

File: 19400-04/CP-RP Issuance
Ref: 278187

March 19, 2024

To: Regional Executive Directors
District Managers

From: Patrick Russell, Acting Director, Forest Tenures Branch

Re: *Forest Act* Amendments Regarding the Administration of Cutting Permits and Road Permits

On November 30, 2023, the *Forest Statutes Amendment Act* (Bill 41-2023) received royal assent amending the *Forest Act*, the *Forest and Range Practices Act* (FRPA) and the *Wildfire Act*. Changes in these statutes introduced in Bill 41-2023 include:

- Increased discretion to the issuance of cutting permits (CPs) and road permits (RPs) (Part 3.1 and 8.0).
- Introduced new tools for compliance and enforcement along with powers for the province to refuse a replacement or issue a timber tenure for failure to pay penalties and for non-compliance with the tenure, the *Forest Act*, the FRPA and the *Wildfire Act*.
- Changes to the *Wildfire Act* to further enable government to assist Indigenous people in prescribed or cultural burning.


A summary of the changes to the *Forest Act* are provided in Appendix 1, and has been distributed to licensees, which come into effect on April 1, 2024, by an order in council (OIC). After April 1, 2024, all CPs and RPs must be issued in accordance with the legislation and the licence agreement in effect at the time of CP or RP submission. As of April 1, 2024, all CPs and RPs must be advertised on a Forest Operation Map (FOM) for 30 days in accordance with the FRPA (enabled under OIC #403-2023, Schedule 6). Please refer to the Interim Guidance for Cutting Permits and Road Permits Application Refusal under the FOM available on the Forest Tenures Branch website.

Forest Tenures Branch is leading the implementation of the *Forest Act* amendments including the updating of bulletins, guidance manuals, policy, delegation matrix and templates relating to CP and RP administration. Training and additional support will be provided to assist staff and statutory decision makers with their respective roles and responsibilities under the CP and RP discretionary issuance framework. Additional information and guidance will be made available on the [Forest Tenure Branch website](#).

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The province is committed to working with current forest tenure holders, and First Nations to fully implement these changes. As a result, we are recommending that CP/RP discretion be part of the Regional Operational Issues Forum agendas. This provides a forum to discuss implementation with provincial members of the area tenures, regional stewardships teams and Forest Tenures Branch.

If you have any questions or concerns, please do not hesitate to contact Kevin Kilpatrick, Senior Timber Tenures Forester, Forest Tenures Branch at Kevin.Kilpatrick@gov.bc.ca or (778) 974-2477.



Patrick Russell
Acting Director
Forest Tenures Branch

Attachment(s): Appendix 1 – *Forest Act* Amendments (Bill 41-2023)
– CP/RP Administration

pc: James Mack, Assistant Deputy Minister, Water, Fisheries and Coast Division
Ministry of Water, Land and Resource Stewardship
Jen Psyllakis, A/Assistant Deputy Minister, Species at Risk Recovery Division
Ministry of Water, Land and Resource Stewardship
David Muter, Assistant Deputy Minister, Land Use Planning and Cumulative
Effects Division, Ministry of Water, Land and Resource Stewardship
Matt Austin, Assistant Deputy Minister, Integrated Resource Operations Division
Shane Berg, Assistant Deputy Minister & Chief Forester
Sarah Fraser, Assistant Deputy Minister, Coast Area
Mike Hykaway, Assistant Deputy Minister, North Area
Jamie Jeffreys, Assistant Deputy Minister, South Area
Ian Meier, Assistant Deputy Minister, BC Wildfire Services
Melissa Sanderson, Assistant Deputy Minister, Timber, Range and
Economics Division
Rachael Pollard, Executive Director, Forest Sector Transformation
Timber, Range and Economics Division
Allan Powelson, Executive Director, BC Timber Sales
Rob Schweitzer, Executive Director, BC Wildfire Service
Ariel Taylor, Executive Director, Indigenous Relations Branch
Ted White, A/ED Compliance & Enforcement, Forest Tenures and Engineering
Allan Bennett, Director, Timber Pricing Branch
Danielle Cuthbertson, A/Director, Range Branch
Derek Lefler, Director, Forest Science, Planning and Practices Branch
Peter Wyatt, Director, Engineering Branch
Steven Stussi, Section Head, Legislation and Policy, Compliance and
Enforcement Branch
Ivan Eggers, Manager, Business Applications for Forests, Forest Tenures Branch

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Kevin Kilpatrick, Senior Timber Tenures Forester, Forest Tenures Branch

Anthony Giannotti, Director, Pricing and Tenures, Omineca Region

Larry Henry, Director - Pricing & Tenures, South Area

Randy Husband, Director Pricing, Tenures and Administration, West Coast Region

***Forest Act Amendments* (Bill 41-2023)**
Part 3.1 and 8.0
Cutting Permit and Road Permit Administration

Bill 41 Clause	<i>Forest Act</i> Section(s)	Topic	Description
4	12	Definition	<ul style="list-style-type: none"> • Cutting Permit is defined as a form of an agreement. • The cutting permit is issued in accordance with the <i>Forest Act</i>, Part 3.1
9 20 25 28 31	15 (RFL) 36 (TFL) 43.4 (CFA) 43.56 (FNWL) 46 (WL)	Replacement	<ul style="list-style-type: none"> • An agreement holder of a forest tenure agreement <u>may be declined an offer to replace</u> for the following: <ul style="list-style-type: none"> ○ the Licence has been suspended. ○ Licensee has failed to pay fees, including annual rent, stumpage and security deposits or penalties. ○ Licensee is in non-compliance with a requirement under the agreement, the <i>Forest Act</i>, the <i>Forest and Range Practices Act</i> or the <i>Wildfire Act</i>. ○ If the Minister is satisfied the outstanding issues listed above have been addressed, a replacement may be offered.
38 55 57 58 60 61	52.12 76(2.1) (2.2) 77(1.1) 79	Suspension and Cancelation Continuing Liability	<ul style="list-style-type: none"> • A forest tenure agreement <u>may</u> be suspended or cancelled for the following: <ul style="list-style-type: none"> ○ Misrepresentation or inaccurate information on an application or operational plan. ○ Failure to complete an obligation under the agreement, such as failure to pay fees, including annual rent, stumpage and security deposits or penalties. ○ Licensee is in non-compliance with a requirement <i>Forest Act</i>, the <i>Forest and Range Practices Act</i> or the <i>Wildfire Act</i>. ○ If an agreement expires, cancelled, or surrendered all cutting permits for the agreement are cancelled without notice. ○ Non-compliance <u>may</u> result in a suspension of the licence or cutting permit or both. ○ If rights are suspended, the minister <u>may</u> cancel the agreement and road use permit issued to the holder of the agreement, if the road use permit is related to the agreement being cancelled. ○ Despite the expiry, surrender, suspension or cancellation of an agreement the holder continues to be liable for payment of fees and fines owing to the government and to perform obligations associated with the agreement and the legislation. ○ If the Minister is satisfied the outstanding issues listed above have been addressed the suspension may be rescinded.
38	52.02(1) 52.02(2)	Authorization to harvest Crown timber	<ul style="list-style-type: none"> • The holder of a forest licence or an area-based licence must be authorized under a cutting permit or the Act or another enactment to harvest Crown timber for the AAC available under the licence. • The holder of a timber licence, master licence to cut and forestry licence to cut that provides for cutting permits must be authorized under a cutting permit or the Act or another enactment to harvest Crown timber.
38 74	52.03(1) 115(1)	Application	<ul style="list-style-type: none"> • A CP/RP application must be on a form and submitted in a manner determined by the Minister <p><i>New Policy – all new construction or new harvesting areas must be submitted in a new application and discretion will apply.</i></p>

Appendix 1: 2024 *Forest Act* Amendments (Bill 41-2023) - CP/RP Discretion Summary

Bill 41 Clause	<i>Forest Act</i> Section(s)	Topic	Description
38 74	52.03 115	Minister's Considerations	<ul style="list-style-type: none"> The Minister <u>may</u> issue a CP/RP upon application by the holder of an agreement authorizing the holder to exercise their rights under their agreement. <ul style="list-style-type: none"> Which include the harvesting of timber Construction, use, maintenance and deactivation of a road to access timber authorized for harvest. The Minister <u>must</u> consider the impact timber harvesting and road construction will have on the following: <ul style="list-style-type: none"> Management and conservation of forest resources Cultural heritage resources as defined in <i>Forest Act</i>, section 1 Public health and safety Prescribed matters (regulations which specifically reference <i>Forest Act</i>, section 52.03 or 115 The Minister <u>may</u> refuse to issue a CP/RP if the Minister is not satisfied the impact to the above values are acceptable.
38 74	52.04 116	Information request	<ul style="list-style-type: none"> The Minister <u>may</u> require the applicant to provide: <ul style="list-style-type: none"> Information respecting existing or proposed roads that would provide access to the proposed cutting permit area, Information, plans, studies or analysis the Minister considers will assist in the decision to issue, not issue or issue with conditions a cutting permit or road permit, or Any other information the Minister considers relevant to the application. The Minister <u>may</u> specify qualifications required for the preparation of the requested information, plans, studies or analysis.
38 39 40 74	52.05, 52.06, 52.07 117 Refusal of Cutting Permits or Road Permit Regulation	Mandatory Refusal	<ul style="list-style-type: none"> Minister <u>must</u> refuse to issue a cutting permit or road permit: <ul style="list-style-type: none"> If the Minister determines issuance would compromise a prescribed government objective (Refusal of Cutting Permit or Road Permit Regulation), The applicant does not hold a forest stewardship or woodlot licence plan, The area requested to be harvested is inconsistent with the approximate locations of cut blocks shown in the forest operations map¹ In prescribed circumstances (as defined in regulation) The Minister <u>must</u> also refuse to issue a cutting permit or road permit for a supplemental forest licence if the Minister determines a required condition has not been met. Minister <u>must</u> only issue a cutting permit for a master licence to cut if the cutting permit: <ul style="list-style-type: none"> Authorizes the holder to harvest Crown timber in an area the holder is authorized to occupy, or Facilitates harvesting for specified purposes under section 47.4 of the <i>Forest Act</i>.
38	52.08	Content of a Cutting Permit, including	<ul style="list-style-type: none"> A cutting permit <u>must</u>: <ul style="list-style-type: none"> Be for a maximum term of 4 years, or for a master licence to cut a longer period as prescribed in regulation,

¹ As of April 2024, due to the limits of legislation, CP/RPs cannot be issued from April 1 to 30, 2024. An application must be refused if there is no FOM. A complete application includes a ECAS submission, an ESF submission, a FOM ID or submitted maps, information sharing summary and the form to initiate processing. For the application not to be rejected, the form must be submitted on May 1st but district staff can review any of the other submitted information during the month of April.

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		terms and conditions and discretion	<ul style="list-style-type: none"> ○ Include a timber mark, ○ Include the prescribed terms and conditions (if applicable), ○ Authorize the holder to harvest a portion of the allowable annual cut available from a specified area within the: <ul style="list-style-type: none"> ○ timber supply area or tree farm licence area specified in the forest licence, ○ area based licence, ○ area subject to a timber licence, master licence to cut, or forest licence to cut ● A cutting permit <u>may</u> include terms and conditions that impose requirements on the holder <u>consistent with</u> the requirements under the agreement, the <i>Forest Act</i>, <i>Forest and Range Practices Act</i> and the <i>Wildfire Act</i> or the regulations. ● A cutting permit <u>may</u> include terms and conditions respecting one or more of the following: <ul style="list-style-type: none"> ○ Timber that is to be reserved from harvesting, ○ Periods during which harvesting may not occur, ○ Equipment or harvesting methods that may not be used, or ○ Requirements for road use or construction. ● A cutting permit <u>may</u> include terms and conditions that impose requirements on the holder that are <u>more restrictive</u> than the required under the agreement, the <i>Forest Act</i>, <i>Forest and Range Practices Act</i> and the <i>Wildfire Act</i> or the regulations
74	118	Content of a Road Permit, including terms and conditions and discretion	<ul style="list-style-type: none"> ● A road permit <u>must</u>: <ul style="list-style-type: none"> ○ describe the location of the road, ○ include prescribe terms and conditions (if applicable), ○ include authorization to construct, use, maintain and deactivate or use and deactivate the road. ● A road permit <u>may</u>: <ul style="list-style-type: none"> ○ specify a date of deactivation, ○ authorize the holder to manage and use land for sand pits, rock quarries, or other quarries (if the road is in a Provincial Forest), ○ authorize the use of the material in the pits and quarries for construction of that road. ○ Road permit associated with a TSL <u>may</u>: <ul style="list-style-type: none"> ○ specify standards and programs established by one or more standard making bodies, ○ require the holder to comply with the specified standards and programs, ○ specify the manner in which the holder must conduct operations under the road permit in order to meet the standards and programs. <p>A road permit <u>may</u> include terms and conditions that impose requirements on the holder that are <u>consistent with</u> the requirements under the agreement, the <i>Forest Act</i>, <i>Forest and Range Practices Act</i> and the <i>Wildfire Act</i> or the regulations.</p> ● A road permit <u>may</u> include terms and conditions respecting one or more of the following: <ul style="list-style-type: none"> ○ The storage of timber cut under the road permit, ○ Periods during which activities may not occur, ○ The manner in which the holder may carry out activities referred above,

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			<ul style="list-style-type: none"> ○ Vehicles, machinery, or equipment that may not be used by the holder, ○ Periods during which the holder may not use the road, ○ Specified signage that is to be posted by the holder. <ul style="list-style-type: none"> ● A road permit <u>may</u> include terms and conditions that impose requirements on the holder that are <u>more restrictive</u> than the requirements under the agreement, the <i>Forest Act</i>, <i>Forest and Range Practices Act</i> and the <i>Wildfire Act</i> or the regulations.
74	119 119.1	Rights to Crown timber under a Road Permit	<ul style="list-style-type: none"> ● A road permit <u>may</u> authorize the holder to harvest Crown timber to harvest roadway timber in relation to the road and no other person has the right to harvest that roadway timber. ● A road permit <u>may</u> be issued to a forest tenure holder that <u>does</u> have the rights to the underlying harvest rights to <u>cut and remove</u> the Crown timber needing to be harvested to construct the roadway. ● A road permit <u>may</u> be issued to a forest tenure holder that <u>does not</u> have the underlying harvest rights and provide the right to <u>cut only</u> for timber needing to be harvested construct the roadway.
67	81(2) 81(3)	Discretionary issuance of an agreement	<ul style="list-style-type: none"> ● A agreement or specified permits under section 81(1) & 81(3) (including a cutting permit or road permit) <u>may</u> not be issued if a current or former holder of an agreement has any of the following: <ul style="list-style-type: none"> ○ An agreement (including a cutting permit or road permit) that has been suspended, ○ An agreement (including a cutting permit or road permit) with outstanding payment of fees including penalties, rent or deposits, ○ An agreement (including a cutting permit or road permit) in noncompliance with an obligation under the agreement, the <i>Forest Act</i>, the <i>Forest and Range Practices Act</i>, or the <i>Wildfire Act</i>.
38	52.10	Extension of a Cutting Permit	<ul style="list-style-type: none"> ● Minister <u>must</u> extend a cutting permit upon request if the following applies: <ul style="list-style-type: none"> ○ The request includes the prescribed fee (if applicable), ○ The combine term of the cutting permit does not exceed 4-years. ○ The licence has not been suspended, cancelled, or expired. ○ The request is not for a cutting permit associated with a licence to cut. ○ The extension does not exceed the term of the licence. ○ The extension is not for a licence that does not allow for an extension. ○ The extension will not prevent the fulfillment of an obligation under FRPA.
38	52.11 Cutting Permit Postponement Regulation	Cutting Permit Postponement	<ul style="list-style-type: none"> ● New section number, no changes in provisions ● Formerly section 58.1
43	53.3	Transfer of a Cutting Permit	<ul style="list-style-type: none"> ● A cutting permit can only be transferred to another person as part of a transfer of a licence.
62 63 64	80	Compensation for a decision	<ul style="list-style-type: none"> ● No compensation is payable in respect of a decision by the minister under Part 3.1 (cutting permits) or Part 8 (road permits) regarding a decision to refuse to issue a permit or include terms and conditions to the permit.
38 172-180	52.13 Division 1, Part 2	Transition	<ul style="list-style-type: none"> ● Cutting permits and road permits submitted prior to the effective date of <i>Forest Act</i> Part 3.1 and 8.0 must be issued with no changes or conditions. ● The new provision described in the <i>Forest Act</i> Part 3.1 and 8.0 applies to all cutting permit and road permits submitted on or after the effective date. ● The new provision also applies to all cutting permits and road permit amendments, to issued cutting permit and road permits, requested on or affect the effective date.