


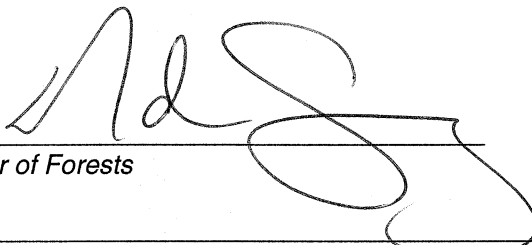
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL


Order in Council No. -- 1246 , Approved and Ordered DEC 11 2004


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the advice and consent of the Executive Council, orders that the Government Actions Regulation, B. C. Reg. 17/2004 is repealed and the attached Government Actions Regulation is substituted.


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. 1 (2), 141, 149, 149.1, 150, 150.1 to 150.5 and 154

Other (specify):- oic 20/2004

November 30, 2004

1542/2004/11

GOVERNMENT ACTIONS REGULATION

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Interpretation

- 1 (1) In this regulation “**Act**” means the *Forest and Range Practices Act*.
- (2) Words and expressions not defined in this regulation have the meanings given to them in section 1 of the Forest Planning and Practices Regulation unless the context indicates otherwise.
- (3) This regulation applies despite section 16 (2) of the Act.

Limitation on actions

- 2 (1) In addition to the criteria and procedures to be followed by a minister in making an order under any of sections 5 to 15 in relation to an area specified in the order, the minister must be satisfied that
 - (a) the order is consistent with established objectives,
 - (b) the order would not unduly reduce the supply of timber from British Columbia’s forests, and
 - (c) the benefits to the public derived from the order would outweigh any
 - (i) material adverse impact of the order on the delivered wood costs of a holder of an agreement under the *Forest Act* that would be affected by the order, and
 - (ii) undue constraint on the ability of a holder of an agreement under the *Forest Act* or the *Range Act* that would be affected by the order to exercise the holder’s rights under the agreement.

- (2) An order under any of sections 5 to 15 does not apply in respect of
 - (a) any of the following entered into before the order takes effect:
 - (i) a cutting permit;
 - (ii) a road permit;
 - (iii) a timber sale licence that does not provide for cutting permits;
 - (iv) a forestry licence to cut issued by a timber sales manager under section 47.6 (3) of the *Forest Act*;
 - (v) subject to subsection (3), a minor tenure,
 - (b) a declared area,
 - (c) areas described in section 196 (1) of the Act, and
 - (d) areas referred to in section 110 of the Forest Planning and Practices Regulation.
- (3) A minister who makes an order under any of sections 5 to 15
 - (a) may specify in the order that it applies to a minor tenure entered into before the order, and
 - (b) may specify an effective date for the order that is later than both of the following dates:
 - (i) the date a notice of the order is posted on the website of that minister;
 - (ii) the date of publication of the notice in the Gazetteunder section 4.

Consultations and reviews

- 3 (1) Before a minister makes an order under any of sections 5 to 15, the minister must provide an opportunity for review and comment,
 - (a) in the case of an order under section 13 establishing a species category, to organizations that the minister considers representative of holders of agreements under the *Forest Act* or the *Range Act* that may be affected by the order, or
 - (b) in the case of any other order, to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order.
- (2) A minister before making an order under any of sections 5 to 12, 14 or 15 must consult holders referred to in section 2 (1) (c) on whom the order may have a material adverse effect.

Notice of an order under this regulation

- 4 (1) Notice must be given in accordance with this section of an order made under any of sections 5 to 15.
- (2) The notice required under subsection (1) is sufficiently given if the notice includes a copy of the order or contains particulars or a summary of the order and is
 - (a) posted on the website of the ministry of the minister who takes the action,
 - (b) published in the Gazette, and

- (c) made publicly available at the regional office of the forest region to which the order relates.
- (3) An order made under any under any of sections 5 to 15 takes effect on the later of
- (a) the effective date specified under section 2 (3) (b),
 - (b) the date notice is posted under subsection (2) (a) of this section, and
 - (c) the date notice is published under subsection (2) (b) of this section.

Resource features

- 5 (1) Subject to subsection (2), the minister responsible for the *Forest Act* by order may identify one or more of the following as resource features in relation to a specified area:
- (a) a surface or subsurface element of a karst system;
 - (b) a range development;
 - (c) Crown land used for research or experimental purposes;
 - (d) a permanent sample site used as a snow course by or on behalf of the federal or Provincial government for the purpose of measuring the water content of the snow pack on a given area;
 - (e) a cultural heritage resource that is the focus of a traditional use by an aboriginal people and that is not regulated by the *Heritage Conservation Act*;
 - (f) an interpretative forest site, recreation site or recreation trail;
 - (g) a trail or other recreation facility referred to in section 57 of the Act that is authorized by the minister or under another enactment;
 - (h) a recreation feature that the minister considers to be of significant recreational value.
- (2) The minister responsible for the *Forest Act* may make an order under subsection (1) if the minister is satisfied that the resource feature requires special management not otherwise provided for under this regulation or another enactment.
- (3) The identification of a resource feature under subsection (1)
- (a) may be by category or type, and may be restricted to a specified geographic location, and
 - (b) must be sufficiently specific to enable a person affected by it to identify the resource feature in the ordinary course of carrying out forest practices or range practices.
- (4) Despite subsections (1) to (3), if the minister responsible for the *Forest Act* reasonably believes that a resource feature may be subject to damage or disturbance if the location of the resource feature is disclosed, he or she
- (a) must not disclose the location of the feature in the order,
 - (b) must provide written notice of the location of the feature to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order, and
 - (c) may attach conditions to the order

- (i) prohibiting those holders from disclosing the location of the feature, or
 - (ii) restricting the extent to which, or the persons to whom, those holders may disclose the location of the feature.
- (5) A person to whom a condition referred to in subsection (4) (c) applies must comply with the condition.

Lakeshore management zones and objectives

- 6 (1) The minister responsible for the *Forest Act* by order may
- (a) establish as a lakeshore management zone an area adjacent to a lake with a riparian class of L1, and
 - (b) specify a width for the lakeshore management zone
- if satisfied that the forest resources within the area require special management that has not otherwise been provided for by this regulation or another enactment.
- (2) The minister responsible for the *Forest Act* by order may establish for a lakeshore management zone lakeshore management zone objectives that are consistent with subsection (1).

Scenic areas and visual quality objectives

- 7 (1) The minister responsible for the *Land Act* by order may establish an area as a scenic area if satisfied that the area
- (a) is visually important based on its physical characteristics and public use, and
 - (b) requires special management that has not otherwise been provided for by this regulation or another enactment.
- (2) The minister responsible for the *Forest Act* by order may establish for a scenic area visual quality objectives that are consistent with subsection (1) and are within the categories of altered forest landscape prescribed under section 1.1 of the Forest Planning and Practices Regulation.

Community watersheds and water quality objectives

- 8 (1) The minister responsible for the *Land Act* by order may designate as a community watershed all or part of the drainage area that is upslope of the lowest point from which water is diverted for human consumption by a licensed waterworks, if satisfied that, to protect the water that is diverted for human consumption, the area requires special management, that is not otherwise provided for under this regulation or another enactment,
- (a) to conserve the quality, quantity and timing of water flow, or
 - (b) to prevent cumulative hydrological effects that would have a material adverse effect on the water.
- (2) The minister responsible for the *Wildlife Act* by order may establish for a community watershed water quality objectives respecting a matter referred to in subsection (1).

General wildlife measures

- 9 (1) The minister responsible for the *Wildlife Act* by order may establish a general wildlife measure, to be applied to a specified area, for a category of species at risk, regionally important wildlife or specified ungulate species, if satisfied that
- (a) the measure is necessary to protect or conserve the species in the category in the area to which the measure relates, and
 - (b) this regulation or another enactment does not otherwise provide for that protection or conservation.
- (2) The minister responsible for the *Wildlife Act* by order may establish a general wildlife measure for a wildlife habitat area or an ungulate winter range if satisfied that
- (a) the measure is necessary to protect or conserve the wildlife habitat area or ungulate winter range, and
 - (b) this regulation or another enactment does not otherwise provide for that protection or conservation.

Wildlife habitat areas and objectives

- 10 (1) The minister responsible for the *Wildlife Act* by order may establish an area as a wildlife habitat area if satisfied that the area is necessary to meet the habitat requirements of a category of species at risk or regionally important wildlife.
- (2) The minister responsible for the *Wildlife Act* by order may establish a wildlife habitat area objective for a wildlife habitat area if satisfied that the wildlife habitat area requires special management that has not otherwise been provided for under this regulation or another enactment.
- (3) Despite subsections (1) and (2), if the minister responsible for the *Wildlife Act* reasonably believes that a wildlife habitat area is sensitive to damage or disturbance, he or she
- (a) must not disclose the location of the wildlife habitat area in the order,
 - (b) must provide written notice of the location of the wildlife habitat area to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order, and
 - (c) may attach conditions to the order
 - (i) prohibiting those holders from disclosing the location of the wildlife habitat area, or
 - (ii) restricting the extent to which, or the persons to whom, those holders may disclose the location of the wildlife habitat area.
- (4) A person to whom a condition referred to in subsection (3) (c) applies must comply with the condition.

Wildlife habitat features

- 11 (1) The minister responsible for the *Wildlife Act* by order may identify any or all of the following as a wildlife habitat feature:
- (a) a fisheries sensitive feature;

- (b) a marine sensitive feature;
- (c) a significant mineral lick or wallow;
- (d) a nest of
 - (i) a bald eagle,
 - (ii) an osprey,
 - (iii) a great blue heron, or
 - (iv) a category of species at risk that is limited to birds;
- (e) any other localized feature that the minister responsible for the *Wildlife Act* considers to be a wildlife habitat feature

if satisfied that the wildlife habitat feature requires special management that has not otherwise been provided for under this regulation or another enactment.

- (2) Identification of a wildlife habitat feature under subsection (1)
 - (a) may be by category or type, and may be restricted to a specified geographic location, and
 - (b) must be sufficiently specific to enable a person affected by it to identify the wildlife habitat feature in the ordinary course of carrying out forest practices or range practices.
- (3) Despite subsections (1) and (2), if the minister responsible for the *Wildlife Act* reasonably believes that a wildlife habitat feature is sensitive to damage or disturbance, he or she
 - (a) must not disclose the location of the feature in the order,
 - (b) must provide written notice of the location of the feature to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order, and
 - (c) may attach conditions to the order
 - (i) prohibiting those holders from disclosing the location of the feature, or
 - (ii) restricting the extent to which, or the persons to whom, those holders may disclose the location of the feature.
- (4) A person to whom a condition referred to in subsection (3) (c) applies must comply with the condition.

Ungulate winter ranges and objectives

- 12 (1) The minister responsible for the *Wildlife Act* by order may establish an area as an ungulate winter range if satisfied that
 - (a) the area contains habitat that is necessary to meet the winter habitat requirements for a category of specified ungulate species, and
 - (b) the habitat referred to in paragraph (a) requires special management that is not otherwise provided for under this regulation or another enactment.
- (2) The minister responsible for the *Wildlife Act* by order may establish an ungulate winter range objective for an ungulate winter range if satisfied that the ungulate

winter range requires special management that is not otherwise provided for under this regulation or another enactment.

Species at risk, regionally important wildlife and ungulate species

- 13 (1) The minister responsible for the *Wildlife Act* by order may establish one or more categories identifying species of wildlife as species at risk if satisfied that the species are endangered, threatened or vulnerable.
- (2) The minister responsible for the *Wildlife Act* by order may establish one or more categories identifying species of wildlife as regionally important wildlife if satisfied that the species
- (a) are important to a region of British Columbia,
 - (b) rely on habitat that requires special management that is not otherwise provided for in this regulation or another enactment, and
 - (c) may be adversely impacted by forest practices or range practices.
- (3) The minister responsible for the *Wildlife Act* by order may establish one or more categories identifying ungulate species for which an ungulate winter range is required if satisfied that the range is necessary for the winter survival of the identified species.

Fisheries sensitive watersheds and objectives

- 14 (1) The minister responsible for the *Wildlife Act* by order may identify as a fisheries sensitive watershed an area of land in a watershed that has significant downstream fisheries values and significant watershed sensitivity if satisfied that the area requires special management to protect fish, that is not otherwise provided for under this regulation or another enactment, by
- (a) conserving
 - (i) the natural hydrological conditions, natural stream bed dynamics and stream channel integrity, and
 - (ii) the quality, quantity and timing of water flow, or
 - (b) preventing cumulative hydrological effects that would have a material adverse effect on fish.
- (2) The minister responsible for the *Wildlife Act* by order may establish a fisheries sensitive watershed objective respecting a matter referred to in subsection (1).

Temperature sensitive streams

- 15 The minister responsible for the *Wildlife Act* by order may designate a portion of a fish stream as a temperature sensitive stream if satisfied that
- (a) trees are required adjacent to the stream to manage the temperature of the designated portion for the protection of fish, and
 - (b) management of the temperature of the designated portion is not otherwise provided for under this regulation or another enactment.

Transition

Community watershed continued

- 16** A community watershed is continued as a community watershed under this regulation if the community watershed was
- (a) established after January 31, 2004 under section 41 (8) to (13) of the *Forest Practices Code of British Columbia Act*, as it was immediately before its repeal, and
 - (b) in existence on the coming into force of this section.

Visual quality class continued

- 17** A visual quality class for a scenic area is continued under this regulation as a visual quality objective if
- (a) the visual quality class has been
 - (i) set out before October 24, 2002 in a letter from the district manager to the holder of an agreement under the *Forest Act*, or
 - (ii) included in the most recent tree farm licence visual landscape inventory prepared by the holder of a tree farm licence and approved by the regional manager, and
 - (b) in existence on the coming into force of this section.

Categories of landscape modification apply to continued visual quality objectives

- 18** The categories of altered forest landscape prescribed in section 1.1 of the Forest Planning and Practices Regulation apply to visual quality objectives continued under section 181 of the Act or under section 17 of this regulation.

Resource features continued

- 19** (1) A resource feature as defined in section 1 (2) of the Operational and Site Planning Regulation, B.C. Reg. 107/98, as that regulation was immediately before its repeal, is continued as a resource feature identified under section 5 of this regulation in relation to a specified area if information about the resource feature was
- (a) contained in a higher level plan that is applicable to the area and is still in effect, or
 - (b) made available, in accordance with paragraph (b) of the definition of "known" in section 1 (1) of the Operational and Site Planning Regulation, to one or more holders of
 - (i) agreements under the *Forest Act* or *Range Act*, or
 - (ii) agreements entered into under the *Forest Act* or *Range Act*, in replacement for agreements referred to in subparagraph (i), and
- in effect on the coming into force of this section.
- (2) A resource feature as defined in section 1 (1) of the Woodlot Licence Forest Management Regulation, B.C. Reg. 325/98, as that regulation was immediately before its repeal is continued as a resource feature identified under section 5 of

this regulation in relation to a specified area if information about the resource feature was

- (a) contained in a higher level plan that is applicable to the area and is in effect on the coming into force of this section, or
- (b) made available, in accordance with paragraph (b) of the definition of “known” in section 1 (1) of the Woodlot Licence Forest Management Regulation, to one or more holders of
 - (i) woodlot licences under the *Forest Act*, or
 - (ii) woodlot licences entered into under the *Forest Act* in replacement for licences referred to in subparagraph (i), andin effect on the coming into force of this section.

Orders apply to Code and Code regulations

- 20** An order under any of sections 5 to 15 in relation to an area specified in the order applies in respect of the holder of an agreement under the *Forest Act* or *Range Act* who, under Part 11 of the *Forest and Range Practices Act*, must comply with the requirements of the Code and Code regulations that pertain to the area.