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Forest Act

COMMUNITY TENURES REGULATION

[includes amendments up to B.C. Reg. 104/2011, June 9, 2011]

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Definitions

1 In this regulation:

"Act" means the *Forest Act*.

"company" means a company as defined in the *Business Corporations Act*;

"extraprovincial company" means an extraprovincial company as defined in the *Business Corporations Act*.

[am. B.C. Reg. 104/2011, Sch. 3, s. 1.]

Part 1 — Community Forest Agreements

Eligible applicants

- 2** For the purposes of section 43.2 (3) (c) of the Act, a community forest agreement may be entered into only with an applicant that is
 - (a) a society incorporated under the *Society Act*, if the society can demonstrate that it is not prohibited under section 2 (2) of the *Society Act* from holding a community forest agreement;
 - (b) an association as defined in the *Cooperative Association Act*, if the association can demonstrate that holding a community forest agreement is consistent with the purposes of the association;

- (c) a company or an extraprovincial company;
- (d) a partnership, if the partnership is comprised of
 - (i) first nations,
 - (ii) municipalities or regional districts,
 - (iii) societies that comply with paragraph (a),
 - (iv) associations that comply with paragraph (b),
 - (v) companies or extraprovincial companies, or
 - (vi) a combination of any of the entities referred to in subparagraphs (i) to (v).

[am. B.C. Reg. 104/2011, Sch. 3, ss. 2-4.]

Applications

3 An application for a community forest agreement under section 43.2 (1) of the Act must

- (a) be made to the minister,
- (b) be in the form and manner required by the minister, and
- (c) include the following:
 - (i) a description of the Crown land proposed for inclusion in the community forest agreement area, if the Crown land was not described in the advertisement;
 - (ii) a description of any private land or first nation reserve land proposed for inclusion in the community forest agreement area;
 - (iii) a business plan acceptable to the minister that includes the following:
 - (A) a description of the legal entity that will hold the agreement;
 - (B) the governance model for the agreement, including the structure and mandate of the management board or persons who will direct operations under or in respect of the agreement;
 - (C) an analysis of the markets for products harvested under the agreement;
 - (D) an assessment of the events or circumstances that may compromise the ability of the holder of the agreement to successfully implement the business plan;
 - (E) financial statements respecting financing, if any, forecasts for profit and loss, cash flow and capital expenditures and a listing of capital assets;
 - (iv) a plan for the management of forest resources on the proposed community forest agreement area, including
 - (A) guiding principles,
 - (B) proposed management objectives, and
 - (C) a proposed allowable annual cut for the community forest agreement area;
 - (v) documentation of community awareness and support for the proposed community forest agreement, including a summary of the submissions received during, and the results of, a public review of the application conducted by the applicant;

(vi) other information required by the minister to the extent the information is relevant to the application.

[am. B.C. Regs. 210/2009, s. (2) (a); 104/2011, Sch. 3, s. 5.]

Evaluation of applications

4 An application under section 3 must be evaluated by considering the following:

- (a) whether the proposed community forest agreement area is considered suitable for a community forest agreement;
- (b) whether the proposed business plan, if implemented, would provide the applicant with a reasonable chance of operating successfully from a business perspective;
- (c) whether the application documents community awareness and support for the proposed community forest agreement;
- (d) whether the proposed plan for the management of forest resources
 - (i) is suitable for managing the resources known to be present on the community forest agreement area,
 - (ii) is appropriate to achieve the goals of the community and the government with respect to forest resource management, and
 - (iii) is consistent with the proposed business plan;
- (e) whether the proposed governance model for the community forest agreement will ensure that operations under the community forest agreement are conducted in a manner that provides for meaningful input from the community and stakeholders;
- (f) the results of a public review of the application, including any actions taken or proposed to be taken by the applicant in response to concerns raised during the public review;
- (g) whether entering into a community forest agreement would be in the best interest of the community and the public;
- (h) any other information provided by the applicant as required by the minister.

[am. B.C. Reg. 210/2009, s. (2) (b).]

Repealed

5 Repealed. [B.C. Reg. 210/2009, s. (2) (c).]

Direct award of probationary community forest agreements

- 6** (1) For the purposes of section 43.51 (1) (b) of the Act, the minister may enter into a community forest agreement with a person if
- (a) the person is invited by the minister to apply for the agreement and the minister is satisfied with the application, and
 - (b) any of the circumstances or requirements set out in subsection (3) apply.
- (2) The minister may specify that an application under subsection (1) must include any of matters set out in section 3 (c).

(3) For the purposes of subsection (1) the circumstances or requirements are any of the following:

(a) the person

(i) holds

(A) a timber sale licence that is not a BC timber sales agreement,

(B) a forest licence, or

(C) a tree farm licence,

in respect of which

(D) rights under the licence are not under suspension, and

(E) all money

(I) required to be paid to the government under the circumstances set out in section 130 (1.1) of the Act, and

(II) due and payable to the government

in respect of the licence

(III) has been paid, or

(IV) is the subject of an arrangement for payment approved by the minister responsible for collecting the money, and

(ii) surrenders the licence on entering into the community forest agreement;

(b) in the opinion of the minister, on the balance of probabilities it is unlikely that any other person would submit an application;

(c) in the opinion of the minister, entering into the agreement is in the public interest.

[am. B.C. Regs. 255/2007, s. (c); 210/2009, s. (2) (d) and (e); 104/2011, Sch. 3, ss. 6 and 7.]

Change of boundary or area

7 Under section 43.52 of the Act, the minister may change the boundary or area of a community forest agreement, if satisfied that

(a) the boundary or area change will

(i) improve forest resource management, or

(ii) further a development objective of the government or the holder,

(b) rights under the agreement are not under suspension, and

(c) all money

(i) required to be paid to the government under the circumstances set out in section 130 (1.1) of the Act, and

(ii) due and payable to the government

in respect of the agreement

(iii) has been paid, or

(iv) is the subject of an arrangement for payment approved by the minister responsible for collecting the money.

[am. B.C. Reg. 104/2011, Sch. 3, s. 6.]

Part 2 — Community Salvage Licences

Eligible applicants

8 For the purposes of section 43.7 (1) (e) of the Act, applications for a community salvage licence may be invited from any of the following:

- (a) a society incorporated under the *Society Act*, if the society can demonstrate that it is not prohibited under section 2 (2) of the *Society Act* from holding a community salvage licence;
- (b) an association as defined in the *Cooperative Association Act*, if the association can demonstrate that holding a community salvage licence is consistent with the purposes of the association;
- (c) a company or an extraprovincial company;
- (d) a partnership, if the partnership is comprised of
 - (i) bands as defined in the *Indian Act* (Canada),
 - (ii) municipalities or regional districts,
 - (iii) societies that comply with paragraph (a),
 - (iv) associations that comply with paragraph (b),
 - (v) companies or extraprovincial companies, or
 - (vi) a combination of any of the entities referred to in subparagraphs (i) to (v).

[am. B.C. Reg. 104/2011, Sch. 3, ss. 2, 4 and 8.]

[Provisions relevant to the enactment of this regulation: *Forest Act*, R.S.B.C. 1996, c. 157, sections 1.1, 43.2, 43.51, 43.52 and 43.7]