



Timber Harvesting Contractor and Subcontractor Regulation Potential Changes

The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) is planning to ask the Provincial Cabinet to approve changes to the Timber Harvesting Contractor and Subcontractor Regulation (THCSR).

What is the regulation for?

- The *Forest Act* requires that some forest tenure holders in British Columbia complete a certain amount of timber harvesting activities by forestry contractors that are in perpetuity and these are commonly referred to as “Bill 13 contracts”.
- The THCSR specifies how these contracts are entered into, transferred, altered, as well as how contract rates are negotiated and settled when disputes arise.
- Timber harvesting activity contracts required to follow the provisions of the THCSR are very unique; it is a rare situation where government has inserted a regulatory regime that has oversight into how private parties set work rates, amounts of work and settle disputes.
- The regulation is specific to replaceable contracts and sub-contracts.

Why are changes to the THCSR being considered?

- For several years many forestry contractors and contractor associations have raised concerns that contract rates are too low and are resulting in many contractors exiting the industry.
- Changes to the THCSR are intended to improve forestry contractor sustainability while ensuring licensee competitiveness.

How were the potential changes to the THCSR developed?

- In 2017, government initiated a Contractor Sustainability Review with a goal of improving the sustainability of forestry contractors and the competitiveness of forest tenure holders (licensees).
- The Contractor Sustainability Review brought the licensees and contractors together to identify potential solutions and trade-offs, which resulted in recommendations being provided to government that included the completion of an economic analysis of the forestry contracting sector, and discussions between the licensees and contractors to identify potential solutions and trade-offs, which resulted in recommendations being provided to government.
- A component of these recommendations included changes to the THCSR.



What changes are being proposed to the THCSR?

- The most significant change to the THCSR is to the considerations that will be applied if the parties are unable to agree on timber harvesting activity rates and move into dispute resolution.
- The proposed standard for setting contract rates is a two-tiered rate test that requires the rate to be competitive by industry standards and allows for a reasonably efficient contractor to earn a reasonable profit.
- The THCSR also builds more certainty around the considerations in determining an appropriate rate and what triggers changed circumstances in contract negotiations.
- Changed circumstances refers to changes in operating conditions that necessitate a renegotiation of the agreed to contract rates.

What will the potential changes to the THCSR not do?

- It will not increase the amount of timber harvesting activities that are available to the contractor.
- It will not automatically increase forestry contract rates. Contract rates will continue to be negotiated between forest tenure holders and contractors.
- The regulation will not guarantee sustainability for the forestry contracting sector. Contractors will still need to be efficient and follow good business practices to be successful.

How does this Regulation impact Aboriginal Interests?

- The Province does not believe there will be any impacts to Aboriginal Interests.
- The regulation should improve the business viability for any First Nations who hold replaceable Bill 13 contracts.
- Some First Nations hold TFLs and RFLs that they purchased and may wish to review if they have replaceable contractors.
- Timber tenures that were direct awarded to First Nations as part of an accommodation measure or Treaty would not have replaceable contracts.

Where do I go if I want more information on the Regulation?

- Forest Tenures Branch maintains a website with relevant information and outcomes of arbitration processes: <https://www2.gov.bc.ca/gov/content/industry/forestry/forest-tenures/forest-tenure-administration/timber-harvesting-contract-subcontract-mediation-arbitration>.
- The Ministry is developing a “Best Practices Guide” that should provide support for forest harvesting contractors around the province.