

B.C. Reg. 175/95

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Forest Act

PERFORMANCE BASED HARVESTING REGULATION

[includes amendments up to B.C. Reg. 133/2011, July 21, 2011]

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Definitions

- 1 In this regulation:

"Act" means the *Forest Act*;

"agreement" means an agreement under section 12 of the Act;

"Code" means the *Forest Practices Code of British Columbia Act*.

[am. B.C. Reg. 345/97, s. 1.]

Refusal to issue a cutting permit

- 2 (1) The district manager may make a determination to refuse to issue a cutting permit or to attach special conditions to the cutting permit under
- (a) section 81 (1) (a) and (b) (ii) and (iii) of the Act, and
 - (b) section 81 (1) (b) (iv) of the Act only if all of the following have occurred in that district manager's forest district:
 - (i) the holder has contravened a requirement of Part 4 or 5 of the Code or of the regulations made pursuant to those Parts in respect of an area of land specified in section 81 (1) (b) (iii) of the Act;
 - (ii) the holder has received and has failed to comply with a remediation order under section 118 of the Code with respect to the contravention referred to in subparagraph (i) by the date specified in the remediation order;
 - (iii) the failure to comply with the remediation order referred to in subparagraph (ii) is continuing at the time of the determination.
- (2) On the district manager making a determination referred to in subsection (1), the district manager must give written notice of the determination to the holder of the agreement to which the application for the cutting permit relates.

- (3) The notice referred to in subsection (2) must
- (a) identify the application that is being refused, and
 - (b) set out the grounds for the refusal.

[am. B.C. Regs. 345/97, s. 2; 133/2011, Sch. s. 24.]

Rejecting an application for an agreement or permit

- 3** (1) An application for an agreement may be rejected by the minister under section 81 (3) of the Act.

- (2) An application for
- (a) an agreement,
 - (b) a permit not listed in section 12 of the Act that is issued under the Act or an agreement,
 - (c) a scale site authorization under section 95 of the Act, or
 - (d) a permit under the Code

may be rejected by the minister, timber sales manager or district manager under

- (e) section 81 (4) (a) of the Act, or
- (f) section 81 (4) (b) of the Act on any of the grounds set out in subsection (2.1).

- (2.1) The grounds for rejection referred to in subsection (2) are that the applicant has

- (a) failed to provide the security or deposit referred to in section 81 (1) (b) (ii) of the Act,
- (b) within the previous 2 years, failed to perform an obligation under the agreement referred to under section 81 (1) (b) (iii) of the Act, and that failure has resulted in damage to the environment or forest resources, or
- (c) within the previous 2 years, failed to comply with a requirement of the Code, regulations or standards referred to in section 81 (1) (b) (iv) of the Act, and that failure has resulted in the applicant
 - (i) causing damage to the environment or forest resources,
 - (ii) being convicted under section 143 (1), (2) or (3), or section 145 (2) of the Code, or
 - (iii) being penalized under section 117 or 119 of the Code on more than one occasion.

- (3) When a person makes a decision under subsection (1) or (2), he or she must give written notice of it to the applicant.

- (4) The notice referred to in subsection (3) must
- (a) identify the application that is being refused, and
 - (b) set out the grounds for the refusal.

[en. B.C. Reg. 243/95; am. B.C. Regs. 345/97, s. 3; 133/2011, Sch. s. 25.]

[Provisions relevant to the enactment of this regulation: *Forest Act*, R.S.B.C. 1996, c. 157, section 81]

