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Private Managed Forest Land Act

PRIVATE MANAGED FOREST LAND REGULATION

[includes amendments up to B.C. Reg. 539/2004, December 3, 2004]

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Definitions

- 1 (1) For the purpose of the Act and this regulation:

"Act" means the *Private Managed Forest Land Act*;

"critical wildlife habitat" means critical wildlife habitat established or varied under section 5;

"local government" means

- (a) in relation to land within a municipality, the municipal council,
- (b) in relation to land within an electoral area, the board of the regional district, and
- (c) in relation to land within a local trust area under the *Islands Trust Act*, the local trust committee or the executive committee acting as local trust committee for that area;

"species at risk" means a species listed in Schedule C;

"wildlife minister" means the minister responsible for the administration of the *Wildlife Act* and includes a person authorized in writing by that minister.

- (2) For the purpose of section 21 (1) of the Act, "**forest management activity**" means an activity, process or use, including structures and facilities that support the activity, process or use, that is described in Schedule A and that is related to or carried out for the production or harvesting of forest resources on or from the owner's private managed forest lands, for as long as the land is classified under the *Assessment Act* as managed forest land.

[am. B.C. Reg. 539/2004.]

Exit fees

- 2 (1) Subject to section 45 (2) of the Act and section 3 (1), if the assessor declassifies managed forest land under section 24 (3) (b) of the *Assessment Act*, the council must
- (a) determine, in accordance with subsection (2), the amount of the exit fee that the owner of the land is required to pay under section 19 (1) of the Act, and
 - (b) notify the owner of the amount of the exit fee.
- (2) For the purpose of subsection (3) the assessor may determine the total annual property tax that would have been due for the property that is being removed from the managed forest land class, had that property not been valued and classified as managed forest land for the immediately preceding tax year roll, less the total property tax that was payable for the immediately preceding tax year on the property that is being removed from the managed forest land class.
- (3) The exit fee referred to in subsection (1) is the amount determined by finding the product of the following:
- Total annual property tax as determined under subsection (2)
 - Multiplied by
 - Number of consecutive years ending in the current tax year that the property has been classified as managed forest land
 - Multiplied by
 - Adjustment Factor noted in Schedule B for the number of years classified as managed forest land for assessment purposes.
- (4) If the estimated total annual property taxes for the property for the immediately preceding tax year based on reclassification out of the managed forest land class is less than the total annual property taxes payable for the property in the managed forest land class for the immediately preceding tax year, no exit fee is payable.
- (5) If the property has been classified managed forest land for 15 or more years, no exit fee is payable.
- (6) In determining the number of years a property was classified as managed forest land for the purposes of the calculation under subsection (3), the time the property was classified as managed forest land before the coming into force of this section will be included.

Exemption from exit fees

- 3 (1) For the purpose of section 19 (1) of the Act, the circumstances in which an owner is not required to pay an exit fee in respect of a portion of land that has been declassified

under section 24 (3) of the *Assessment Act* are that the portion of land

- (a) is subject to a right of way or easement,
 - (b) is expropriated,
 - (c) is gifted to the government or local government, or
 - (d) is subject to a land exchange with the government or local government.
- (2) Despite subsection (1), if land is declassified as a result of notification to the assessor under section 31 (1) of the Act, the owner must pay the exit fee calculated under section 2.

Entry onto land

- 4** For the purpose of section 24 (1) of the Act, "**reasonable time**" means the time that begins on the earlier of
- (a) the date 14 days after the wildlife minister notifies the owner in writing,
 - (b) the date, less than 14 days after the wildlife minister notifies the owner in writing, specified by the wildlife minister on the basis that the public interest so requires, and
 - (c) the date, less than 14 days after the wildlife minister notifies the owner in writing, agreed to by the owner.

Critical wildlife habitat

- 5** (1) The wildlife minister, in accordance with section 7, may
- (a) establish or vary an area of private managed forest land as critical wildlife habitat if
 - (i) the habitat of one or more species at risk is located on the land, and
 - (ii) the habitat on the land is required for the survival of one or more of the species at risk because there is insufficient suitable habitat found on Crown lands within that ecoregion, or
 - (b) cancel the establishment of an area as critical wildlife habitat.
- (2) Within an area of critical wildlife habitat, an owner must carry out any timber harvesting and related activities, and any road construction, in accordance with the requirements of the notice given or amended under section 7.

An owner may be required to provide information

- 6** (1) If the wildlife minister has reasonable cause to believe that there may be an area of private managed forest land that qualifies for establishment as critical wildlife habitat, the wildlife minister, in writing, may notify the owner that an area of the owner's private managed forest land may qualify for establishment as critical wildlife habitat.
- (2) An owner who receives a notice under subsection (1) must give the wildlife minister information respecting any road construction or timber harvesting and related activities that the owner is proposing for the area during the 30 day period immediately following receipt of the notice.

Requirements if critical wildlife habitat is determined to be present

- 7** (1) Before critical wildlife habitat is established or varied under section 5, the wildlife minister must give a notice in writing to the owner of the private managed forest land
- (a) describing the location, nature and extent of the critical wildlife habitat,
 - (b) specifying the amount of habitat required for the survival of the affected species at risk, and
 - (c) specifying the area within the critical wildlife habitat where road construction and timber harvesting and related activities must be modified and the extent of that modification.
- (2) Unless otherwise agreed to by the owner, an area referred to in subsection (1) (c)
- (a) must not have been previously described in a notice to the owner given or amended under this section,
 - (b) must not exceed, in combination with any other areas identified in notices to the owner given or amended under this section, an amount of area that is the lesser of
 - (i) 1% of all the land identified in that management commitment, or
 - (ii) the area required for the survival of the species at risk, and
 - (c) must not be subject to a period of modified operations exceeding one year from the date the notice is received by the owner.
- (3) The establishment of the area of critical wildlife habitat identified in the notice to the owner given or amended under this section becomes effective on the date the notice is received by the owner of the private managed forest land.
- (4) The requirements, if any, to modify road construction, timber harvesting and related activities on an area, specified in a notice to the owner given or amended under this section, becomes effective
- (a) subject to paragraph (b), 14 days after the notice is received by the owner, or
 - (b) on a date specified by the minister.
- (5) The wildlife minister may, in writing, at any time after issuing a notice under subsection (1),
- (a) amend the content of the notice that is in effect provided that the content of the amended notice complies with the requirements of subsection (2), or
 - (b) cancel the notice that is in effect.
- (6) An amendment or cancellation referred to in subsection (5) becomes effective on the date the notice is received by the owner.
- (7) If the wildlife minister determines, at any time after issuing a notice under subsection (1), that a portion of the area that is subject to the notice
- (a) is not required for the survival of the species at risk, or
 - (b) is no longer critical wildlife habitat,
- the minister must immediately cancel the notice.

Previously unrecognized critical wildlife habitat

- 8** (1) The ministry responsible for the administration of the *Wildlife Act* may publish, from time to time, a list of species at risk that specifies, by ecoregion, those species for which the wildlife minister determines there is insufficient suitable habitat on Crown lands within that ecoregion.
- (2) If an owner knows that there may be, on the owner's land, habitat for a species specified on the list referred to in subsection (1), the owner must
- (a) promptly notify the wildlife minister, and
 - (b) refrain from carrying out any road construction or timber harvesting and related activities that could negatively impact the habitat until the earliest to occur of the following:
 - (i) the expiry of 14 days from the time the wildlife minister receives the notice under paragraph (a);
 - (ii) being advised by the wildlife minister that the activity may be carried out;
 - (iii) receiving a notice under section 7.
- (3) The wildlife minister may relieve the owner of a requirement to notify the wildlife minister under subsection (2) (a) with respect to one or more species at risk.

Notice of appeal

- 9** (1) A person who, under section 33 (1) of the Act, may appeal an order, decision or determination to the commission must submit a notice of appeal to the commission that is signed by, or on behalf of, the appellant and contains all of the following:
- (a) the name and address of the appellant, and the name of the person, if any, making the request on the appellant's behalf;
 - (b) the address for service of the appellant;
 - (c) the grounds for appeal;
 - (d) the relief requested.
- (2) The appellant must deliver the notice of appeal to the commission not later than 3 weeks after the later of the date of
- (a) the decision of the council under section 32 (2) of the Act, and
 - (b) the order, decision or determination referred to in section 33 (1) of the Act.
- (3) Before or after the time limit in subsection (2) expires, the commission may extend it.
- (4) A person who does not deliver a notice of appeal within the time specified loses the right to an appeal.

Deficient notice of appeal

- 10** (1) If a notice of appeal does not comply with section 9 the commission may deliver a written notice of deficiencies to the appellant, inviting the appellant, within a period specified in the notice, to submit further material remedying the deficiencies.
- (2) If the commission delivers a notice under subsection (1), the appeal may proceed only after the earlier of

- (a) the expiry of the period specified in the notice of deficiencies, and
- (b) the submission to the commission of further material remedying the deficiencies.

Offences for contravening this regulation

- 11** (1) A person who contravenes section 5 (2) commits an offence and is liable on conviction to a fine not exceeding \$50 000.
- (2) A person who contravenes section 6 (2) commits an offence and is liable on conviction to a fine not exceeding \$25.
- (3) A person who contravenes section 8 (2) commits an offence and is liable on conviction to a fine not exceeding
- (a) \$1 000 for a first offence, and
 - (b) \$5 000 for a second or any subsequent offence.

Schedule A

Forest Management Activities

[Section 1 (2)]

1 Forest management activities include the following:

- (a) silviculture and timber harvesting activities;
- (b) transportation, delivery, handling and sale;
- (c) dryland sorting and scaling;
- (d) road, bridge and trail construction and maintenance;
- (e) drilling and blasting;
- (f) aggregate production and processing;
- (g) storage and repair of equipment and vehicles;
- (h) slash and prescribed burning;
- (i) treatment of noxious weeds, introduced plants, competing vegetation, other pests and damaging agents;
- (j) protection of forest crops including but not limited to fire protection and suppression and wildlife management;
- (k) safety and security measures;
- (l) water storage, including reservoirs for providing water for fire protection purposes or other use;
- (m) agroforestry and silvopasture systems;
- (n) soil production, improvement or processing;
- (o) site rehabilitation and improvement;
- (p) disposal of wood waste;
- (q) harvesting and sale of botanical forest products;
- (r) portable processing of forest resources;

- (s) one dwelling per registered parcel unless additional dwellings are permitted under applicable local bylaws;
- (t) forest management administration, including accommodation of personnel.

Schedule B

Exit Fee Adjustment Factors

[Section 2]

Number of Years Assessed as Managed Forest	Adjustment Factor
1-5	1.00
6	0.80
7	0.65
8	0.53
9	0.43
10	0.34
11	0.26
12	0.19
13	0.13
14	0.075
15	0.025
More than 15	0.00

Schedule C

Species at Risk

English Name	Scientific Name
Fish	
Vananda Lake Limnetic Stickleback	Gasterosteus sp. 16
Vananda Lake Benthic Stickleback	Gasterosteus sp. 17
Amphibians	
Great Basin Spadefoot	Spea intermontana
Tiger Salamander	Ambystoma tigrinum
Red-legged Frog	Rana aurora
Rocky Mountain Tailed Frog	Ascaphus montanus
Northern Leopard Frog	Rana pipiens
Coastal Giant Salamander	Dicamptodon tenebrosus
Coastal Tailed Frog	Ascaphus truei
Coeur d'Alene Salamander	Plethodon idahoensis
Reptiles	
"Great Basin" Gopher Snake	Pituophis catenifer deserticola
Birds	
Ancient Murrelet	Synthliboramphus antiquus
Burrowing Owl	Athene cunicularia
Flammulated Owl	Otus flammeolus idahoensis

Great Blue Heron	Ardea herodias fannini
Lewis's Woodpecker	Melanerpes lewis
Long-billed Curlew	Numenius americanus
Marbled Murrelet	Brachyramphus marmoratus
"Queen Charlotte" Goshawk	Accipiter gentilis laingi
Sage Thrasher	Oreoscoptes montanus
Short-eared Owl	Asio flammeus
Spotted Owl	Strix occidentalis
"Interior" Western Screech-owl	Otus kennicottii macfarlanei
White-headed Woodpecker	Picoides albolarvatus
Yellow-breasted Chat	Icteria virens
Mammals	
Keen's Long-eared Myotis	Myotis keenii
Pacific Water Shrew	Sorex bendirii
Fringed Myotis	Myotis thysanodes
Badger	Taxidea taxus jeffersonii
Vancouver Island Marmot	Marmota vancouverensis
Caribou	Rangifer tarandus caribou
(3 populations — mountain, boreal and northern)	
Spotted Bat	Euderma maculatum
Grizzly Bear	Ursus arctos
Wolverine (2 subspecies)	Gulo gulo luscus
	Gulo gulo vancouverensis
Plants	
Scouler's Corydalis	Corydalis scouleri
Tall Bugbane	Cimicifuga elata

Note: this regulation repeals B.C. Reg. 318/99 made under the Forest Land Reserve Act.

[Provisions of the *Private Managed Forest Land Act*, S.B.C. 2003, c. 80, relevant to the enactment of this regulation: sections 42 and 44]