



Province of Alberta

FOREST RESERVES ACT

FOREST RESERVES REGULATION

Alberta Regulation 42/2005

With amendments up to and including Alberta Regulation 66/2020

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Office Consolidation

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(Consolidated up to 66/2020)

ALBERTA REGULATION 42/2005

Forest Reserves Act

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Interpretation

1(1) In this Regulation,

- (a) “allocate” means, with respect to a preference quota, allocate a quota that has previously been established and includes reallocating a previously allocated quota;
- (b) “animal unit” and “animal unit month” are to be construed in accordance with section 5(2) and (3) respectively;

- (c) “livestock” means
 - (i) cattle, horses or sheep, or
 - (ii) other animals designated in respect of a specific permit holder under subsection (2);
- (d) “officer” means an individual appointed under section 3 of the Act;
- (e) “permit” means a permit issued or to be issued under section 7(1)(a) or (b) or renewed under section 7(12);
- (f) “preference quota” or “quota” means the number of animal unit months that are or are to be established or allocated by the Minister per calendar year for a specified range allotment;
- (g) “range allotment” means the specific portion of a forest reserve that is designated by the Minister for grazing use under a permit;
- (h) “range management plan” means the operational manual or guide, and the map, currently approved by the Minister for each range allotment showing
 - (i) the range vegetational types,
 - (ii) the distribution units,
 - (iii) individual stocking rates for each distribution unit,
 - (iv) instructions for the system of use, salting, trail cutting, fencing, riding and water development,
 - (v) methods of maintaining range and watershed conditions, and
 - (vi) the methods to be employed to ensure coordination between range and other forest uses;
- (i) “regular permit” means a permit referred to in section 7(1)(a) or (12);
- (j) “resident” means
 - (i) an adult individual who is a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada), or

- (ii) a corporation that has no share capital or in respect of which the majority of the shares issued by the corporation
 - (A) are beneficially owned by residents within the meaning of subclause (i), and
 - (B) are owned for the exclusive use and benefit of those resident shareholders and not in the interests of or for the benefit of any other person;
- (k) “temporary permit” means a permit referred to in section 7(1)(b).

(2) On the written application of a permit holder with respect to a specific set of circumstances, the Minister may give written notice to the permit holder designating a number, kind and any other categorization of animals, other than cattle, horses and sheep, that the Minister considers to be grazing animals and that are specified in the notice as livestock for the purposes and for the period and subject to the conditions so specified, and, on the service of that notice, those animals are livestock with respect to that permit holder within those limitations.

AR 42/2005 s1;93/2018;66/2020

Application

2(1) This Regulation applies only to acts and omissions, and to land, in forest reserves unless otherwise stated or unless the context otherwise requires.

(2) Notwithstanding section 11(2)(a) of the Act, grazing rights in public land are to be conferred under this Regulation rather than by disposition under the *Public Lands Act*.

(3) In the event of any inconsistency between this Regulation and the *Public Lands Act* or the *Forests Act* or any regulation made under either of those Acts, this Regulation prevails.

Orders and directions of officers

3 An officer may give

- (a) an order in writing, or
- (b) a direction

to a permit holder or to a person exempted from the requirement of a permit by this Regulation where the order or direction is

necessary or is considered strongly advisable for the proper administration or for the enforcement of the Act or this Regulation.

Approval conditions

4 The Minister may attach any conditions considered appropriate to an approval given under this Regulation.

Grazing capacity and stocking of livestock on grazing land

5(1) This section applies where the grazing capacity of a range allotment is being established for livestock for the purposes of this Regulation.

(2) A 1000 pound or 455 kilogram cow, with or without calf at foot, is to be considered as one animal unit.

(3) One animal unit month is the grazing needs of one animal unit over the period of one month on the particular range allotment in question.

(4) The grazing capacity for livestock on a range allotment is to be set by the Minister, as a number of animal unit months.

(5) The actual stocking rate for livestock on a range allotment is to be set by the Minister based on variations between

- (a) the livestock animals, taking into account their ages, weight and livestock type, to be grazed there, and
- (b) one animal unit.

Establishment, continuation and ending of preference quotas

6(1) The Minister may establish a preference quota for an applicant for a regular permit who

- (a) is an individual or a corporation,
- (b) is a resident,
- (c) in the case of a corporation that is not incorporated in Alberta, is entitled to carry on business in Alberta,
- (d) keeps and raises livestock on a continuing basis, including doing so outside the forest reserve during portions of any year when they are not grazing on the range allotment,
- (e) has the legal possession of enough suitable land outside the forest reserve to support that livestock during those portions of the year,

- (f) is not presently in contravention of the Act or this Regulation, and
 - (g) has held a temporary permit throughout the whole of the preceding 3 years.
- (2) Where an application is being made for a regular permit by 2 or more persons jointly, each of them must be eligible under subsection (1), except that a quota may be established for a combination between an individual and a corporation.
- (3) The maximum and the minimum preference quota for a specified range allotment that the Minister may establish or allocate is 2000 and 100 animal unit months, respectively.
- (4) Notwithstanding anything in this Regulation except section 12 and subject to subsection (5), the maximum number of animal unit months that any one resident is entitled to hold under all preference quotas held by that resident or in which that resident has any interest, whether direct or indirect and regardless of how they were acquired, is 2000, and any transaction whereby that number is exceeded is void.
- (5) A preference quota that was held under *The Forest Reserves Regulations* (AR 604/65) immediately before the commencement of this subsection continues in force, regardless of the number of animal unit months, for the period for which it was established or allotted unless and until it is changed pursuant to this Regulation.
- (6) A preference quota that is vacated reverts to the Crown in right of Alberta.
- (7) The holding of an established or allocated preference quota stays with its holder until it is transferred, allocated, cancelled or vacated in accordance with this Regulation.

AR 42/2005 s6;93/2018

Permits

- 7(1)** The Minister may, on receipt of an application made in accordance with this section, issue a permit
- (a) to the holder of a preference quota authorizing the grazing on the land specified in the permit of any number of livestock not exceeding the applicant's preference quota for the term specified in the permit, or
 - (b) to an eligible applicant authorizing the grazing on the land specified in the permit of any number of livestock animals for the period specified in the permit.

- (2) The term of a regular permit may not exceed 10 years.
- (3) The term of a temporary permit may not exceed 5 years.
- (4) An application for a regular permit may be made only by the holder of a preference quota.
- (5) On the establishment of a preference quota and the related issue of a regular permit, the temporary permit is automatically cancelled.
- (6) An application for a temporary permit may be made only by one or more residents.
- (7) An application for a permit must be submitted before April 1 preceding the commencement of the period for which it is required or before such later date as the Minister allows.
- (8) An application for a permit must be accompanied by the permit application fee set by the Minister and the grazing rental dues payable under section 20.
- (9) A corporate applicant shall, on the written request of the Minister, submit with its permit application
 - (a) a copy of its certificate of incorporation or other evidence of its corporate status,
 - (b) a list signed by a senior officer of the corporation of the names, addresses and residency statuses of all its shareholders and the number of shares held by each,
 - (c) any other evidence necessary to establish its status as a resident,
 - (d) if it is not incorporated in Alberta, evidence that it is entitled to carry on business in Alberta,
 - (e) if it is incorporated under the *Societies Act* or the *Co-operative Associations Act*, a copy of its bylaws, and
 - (f) if it is a grazing association incorporated under the *Societies Act* or the *Co-operative Associations Act* or is incorporated, continued or registered under the *Cooperatives Act*, a list of its current members.
- (10) If there is any change in any of the corporation's circumstances referred to in subsection (9) subsequent to the application, whether or not there was a request by the Minister under that subsection, the corporation shall, forthwith after the change, notify the Minister of the facts underlying the change and submit evidence of the changed circumstances.

(11) On the making of an allocation under section 10 or a transfer under section 11, the permit relating to the preference quota is automatically cancelled.

(12) When a regular permit expires, the Minister may, subject to the payment of any fee set under section 20(1) and provided that the permit holder continues to meet all the qualifications required to obtain a new regular permit, relax any other requirements of this section and renew the permit on the terms and conditions that apply with respect to the issue of a new regular permit.

Exemptions from permit requirement

8(1) In this section, “pack animals” means horses, mules, donkeys, llamas or alpacas.

(2) A person who brings only one or 2 pack animals into a forest reserve from outside and who uses them only for recreational purposes may graze them without a permit.

(3) A person who brings into a forest reserve from outside

- (a) 3 or more pack animals and uses them only for recreational purposes, or
- (b) 6 or fewer pack animals and uses them only to herd livestock

may graze them without a permit if that person has obtained the Minister’s approval to do so before their entry into the forest reserve.

(4) A person who brings pack animals into a forest reserve from outside and who uses them only

- (a) in the course of carrying on a business involving
 - (i) the transporting of persons, food or equipment on conducted trail rides, camping trips or tours, or
 - (ii) the renting of those animals for use in the hunting, capturing or killing of big game within the meaning of the *Wildlife Act*,
- (b) physically and for gain or reward to assist another individual in the hunting of such big game or to conduct a trail ride, camping trip or tour, or
- (c) to assist in any other operation approved by the Minister for the purposes of this subsection,

may graze them without a permit if that person has obtained the Minister's approval to do so before their entry into the forest reserve.

(5) Rights to graze animals under this section apply subject to any prohibitions or restrictions under this Regulation or any order or direction under section 3.

(6) It is a condition of any approval given by the Minister under subsection (4) that if the person given the approval allows horses to graze to an extent greater than the spasmodic grazing that occurs as an incident of their passage through the land, the Minister may require that person to pay the fee, if any, set by the Minister.

Qualifications to continue to hold permit

9 Notwithstanding anything in this Regulation, a person is not eligible to continue to hold a permit if at any time that person or any of the joint holders, as the case may be,

- (a) in the case of a regular permit, ceases to hold a preference quota or ceases to or does not meet any of the criteria for establishment of a quota specified in section 6(1)(a) to (g), or
- (b) in the case of a temporary permit, ceases to be a resident.

Allocation of preference quota

10(1) Where a corporation that held a preference quota is wound up, the Minister shall allocate the vacated quota to the former shareholders who are eligible under subsection (5) and apply for the allocation.

(2) Where a partnership that held a preference quota is dissolved, the Minister shall allocate the vacated quota to those former partners, if any, who

- (a) were partners in that partnership when the partnership acquired the quota,
- (b) are eligible under subsection (5), and
- (c) apply for the allocation.

(3) Where an individual preference quota holder dies, the Minister shall allocate the vacated quota to individuals who will beneficially acquire the land to which the quota relates on the death, are eligible under subsection (5) and apply for the allocation.

(4) Where a preference quota holder transfers possession of the whole or part of the land to which the quota relates to one or more relatives, the Minister shall allocate the vacated quota, on whatever basis the Minister considers appropriate, to that relative or to one or more or all of those relatives, as the case may be, who are eligible under subsection (5) and apply for the allocation.

(5) A person is not eligible to receive an allocation under this section unless that person would be qualified under section 6(1)(a) to (f), if an applicant for a regular permit, to obtain a preference quota and pays any allocation fee set by the Minister.

Transfer of preference quota

11(1) A preference quota holder may, with the prior written approval of the Minister and on payment of the transfer dues payable under section 20, transfer that quota to a person who is eligible under subsection (2).

(2) A person is not eligible to receive a transfer under subsection (1) unless that person has applied for a permit and meets the qualifications set out in section 6(1)(a) to (f) with respect to obtaining a preference quota.

(3) Subject to subsection (1), a preference quota is not transferable.

Increase in AUMs on allocation or transfer

12(1) On application, the Minister may, by written approval, allow the number of animal unit months to exceed the number permitted by section 6(4) on an allocation under section 10 or a transfer under section 11 if and to the extent that the Minister considers that that maximum should be relaxed on account of extenuating circumstances.

(2) The approval must set out the new maximum number of animal unit months allowed, resulting from the allocation or transfer.

Dispute as to preference quota

13 Where there is a dispute as to the size or existence of a preference quota, the onus is on the holder of or the person claiming the quota to prove that fact.

Reduction or cancellation of quota and permit cancellation

14(1) The Minister may reduce or cancel a preference quota

- (a) where the Minister considers it necessary to protect range or watersheds, or

(b) if its holder ceases to meet any of the criteria specified in section 6(1)(a) to (f).

(2) The Minister may, if in any one year the Minister considers a broader distribution of grazing rights desirable, reduce a preference quota by an amount not exceeding 10% provided that the reduction does not result in a quota of less than 100 animal unit months.

(3) Except where an approval under subsection (6) has been given, the Minister shall cancel a preference quota where its holder is considered not to have used, or to have used sufficiently, the full quota exercisable by the holder.

(4) Where a preference quota holder or permit holder contravenes the Act or this Regulation, the Minister may

(a) cancel or reduce the preference quota, or

(b) cancel the permit.

(5) Where the Minister cancels a preference quota, the permit to which the quota relates is automatically cancelled.

(5.1) If a preference quota holder or permit holder contravenes section 17(1) or (3), the Minister may, without limiting the effect of subsection (4) or (5), reduce the permit.

(6) Notwithstanding anything in this section, a permit holder, with the prior written approval of the Minister and with respect to the land under the permit, may

(a) reduce the number of livestock animals grazed, or

(b) suspend all grazing

for the period specified in that approval without suffering the cancellation or a reduction of the preference quota.

(7) The period referred to in subsection (6) must not exceed one year.

(8) The Minister shall notify a preference quota holder in writing of any proposed reduction in the quota on or before January 15 in the year in which the reduction is to apply.

(9) The Minister shall notify its holder in writing of any proposed cancellation of a preference quota or permit at least 30 days before the cancellation is due to take effect.

(10) The Minister shall allow a person affected by a proposed reduction or cancellation under this section sufficient opportunity to make representations to the Minister, and shall take any

representations so made into consideration before such a reduction or cancellation is effected.

(11) A person affected by an action of the Minister under this section has no right to compensation for or in respect of that action.

AR 42/2005 s14;93/2018

Permit holder's compliance requirements

15(1) A permit holder shall

- (a) comply with an order or a direction given by an officer pursuant to this Regulation,
- (b) comply with the range management plan, and
- (c) give an officer notice of any intention to bring livestock into, or to remove livestock from, a forest reserve.

(2) A permit holder who contravenes subsection (1)(a) or (b) is liable to the Minister for the costs of anything done by the Minister to effect compliance with the order, direction or range management plan, as the case may be.

Entry and grazing prohibitions

16(1) A person shall not allow any livestock to enter into a forest reserve or, having so entered, to graze there

- (a) unless that person is the owner of the livestock and the grazing is done or to be done on a range allotment in respect of which a permit is held by that person, or
- (b) except pursuant to section 8 or under another approval given by the Minister,

and shall not do so in any event if the livestock is or is suspected of being affected by an infectious disease.

(2) A person who contravenes subsection (1) is liable to pay all fees and all dues set under section 20 that would have been payable by that person had that subsection been complied with, together with a fee of \$500 to cover services of and costs incurred by the Minister for the purpose of investigating the unauthorized grazing or entry or rectifying the effects of the contravention.

Restrictions on altering land

17(1) A person shall not plough, cultivate or break up any land, except that a preference quota holder or permit holder may, with

the prior written approval of the Minister and subject to subsection (3), do so for the purpose of

- (a) regrassing, destroying weeds or removing brush,
- (b) constructing boundary or drift fences, watering facilities or trails,
- (c) constructing temporary structures, or
- (d) conducting other activities that are related to the management of the range allotment and are specified in that approval.

(2) The Minister may attach any terms and conditions considered appropriate to an approval under subsection (1), and may subsequently and in writing add terms and conditions to an approval already given.

(3) A preference quota holder or permit holder with the ministerial approval who does anything referred to in subsection (1)(a) to (d) shall, so far as applicable,

- (a) do so in accordance with any terms or conditions referred to in subsection (2) or contained in any disposition issued in respect of the land in question,
- (b) maintain any structures falling within the approval in a good and servicable state of repair, and
- (c) comply with any directions of the Minister with respect to the maintenance of any such structures.

AR 42/2005 s17;93/2018

Prohibition of access to high-risk areas

18(1) Where an officer considers for any reason that circumstances in an area are such that there exists a high risk of imminent harm to grazing livestock or of imminent damage to grazing rights or rangeland health, the officer may, by order, close that area to, or restrict access to that area by, all vehicles or by all vehicles of the types specified in the order.

(2) In the case of a restriction under subsection (1), the order must specify the nature of the restriction.

(3) An officer shall ensure that sufficient signs or notices stating the effect of the order under subsection (1) are erected or posted to ensure that all persons using roads or trails leading into the area may reasonably be expected to know of the vehicle prohibition or restriction before entering the area.

(4) An order under subsection (1) and signs or notices referred to in subsection (3) are to be treated as documents incorporated by reference in this Regulation.

Weed control and destruction

19(1) The definitions contained in section 1(1) of the *Weed Control Act* (including the content of any applicable bylaw covering the forest reserve in question and designating a category of weeds) apply in interpreting this section.

(2) Nothing in this section limits any obligations that a person has under the *Weed Control Act*.

(3) A person shall take all reasonable precautions to prevent the spread or introduction from outside a forest reserve into a forest reserve or from one part of a forest reserve to another of a restricted or noxious weed.

(4) A person who contravenes subsection (3) or any provision of the *Weed Control Act* that adversely affects a forest reserve

- (a) shall take immediate and appropriate steps to negate, as far as possible, the adverse effect of the contravention, and
- (b) is liable for damages for the weed problems resulting from the activity to the owner or occupant (including the Crown in right of Alberta) adversely affected.

(5) Where a person is taking any steps with respect to the destruction or control of any restricted or noxious weeds on a range allotment or on any land within the range allotment,

- (a) the permit holder, and
- (b) every other person who holds any kind of disposition over the area so affected

shall (regardless of the origin of the weed problem) cooperate fully with and give all reasonable assistance to that person's efforts in taking those steps.

Grazing rental and transfer dues, and fees

20(1) The Minister shall set

- (a) the grazing rental dues payable in respect of permits and the deadlines for their payment, and

- (b) the dues on the transfer of a preference quota, which must be equal, for any given year, to 5 times the current year's rental for the total number of animal unit months under the quota,

and may, subject to subsection (2), set fees for circumstances where fees are payable under this Regulation.

(2) The fee for the allocation of a preference quota is \$100.

(3) The Minister may apply a credit towards the payment of any dues payable under subsection (1)(a) for a portion of the cost of any approved range integration projects conducted on the range allotment.

(4) A permit holder shall pay the applicable grazing rental dues before the deadlines set under subsection (1)(a).

Dispositions under Public Lands Act and Forests Act

21 If the holder of a disposition referred to in section 11(2) of the Act proposes to do anything that has the potential to create a material impact on the grazing rights of a permit holder, that disposition holder and the permit holder shall, before the disposition holder takes any such action, negotiate with each other the circumstances of the proposed action and its effect on the grazing rights in good faith.

Repeal

22 *The Forest Reserves Regulations* (AR 604/65) are repealed.

Expiry

23 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on May 31, 2028.

AR 42/2005 s23;96/2014;82/2015;77/2016;100/2017;93/2018



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