Trust lands, including forestlands, and is the signatory to ensure that all such undertakings are in compliance with applicable laws that may affect historic and culturally significant resources. The THPO is responsible to ensure that the content and sufficiency of any plans or agreements are adequate to protect, manage, or mitigate effects to those properties deemed to have Tribal cultural values.

Forest Management Activities

Forest management activities authorized under an Indian Trust Asset Reform Act (ITARA) will not require compliance with the National Historic Preservation Act (NHPA) and are not subject to evaluation or review as federal undertakings under the NHPA. Such ITARA-authorized forest management activities, however, are subject to THPO review under other Tribal laws.

The THPO Officer, in consultation with the THPO Advisory Board and its subsequent recommendations and approvals, will be responsible to consult with and advise Tribal programs about actions they might undertake that might have implications to the Tribe's cultural and historic preservation interests.

405.600 Dispute Resolution Provision

405.610 Mission

To establish a policy for resolving disputes with the United States relating to implementation of the Indian Trust Asset Management Plan under the Indian Trust Asset Reform Act. This Provision aims to resolve Qualified Disputes at the lowest and least formal level possible.

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Background

The Indian Trust Asset Reform Act (P.L. 114-178) establishes an opportunity for Tribes to participate in a demonstration project for Forest Management Activities (“Demonstration Project”). The Secretary of the Interior has accepted the Tribe into the Demonstration Project.

The Demonstration Project offers the Tribe an opportunity to submit an Indian Trust Asset Management Plan (“ITAMP”) that, if approved by the U.S. Department of the Interior, will significantly enhance the Tribe’s sovereign control over its Tribal Trust forestland.

Section 204(a)(2) of the ITARA (currently 25 U.S.C. 5613) requires a proposed ITAMP to include provisions that, “...(E) establish procedures for nonbinding mediation or resolution of any dispute between . . . [the Tribe] and the United States relating to the implementation of the Tribe’s Trust asset management plan.” The Tribe adopts this Indian Trust Asset Management Plan Dispute Resolution Policy to satisfy this requirement.

405.620 Applicability and Scope

1. This policy will become effective upon the approval of the ITAMP by the U.S. Department of the Interior. This policy will automatically terminate upon the termination cancellation or suspension of the ITAMP, or during any period of time that the ITAMP is subject to an injunction order issued by any court or administrative body duly exercising jurisdiction.
2. This policy applies only to Qualified Disputes, as defined above.
3. Nothing in this policy shall be construed to allow any parties to a Qualified Dispute other than the Tribe and the United States Department of the Interior.

Nothing in this policy relieves the Tribe or the United States of any of their respective legal obligations

405.630 Dispute Resolution Procedure

The dispute resolution process provides opportunities for the exchange of information between the Tribal government and the U.S. Department of Interior (USDO I) in the event of a Qualified Dispute. In general, Qualified Disputes should be resolved promptly and informally between Tribal and USDO I officials. Occasionally, however, a dispute could require a more formal approach. This policy addresses all such situations. By agreement, the Tribe and USDO I may skip any or all of the steps listed below.

1. Informal Resolution / Managers

Managers for both the Tribe and USDO I should make diligent efforts to resolve the dispute through direct communications. Informal resolution should involve a good faith and diligent effort by the Tribe and USDO I to identify the dispute with reasonable precision, ideally by a mutually-acceptable description of the parties’ different views of relevant facts, laws, plans and policies. This manager-to-manager approach may involve a series of communications. If the managers cannot resolve the dispute at this level, they will make a diligent effort to summarize the dispute in writing. The process described above should be repeated between appropriate

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managers for the Tribe and the USDOJ. If such managers are unable to resolve all or some of the matters in dispute, they will prepare, or cause to be prepared, a mutually-agreeable summary of the remaining matters in dispute. This process shall be repeated yet again between the Tribe's Executive Director and the USDOJ designated line official.

2. Meeting of Elected / Appointed Officials or Designees

If the above steps fail to resolve all or some of the matters in dispute, and unless the parties agree otherwise, the Tribal Council Chairperson will request the Assistant Secretary of Indian Affairs ("ASIA"), or the ASIA's designee, to participate in one or more meetings, which shall be conducted in person or by any other mutually agreeable means by which the parties can communicate with one another in real time. The parties will make diligent efforts to meet and resolve all matters in a prompt fashion. As a guideline, disputes entering this stage should take no more than 90 days to resolve.

The meeting(s) between the ASIA and the Tribal Council Chairperson may include representatives that each party believes will be conducive to a mutually-beneficial resolution of the dispute. The parties may use a facilitator or mediator ("Dispute Resolution Professional") with experience in federal – Tribal disputes, provided that such Dispute Resolution Professional has no conflict of interest, as defined in Coquille Indian Tribal Code Chapter 160, as it is amended from time to time. Any Dispute Resolution Professional fees and expenses will be paid by the Parties.

3. Optional Documentation of Dispute Resolution

The Tribe and the DOI may document the resolution of any dispute, provided that any such documentation should not include information that either party considers to be confidential, proprietary or a trade secret.

405.640 Reservation of Rights

Nothing in this Provision should be construed to limit the Tribe or the USDOJ from their respective legal rights or duties under applicable law.

405.700 Lands of Interest

From time to time the Tribe might wish to engage in cooperative management or similar contracting opportunities in an effort to improve conditions in watersheds affecting the Coquille Forest or other tribal forest lands. The Tribe has previously executed a Memorandum of Understanding between the Tribe and the USDA Forest Service - Rogue River Siskiyou National Forest, which identified Lands of Interest that encompass the Tribe's Congressionally-established five-county service area of Coos, Curry, Douglas, Jackson and Lane Counties in the State of Oregon. This area may be considered for future such opportunities between the Tribe and the Department.

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405.800 Partnerships and Cooperative Agreements

To facilitate administration of Tribal programs and carrying out of forest management activities, the Tribe may enter into partnerships, cooperative agreements and contracts under authorities, policies and procedures of federal or other applicable law. Currently such authorities include, but are not limited to, the Tribal Forest Protection Act of 2004 (P.L. 108-278), the Agricultural Improvement Act of 2018 (“Farm Bill”; P.L. 115-334), and the Indian Tribal Energy Development and Self-Determination Act Amendments of 2017 (P.L. 115-325) and other applicable law.

405.850 Tribal Council Action(s) by Resolution

Tribal Resolutions and Ordinances constitute Tribal law. The Tribal Council may, by resolution:

1. Authorize deviations from, or waive the requirements of this Ordinance;
2. Adopt Tribal laws pertaining to Indian forest lands as term used in 25 USC 3108;
3. Prescribe new, replacement, amended or additional management objectives and standards applicable to Tribal Trust forestland consistent with federal law and not deemed substantive (substantial changes).

405.900 Tribal Court

Nothing in this Ordinance shall be deemed to limit or qualify:

1. The jurisdiction of the Coquille Indian Tribal Court; or
2. The doctrine of Tribal Court exhaustion.

405.950 Regulations

The Tribal Executive Director shall promulgate final regulations for the implementation of this CITC Chapter. Unless otherwise provided by this CITC Chapter, such regulations shall set forth requirements and procedures for carrying out forest management activities pursuant to Provisions of this CITC Chapter. Such regulations shall also serve as Tribal forestry policy and regulations for carrying out forest management activities under any Indian Trust Asset Management Plan approved by the Tribal Council and the Secretary of Interior under authority of the federal Indian Trust Asset Reform Act. The Tribal Executive Director may amend and repeal policies authorized by this Chapter.

405.955 Severability

If any Provision of this Ordinance is held invalid by a court of competent jurisdiction, the invalid portion will be severed and the remaining Provisions shall continue in full force and effect.

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Attachment A: TEIEP Work Flow

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