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Forest and Range Practices Act; Wildfire Act
Forest Practices Board Regulation
[includes amendments up to B.C. Reg. 389/2008, December 9, 2008]

Contents

Part 1 — Definitions

Definitions
1 In this regulation:

"Act" means the Forest and Range Practices Act;

"party" has the same meaning as in

(a) section 121 of the Act, or

(b) section 67 of the Wildfire Act,

as applicable;

"significant breach" means

(a) with respect to

(i) a party's level of compliance with the requirements of Parts 2 to 5 of the Act and the regulations and standards made in relation to those Parts, and

(ii) a party's level of compliance with the requirements of Parts 1 and 2 of the Wildfire Act and the regulations made in relation to those Parts,

a breach of one or more of those requirements that has caused or is beginning to cause significant harm to persons or the environment, and

(b) with respect to the appropriateness of government enforcement under

(i) Part 6 of the Act, and

(ii) Part 3 of the Wildfire Act,

a breach of the government's enforcement duties under those Parts that has caused or is beginning to cause significant harm to persons or the environment.

[am. B.C. Reg. 389/2008, s. 1.]

Part 2 — Audits

Audit standards
2 The board may develop standards for the purpose of the periodic independent audits required under

(a) section 122 of the Act, and

(b) section 68 of the Wildfire Act.

[en. B.C. Reg. 389/2008, s. 2.]

Appointment of auditors
3 (1) In accordance with this section, the board must appoint auditors to carry out the periodic independent audits.

(2) The board must not engage or retain an auditor to carry out the periodic independent audits unless, in the opinion of the board, the auditor is

(a) familiar with whichever of the following is relevant to the audits:

(i) the Act, the regulations and the standards established by the chief forester under the Act;

(ii) the Wildfire Act and the regulations under that Act;

(iii) the Acts, regulations and standards in both subparagraphs (i) and (ii),

(b) capable of assessing the environmental impact of whichever of the following is relevant to the audits:

(i) forest practices;

(ii) range practices;

(iii) both forest and range practices,

(c) capable of performing the audits in accordance with the standards developed under section 2, and

(d) independent of the person being audited.

(3) If an audit is to be carried out

(a) by a single auditor, that auditor must be a member in good standing of an accredited professional body approved by the board, or

(b) by a team of auditors, at least one member of the team must be a member in good standing of an accredited professional body approved by the board.

[am. B.C. Reg. 389/2008, s. 3.]

Release of final audit report
4 The board must make a final audit report available

(a) to any person within 90 days of its submission by the auditor, and

(b) to the party or person being audited at least 7 clear days before the report is made available under paragraph (a).

Part 3 — Complaints

Scope of complaints
5 (1) The matters on which a person may make a complaint to the board under section 123 of the Act are the following:

(a) a party's compliance with the requirements of Parts 2 to 5 and 11 of the Act and the regulations and standards made in relation to those Parts;

(b) the appropriateness of government enforcement

(i) under Part 6 of the Act, or

(ii) relating to Part 11 of the Act.

(1.1) The matters on which a person may make a complaint to the board under section 68 of the Wildfire Act are the following:

(a) a party's compliance with the requirements of Parts 1 and 2 of the Wildfire Act and the regulations and standards made in relation to those Parts;

(b) the appropriateness of government enforcement under Part 3 of the Wildfire Act.

(2) If

(a) while carrying out an investigation of a party under subsection (1) or (1.1), the board finds that the party complied with the requirements investigated, and

(b) the only reason for that finding is that

(i) the party exercised due diligence to prevent non-compliance,

(ii) the party reasonably believed in the existence of facts that if true would establish that the party complied with the requirement, or

(iii) the party's actions relevant to the requirement were the result of an officially induced error,

the board may investigate whether a person other than that party did not comply with the requirements in the course of acting for or at the direction of the party.

[am. B.C. Reg. 389/2008, s. 4.]

Notice of complaint
6 (1) A person who wishes to make a complaint to the board must deliver a written notice of complaint to the board.

(2) A notice of complaint must contain

(a) the name and address of the complainant, and the name of the person, if any, making the request on the complainant's behalf,

(b) the address for service of the complainant,

(c) the grounds for the complaint, and

(d) a statement describing the relief requested.

Deficient notice of complaint
7 If a notice of complaint does not comply with section 6, the board

(a) must deliver to the complainant written notice of the deficiencies, inviting the complainant, within the period specified in the notice, to submit further material remedying the deficiencies, and

(b) need not proceed with the complaint until an amended notice of complaint, with the deficiencies corrected, is delivered to the board.

Procedures following receipt of notice of complaint
8 (1) The board must acknowledge in writing any notice of complaint, or any amended notice of complaint with the deficiencies corrected.

(2) Within 30 days after receipt of the notice of complaint or of the amended notice of complaint, the board must initiate an investigation of the complaint unless, in the opinion of the chair, any of the criteria referred to in section 123 (2) of the Act applies.

(3) The board may, at any time, consult with a party or a person referred to in section 5 (2)

(a) to attempt to settle the complaint, or

(b) for any other purpose related to a complaint or investigation.

Notice for complaint investigations
9 If the board investigates a complaint, the notification under section 127 of the Act must be in writing and must set out the nature of the complaint being investigated.

Part 4 — Significant Breaches

Significant breaches
10 (1) If during an audit or an investigation

(a) an employee of the board,

(b) a person retained by the board under section 138 (2) of the Act, or

(c) a person exercising a delegated power or performing a delegated duty or function under section 140 of the Act

identifies a probable significant breach, the employee or person must

(d) contact the person being audited or investigated, and

(e) conduct audit tests to

(i) ascertain the extent of the breach, and

(ii) address any information provided by the person being audited or investigated.

(2) If an employee or person referred to in subsection (1) (a) to (c), after carrying out the requirements of subsection (1), determines that a significant breach has occurred, the employee or person must immediately advise

(a) the board,

(b) the person being audited, and

(c) the minister

of the significant breach.

Part 5 — Transition

Code audits and special investigations
11 (1) The board may carry out periodic independent audits and special investigations to determine

(a) a party's compliance with the requirements of Parts 3 to 5 of the Forest Practices Code of British Columbia Act and the regulations made in relation to those Parts as they were immediately before their repeal, and

(b) the appropriateness of government enforcement under Part 6 of the Forest Practices Code of British Columbia Act as it was immediately before its repeal.

(2) Part 8 of the Act and this regulation apply to an audit or investigation under subsection (1).

Complaints from public regarding the Code
12 (1) The board must deal with complaints from the public respecting

(a) a party's compliance with the requirements of Parts 2 to 5 of the Forest Practices Code of British Columbia Act and the regulations made in relation to those Parts as they were immediately before their repeal, and

(b) the appropriateness of government enforcement under Part 6 of the Forest Practices Code of British Columbia Act as it was immediately before its repeal.

(2) Part 8 of the Act and this regulation apply to an investigation under subsection (1).

[Provisions relevant to the enactment of this regulation: Forest and Range Practices Act, S.B.C. 2002, c. 69, sections 121, 122, 123, 141 and 167; Wildfire Act, S.B.C. 2004, c. 31, sections 67,68 and 80]