

Regulations - Forest Practices Code of BC Act

RANGE PRACTICES REGULATION

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PART 1 - DEFINITIONS

Definitions

1. In this regulation:

"Act" means the *Forest Practices Code of British Columbia Act*;

"community watershed" means a community watershed as defined in section 41 (8) of the Act;

"newspaper" means

(a) for the purposes of section 2.1, a newspaper circulating in the area where the consent under section 101 of the Act is being sought, or

(b) for the purposes of section 9, a newspaper circulating in the community where the livestock have been seized

and includes a newspaper that is free or does not have subscribers, and if no newspaper circulates in the community or area, a newspaper that circulates nearest to the community or area;

☐ **"range readiness criteria"** means criteria that indicate when the range is ready for grazing or harvesting based on a combination of soil moisture conditions and the phenological stage of plants; ☐

"riparian area" means an area of land that

(a) is adjacent to a stream, river, lake or wetland, and

(b) contains vegetation that, due to the presence of water, is distinctly different from the vegetation of adjacent upland areas;

"stream" means a watercourse, having an alluvial sediment bed, formed when water flows, on a perennial or intermittent basis, between continuous definable banks;

"surface soil erosion" means, for an area where a forest practice has been carried out, the movement of soil particles from the area by wind, gravity or water at a rate that is greater than that which would have occurred had the forest practice not been carried out;

"wetland" means a swamp, marsh, bog or other similar area that supports natural vegetation that is distinct from adjacent upland areas.

March 1999 (B.C. Reg. 54/99) effective April 17, 1999

Interpretation

2. If there is a conflict between the *Workers Compensation Act*, or a regulation under that Act, and this regulation, the *Workers Compensation Act*, or the regulation made under that Act, prevails.

Review of request for consent under section 101 of the Act

2.1 (1) In this section, **"proposal"** means a written description of the matter for which a consent is sought by a person under section 101 of the Act.

(2) If the district manager determines that a person must submit a proposal to a review, the district manager must by notice in writing given to the person, require that person to do the following:

(a) submit a copy of the proposal to the district manager before the publication of the notice under paragraph (b);

(b) publish a notice, in a form satisfactory to the district manager, in a newspaper stating that the proposal is available for public review and comment;

(c) provide an adequate opportunity for review and comment to the public for a period of at least 60 days from the date of publication, or a shorter period specified in the written notice if the district manager is satisfied that the shorter period will provide adequate opportunity for review and comment.

(3) The district manager may by notice in writing given to the person referred to in subsection (1), require that person to refer the proposal to a person or

government agency specified in the written notice.

(4) A person that receives a written notice under subsection (1) or (2) must

(a) comply with the requirements of the notice,

(b) review all written comments received during the review or referral period, and

(c) make any revisions to the proposal that the person considers appropriate.

(5) A person that receives a written notice under subsection (1) or (2) must submit to the district manager (a) a copy of each written comment received under subsection (1) (c) or (2), and

(b) a summary of revisions made to the proposal, if any, resulting from these comments.

(6) The district manager must require a person to submit a proposal for review and comment under subsection (1) unless the district manager is satisfied that the proposal (a) meets the requirements of the Act, regulations and standards,

(b) will adequately manage and conserve the forest resources of the area to which it applies, and

(c) does not affect the public in a material way.

March 1999 (B.C. Reg. 54/99) effective April 17, 1999

PART 2 - RANGE DEVELOPMENT

Restrictions on location of range developments in a community watershed

3. A holder of an agreement under the *Range Act* must not, on Crown range within a community watershed, construct (a) a range development in a manner that will encourage livestock to use an area within 50 m of a stream,

(b) a livestock trail that abuts or crosses a stream except as approved by the district manager,

(c) a cabin within 50 m of a stream, or

(d) a livestock corral within 50 m of a stream.

February 1996 (B.C. Reg. 27/96)

Seeding of soil exposed by range developments

4. (1) A person who constructs or carries out a range development must, as part of the construction or development, ensure that any exposed soil that will support vegetation on the area is treated by (a) seeding it within 1 year of finishing the construction or development with a seed mixture that in the district manager's opinion (i) will revegetate the area, and

(ii) is consistent with higher level plans for that area, and

(b) revegetating it within 2 years of finishing the construction or development

with species that in the district manager's opinion (i) will grow to maturity in the area, and

(ii) are consistent with higher level plans for that area.

(2) The district manager may exempt a person from the requirements of subsection (1) if the district manager is of the opinion that (a) the area affected is too small to warrant treatment, or

(b) treatment is not required because

(i) satisfactory revegetation will take place without treatment, and

(ii) significant amounts of surface soil erosion and invasion by noxious weeds are not likely to occur.

Maintenance of range developments

5. (1) A holder of an agreement under the *Range Act* must maintain in an effective operating condition a range development that is on the area subject to the range use plan, unless the district manager exempts the holder from this requirement or the holder is ordered to remove the range development under section 73 (2) (c) of the Act.

(2) The district manager may exempt a holder under subsection (1) on being satisfied that the range development

(a) does not provide a net benefit to the use and management of the range resource,

(b) does not adequately protect other forest resource values, and

(c) will not create or become a hazard to public or animal safety if left unmaintained.

(3) Subsection (1) does not apply to a range development that is constructed by a person under a consent granted under section 101 (1) (b) of the Act if the maintenance of the development by that person has been made a condition of the consent.

March 1999 (B.C. Reg. 54/99) effective April 17, 1999

PART 3 - RANGE PRACTICES

Authorization under section 96 of the Act

5.1 For the purposes of section 96 (1) (g) of the Act, a person is authorized to cut, damage or destroy Crown timber in the course of carrying out activities under a range use plan or a consent granted under section 101 of the Act.

March 1999 (B.C. Reg. 54/99) effective April 17, 1999

General wildlife measures

☐ **5.2** (1) A person who carries out an activity in a wildlife habitat area under a range use plan, or a consent granted under section 101 of the

Act, must carry it out in accordance with general wildlife measures that are:

- (a) established for application within the wildlife habitat area, and
- (b) identified in a notice given to the person by the district manager.

(2) A notice referred to in subsection (1) is effective on the date specified in the notice. ☐

Excavated and bladed trails

5.3 A person who builds an excavated or bladed trail in accordance with the regulations and standards, and as provided by a consent under section 101 of the Act, is exempt from the requirements of section 68 (1) of the Act.

March 1999 (B.C. Reg. 54/99) effective April 17, 1999

Exemption from sections 74 and 101 of the Act

5.4 (1) A person is exempt from the requirements of section 74 of the Act respecting a range development for which a consent under section 101 of the Act is granted.

(2) A person is exempt from the requirement to obtain the consent of the district manager under section 101 of the Act for a range development if the person complies with section 74 of the Act with respect to the range development.

March 1999 (B.C. Reg. 54/99) effective April 17, 1999

☐ **Range readiness criteria**

5.5 (1) The holder of an agreement under the *Range Act* must not graze livestock on Crown range

(a) until range readiness criteria are met in a key area that serves as the monitoring site for Crown range, despite dates indicated in an approved range use plan, or

(b) before the dates indicated in an approved range use plan, unless written approval is given by the district manager, despite range readiness criteria being met.

(2) Despite harvesting dates in an approved range use plan for hay cutting, harvesting must not occur on Crown range until range readiness criteria are met.

Livestock removal

5.6 The holder of an agreement under the *Range Act* must remove livestock from Crown range at the earliest of:

(a) the date set out in the range use plan, and

(b) the date the average stubble height for key areas is met

unless a written exemption is given by the district manager. ☐

Restricted operation of machinery

6. (1) A holder of an agreement under the *Range Act* must not, while carrying out an activity under the agreement, permit the tracks or wheels of ground-based machinery within 5 m of a stream bank except (a) for carrying out fire fighting activities,

(b) in response to natural disasters,

(c) at stream crossings authorized by the district manager, or

(d) if operations will be conducted in such a manner that they protect stream banks and minimize damage to understory vegetation.

(2) The district manager or a person authorized by the district manager may exempt a person from the requirements of subsection (1) if (a) the machinery is operated (i) to construct or maintain a range development or a utility,

(ii) to construct or maintain a work to carry out an activity within or adjacent to streams for the purpose of controlling soil erosion, protecting stream banks or managing fisheries or wildlife,

(iii) for livestock management, or

(iv) for an activity similar to one described in subparagraphs (i) to (iii), or

(b) in the opinion of the district manager (i) no other practicable option exists for carrying out the activity, or

(ii) operating the machinery more than 5 m from the stream bank will create a higher risk of sediment delivery.

(3) A holder of an agreement under the *Range Act* must not, while carrying out an activity under the agreement, fuel or service machinery in a riparian area other than machinery that is (a) hand held,

(b) required for fire fighting,

(c) broken down and requires fuelling or servicing to be moved,

(d) authorized in an agreement under the *Range Act*, or

(e) authorized by the district manager to be fuelled or serviced in the area.

Livestock in a community watershed

7. (1) A person who owns or is responsible for livestock under an agreement under the *Range Act*, must remove the livestock from a community watershed on Crown range and not allow livestock to enter the community watershed if previous use by livestock that the person owns or is responsible for in the community watershed has caused the quality of water to fail to meet the water quality objectives established by the Ministry of Environment, Lands and Parks.

(2) Despite subsection (1), a holder of an agreement under the *Range Act* may allow livestock under the agreement to enter a community watershed on Crown range if the district manager and a designated environment official agree that sufficient measures have been taken to prevent the reduction of water quality referred to in subsection (1) from recurring.

(3) A holder of an agreement under the *Range Act* must not allow livestock use in a riparian area of a community watershed if the use would result in fecal deposits, trampling of vegetation, ☐ deposit of sediments ☐ or exposure of mineral soil to an extent that the district manager determines to be detrimental.

(4) If dead livestock belonging to the holder of an agreement under the *Range Act* are discovered less than 100 m from a stream in a community watershed, the holder must within 24 hours or as soon as possible after that move the livestock to a distance of at least 100 m from the stream.

Effective June 15, 1995 (B.C. Reg. 251/95)

☐ **Removal of livestock from an area under silviculture**

7.1 (1) By notice given to the holder of an agreement under the *Range Act*, the district manager may require the holder

(a) to remove livestock from an area subject to a silviculture prescription, and

(b) to prevent livestock from entering an area subject to a silviculture prescription,

if, in the opinion of the district manager, use of the area by the livestock would significantly interfere with the establishment of the free growing stand in accordance with the silviculture prescription, and the holder must comply with the notice.

(2) Despite subsection (1), the holder of an agreement under the *Range Act* may allow livestock under the agreement to enter the area subject to the silviculture prescription, if the district manager gives the holder notice that the district manager is satisfied that sufficient steps have been taken to prevent significant interference with the establishment of a free growing stand under the silviculture prescription. ☐

Tagging

8. (1) For the purposes of section 74 (4) (b) of the Act, if the regional manager or district manager requires the holder of an agreement under the *Range Act* to tag livestock, he or she must provide the tags to the holder before the start of the grazing season.

(2) A holder who is provided with tags under subsection (1) must attach one of the tags, before the start of the grazing season, to every animal pastured under the agreement.

(3) The holder must report any loss of tags to the regional manager or district manager.

(4) If the owner of livestock that are tagged under this section exchanges animals for others to be grazed in their place, the holder must promptly transfer the tags to the other animals.

PART 4 - ENFORCEMENT

Sale of seized livestock

- 9.** (1) For the purposes of section 115 (9) (b) of the Act, if livestock have been seized by an official, the district manager may sell the livestock (a) by public auction, or
- (b) if no bid is received at the public auction, by other means.
- (2) An official or other person who has worked for the government in seizing or selling the livestock may not buy the livestock at a sale under subsection (1).
- (3) Before livestock is sold under subsection (1) (a) the sale must be advertised in a newspaper, and the advertisement must
- (a) describe species, breed, age, colour and sex of the livestock,
- (b) if the livestock are branded, state all legible brands and their locations on the animals,
- (c) if the livestock are not branded, state that fact and identify the livestock by tags, marking or other features identifying the livestock,
- (d) state the costs incurred
- (i) for the seizure of the livestock,
- (ii) for the advertising, and
- (iii) for the daily rate for feed and care of the livestock,
- (e) state the name and address of a person from whom additional information may be obtained, and
- (f) state that unless the owner of the livestock in the meantime pays all costs referred to in paragraph (d), the livestock will, on a specified date and at a specified location, be offered for sale by public auction.
- (4) The specified date referred to in subsection (3) (f) must be a minimum of 10 clear days from the date of publication of the advertisement referred to in subsection (3).
- (5) The official must make reasonable efforts to determine the identity of the owner of the livestock and notify the owner of the seizure and sale before the sale takes place.

Offence

- 10.** (1) A person who contravenes section 5 (1), 6 (1) or (3), 7 (1), (3) or (4), or 8 (2), (3) or (4) commits an offence.
- (2) A person who commits an offence is liable on conviction to a fine not exceeding \$5 000 or to imprisonment for not more than 6 months or to both.

[Provisions of the *Forest Practices Code of British Columbia Act*, R.S.B.C 1996, c. 159, relevant to the enactment of this regulation: sections 198 and 214]
