



GENERAL BULLETIN

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Collection, Registration, Processing and Disposition of Seed

Introduction

The following information has been prepared for statutory decision-makers and persons who collect, register, process and trade tree cones, seeds, and vegetative material. This bulletin outlines the past and current requirements governing these activities, and provides advice to statutory decision-makers and others with respect to cone collection permits, the registration of seed, seed dealer's licenses, and the export of cones.

Summary

Cone collection permits, which were issued under the Code, are no longer necessary in order to collect cones, seed and vegetative material from Crown land. However, persons who cut, damage or destroy Crown timber for the purposes of collecting cones etc. must have the appropriate authority prescribed in section 52 of the *Forest and Range Practices Act* (FRPA). Persons who plant trees to establish a free growing stand must continue to use only seedlots and vegetative lots registered with the ministry. Persons who process and dispose of cones and seed no longer require seed dealer's licenses under existing legislation. Persons may also export cones out of the Province for processing without obtaining prior approval from the Chief Forester (CF).

Background

Prior to the introduction of FRPA, the collection, registration, processing and disposition of cones, seed and vegetative material was regulated under the Code's [Tree Cone, Seed and Vegetative Material Regulation](#) (TCSVMR).

[Section 38\(2\)\(a\)](#) of the Code's *Timber Harvesting and Silviculture Practices Regulation* (THSPR), and [section 82\(2\)\(a\)](#) of the Code's *Woodlot Licence Forest Licence Forest Management Regulation* (WLFMR) required that persons who planted trees to establish a free growing stand to only use seedlots and vegetative lots collected and registered in accordance with the TCSVMR.

The TCSVMR, THSPR and WLFMR were repealed on January 31, 2004 when FRPA and its regulations came into force. However, the transition provisions under FRPA ([sections 191, 192, 198, and 203](#)) require persons to continue following the Code and its regulations when

establishing a free growing stand on a cutblock harvested under the Code and prior to approval of a forest stewardship plan.

Persons planting these “Code cutblocks” must therefore continue to use seed in accordance with section 38 of the THSPR or section 82 of the WLFMP, as the case may be, including the requirement to only use seed collected and registered in accordance with the TCSVMR.

Tree Cone, Seed and Vegetative Material Regulation

The TCSVMR applied to all persons in the Province who collected, registered, processed, and disposed of seed. As such, the TCSVMR did not apply exclusively to persons who planted trees under the Code.

Section 2 of the TCSVMR required persons, other than employees or agents of government, who wished to collect cones, seed or vegetative material of a commercial tree species from Crown land to obtain a [Cone and Vegetative Material Collection Permit](#) (FS 504) issued by a District Manager (DM) or person authorized by the DM. The permit identified the area, species, dates and other terms and conditions respecting the collection. Written consent from a licensee or lease holder who held rights to the Crown land was also required as a condition of issuance. No fees or royalties were charged for this permit.

Section 3 of the TCSVMR outlined the duties of the ministry for maintaining a registry of seedlots and vegetative lots, and the requirements for persons who sought to register lots with the ministry. These requirements included mandatory registration application forms and were supported by a number of ministry policies to ensure that lots met minimum standards for genetic and physical quality. DMs could also require submission of a cone collection permit, if applicable, as a condition of registration, although they rarely exercised this authority.

Sections 4 and 5 of the TCSVMR required persons who processed, bought, sold or traded cones, seeds or vegetative material to hold a [Seed and Vegetative Material Dealer’ License](#) (FS 786) issued by the CF or person authorized by the CF. Holders of these licenses were also required to maintain a ledger of their transactions and to make this ledger available for inspection by CF or person authorized by the CF. Although the ministry issued Seed Dealers Licenses upon request, it did not enforce this requirement nor exercise its authority to conduct inspections.

Section 4 of the TCSVMR also precluded persons from removing cones collected from Crown land or seed orchards licensed with the ministry from the province for processing unless they obtained prior consent from the CF. The CF only received a few requests under this section over the past decade.

Requirements and Authorities under FRPA

[Section 43](#) of the *Forest Planning and Practices Regulation* and [section 32](#) of the *Woodlot Licence Planning and Practices Regulation* authorizes the CF to establish standards respecting the use, registration, storage, selection and transfer of seed. Persons who plant trees to establish a free growing stand under FRPA must comply with these seed use regulations and the CF Standards.

These regulations do not permit the CF to set standards for seed collection, other than those he deems necessary for the purposes of regulating the use, registration, storage, selection and transfer of seed. As such, the CF can establish collection criteria that must be met in order to register a lot with the ministry (e.g. the minimum number trees from which a lot must be collected). The CF however cannot establish standards that would create a collection permit scheme or require a person to obtain a collection permit. The authority to regulate the collection of seed from Crown land under permit is vested solely with government.

Although there are provisions in FRPA for government to establish regulations respecting seed and other botanical forest products (sections 158 and 168, respectively), and powers for government officials to inspect and seize these Crown assets if collected contrary to the prescribed requirements (Division 2, Seizure), there are no collection regulations in place under FRPA.

Interpretation of Existing Requirements

Collections

Under FRPA, only persons who establish a free growing stand on a Code cutblock must use seed collected and registered in accordance with the TCSVMR. As such, collection permits would only appear to be required by licensees who wish to collect a seedlot or vegetative lot from Crown land for the purposes of using it on a Code block.

Persons without Code reforestation obligations also collect cones, seeds and vegetative material for a variety of purposes. These persons, who include independent contractors and seed dealers, are not required to obtain a collection permit under FRPA. It therefore does not appear to be reasonable or necessary to continue the issuance of cone collection permits to only licensees with reforestation obligations incurred under the Code.

Absence of the cone collection permit does not however leave Crown resources completely unprotected. Authorization to cut, damage or destroy Crown timber for the purposes of collecting cones must be provided in accordance with the requirements of [section 52](#) of FRPA (*Unauthorized timber harvesting*). Persons who wish to cut branches or the tops of standing timber by means of climbing or helicopter for the purposes of collecting cones should therefore seek prior approval from a DM under section 52(1)(b) of FRPA. (The minister delegated his authority under this section to DMs on July 2, 2004.)

A DM may consider the rights and interests of other persons in the trees from which the cones, seed or vegetative material are to be collected before granting such authority. The authorization could take the form of a letter and should identify the area, species or trees, period of time and person to which the authorization applies.

Collections that do not involve the cutting, damage or destruction of Crown timber, such as picking cones from live branches, felled timber in cutblocks and landings or squirrel caches, do not require ministry authorization. This is also the case for the collection of other non-timber forest products.

Not only are there limited provisions for regulating the collection of cones, seed and vegetative material, ministry staff cannot grant persons exclusive rights to them or charge fees or royalties

for them. Ownership of these genetic resources on Crown land however remains vested with government, unless government disposes of these rights in accordance with the statutes.

Although government does not intend to continue a cone collection permit scheme at this time, the CF will maintain certain collection criteria for the purposes of registering seed with the ministry (e.g. a seedlot must be collected from at least 10 trees).

Registration

Persons that reforest Code blocks must continue to use seed registered with the ministry in accordance with the TCSVMR. The CF is currently developing standards to govern the registration, storage, selection and transfer of seed under FRPA. Persons who reforest FRPA blocks will have to use seed registered with the ministry in accordance with these standards. The CF Standards for Seed Use are expected to be brought into force in April 2005 prior to persons planting the first blocks authorized for harvest under FRPA.

The CF Standards will include provisions for persons to use seed registered under the TCSVMR prior to its repeal. Seed registered with the ministry after the repeal of this regulation and prior to the implementation of the CF Standards will also be deemed acceptable for use on FRPA blocks. Persons should therefore continue to register seed with the ministry in accordance with the policies and procedures that were in effect under the Code until they are superseded by the CF Standards.

Processing and Disposition

The transitions provisions in FRPA do not keep alive the processing and disposition requirements of the TCSVMR. Since there are no equivalent regulations in place under FRPA, seed dealer's licenses are no longer required to conduct these activities. Furthermore, the export of cones for the purposes of processing no longer requires the consent of the CF, unless otherwise noted in an agreement between government and a private seed orchard.

All persons may therefore collect, process, dispose and export cones, seed and vegetative material from Crown land so far as they do not contravene section 52 of FRPA, and any applicable agreements, provincial legislation (e.g. *Workers Compensation Act*), federal legislation (e.g. [Seeds Act](#), and [Plant Protection Act](#)), and laws of an importing country.

Further Information

Additional information regarding seed registration and the CF Standards may be found on the Tree Improvement Branch website at: <http://www.for.gov.bc.ca/hti/index.htm>

Questions regarding the information contained in this bulletin can be directed to:

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