

B.C. Reg. 265/88
O.C. 1326/88

Deposited July 11, 1988

Forest Act

SMALL BUSINESS FOREST ENTERPRISE REGULATION

[includes amendments up to B.C. Reg. 360/99]

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Interpretation

1 In this regulation:

"Act" means the *Forest Act*;

"control of a corporation" means beneficial ownership of 50% or more of its issued capital, having full voting rights in all circumstances, by

(a) one person, or

(b) a group of persons not dealing with each other at arm's length;

"person" has the same meaning as in the *Interpretation Act*;

"sawmill" means a timber processing facility that manufactures lumber, timbers or cants from logs;

"timber processing facility" means a facility that processes

(a) timber or wood residue or both,

(b) products produced from timber or wood residue or both, or

(c) products under both paragraphs (a) and (b).

[am. B.C. Regs. 178/91, s. 1; 179/91, s. 1.]

Categories

2 (1) For the purposes of the Act, 3 categories of small business forest enterprises are established,

- (a) category 1 comprised of persons registered with a regional manager or district manager in that category under section 3,
- (b) category 2 comprised of persons registered with a regional manager or district manager in that category under section 4, and
- (c) category 3 comprised of persons registered with a regional manager or district manager in that category under section 4.1.

(2) Where a person registered in a category under this regulation

- (a) ceases to meet the requirements of this regulation for registration in that category, or
- (b) holds 3 or more licences under which timber harvesting operations have not been completed, whether forest licences referred to in section 13 (1.1) of the Act, timber sale licences, or any combination of the two,

the person shall be deemed not to be registered in that category until such time as the disqualifications described in paragraphs (a) and (b) do not apply to him.

[am. B.C. Regs. 394/97, Sch. 1, s. 1; 360/99, s. 1.]

Registration, category 1

3 (1) A person may be registered as a small business forest enterprise in category 1 if he meets each of the requirements of subsection (2) and applies to a regional manager or district manager in a manner approved by that manager.

(1.1) For the purposes of subsection (2), "**shareholder**" means a shareholder of a corporation who, directly or indirectly, beneficially owns more than 10% of the issued and outstanding voting shares of the corporation.

(2) In order to be registered under this section a person must

- (a) be an individual at least 19 years old or be a corporation registered in British Columbia,
- (b) not be
 - (i) registered in a category under this regulation for a period for which application under subsection (1) is made, or
 - (ii) a shareholder of a corporation registered in a category under this regulation for a period for which application under subsection (1) is made, or
 - (iii) a corporation that has a shareholder who is also a shareholder of a corporation registered in a category under this regulation for a period for which application under subsection (1) is made,
- (c) not be the holder of a licence or agreement the rights under which are suspended under section 76 or 78 of the Act,
- (d) be an individual who has at least one year of experience in logging or is a corporation having as a shareholder an individual who has at least one year of experience in logging,
- (e) not own or lease a timber processing facility, and
- (f) not
 - (i) hold,
 - (ii) be a shareholder in a corporation that holds,

(iii) be a corporation that has a shareholder that holds, or

(iv) be a corporation that has a shareholder who is also a shareholder in a corporation that holds

a pulpwood agreement or one or more major licences that together have an aggregate allowable annual cut of greater than 10 000 m³.

(3) A person may not be registered under this section where there is a fee, royalty, stumpage or other sum imposed under the Act payable to the Crown by him or another person in his stead except where arrangements satisfactory to the regional manager or district manager have been made for the payment of the sum.

[am. B.C. Regs. 178/91, s. 2; 393/97, s. 4 (a).]

Registration, category 2

4 (1) A person may be registered as a small business forest enterprise in category 2 if he meets each of the requirements of subsection (2) and applies to a regional manager or district manager in a manner approved by that manager.

(2) In order to qualify for registration under this section, a person must meet the requirements of section 3 (2) (a) and (c) and (3) and must

(a) own or lease a timber processing facility in British Columbia in respect of which no other person is registered in a category under this regulation for a period for which application under subsection (1) is made,

(b) not

(i) hold,

(ii) be in control of a corporation that holds,

(iii) be a corporation that has 50% or more of its shares held by one or more shareholders who are also shareholders in a corporation that holds,

(iv) be a corporation that is controlled by a corporation that is also in control of a corporation that holds, or

(v) be a corporation that is controlled by a corporation that holds

a pulpwood agreement or one or more major licences that together have an aggregate allowable annual cut of greater than 10 000 m³, and

(c) Repealed. [B.C. Reg. 360/99, s. 2 (b).]

[am. B.C. Regs. 178/91, s. 3; 179/91, s. 2; 360/99, s. 2.]

Registration, category 3

4.1 (1) A person may be registered as a small business forest enterprise in category 3, if the person meets the requirements of subsection (2) and applies to a regional manager or district manager in a manner approved by that manager.

(2) In order to qualify for registration under this section, a person

(a) must meet the requirements of sections 3 (2) (a) and (c) and (3) and 4 (2) (b),

(b) must not meet the requirement of section 4 (2) (a),

(c) must not be registered in any other category, and

(d) must state in the application for registration that he or she intends to own or lease a timber processing facility.

(3) When a person registered in category 3 becomes the owner or lessee of a timber processing facility in British Columbia in respect of which no other person is registered in a category under this regulation, the person ceases to be registered in category 3 and is registered in category 2 for the remainder of the period for which the person was registered under category 3, or until the person ceases to be the owner or lessee of the timber processing facility, whichever occurs first.

(4) A person who, under subsection (3) has become an owner or lessee of a timber processing facility, is not eligible for registration in category 3 until he or she has ceased to own or lease that facility.

[en. B.C. Reg. 360/99, s. 3.]

Determining number of licences or aggregate allowable annual cut

5 (1) In determining the number of timber sale licences for the purpose of section 2 (2) (b), a licence described in subsection (3) shall not be included.

(2) In determining the aggregate allowable annual cut under section 3 (2) (f), 4 (2) (b) or 4.1 (2) (a), the allowable annual cut of the following shall not be included:

(a) a licence described in subsection (3);

(b) a forest licence referred to in section 13 (1.1) of the Act.

(3) In this section, "**a licence described in subsection (3)**" is a licence that allows only the harvesting of

(a) non-coniferous trees,

(b) special forest products, or

(c) timber that is designated as salvage timber or opportunity wood by the regional manager.

[am. B.C. Regs. 394/97, Sch. 1., s. 2; 360/99, s. 4.]

Registration

6 (1) Registration as a small business forest enterprise is for a period of 2 years and may be renewed.

(2) The registration of a small business forest enterprise may be changed by a regional manager or district manager from one category to another once during the term of registration.

(3) Repealed. [B.C. Reg. 394/97, Sch. 1, s. 3 (a).]

(4) Notwithstanding sections 3 to 4.1 of this regulation, a regional manager or district manager may refuse to register a person as a small business forest enterprise or cancel the registration of a person as a small business forest enterprise if the person is or was

(a) a shareholder in,

(b) an officer or director of, or

(c) a person not at arm's length with

a small business forest enterprise that has been disqualified under section 78 of the Act.

(5) In subsection (4), "**arm's length**" means arm's length as defined in the *Income Tax Act* (Canada).

(6) A sawmill owned or leased by a person registered as a small business forest enterprise in category 2 must include a chipper and a debarker unless the regional manager or district manager has exempted the sawmill from this requirement.

[am. B.C. Regs. 178/91, s. 4; 179/91, s. 3; 393/97, s. 4 (b); 394/97, Sch. 1, s. 3; 360/99, s. 5.]

Bidding

7 Where under the Act the regional manager or district manager specifies that applications for a timber sale licence shall be accepted only from small business forest enterprises, the regional manager or district manager may require the applicant to provide proof

- (a) of registration as a small business forest enterprise,
- (b) that the applicant continues to meet each of the requirements of this regulation for registration, and
- (c) that he has not ceased to be a small business forest enterprise.

Fees

8 (1) Before registration under section 3, 4 or 4.1, an applicant shall pay, in cash or by certified cheque, a fee of \$250.

[am. B.C. Reg. 360/99, s. 6.]

Note: this regulation replaces B.C. Reg. 417/82

[Provisions of the *Forest Act*, R.S.B.C. 1997, c. 157, relevant to the enactment of this regulation: sections 13 (1.1), 20 (3) (a), 21 (1) and 151]