

FOREST AND RANGE LEGISLATION AND REGULATIONS COMPENDIUM

Regulations - Forest Practices Code of British Columbia Act

TIMBER HARVESTING PRACTICES REGULATION

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Definitions

1. (1) Unless otherwise indicated, terms used in this regulation have the meaning given to them in the Operational Planning Regulation.

(2) In this regulation:

"**direct tributary**" means the reaches of a tributary stream that have the same stream order as the most downstream reach of the tributary;

"**fisheries-sensitive zone**" means a flooded depression, pond or swamp, that

(a) either perennially or seasonally contains water, and

(b) is seasonally occupied by a species of fish listed in the definition of "fish stream" in the Operational Planning Regulation

but does not include a wetland or lake that has a riparian management area established under Part 8 of the Operational Planning Regulation or a stream;

"**harvesting**" means the practice of felling trees, felling and removing trees, or the removal of dead or damaged trees from an area;

"**known**" means, when used to describe a feature, objective or other thing referred to in this regulation as known,

(a) a feature, objective or other thing that is identified as a known objective, feature or thing in the forest development plan in which the cutblock is proposed to achieve category A status, or in the forest development plan in which the part of the forest development plan that is the cutblock is amended,

(b) a feature, objective or other thing that is identified in a silviculture prescription as a known objective,

feature or thing, or

(c) if the requirement for an operational plan has been exempted, a feature, objective or other thing that is

(i) contained in a higher level plan, or

(ii) otherwise identified or made available to a person by the district manager or designated environment official

before the exemption of the operational plan;

"landing" means an area of land that has been modified by equipment to make it suitable for accumulating logs before they are transported;

"person" means the holder of an agreement under the *Forest Act*;

"sidecast" means the act of moving excavated material onto the downslope side of an excavated or bladed trail, or a landing during their construction.

Workers Compensation Act prevails

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.

Making and protecting wildlife trees and wildlife tree patches

3. (1) A person carrying out harvesting must mark in the field, before commencement of harvesting, the location of all wildlife trees or wildlife tree patches that are

(a) 0.25 hectares or more, unless exempted by the district manager, and

(b) less than 0.25 hectares, if required by the district manager.

(1.1) the district manager may exempt a person under subsection (1) (a) or require marking under subsection (1) (b) if satisfied that doing so will adequately manage and conserve the forest resources.

(2) A person required to mark a wildlife tree or wildlife tree patch, under subsection (1) must ensure that the marking is visible during harvesting and is marked in a manner that will remain visible for at least 6 months after the completion of harvesting.

Protecting resource features

4. [Repealed]

Harvesting in accordance with authorizations and conditions

5. A person harvesting in an area must carry it out in a manner consistent with any authorizations or conditions specified by a district manager or a designated environment official under this regulation.

Harvesting adjacent to unidentified or incorrectly classified streams, wetlands and lakes

6. (1) A person must not harvest in a riparian reserve zone of a stream, wetland or lake if the stream, wetland or lake has not been identified, or has been given an incorrect riparian classification, in an operational plan, except in accordance with an approval, under section 10 (3), based on the correct classification.

(2) for the purposes of subsection (1), a stream, wetland or lake is not shown with an incorrect riparian classification in an operational plan by reason only that the law that applied to the plan at the time it was approved or given effect is subsequently changed, unless an enactment specifically provides otherwise.

(3) A person harvesting in a riparian management area for a stream, wetland or lake that has not been identified, or that has been given an incorrect riparian classification, in an operational plan, must harvest in a manner that is consistent with the general objectives for riparian management zones for the correct riparian class of the stream, wetland or lake, including the range of basal area retention, specified in a forest development plan that includes the area.

Harvesting within community watersheds

7. (1) Subsections (2) and (3) apply to an area only if

(a) a terrain stability field assessment is required to be carried out for the forest development plan or silviculture prescription that applies to the area, or

(b) the area has been exempted from the requirement for a forest development plan or silviculture prescription, and a terrain stability field assessment is required to be carried out as a condition of the exemption.

(2) A person must not harvest an area that is within a community watershed if the result of the terrain stability field assessment indicates that the area is subject to a high likelihood of landslides.

(3) A person must not clearcut an area that is within a community watershed if the result of the terrain stability field assessment indicates that the area is subject to a moderate likelihood of landslides with a high risk of landslide debris entering directly into streams, unless

(a) the terrain stability field assessment documents the assessor's opinion that, based on the assessment, the assessor has reasonable grounds to believe that clearcutting the area will not significantly increase the risk of a landslide, or

(b) the use of a clearcut silvicultural system has been approved in a forest development plan or silviculture prescription for the cutblock.

(4) Without restricting section 8 (4), a person must not construct an excavated or bladed trail on an area that is within a community watershed if

(a) the soil erosion hazard and risk of sediment delivery to streams have not been assessed, or

(b) the results of the soil erosion hazard assessment and risk of sediment delivery to streams assessment indicate that both of the following conditions are met:

(i) the soil erosion hazard is high or very high, and

(ii) the risk of sediment delivery to streams is moderate, high or very high.

(5) Subsection (4) does not apply if the trail construction is approved for the purpose of

(a) constructing access required to carry out activities on tenures issued under the *Coal Act* or *Mineral Tenure Act*, or

(b) carrying out activities authorized under the *Mines Act*, *Mining Right of Way Act*, *Petroleum and Natural Gas Act* or *Pipeline Act*.

(6) A person carrying out harvesting in a community watershed must not, except to provide access to, or to maintain, a community water supply intake, cut or damage a tree that is closer than 100 m upslope of a known community water supply intake.

(7) A person carrying out harvesting in a community watershed must protect known community water supply intakes and infrastructures.

(8) A person carrying out harvesting in a community watershed must not cause the quality of water to fail to meet known water quality objectives.

Harvesting on potentially unstable terrain

8. (1) Subsections (2) to (4) apply to an area only if

(a) a terrain stability field assessment is required to be carried out for the forest development plan or silviculture prescription that applies to the area, or

(b) the area has been exempted from the requirement for a forest development plan or silviculture prescription, and a terrain stability field assessment is required to be carried out as a condition of the exemption.

(2) A person must not clearcut an area that is outside a community watershed if the result of the terrain stability field assessment indicates that the area is subject to a high likelihood of landslides, unless

(a) the terrain stability field assessment documents the assessor's opinion that, based on the assessment, the assessor has reasonable grounds to believe that clearcutting the area will not significantly increase the risk of a landslide and that there is a low likelihood of landslide debris

(i) entering into a fish stream or a perennial stream that is a direct tributary to a fish stream, or

(ii) causing damage to private property or public utilities, including but not limited to roads, bridges, transmission lines, pipelines, recreation sites or any other similar structures, or

(b) the use of a clearcut silvicultural system has been approved in a forest development plan or silviculture prescription for the cutblock.

(3) A person must not construct an excavated or bladed trail on an area that is outside a community watershed if the result of the terrain stability field assessment indicates that the area is subject to a high likelihood of landslides.

(4) A person must not construct an excavated or bladed trail on an area that is inside or outside a community watershed if the result of the terrain stability field assessment indicates that the area is subject to a moderate likelihood of landslides, unless the assessment documents the assessor's opinion that, based on the assessment, the assessor has reasonable grounds to believe that

(a) the excavated or bladed trail can be located, constructed and rehabilitated in a manner that will not significantly increase the risk of a landslides, and

(b) there is a low likelihood of landslide debris

(i) entering into a perennial stream in a community watershed, a fish stream or a perennial stream that is a direct tributary to a fish stream, or

(ii) causing damage to private property or public utilities, including but not limited to roads, bridges, transmission lines pipelines, recreation sites, or any other similar structures.

(5) A person carrying out harvesting must not sidecast material onto slopes that have a high likelihood of

landslides.

Harvesting adjacent to previously harvest cutblocks

9. (1) A person may only harvest a cutblock that is adjacent to a previously harvested cutblock if that previously harvested cutblock is greened-up.

(2) Despite subsection (1), a person may harvest a cutblock that is adjacent to a previously harvested cutblock that is not greened-up, if the requirements in any of the following paragraphs are met:

(a) the cutblock to be harvested is under a licence to cut or Christmas tree permit, or the previously harvested cutblock was harvested under a licence to cut or Christmas tree permit;

(b) a partial cut silvicultural system is used that retains trees in a uniform distribution throughout the cutblock to be harvested, and 40% or more of the preharvest basal area will be retained;

(c) a partial cut silvicultural system is used that retains less than 40% of the preharvest basal area throughout the cutblock to be harvested, and

(i) before commencement of harvesting the district manager has authorized, in writing, retention of less than 40% of the preharvest basal area, and

(ii) after completion of harvesting, either the retained trees are uniformly distributed throughout the cutblock or the cutblock is stocked with trees and the average height of those trees that are the tallest tree in each 0.01 hectare plot included in a representative sample is at least 3 m, and the trees are a commercially valuable species or other species acceptable to the district manager;

(d) the total area of

(i) the cutblock to be harvested, and

(ii) the harvested cutblocks that are not greened-up and that are adjacent to the cutblock to be harvested

do not exceed the maximum size for cutblocks specified or varied under section 11 of the Operational Planning Regulation;

(e) the harvesting of the cutblock is necessary to achieve established visual quality objectives and the harvesting has either been approved in an operational plan or authorized by the district manager in writing;

(f) the resultant opening has been authorized by the district manager, in a written notice given to the person, on the grounds that it will be consistent with the structural characteristics and the temporal and spatial distribution of natural openings;

(g) the proposed harvesting will recover timber that was damaged by fire, insects, wind or other similar events and, wherever possible, the cutblock to be harvested incorporates structural characteristics of natural disturbance.

Felling adjacent to streams, wetlands, lakes, etc.

10. (1) A person carrying out harvesting must not fell the timber onto a stream, lake, wetland, fisheries-sensitive zone or marine-sensitive zone unless

(a) that is the only practicable way the timber can be felled to provide for worker safety,

(b) the felling of timber onto a stream, lake, wetland, or marine-sensitive zone has been approved in a silviculture prescription or a logging plan for the area, or

(c) with respect to a fisheries-sensitive zone, the district manager authorizes the activity in writing, with or without conditions.

(2) If there is no silviculture prescription for the area and the district manager does not require the person to prepare a logging plan for the area, the district manager may waive the requirements of subsection (1) and may place other conditions on the person with respect to felling timber near streams, lakes, wetlands, fisheries- sensitive zones or marine-sensitive zones to minimize damage to those areas.

(3) A person carrying out harvesting must not harvest trees from, or modify trees in, an area that is a riparian reserve zone unless

(a) the harvesting or modification within the riparian reserve zone has been approved by the district manager

(i) in an operational plan or, if there is no operational plan, in writing, and

(ii) the approval is for one or more of the following purposes:

(A) undertaking recreational facility management;

(B) reducing windthrow potential by topping or pruning;

(C) removal of trees for approved stream crossings;

(D) removal of trees for the construction or modification of a road under an approved road layout and design;

(E) creating corridors for full suspension yarding;

(F) removal of any tree which is hazardous to workers because of location, direction of lean, physical damage, overhead hazards, deterioration of limbs, stem or root system, or a combination of these;

(G) carrying out, constructing, modifying or maintaining a range development;

(H) any other similar activity,

(b) the harvesting or modification within the riparian reserve zone has been approved by the district manager with the agreement of the designated environment official

(i) in an operational plan or, if there is no operational plan, in writing, and

(ii) the approval is for one or more of the following purposes:

(A) recovery of trees that have been windthrown or that have been damaged by fire, insects, disease or other causes;

(B) sanitation treatments;

(C) managing fisheries and wildlife values;

(D) any other similar activity, or

(c) the harvesting or modification is carried out by the holder of a licence to cut or of a free use permit and is approved for purposes related to their right to use or occupy Crown land granted under the *Land Act*, *Coal Act*, *Geothermal Resources Act*, *Mines Act*, *Mineral Tenure Act*, *Mining Right of Way Act*, *Petroleum and Natural Gas Act* or *Pipeline Act*.

Yarding, skidding and log drop areas

11. (1) A person carrying out harvesting must not yard or skid timber through or over a stream unless the yarding or skidding

(a) is authorized in a silviculture prescription or a logging plan for the area, or

(b) if there is no silviculture prescription or a logging plan for the area, is authorized by the district manager in writing, with or without conditions.

(2) A person carrying out harvesting must not yard or skid timber through or over any fisheries-sensitive zone unless authorized by the district manager in writing, with or without conditions.

(3) A person carrying out helicopter, balloon or another type of aerial harvesting must not use as a log drop area

(a) the littoral zone of a marine or fresh water system,

(b) water that is less than 10 m deep, or

(c) a marine-sensitive zone.

Requirements when constructing excavated or bladed trails

- 12.** A person constructing an excavated or bladed trail must comply with all the following requirements:
- (a) must not deposit soil material, that has been excavated to construct the trail, or slash in a stream, wetland, lake or fisheries-sensitive zone, or in a position where the material can be transported by water into any of these watercourses;

 - (b) must not create cutslopes and fillslopes that are subject to slumping and continual raveling;

 - (c) must maintain surface drainage patterns;

 - (d) must prevent subsurface seepage water, intercepted by the trails, from being diverted into areas that would not naturally have received the water, and that are
 - (i) slopes that are unstable or potentially unstable or subject to a moderate or high likelihood of landslides, or
 - (ii) stream channels or gullies;

 - (e) must do so in a way that minimizes soil erosion and the amount of sediment entering streams;

 - (f) must do so in a manner that facilitates carrying out required rehabilitation treatments.

Requirement to rehabilitate excavated or bladed trails

- 13.** (1) Before December 15, 1999, for the purposes of section 47 (7) of the Act, a person who constructs or modifies an excavated or bladed trail within an area under an operational plan must rehabilitate the area

occupied by the trail in accordance with section 14, if the trail is located on an area that
(a) has a moderate or high likelihood of landslides, a high or very high soil erosion hazard, or is an area where the soil erosion hazard has not been determined, or

(b) is within a community watershed.

(2) If timber harvesting commences on or after December 15, 1999, a person who constructs or modifies an excavated or bladed trail must rehabilitate the area occupied by the trail in accordance with section 14.

(3) A person is exempt from any requirement under section 67 of the Act to carry out rehabilitation of an excavated or bladed trail in accordance with a silviculture prescription or logging plan, if the trail meets both of the following conditions:

(a) it is constructed or modified before December 15, 1999, and

(b) it is not located on an area referred to in subsection (1).

Requirements when rehabilitating excavated or bladed trails

14. Unless otherwise approved in an operational plan or authorized by the district manager in writing, with or without conditions, a person rehabilitating an excavated or bladed trail must do all of the following:

(a) decompact the trail;

(b) place sidecast fill material on the excavated portion of the trail;

- (c) recontour the slope;
- (d) re-establish natural surface drainage;
- (e) place some woody debris over exposed mineral soil;
- (f) revegetate exposed mineral soil.

Requirements when constructing a landing

15. A person constructing a landing must

- (a) construct it at least 30 m from a fish stream or a stream in a community watershed, unless
 - (i) there is no other practicable location for the landing,
 - (ii) constructing the landing closer to the stream will not create a high risk of sediment delivery to the stream, and
 - (iii) the district manager approves constructing the landing less than 30 m distance from the stream, and
- (b) incorporate drainage systems to minimize runoff flowing onto the landing and erosion of the landing fill and material.

