Ministry of Forests,
Lands, Natural Resource Operations
& Rural Development

File: 19400-00

# Advisory Bulletin No. 2020-09-11 – Special Tree Protection Regulation

## Purpose

To provide guidance to BC Timber Sales (BCTS) staff, Timber Sale Licence (TSL) holders, and major works contractors regarding the requirements of the Special Tree Protection Regulation (the Regulation) under the *Forest and Range Practices Act*. This bulletin is a supplement to the Regulation, is intended to be read while referencing the Regulation, and the Regulation will supersede this bulletin in any discrepancy found between the two. Copies of the Regulation can be viewed at www.bclaws.ca.

## Definitions

**Specified Tree** - means a standing tree meeting the species, location and diameter criteria specified in the Regulation.

**Supporting Tree** – means a tree within a horizontal radius of 56 metres around a specified tree.

**Primary Forest Activity** – has the same meaning as in the Forest Planning and Practices Regulation and means one or more of the following: timber harvesting, silviculture treatments, wildlife habitat enhancement, or road construction, maintenance and deactivation.

## Background

The Regulation came into effect on September 11, 2020. The Regulation protects large standing trees on Crown land, as well as private land that is subject to an agreement under the *Forest Act*.

Large trees are often attributed with having important cultural, aesthetic and ecological value. When retained they can play an important role in habitat conservation by bridging old-growth characteristics into second growth stands. In addition, large trees are increasingly supporting the growing ecotourism economy as valuable destinations in and of themselves.

## Scope

The Regulation applies to all BCTS Business Areas in the Province.

A TSL holder meets the definition in the Regulation as a responsible person who must not cut, damage or destroy a specified tree or fell, top or destroy a supporting tree in the course of carrying out a primary forest activity. The Regulation considers that a tree has been cut if the tree is felled, limbed, pruned or otherwise cut.

## Exemptions

Specified trees or supporting trees may need to be cut, damaged or destroyed under certain circumstances. On application to the Minister, exemptions from the Regulation may be given by written order of the Minister in relation to a specified tree and/or supporting trees for reasons described in the Regulation.

An application for an exemption must be made in the form and manner required by the Minister. Copies of the exemption application form to be used should be included in the tender package for every TSL advertised. A sample copy of the exemption application form[1] is attached in the appendices to this bulletin.

A TSL holder who falls, tops or destroys a specified tree under an exemption must notify the Minister within 30 days after doing so.

## Danger Trees & Wind Pruning

A danger tree, or a tree that requires wind pruning, that meets the Regulation specifications for a specified tree or supporting tree must not be topped, limbed, pruned or otherwise cut without an exemption. If a specified tree or supporting tree is identified as a danger tree, mitigating measures, such as a no work zone, must be used to manage the hazard until an exemption is granted.

## Exceptions

There is an exception in the Regulation for roads where supporting trees may be felled, topped, or destroyed in the course of maintaining or deactivating a road if the supporting trees are felled, topped or destroyed no more than is necessary to carry out the activity. For supporting trees, an exemption is not required, and there is no reporting requirement. However, when an exception is applied it should be recorded on the opening file.

## Reporting Requirements

TSL Holders - When a TSL holder becomes aware of a specified tree within the Exhibit "A" area of their TSL, the TSL holder is required to submit a report about the tree to the Minister within 30 days of the later of the tree becoming a specified tree or the person becoming aware of the specified tree. This means that the Regulation applies regardless of whether the Regulation came into effect before or after the TSL was issued. TSL holders must also notify the Timber Sales Manager (TSM) when/if a new Specified Tree is located.

A report is not necessary if a report has been previously submitted for the specified tree by BCTS or another person. If BCTS, or another person, has reported specified trees within or adjacent to a TSL prior to advertising the TSL, this information should be provided in the tender package for the TSL.

A Specified Tree report must be submitted in the form and manner specified by the Minister. Copies of the report form[1] to be used should be included in the tender package for every TSL advertised. A sample copy of the report form is attached in the appendices to this bulletin.

A TSL holder is not legally obligated to report specified trees they become aware of outside of the Exhibit "A" area of their TSL, however, they are encouraged to do so, as this will assist in future planning. Regardless of whether there is a legal obligation to report a specified tree, supporting trees associated with that specified tree must be protected in accordance with the Regulation.

Major Works Contractors - If a contractor becomes aware of a specified tree within or adjacent to the defined work area (i.e. within 56 metres of the defined work area) that was not identified in the contract documents, the contractor should stop work in the vicinity of the specified tree and immediately notify the TSM.

BCTS Staff and Development Contractors - Should BCTS staff or consultants find a specified tree during planning or development, reporting to the Minister is BCTS' responsibility. The 30-day regulatory reporting timeline is not technically triggered during the planning phase however early reporting is encouraged, particularly if an exemption request will accompany the report. Exemption requests must be submitted, approved and incorporated prior to auction of the associated TSL. All Specified Trees located by BCTS staff within BCTS operating areas are to be reported, not just those located within or adjacent to TSLs and major works contracts.

BCTS reporting of Specified Trees will be in the form and manner specified by the Minister.

## Planning Considerations

Specified Trees that are planned into cutblocks are ideal features to anchor retention patches. They can be retained within areas that will normally be set aside from harvesting (e.g. wildlife tree retention areas, ungulate winter ranges, wildlife habitat areas, old growth management areas, riparian reserve zones and any other areas reserved for non-timber values). Specified trees and supporting trees identified by BCTS staff and contractors during development must be visibly marked in the field and clearly identified on maps and appropriate documentation in the associated TSL package.



*1 The exemption application form and specified tree reporting form are integrated into the same form*

Should site conditions require modification to the 56 metre diameter Supporting Tree buffer, BCTS staff should apply for an exemption at the earliest opportunity with an interest to gain approval prior to finalizing and auctioning the TSL.

## BCTS Documentation and Tracking

Specified Trees located and reported by BCTS staff and contractors during planning and development are to be recorded in LRM in accordance with the BCTS tracking procedure. Specified trees reported by TSL holders must be recorded in LRM as well.

## Operational Factors

Despite best efforts at due diligence by BCTS staff and contractors, there may be occasions where a Specified Tree is found within a cutblock, or within 56 metres of a cutblock, after the TSL has been issued. Stumpage rates for a TSL are fixed for the term of the licence. However, on a case by case basis, the Minister may give consideration to a redetermination or variance of a stumpage rate. It is important to be aware as well that a bonus bid or bonus offer are not stumpage and cannot be changed or varied after a TSL has been issued.

## Coast Area Only

In BCTS Coast Business Areas, Coastal Legacy Trees may already have been identified in accordance with the BCTS Coastal Legacy Trees Best Management Practices. If a Coastal Legacy Tree is at or exceeds the respective threshold in the Regulation, it will require a 56 metre supporting tree buffer. All other Coastal Legacy Trees will not require any adjustments to the cutblock engineering. The Coastal Legacy Tree Best Management Practice continues to apply in conjunction with the Regulation.

## Contacts

Please contact your local Timber Sales Office for further information regarding this bulletin.



*1 The exemption application form and specified tree reporting form are integrated into the same form*

Appendix I

Specified Tree Reporting Information Form & Exemption Application



*1 The exemption application form and specified tree reporting form are integrated into the same form*

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# Specified Tree Reporting Information and Exemption Submission

| SECTION A – LICENSEE DETAILS: Information to include current email address of primary contact | | |
|---|---|---|
| Agreement Holder: | | Tenure: |
| Name: | Email: | Phone: |

| SECTION B – TENURE DETAILS: Tenure where tree is located, Cutting Authority or FRPA Authority | |
|---|---|
| ☐ CP or TSL No: | ☐ Natural Resource District: Choose from list |
| ☐ Road Name: | ☐ Road Section No: |
| ☐ PDF Copy of Map is attached (optional): | ☐ Spatial Submission Attached (Optional): SHAPE or GDB |

| SECTION C – SPECIAL TREE DETAILS: Consistent with the 'Special Tree Protection Regulation' | |
|---|---|
| ☐ Species: Choose from list | Identification Date: |
| ☐ Diameter in cm (DBH): | ☐ Height in metres: |
| Coordinates (decimal degrees, minimum 5 decimal places): Latitude: | Longitude: |

**SECTION D – COMMENTS (optional): Physical Description and Observation Notes (Live / Dead, Forest Health Risks etc.)**

**SECTION E – EXEMPTIONS**

☐ Exemption Request for a ☐ Specified Tree and/or ☐ Supporting Tree(s)

Rational for Request: choose from list

Exemption Rationale (Attach extra pages if required)

If an Exemption is issued and a specified tree is topped, felled or destroyed the responsible person must submit a Report on work done within 30 days. This report should be provided to the Regional Executive Director with reference to the issued Map Notation.

**DISTRICT to COMPLETE:**
**Entered into FTA Date:** **Map Notation #:** **Exemption Approved:** ☐ **Yes** ☐ **No** ☐ **N/A**

This form, including spatial data must be submitted to the District Manager within 30 days of identifying a specified tree. District manager will forward the form to the Delegated Decision Maker and Forest Analysis and Inventory Branch. A copy of the form will be filed in the District Office on the Operational Files.

Clear form