

***The Forest Act and  
Forest Use and  
Management Regulation  
Amendments***

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**Fall 2011**

**Manitoba**



# Agenda

- Why a new *Forest Act* and Regulation?
- *Forest Act* Amendments
- Regulation Amendments
- Schedule changes

# History

- 2006 – Timber pricing development
- 2007 – Forest Act development
- 2009 – Forest Act passed - Logging in Parks
- 2011 – Forest Act Proclaimed with new Regulations

## Recent Events

- March 1 – Forest Act Proclaimed
- March 24 – Regional Foresters meeting
- April 28 – Superintendents meeting
- June 2011 – Operations meeting
- Fall 2011 – Industry meetings

## Coming into force

This regulation came into force on the same day that section 30 of *The Forest Amendment Act, S.M. 2009, c. 5*, came into force.

- Registered February 25, 2011
- Proclaimed March 1, 2011, published in the Manitoba Gazette on March 12, 2011
- *The Forest Act Amendment* came into force – March 26, 2011

# Forest Act Amendments

- Inspection (of property)
- Logging in Parks – June 2009
- Prohibitions and Possession
- Inspection Powers
- New Timber Dues
- 3<sup>rd</sup> Party Forest Renewal
- Potential Forest Management Charge
- Penalty for Unauthorized Timber Cutting or Removal
- Appointment of Forest Act Officers
- Enhanced Enforcement Provisions

## Inspection (of property)

- 6 In the discharge of his duties, an officer or any person by him accompanied or authorized for that purpose, may enter upon and pass through or over private property without being liable for trespass; and for the purpose **of ensuring compliance with this Act, may inspect any land that is the subject of a timber cutting right or any premises in respect of which a licence or permit under this Act has been issued.**

# No commercial timber cutting rights in parks

15.1(1) No commercial timber cutting right may be issued that authorizes logging on land in a provincial park.

# Withdrawing existing timber cutting rights in parks

15.1(2) Every commercial timber cutting right in existence on the coming into force of this section that authorizes logging on land in a provincial park is hereby amended to remove the land in the provincial park from the timber cutting right.

# Exception for Duck Mountain Provincial Park

15.1(3) This section does not apply to  
Duck Mountain Provincial Park.

# Definition: "commercial timber cutting right"

15.1(4) In this section, "**commercial timber cutting right**" does not include a timber cutting right that authorizes the holder — on the request and at the direction of government officials — to cut and remove the minimum amount of timber required to achieve any of the following purposes on land in a provincial park,

## 15.1(4)

if permitted under *The Provincial Parks Act*:

- (a) forest fire threat reduction;
- (b) forest pest and disease control;
- (c) forest rehabilitation and ecosystem preservation;
- (d) forest research;
- (e) the development of park infrastructure.

# Prohibitions re holders of timber cutting rights

- 28.1 No holder of a timber cutting right shall
- (a) cut or remove timber, except in accordance with the terms and conditions of the timber cutting right granted to the holder; or
  - (b) otherwise fail to comply with the terms or conditions of the timber cutting right granted to the holder.

# Possession of illegally harvested timber

28.2 No person shall acquire or possess timber that the person knows, or ought reasonably to know, was cut or removed in contravention of this Act.

# Inspection powers

- 29.1(1) For the purpose of ensuring compliance with this Act, an officer may, without a warrant,
- (a) request or signal any vehicle being used to transport timber to stop;
  - (b) inspect the vehicle and the timber being transported; and

# Inspection powers

- (c) require the operator of the vehicle to produce
  - (i) his or her driver's licence or other proof of identity acceptable to the officer, and
  - (ii) any documents related to the timber being transported that the officer may request.

# Officer to show identification

29.1(2) An officer must produce identification if requested to do so when conducting an inspection.

# Duty of operator during inspection

- 29.1(3) When requested or signalled to stop by an officer conducting an inspection under subsection (1), the operator of the vehicle must
- (a) immediately bring the vehicle to a safe stop;
  - (b) allow the officer to inspect the vehicle and the timber being transported;

# Duty of operator during inspection

- (c) produce any documents related to the timber being transported and the operator's identity that the officer may request;
- (d) provide any assistance or additional information that the officer reasonably requires to perform the inspection; and
- (e) not proceed until permitted to do so by the officer.

## Timber cutting dues – 34(1)

34(1) When Crown timber is cut or removed under authority of a timber cutting right, the holder of the right, or the person who purchases or acquires the timber from the holder, must pay to the Crown

- (a) the dues payable under the timber cutting right for the timber harvested; or
- (b) the dues established in the regulations for the timber harvested, if the timber cutting right does not address the dues payable.

# 3<sup>rd</sup> Party Forest Renewal

Forest renewal

34(1.1) (b) pay the forest renewal charge established in the regulations on Crown timber harvested by the holder to a third party who has entered into an agreement with the minister to perform forest renewal on Crown lands that the holder has harvested;

# Conditions on approval

34(1.2) As a condition of granting approval under clause (1.1)(c), the minister may impose any term or condition on the holder of a timber cutting right that he or she considers appropriate.

# Forest management charge

- 34(1.4) The holder of a timber cutting right must pay the forest management charge established in the regulations on Crown timber harvested by the holder
- (a) to the Crown, if the timber is harvested on Crown land that is not the subject of a forest management licence; or

# Forest management charge

(b) to the holder of the forest management licence that provided forest management services for the land on which the timber was harvested, if the harvested timber is not delivered to the holder of that forest management licence.

# Penalty for unauthorized timber cutting or removal

34.1(1) When Crown timber is cut or removed by a person who is not authorized to do so under a timber cutting right, the person must pay to the Crown — **in addition to any other penalty or fine imposed under this Act — an amount equal to four times the dues and charges** that would have been payable if the timber had been cut or removed by a person authorized to do so under a timber cutting right.

# Appointment of officers

35(1) The minister may appoint any persons, or classes of persons, as officers for the purpose of enforcing this Act.

# Offences

37(1) A person is guilty of an offence who

(a) contravenes a provision of this Act;

(b) makes a false statement to an officer or any other person acting under the authority of this Act;

# Offences

37(1) A person is guilty of an offence who

(c) makes a false statement in an application, return or other document given or required under this Act; or

(d) hinders, obstructs or interferes with or attempts to hinder, obstruct or interfere with an officer or any other person acting under the authority of this Act.

## Continuing Offence

37(2) When a contravention of this Act continues for more than one day, the person is guilty of a separate offence for each day the contravention continues.

# Directors and officers of corporations

37(3) If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of the offence.

## Penalties for individuals

37(4) Except as provided in subsection (5), a person who is guilty of an offence under this Act is liable on summary conviction,

(a) for a first offence, to a fine of not more than \$50,000 or imprisonment for a term of not more than six months, or both; and

(b) for each subsequent offence, to a fine of not more than \$100,000 or imprisonment for a term of not more than one year, or both.

# Penalties for corporations

37(5) A corporation that is guilty of an offence under this Act is liable on summary conviction,

- (a) for a first offence, to a fine of not more than \$250,000; and
- (b) for each subsequent offence, to a fine of not more than \$500,000.

## Additional fine

37(6) If a person is convicted of an offence under this Act and the court is satisfied that, as a result of the commission of the offence, the person acquired any monetary benefits or that monetary benefits accrued to the person, the court may order the person to pay a fine of not more than the court's estimation of the amount of those monetary benefits. A fine under this subsection is in addition to, and not in place of, a fine under subsection (4) or (5).

## Limitation period

37.1 A prosecution for an offence under this Act may not be commenced later than two years after the day on which evidence sufficient to justify a prosecution for the offence came to the knowledge of an officer. The certificate of an officer as to the day on which the evidence came to his or her knowledge is evidence of that date.

# Set Fine

- Set fines for relatively minor infractions
- Escalating infractions and fine amounts
- Serious infractions
  - exceed set fines → court

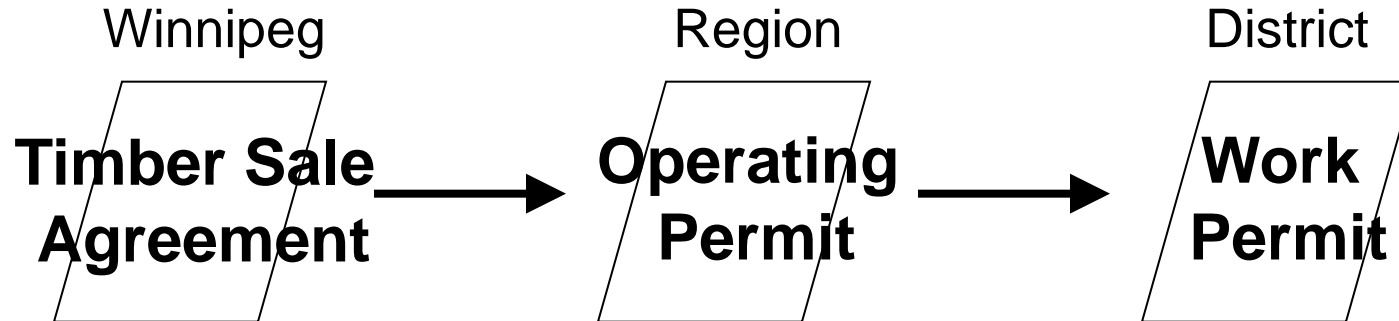
# Regulation Amendments

- General Timber Cutting – Waste
- Brush Disposal
- Scaling Plans
- Inspection Powers
- Load Slip Use
- Interest due to errors in reports or returns
- Late payment penalty changes
- Wood processing facility licence
- Schedules

# Regulation Amendments

**General conditions governing  
timber cutting**

# Authorities



## Timber Admin Cond.

- Volume
- Timber Sale Area
- Reporting Req.
- Quota Policy
- Dues/Charges
- Some Penalties

## Forestry Conditions

- Authorizes Harvest
- Provincial Cond.
- Site Specific Cond.

## Crown Lands & Wildfires Act Cond.

Authorizes work on Crown Land

# General conditions governing timber cutting

5 (vi.1) ensure that any tree top removed does not have a diameter greater than 10 cm class for softwood or 12 cm class for hardwood,

# Penalty for improper harvesting (not new)

**8(1)** All merchantable portions shall be taken from the trees cut, leaving no waste timber, and every person authorized to cut timber who wastes any merchantable timber shall, in respect of such waste, pay to the minister forthwith upon demand the following charges:

# Penalty for improper harvesting (not new)

**8(1)(a)** for leaving stumps of trees exceeding the maximum stump height specified, or for leaving tree tops exceeding the minimum diameter specified, the amounts set out in Schedule D for each stump or tree top;

# Leaving avoidable waste - logs 8(1)(c)

8(1)(c) for leaving avoidable waste in the form of merchantable softwood with a minimum diameter class of 10 cm or merchantable hardwood with a minimum diameter class of 12 cm in a stockpile site or in the cutting area in logs with a length greater than 2.5 m that contain at least 50% sound timber -

# Leaving avoidable waste - logs 8(1)(c)

**twice the dues and charges payable  
under the timber cutting right on an  
officer's estimate of the gross volume  
of the timber wasted;**

# Leaving avoidable waste - logs 8(1)(c)



# Leaving avoidable waste

## 1.1 – 2.5 m 8(1)(d)

8(1)(d) for leaving avoidable waste in the form of merchantable softwood with a minimum diameter class of 10 cm or merchantable hardwood with a minimum diameter class of 12 cm in a stockpile site or in the cutting area in logs with a length between 1.1 m and 2.5 m that contain at least 50% sound timber -

# Leaving avoidable waste 1.1 – 2.5 m 8(1)(d)

the **dues and charges payable** under the timber cutting right **on an officer's estimate of the gross volume of the timber wasted**

# Leaving avoidable waste 1.1 – 2.5 m 8(1)(d)



## Leaving timber for >1 year

**8(2)** Unless otherwise authorized by an officer any harvested merchantable timber left in a stockpile site or in the cutting area for more than one year is deemed to be waste timber.

# Brush Disposal

**10(1.1)** An operator who fails to dispose of brush or other logging debris in accordance with subsection (1) shall pay a penalty that is calculated by assessing **twice the rate of dues and charges payable under the timber cutting right** on an officer's estimate of the gross volume of brush or debris that was improperly disposed.

# Brush Disposal 10(1.1)



# Brush Disposal 10(1.1)



# Regulation Amendments

## Scaling

# Scaling

**44(1)** Unless permitted under an approved scaling plan or by a written authorization from an officer, no Crown timber cut under the authority of a commercial timber cutting right may be removed from the area where it was cut unless it has been scaled by a scaler.

# Scaling Plans

- 44(4)** If unscaled timber is moved under an approved scaling plan or the authorization of an officer, the timber must be scaled
- (a) when it arrives at its final destination; or
  - (b) by a deadline specified in writing by an officer, which must be within the same month that the timber arrived at its final destination.

## Scaling plans – 44.1(1)

**44.1(1)** The holder of a commercial timber cutting right must prepare an annual scaling plan and have the plan approved by the director before harvesting timber or moving previously harvested timber from the site where it was cut.

# Record Inspection - Timber Cutting Right Holder

- 47(1) The holder of a timber cutting right must allow an officer to inspect all records that are required to be kept under the Act or the timber cutting right.
- 47(2) The holder of a timber cutting right must, as soon as reasonably possible, give an officer a copy of any record requested by the officer.

# Regulation Amendments

## Load Slip Responsibilities

## Load slips – TCR

- 48(1)** Subject to this section, the holder of a timber cutting right must ensure that
- (a) a load slip is completed for each load of Crown timber cut under authority of that timber cutting right that is transported in the province; and
  - (b) the completed load slip is provided to the person transporting the timber.

## Load slips – Timber Dealer

**48(2)** A timber dealer must ensure that

- (a) as specified in his or her licence, a load slip, bill of lading or numbered invoice is completed for each load of timber that is transported by the timber dealer; and
- (b) the completed load slip, bill of lading or numbered invoice is provided to the person transporting the timber.

## Load slips – 48(3)

**48(3)** A person transporting timber in the province must ensure that a completed copy of the load slip, bill of lading or numbered invoice respecting the transported timber is in his or her possession at all times while the timber is in transport.

# Load slips – Personal Use Timber Cutting Permit

**48(4)** In the case of a personal use timber cutting permit, the requirements of subsection (1) and (3) are met if the load slip portion of the permit is fully completed and accompanies the timber while it is transported.

# An invoice or bill of lading must include:

**48(5)** An invoice or bill of lading must include the following information:

- (a) the name of the seller and purchaser of the timber;
- (b) the species and volume of timber;

# **An invoice or bill of lading must include:**

- (c) whether the timber is Crown timber or harvested from private land;
- (d) the precise location where the timber was harvested;
- (e) the date and time the timber is to be transported;
- (f) the final destination of the timber.

## Load Slip Books – 48(6)

**48(6)** The holder of a timber cutting right must ensure that a load slip book issued by the department is used only in relation to timber cut under authority of the timber cutting right specified in the load slip book.

## Load Slip Books – 48(7)

**48(7)** The holder of a timber cutting right or a timber dealer who is issued a load slip book must return the book to the department

(a) when all load slips in the book have been used; or

(b) when requested by an officer.

**CROWN  
TIMBER**

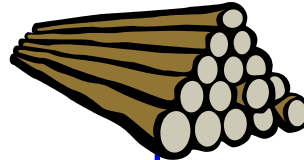


Quota, Permit,  
Timber Sales  
holder

**MB Load Slip**



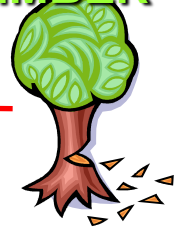
**TIMBER DEALERS  
STOCKPILE OR  
PROCESSING SITE**



**Bill of Lading  
or Numbered  
Invoice**



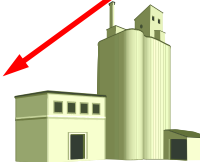
**PRIVATE LAND  
OR PRIVATE  
TIMBER**



Timber Dealers  
**Private Load  
Slip**



This also includes if  
your timber is being  
chipped



**FINAL  
DESTINATION,  
RETAIL SELLER OR  
END USER**

# Monthly Timber Returns

49(4) If the holder of a forest management licence or timber sale agreement **fails** to report all timber that should be included in the monthly timber return, the holder must pay dues and charges on the timber that was not reported in the return at **four times the dues and charges that would ordinarily be payable.**

# Monthly Timber Returns

49(5) If the holder of a forest management licence or timber sale agreement **fails to file a monthly timber return by the date it is due** the holder must pay a late filing penalty that is the greater of **\$50 or 1%** of the dues and charges payable on account of timber **scaled in the month in question**, for each month or part of a month that the return is outstanding.

# Interest due to errors in reports or returns

**50.2** If an error is discovered in a monthly timber return or monthly timber report that results in a person failing to pay all dues or charges that were properly payable, the person must immediately pay:

- (a) the outstanding dues and charges; and
- (b) interest on the outstanding dues and charges calculated in accordance with section 61.

## Late payment penalty – designated reporting facility

**52** A person who fails to pay the dues and charges owing under section 50 or 50.1 when they become due must pay a penalty that is the **greater of \$50 or 1% of the total amount** owing for each month or part of a month the dues or charges remain owing and unpaid.

# Wood processing facility licence

**56(1)** No person shall operate a facility that processes timber into a primary or secondary product for sale, such as a sawmill, pulp or paper mill or chipper processing facility, unless he or she holds a valid wood processing facility licence issued by the director.

# Wood processing facility

- 56(6)** The operator of a licensed wood processing facility must
- (a) prepare and maintain daily records of operations, such as timber purchases, inventory volumes and production, in a form acceptable to the director;
  - (b) allow an officer to inspect all records that the operator is required to maintain; and
  - (c) give an officer a copy of any record requested by the officer.

# Timber dealer licence

**57(5)** A timber dealer must

- (a) prepare and maintain monthly records of operations, such as timber purchases, sales and inventory volumes, in a form acceptable to the director;
- (b) allow an officer to inspect all records that the dealer is required to maintain; and
- (c) give an officer a copy of any record requested by the officer.

## Scaler's licence

- 59(6)** The holder of a scaler's licence must
- (a) prepare and maintain records of timber measurement in a form acceptable to the director;
  - (b) allow an officer to inspect all records that the holder is required to maintain; and
  - (c) give an officer a copy of any record requested by the officer.

# Personal Use Timber Permit

**43.1(1)** A timber permit that authorizes the holder to cut timber for his or her household use may not be issued for more than 100 m<sup>3</sup>. A person may not obtain personal use timber permits that enable him or her to cut more than 100 m<sup>3</sup> in a one-year period.

# Personal Use Timber Permit

**43.1(2)** It is a condition of a timber permit issued under subsection (1) that all timber cut under authority of the permit is for the personal use of the holder and may not be sold.

**43.1(3)** The person harvesting or transporting timber cut under authority of a personal use timber permit must have the permit in his or her possession at all times when timber cut under the permit is being harvested or transported.

## Scaler's licence

**59(1)** Subject to section 59.1, no person shall scale Crown timber for the purpose of preparing a monthly timber return or monthly timber report unless he or she holds a valid scaler's licence issued by the director.

**59.1(1)** The director may issue an interim scaler's licence to a person who is not eligible to obtain a scaler's licence.

## Scaler's licence

**59(5)** A scaler's licence must not be issued for a period exceeding five years and the licence expires on the date specified in it.

# Regulation Amendments

## Schedules

# Schedule E – Fees and other charges amended

## Personal Use Timber Permit Fee

up to 2.5 m <sup>3</sup> . . . . .	\$20.00
up to 5 m <sup>3</sup> . . . . .	\$25.00
up to 10 m <sup>3</sup> . . . . .	\$35.00
up to 15 m <sup>3</sup> . . . . .	\$45.00
up to 20 m <sup>3</sup> . . . . .	\$55.00
up to 25 m <sup>3</sup> . . . . .	\$65.00

# Schedule E – Fees and other charges amended

## Personal Use Timber Permit Fee

- up to 50 m<sup>3</sup> . . . . . \$130.00
- up to 75 m<sup>3</sup> . . . . . \$195.00
- up to 100 m<sup>3</sup> . . . . . \$260.00

# Schedule H – Timber dues

- Fixed Timber Dues in Schedule H is replaced with **Commodity Based Dues** in new Schedule H
- Dues based on use of timber

# Schedule H - Timber dues

## Dues based on use of timber

Unless a timber cutting right or this regulation provides otherwise, the applicable dues set out in this Schedule are payable, based on the commodity produced from the timber in question.

If no provision for a rate of dues is made in this Schedule, the director may, having regard to the market value of the timber in question and the commodity produced from it, fix a rate of dues in respect of that timber.

# Schedule H - Timber dues

## Determining market price

The applicable market price is to be determined based on the market price of the timber in the month in which the timber was scaled, as set out in the publication referred to in the first column of the following tables.

**Manitoba Crown Timber Dues - Timber used to make  
Oriented Strand Board (OSB)**

<b>OSB</b>				
<b>Market Price</b> Random Lengths North Central 7/16 \$CDN/1000ft <sup>2</sup>		<b>Standard Dues Rate (\$/m<sup>3</sup>)</b>	<b>Medium Distance Dues Rate (\$/m<sup>3</sup>)</b>	<b>Long Distance Dues Rate (\$/m<sup>3</sup>)</b>
\$ 720.01	\$ 740.00	\$ 16.37	\$ 15.37	\$ 14.37
\$ 700.01	\$ 720.00	\$ 15.65	\$ 14.65	\$ 13.65
\$ 680.01	\$ 700.00	\$ 14.94	\$ 13.94	\$ 12.94
\$ 660.01	\$ 680.00	\$ 14.22	\$ 13.22	\$ 12.22
\$ 640.01	\$ 660.00	\$ 13.51	\$ 12.51	\$ 11.51
\$ 620.01	\$ 640.00	\$ 12.79	\$ 11.79	\$ 10.79
\$ 600.01	\$ 620.00	\$ 12.08	\$ 11.08	\$ 10.08
\$ 580.01	\$ 600.00	\$ 11.36	\$ 10.36	\$ 9.36
\$ 560.01	\$ 580.00	\$ 10.65	\$ 9.65	\$ 8.65
\$ 540.01	\$ 560.00	\$ 9.93	\$ 8.98	\$ 8.04
\$ 520.01	\$ 540.00	\$ 9.22	\$ 8.32	\$ 7.44
\$ 500.01	\$ 520.00	\$ 8.51	\$ 7.66	\$ 6.83
\$ 480.01	\$ 500.00	\$ 7.79	\$ 6.99	\$ 6.22
\$ 460.01	\$ 480.00	\$ 7.08	\$ 6.33	\$ 5.61
\$ 440.01	\$ 460.00	\$ 6.36	\$ 5.66	\$ 5.01
\$ 420.01	\$ 440.00	\$ 5.65	\$ 5.00	\$ 4.40
\$ 400.01	\$ 420.00	\$ 4.93	\$ 4.33	\$ 3.79
\$ 380.01	\$ 400.00	\$ 4.22	\$ 3.67	\$ 3.19
\$ 360.01	\$ 380.00	\$ 3.50	\$ 3.00	\$ 2.58
\$ 340.01	\$ 360.00	\$ 2.79	\$ 2.34	\$ 1.97
\$ 321.01	\$ 340.00	\$ 2.09	\$ 1.69	\$ 1.38
\$ -	\$ 321.00	\$ 1.75	\$ 1.40	\$ 1.15

The Standard Dues Rates will be charged for Crown timber used to make OSB in the following Forest Management Units (FMU): **11, 12, 13, and 14**

The Medium Distance Dues Rates will be charged for Crown timber used to make OSB in the following Forest Management Units (FMU): **10, 24, 43, and 52**

The Long Distance Dues Rates will be charged for Crown timber used to make OSB in the following Forest Management Units (FMU): **1, 2, 4, 5, 6, 7, 31, 35, 36, 37, 38, 39, 40, 41, 42, 45, 46, 47, 51, 53, 54, 55, 56, 57, 67, 68, 69, 71, 72, 73, 74, 75, 76, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98 and 99**

# Summary

- Effectively communicate changes
- Careful implementation
- Coordinate efforts
- Adapt and introduce new changes

