

Wildlife Habitat and Watercourses Protection Regulations

made under Section 40 of the

Forests Act

R.S.N.S. 1989, c. 179

O.I.C. 2001-528 (November 15, 2001, effective January 14, 2002), N.S. Reg. 138/2001

as amended by O.I.C. 2002-609 (December 20, 2002), N.S. Reg. 166/2002

Citation

1 These regulations may be cited as the Wildlife Habitat and Watercourses Protection Regulations.

Definitions

2 In these regulations

(a) "Act" means the Forests Act;

(b) "basal area" means the surface area of the cross-section of the trunks of the standing trees, measured at a height of 1.3 m from the ground;

(c) "bed" means that portion of a watercourse within a defined flow channel containing predominantly mud, silt, sand, gravel or rock;

(d) "forestry operator" means a person who harvests or permits the harvest of primary forest products or who conducts or permits a silviculture operation or related program on forest land and includes, but is not limited to

(i) an owner, occupier, lessee, or tenant of forest land, and

(ii) a producer or buyer of forest products, as defined in the Act,

and an agent, contractor or anyone otherwise acting on behalf of such a person;

(e) "harvest" means a forestry operation that removes primary forest products from an area of forest land, but does not include the removal of Christmas trees or a forestry operation whose primary purpose is to convert the land to a non-forestry use;

Clause 2(e) amended: O.I.C. 2002-609, N.S. Reg. 166/2002.

(f) "marsh" means an area of permanent standing or slow moving water that is vegetated in whole or in part with aquatic or hydrophytic plants;

(g) "special management zone" means an area of forest required to be established adjacent to a watercourse in accordance with Sections 5 and 6 to protect the watercourse and bordering wildlife habitat from the effects of forestry operations;

(h) "vehicle" means a vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the Motor Vehicle Act;

(i) "watercourse" means the bed and shore of a river, stream, lake, creek, pond, marsh, estuary or salt-water body that contains water for at least part of each year.

Application

3 For greater certainty, these regulations apply only to persons carrying out forestry operations in a forest or on forest land.

Legacy trees and habitat structure

4 (1) On any harvest site comprising an area greater than 3 hectares of forest land, the forestry operator shall ensure that at least 10 living, or partially living, trees are left standing for each hectare of forest land cut.

(2) The trees required to be left standing pursuant to subsection (1) shall be

(a) in the same proportion by species as the forest stand being cut;

(b) as large as or larger than, in height and diameter, the average height and the average diameter, measured at a height of 1.3 m from the ground, of the trees within the forest stand being cut; and

(c) clumped together in accordance with the following:

(i) each clump shall contain no fewer than 30 trees,

(ii) there shall be at least one clump for each 8-hectare area, or part thereof, of forest land cut,

(iii) where there is more than one clump, clumps shall be situated no more than 200 m apart and at least 20 m but no more than 200 m from the edge of the forest stand being cut,

(iv) where there is one clump, it shall be situated at least 20 m but no more than 200 m from the edge of the forest stand being cut, and

(v) there shall be no harvesting of trees within any clump.

(3) Trees required to be left standing pursuant to subsection (1) shall not be removed before the next harvest.

(4) A forestry operator shall ensure that levels of snags and coarse woody debris on all harvested sites are similar to natural patterns to the fullest extent possible.

Determining average width of watercourse

5 For the purposes of Sections 6 and 7, the average width of a watercourse shall be determined by measuring the width of the bed of the watercourse at 10 approximately equidistant locations extending along the entire portion of the watercourse situated within or adjacent to the forest land where a forestry operation is carried on, and taking the average of the measurements.

Special management zones

6 (1) Where the average width of a watercourse situated on or adjacent to forest land on which a forestry operation is carried on is equal to or greater than 50 cm, a forestry operator shall establish or ensure the establishment of a special management zone of at least 20 m in width along all boundaries of the watercourse.

(2) Where the land on which a special management zone is established pursuant to subsection (1) has an average slope within 20 m of a watercourse boundary of greater than 20%, the forestry operator shall increase the width of the special management zone by 1 m for each additional 2% of slope to a maximum of 60 m in width.

(3) No forestry operator shall within a special management zone

(a) permit the use of, use or operate a vehicle for forestry operations within 7 m of the watercourse;

(b) reduce the basal area of living trees to less than 20 m² per hectare; or

(c) create an opening in the dominant tree canopy larger than 15 m at its greatest dimension.

(4) Despite clause (3)(a), the operation of a vehicle for the purpose of watercourse crossings approved by the Department of Environment and Labour is permitted within a special management zone.

Protection of watercourse less than 50 cm wide

7 Where the average width of a watercourse situated on or adjacent to forest land on which a forestry operation is carried on is less than 50 cm, no forestry operator shall permit the use of, use or operate a vehicle for forestry operations within 5 m of the watercourse, except for the purpose of watercourse crossings approved by the Department of Environment and Labour.

Provisions applying to all watercourses

8 A forestry operator shall ensure that understory vegetation and non-commercial trees within 20 m of the edge of any watercourse are retained to the fullest extent possible.

9 No forestry operator shall conduct any activity within 20 m of the edge of any watercourse that would result in sediment being deposited in the watercourse.

Offence

10 Every person who does anything prohibited by these regulations or who fails to do anything required by these regulations is guilty of an offence.

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