



## **FRPA ADMINISTRATIVE BULLETIN**

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### **Options for Harvesting Dead and Dying Trees Along Road Permit Roads**

The information contained in this bulletin does not constitute legal advice. Practitioners within government should seek legal advice from the Ministry of Attorney General, while practitioners outside government should seek independent legal advice.

#### ***Purpose***

The purpose of this bulletin is to provide clarification of the options that are available under current legislation and policy related to the harvesting of dead and dying trees along road right of ways that are under Road Permits (RPs).

#### ***Discussion***

The epidemic of mountain pine beetle (MPB) as well as numerous other forest health factors has resulted in stands of dead and dying trees adjacent to road permit roads. When planning to harvest these trees, it is important to consider the requirements in legislation and also whether these trees can be harvested under an active RP or whether a different cutting authority is required.

Harvesting rights associated with RPs are granted under the *Forest Act*. Section 115 of the *Forest Act*, provides for RPs to be issued by a district manager or a timber sales manager. The RP provides rights to the permit holder to harvest and remove trees and to construct the road within the clearing width. The Forest Planning and Practices Regulation (FPPR) defines “clearing width” as “an area within a road right of way that is cleared of standing trees for the purposes of constructing or maintaining a road”. The clearing width may vary and the holder of the road permit must ensure that the width is appropriate to meet the requirements of Section 78 of the FPPR, as follows:

### **Clearing widths**

78 A person who constructs or maintains a road must ensure clearing widths are at least the minimum width necessary to accommodate the road, having regard to all of the following:

- (a) the safety of industrial users;
- (b) the topography of the area;
- (c) the drainage of water in the area;
- (d) the stability of terrain in the area;
- (e) operational requirements, including
  - (i) the placement of pits, quarries, landings or waste areas,
  - (ii) the storage of bridge or culvert material,
  - (iii) the amount of area required to operate equipment within the clearing width, including equipment turnaround sites,
  - (iv) snow removal, and
  - (v) fencing and other ancillary structures

In addressing the safety of industrial users, a key consideration is whether there are dangerous trees within the road permit area. Section 26.1 of the Occupational Health and Safety Regulation (OHSPR) defines a dangerous tree as “any tree that is hazardous to workers because of location or lean, physical damage, overhead hazards, deterioration of the limbs, stem or root system, or a combination of these.” The definition does not define a danger tree as one that is susceptible to presenting a future hazard. Section 26.82 (1) of the OHSPR states that dangerous trees that are hazardous to road users must be removed or cleared for a safe distance back from roadsides or roadside banks. While the OHSPR defines dangerous trees and requires that they be removed, the authority to cut and remove dangerous trees on Crown land must be done under a *Forest Act* agreement provided by the MFR.

### **Considerations**

Trees within the road permit area, that currently pose a hazard meet the definition of a dangerous tree, these trees by their definition are located within the clearing width and can be cut and removed under an active road permit.

Trees (whether live, dead or dying) that are located outside of the clearing width that do not currently pose a hazard to industrial road users may not be felled and removed under a RP. If a permittee wishes to fell and remove trees outside of the clearing width area, they must do so under an appropriate cutting authority such as a Cutting Permit, Occupant Licence to Cut or a Forestry Licence to Cut, recognizing that silviculture obligations may be incurred.

## ***Further Information***

For more information on road permits and other road tenures please refer to the Cutting Permit and Road Tenure Administration Manual on the Resource Tenures and Engineering Branch website at: <http://www.for.gov.bc.ca/hth/>

## ***Contacts:***

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