



The Best Place on Earth

File: 18670-70/CLAIMS
Ref. 125954

OCT 25 2010

Forest Licensees

Dear Sir/Madam:

If an eligible event, as described under the Forest Planning and Practices Regulation (FPPR) s. 96 (1.1), causes damage to a stand prior to the achievement of free growing status, the minister, under authority of *Forest and Range Practices Act* (FRPA) s. 108 (2), must grant relief or provide funding to an obligation holder if the obligation on the area cannot be met without significant extra expense than would have been the case if the damage had not occurred. This relief or funding will only be granted if:

- i) the person did not cause or contribute to the cause of the damage;
- ii) the person exercised due diligence in relation to the cause of the damage; or
- iii) the person contributed to the cause of the damage but only as a result of an officially induced error.



As per Forest Planning and Practices Regulation (FPPR) s. 96 (1.1), a damaging event is defined as:

- a) a wildfire;
- b) an outbreak of *Dothistroma* in a lodgepole pine plantation, if the plantation was established before July 31, 2006; or
- c) a landslide, or a flood, that makes it impossible to establish within 20 years of the commencement date a free growing stand on the area affected by the flood or landslide.

Obligation relief should only be recommended for those situations where the licensee can verify, for all intents and purposes, that they had achieved the free growing condition prior to the disturbance, but had not officially declared or where it is impracticable for the licensee to fulfil its silviculture obligation or where the district manager determines that the area was in a free growing condition prior to the disturbance.

For the purposes of verification, previous completed performance on free growing surveys, surveys of undamaged portions of the plantation, or the surveys of undamaged blocks with a

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similar history in the vicinity could all suffice as proof for the test of “all intents and purposes.” However, verifying the results of activities involving the practice of professional forestry and the attainment of goals and objectives falls under the definition of professional forestry. In each of these cases, a professional forester should document and sign and seal a statement that verifies the area had attained free growing prior to the damaging event or that it is impracticable for the licensee to fulfil its silviculture obligation.

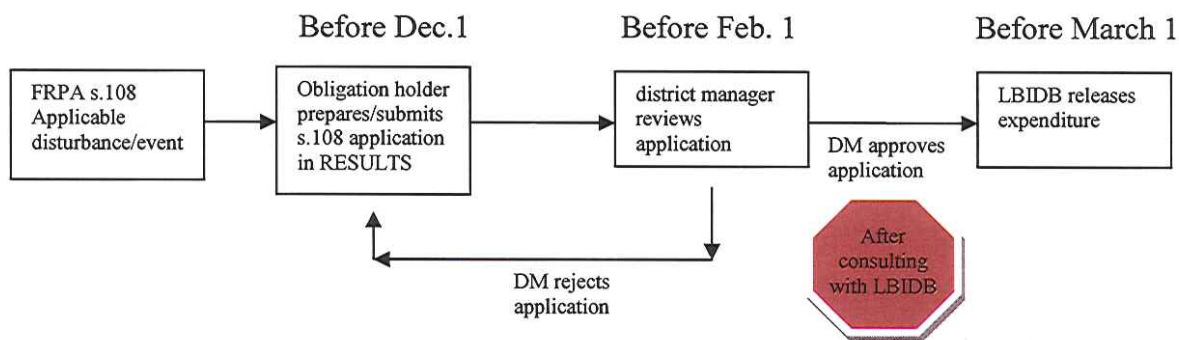
The person making the request for relief of the free growing obligation must provide to the district manager a signed and sealed declaration that:

- (a) identifies the area;
- (b) includes a statement of the extent to which the obligation had been met prior to the disturbance;
- (c) is signed by the person or on that person’s behalf by an individual or individuals authorized in that regard, and
- (d) specifies the date on which the declaration is made.

Application costs are not recoverable. However, some costs incurred in preparing an application may be recoverable if a case can be made that they were necessary for stand restoration, regardless of when they were incurred. In order for FRPA s. 108 applications to be processed in a timely manner all applications must be submitted through RESULTS.

While FRPA s. 108 applications can be submitted and processed throughout the year, for FRPA s. 108 funding to be released in an efficient manner it is recommended that all FRPA s. 108 applications be submitted before December 1st and that the district manager complete their review of these applications prior to February 1st. Following these suggested submission and review dates should allow for optimizing the payments of approved FRPA s. 108 funding applications to be completed prior to the end of the fiscal year. Regardless of the timeline, however, it is essential that the district manager be satisfied that an application is consistent with the requirements of FRPA s. 108 prior to approval even if that review takes the maximum one year as outlined in FPPR s. 96 (2).

The following timeline is suggested for the processing of FRPA s. 108 applications:



Funding for payments of approved FRPA s. 108 applications is now being managed by the Land Based Investments Delivery Branch (LBIDB). The LBIDB will work with district staff on the timing of approvals in conjunction with the overall budget for FRPA s. 108 payments.

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Districts will be focused on processing any outstanding applications submitted for approval associated with the 2009 fires as soon as possible.

Please contact the local district office for further information.



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