


ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

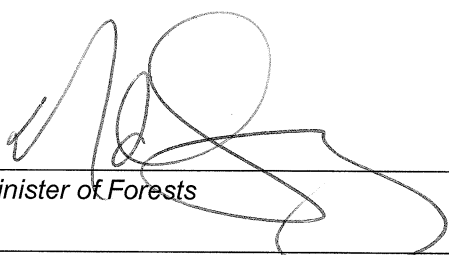
Order in Council No. 269, Approved and Ordered MAR 17 2005



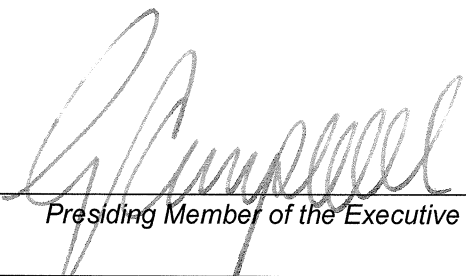
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Fort St. John Pilot Project Regulation, B.C. Reg. 278/2001, is amended as set out in the attached Schedule.



Minister of Forests



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Forest and Range Practices Act, S.B.C. 2002, c. 69, ss. 209, 211

Other (specify):- oic 1033/2001; 1247/2004

March 1, 2005

306/2005/11

SCHEDULE

1 *Section 1 (1) of the Fort St. John Pilot Project Regulation, B.C. Reg. 278/2001, is amended*

(a) in paragraph (a) of the definition of “participant” by striking out “in section 3 (1) (a) to (c)” and substituting “in section 3 (1) (a) to (e)”, and

(b) in the definition of “reforest” by adding “or with a sustainable forest management plan, whichever of them is applicable” after “in accordance with section 32”.

2 *Section 42 is repealed and the following substituted:*

Effect of approval on performance requirements

42 (1) In this section:

“component area” means an area

(a) that is the subject of

(i) a forest development plan or forest operations schedule, and

(ii) a site level plan

that are consistent with the applicable sustainable forest management plan,

(b) for which a participant or minor timber sale licence holder is exempt from section 12, 16 or 18, or

(c) for which

(i) there is a site level plan referred to in section 9, and

(ii) the holder of the site level plan has submitted to the district manager a statement that the area is subject to the applicable sustainable forest management plan;

“specified” means specified in the sustainable forest management plan.

(2) If Division 5 of Part 3 conflicts or is inconsistent with this section, this section prevails.

(3) For each component area, the responsible participant must

(a) achieve the specified targets within the specified range of variance,

(b) carry out forest operations in a manner consistent with the specified landscape level strategies,

(c) ensure that stocking in coniferous areas in the component area conforms with the specified mean stocked quadrant value,

(d) ensure that the retention of wildlife trees conforms with the specified wildlife tree retention requirements, and

- (e) ensure that the retention of coarse woody debris conforms with the specified coarse woody debris retention requirements.
- (4) For each component area on which the holder of a minor timber sale licence carries out forest operations, the holder must ensure that the operations are consistent with
- (a) the specified targets within the specified range of variance,
 - (b) the specified landscape level strategies, and
 - (c) the reforestation requirements described in section 32 and Schedule F.

3 Section 45 is amended by adding the following:

- (3) A forest operations schedule is effective on the date it is submitted to the district manager under subsection (2).

4 Section 49 (1) is amended by striking out “or holder of a minor timber sale licence”.

5 Section 51 (3) is amended by adding the following:

- (e.1) a summary of any amendments that were made to
- (i) a forest development plan, if, under section 71 (2) or (3), notice of the amendments was not required to be published, and
 - (ii) a forest operations schedule, if, under section 83 (2), (3) or (4), notice of the amendments was not required to be published; .

6 Section 55 is amended

(a) by repealing subsections (1) and (2) and substituting the following:

- (1) For the contravention of an enactment itemized in column 1 of Schedule G and described in column 2 of that item, the maximum penalty that may be levied under section 71 (2) of the *Forest and Range Practices Act* against a participant or holder of a minor timber sale licence is the amount in column 3 of that item.
- (2) The following are prescribed as the considerations referred to in section 71 (5) (g) of the *Forest and Range Practices Act* for the minister before levying an administrative penalty referred to in Schedule G against a participant or holder of a minor timber sale licence:
- (a) if the contravention was reported to the district manager by the participant or holder;
 - (b) if the participant or holder carried out measures to mitigate the impact of the contravention, and the appropriateness, timeliness and success of those measures;
 - (c) if there is any residual damage to the forest resources on the area in which the contravention occurred after the participant or holder carried out the measures referred to in paragraph (b);

(d) if it is in the public interest to make a determination under section 7 (2) of the *Forest and Range Practices Act*, having considered all of the factors specified in section 71 (5) of the *Forest and Range Practices Act*, **and**

(b) in subsection (6) by striking out “Division 4 of Part 6 of the Act applies” **and substituting** “Division 4 of Part 6 of the *Forest and Range Practices Act* applies”.

7 Section 59 is repealed and the following substituted:

Declaration of completed obligations

- 59** (1) A participant who in respect of
- (a) a road,
 - (b) timber harvesting activities in a cutblock, or
 - (c) reforestation in a cutblock or in an identifiable portion of a cutblock,
- considers that the participant
- (d) has fully met the requirements, or
 - (e) has met the requirements to the fullest extent practical
- may submit to the district manager a written declaration to the effect set out in paragraph (d) or (e), whichever is applicable.
- (2) A participant must ensure that a written declaration under subsection (1)
- (a) identifies the roads or cutblocks,
 - (b) specifies the requirements of the Act and the regulations to which the declaration applies, and
 - (c) in the case of a declaration under subsection (1) (e), explains why the requirements were not fully met, giving particulars.
- (3) A written declaration submitted under subsection (1) by a participant to the district manager is sufficient evidence as of the date of its submission that the participant has met the requirements, unless
- (a) within 15 months after receiving the written declaration, the district manager gives notice to the participant that
 - (i) in the case of a declaration under subsection (1) (d), the participant has not fully met the requirements, or
 - (ii) in the case of a declaration under subsection (1) (e), the participant has not met the requirements to the fullest extent practical, or
 - (b) the participant
 - (i) in the declaration, materially misrepresented or misstated a fact in relation to the requirement, or
 - (ii) omitted information from the declaration that the participant knew or ought to have known was material to determining whether the requirement had been fulfilled.
- (4) Before giving notice under subsection (3) (a) to a participant, the district manager
- (a) must give the participant an opportunity to be heard, and

- (b) may require the participant to submit information that the district manager reasonably requires in order to make the determination.

8 Section 69 (1) (b) (vii) is repealed.

9 Section 71 (3) is repealed and the following substituted:

- (3) Despite subsection (1), notice is not required under that subsection if
 - (a) the amendment increases the size of a cutblock,
 - (b) the amount of the increase does not exceed
 - (i) 1 ha or 25% of the area of the cutblock, whichever is greater, if the cutblock is less than 20 ha before the increase, or
 - (ii) 10 ha or 25% of the area of the cutblock, whichever is less, if the cutblock is at least 20 ha before the increase,
 - (c) the cutblock size remains consistent with section 65, and
 - (d) none of the area being added to the cutblock as a result of the proposed amendment will result in harvesting within
 - (i) a riparian management zone of a stream that has a classification of S1, S2, S3 or S4,
 - (ii) a known forest ecosystem network,
 - (iii) a wildlife tree patch,
 - (iv) a known old growth management area, or
 - (v) a known ungulate winter range.

10 Section 81 (1) is amended

(a) by repealing paragraph (c) and substituting the following:

- (c) the following known items:
 - (i) protected areas;
 - (ii) designated areas under Part 13 of the *Forest Act*;
 - (iii) wilderness areas;
 - (iv) established sensitive areas;
 - (v) wildlife habitat areas, except in a case to which subparagraph (vi) of this paragraph applies;
 - (vi) the name of any identified wildlife protected by wildlife habitat areas if the district manager or a designated environmental official makes it known that the location of the wildlife habitat area is not to be included;
 - (vii) forest ecosystem networks;
 - (viii) old growth management areas;
 - (ix) scenic areas;
 - (x) ungulate winter ranges;

- (xi) community water supply intakes and related water supply infrastructures;
- (xii) fish streams;
- (xiii) riparian class of streams, wetlands and lakes; , *and*

(b) by repealing paragraphs (i) to (m) and substituting the following:

- (i) the approximate location of cutblocks proposed that are not the subject of an authorization under section 23;
- (j) for each cutblock that is currently the subject of an authorization under section 23,
 - (i) the approximate location of the cutblock, and
 - (ii) if the areas within the cutblock are to be reforested as coniferous areas, deciduous areas or mixedwood areas.

11 Section 83 is amended

(a) by repealing subsection (3) (c) and substituting the following:

- (c) does not materially change the objectives or results of the schedule.

(b) by repealing subsection (4) and substituting the following:

- (4) Despite subsection (1), notice is not required under that subsection if the amendment increases the size of a cutblock provided that
 - (a) the amount of the increase does not exceed
 - (i) 1 ha or 25% of the area of the cutblock, whichever is greater, if the cutblock is less than 20 ha before the increase, or
 - (ii) 10 ha or 25% of the area of the cutblock, whichever is less, if the cutblock is at least 20 ha before the increase,
 - (b) the cutblock size remains consistent with the sustainable forest management plan, and
 - (c) none of the area being added to the cutblock as a result of the proposed amendment will result in harvesting within
 - (i) a riparian management zone of a stream that has a classification of S1, S2, S3 or S4,
 - (ii) a known forest ecosystem network,
 - (iii) a wildlife tree patch,
 - (iv) a known old growth management area, or
 - (v) a known ungulate winter range.

12 Schedule G is repealed and the following substituted:

SCHEDULE G – MAXIMUM ADMINISTRATIVE PENALTIES

(Section 55)

Item	Column 1 Enactment	Column 2 Description	Column 3 Penalty
1	16 (2)	Did not prepare a site level plan where required	\$5 000
2	18	Did not prepare a site level plan where required	\$5 000
3	19 (1)	Did not ensure that a site level plan met the specified requirements	\$5 000
4	19 (2)	Did not ensure that a site level plan met the specified requirements	\$5 000
5	20 (4)	Did not notify the district manager as required	\$5 000
6	20 (5)	Did not comply with a request to forward assessments to resource agencies	\$2 000
7	20 (6)	Did not comply with specified review and comment requirements	\$2 000
8	20 (9)	Carried out a forest practice contrary to section 20 (9)	\$10 000
9	21	Did not carry out a required archaeological impact assessment	\$5 000
10	22 (1)	Did not prepare a site level plan where required	\$20 000
11	22 (2)	Used a specified road for the purposes of timber harvesting and related purposes without having met the specified requirements	\$20 000
12	24 (2)	Carried out harvesting under an authorization before specified appraisal data submitted	\$20 000
13	26	Did not comply with the requirements of any notice, authorization or condition specified by the district manager	\$20 000
14	28 (1) (a), (b), (c), (d), (f) or (g)	Did not ensure that a forest practice met the prescribed requirements	\$50 000
15	28 (1) (e)	Did not ensure that a forest practice met the prescribed requirements	\$100 000
16	28 (2)	Did not take reasonable measures to mitigate any damage to the environment resulting from a contravention of section 28 (1)	\$100 000
17	29 (1)	Did not ensure maintenance of the required amount of area in cutblocks in wildlife trees or wildlife tree patches	\$20 000
18	29 (2)	Did not ensure maintenance of the required proportion of pre-harvesting coarse woody debris in cutblocks	\$20 000
19	30 (1)	Exceeded the specified limit for the area that may be occupied by permanent access structures	\$50 000
20	30 (2)	Did not deactivate permanent access structures where required	\$50 000
21	30.1	Exceeded the specified limit for the area that may be occupied by soil disturbance	\$50 000
22	31 (1)	Did not ensure that roads provide for safe usage by the types and levels of traffic for which the road was intended	\$2 000
23	31 (2)	Did not maintain a specified road until the deactivation of the road or the notification referred to in section 31 (2)	\$50 000

Item	Column 1 Enactment	Column 2 Description	Column 3 Penalty
24	32 (3)	Did not reforest specified areas in accordance with the specified requirements	\$100 000
25	32 (8)	Did not carry out silviculture regimes that are designed to achieve the specified target stocking requirements	\$5 000
26	33	Did not ensure the destruction of insect broods within the specified time when using trap trees or pheromones to concentrate insect populations	\$5 000
27	34	Did not prepare a sustainable forest management prescription during the prescribed period	\$10 000
28	42 (3) (a)	Did not achieve targets specified in a sustainable forest management plan within the applicable range of variance specified in the plan.	\$50 000
29	42 (3) (b)	Did not carry out forest operations in a manner that is consistent with any applicable landscape level strategies specified in the plan.	\$5 000
30	42 (3) (c)	Did not ensure that the stocking in coniferous areas conforms to any applicable mean stocked quadrant value specified in the plan.	\$100 000
31	42 (3) (d)	Did not ensure that the retention of wildlife trees conforms to any applicable wildlife tree retention requirements specified in the plan.	\$20 000
32	42 (3) (e)	Did not ensure that the retention of coarse woody debris conforms to any applicable coarse woody debris retention requirements specified in the plan.	\$20 000
33	42 (4) (a)	Did not ensure that the operations are consistent with targets specified in a sustainable forest management plan within the applicable range of variance specified in the plan.	\$20 000
34	42 (4) (b)	Did not ensure that the operations are consistent with any applicable landscape level strategies specified in the plan.	\$20 000
35	42 (4) (c)	Did not ensure that the operations are consistent with the reforestation requirements described in section 32 and Schedule F.	\$50 000
36	44 (1)	Did not submit the required assessment and proposal within the specified time where a higher level plan has come into effect after the approval of a sustainable forest management plan	\$20 000
37	44 (3)	Did not implement a proposal approved by the regional manager	\$20 000
38	46 (1)	Did not establish and maintain a public advisory group	\$10 000
39	46 (2) (a)	Did not confirm membership to the public advisory group as required	\$2 000
40	46 (2) (b)	Did not publish a notice specifying the membership of the public advisory group as required	\$2 000
41	49 (1)	Did not maintain records and plans as required	\$5 000
42	49 (2)	Did not produce records and plans as required	\$5 000

Item	Column 1 Enactment	Column 2 Description	Column 3 Penalty
43	50 (1)	Did not submit to and pay for a periodic independent audit as required	\$10 000
44	51 (1)	Did not submit an annual report as required	\$10 000
45	51 (2)	Did not submit an annual report as required	\$10 000
46	51 (4)	Did not provide a copy of the annual report to the district manager and the public advisory group as required	\$2 000
47	53 (3)	Did not comply with the minister's request related to an evaluation of the pilot project	\$5 000
48	55 (3)	Did not take the measures specified by the district manager to rehabilitate the area	\$50 000
49	55 (4)	Did not take the measures specified by the district manager to rehabilitate the area	\$50 000
50	57 (1)	Did not make copies of all plans and assessments available as required	\$10 000
51	57 (2)	Did not make a copy of a proposed sustainable forest management plan available to the public as required	\$5 000
52	57 (3)	Did not make the specified information available for review by the public	\$5 000
53	60 (5)	Did not comply with a condition imposed by the minister	\$10 000