

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

94

, Approved and Ordered

FEB 11 2005




~~Lieutenant Governor~~
Administrator

Executive Council Chambers, Victoria

~~Administrator~~

On the recommendation of the undersigned, the ~~Lieutenant Governor~~, by and with the advice and consent of the Executive Council, orders that, effective March 31, 2005,

- (a) the *Wildfire Act*, S. B. C. 2004, c. 31, is brought into force,
- (b) the attached Wildfire Regulation is made,
- (c) the Forest Fire Prevention and Suppression Regulation, B.C. Reg. 169/95, is repealed, and
- (d) the repeal of the following provisions of the *Forest Practices Code of British Columbia Act* is brought into force: the preamble; the definition of "designated forest official" in section 1 (1); and sections 143.1, 159 and 171.



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:-

Wildfire Act, S.B.C. 2004, c. 31, Part 7, s. 104

Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, s. 198

Forest Statutes Amendment Act, 2004, S.B.C. 2004, c. 36, s. 146

Other (specify):-

oic 436/95

WILDFIRE REGULATION

Contents

PART 1 – INTERPRETATION

- 1 Definitions
- 2 *Workers Compensation Act*
- 3 Application

PART 2 – FIRE PREVENTION

Division 1 – Precautions

- 4 Requirement to provide contact details
- 5 Sufficient fire-fighting tools for an industrial activity
- 6 High risk activities
- 7 Precautions to prevent escape of fire
- 8 Engines
- 9 Railway operations
- 10 Utility transmission operations

Division 2 – Fire Hazard Assessment and Abatement

- 11 Hazard assessment
- 12 Hazard abatement

PART 3 – FIRE CONTROL

- 13 Resources required for fire control activities
- 14 Rates of compensation
- 15 Compensation
- 16 Rehabilitation if a person carries out fire control
- 17 Rehabilitation if government carries out fire control

PART 4 – PERMISSIBLE OPEN FIRES

- 18 Right of government to use fire
- 19 Open fires in outdoor stoves
- 20 Category 1 open fire
- 21 Category 2 open fire
- 22 Category 3 open fire
- 23 Resource management open fire
- 24 Burn registration number

PART 5 – EXEMPTIONS

- 25 Exemptions from certain regulations
- 26 Exemptions from certain provisions of the Act
- 27 Process respecting exemptions

PART 6 – COST RECOVERY AND REMEDIES

Division 1 – Determinations

- 28 Definitions
- 29 Circumstances for not seeking cost recovery
- 30 Determination of damages

- 31 Determination of government fire control costs
- 32 Prescribed categories of leases

Division 2 – Administrative Penalties and Offences

- 33 Administrative penalties
- 34 Offences

SCHEDULE 1 – DANGER REGIONS

SCHEDULE 2 – FIRE DANGER CLASS

SCHEDULE 3 – RESTRICTIONS ON HIGH RISK ACTIVITIES

SCHEDULE 4 – RATES OF COMPENSATION

PART 1 – INTERPRETATION

Definitions

- 1** (1) In this regulation:

“**Act**” means the *Wildfire Act*;

“**Buildup Index**” has the same meaning as under the Canadian Forest Service’s publication, the Canadian Forest Fire Weather Index System, as amended from time to time;

“**category 1 open fire**” means an open fire that burns piled material no larger than 1 m in height and 1 m in diameter and includes a campfire that burns such material;

“**category 2 open fire**” means an open fire that

- (a) burns material in one pile not exceeding 2 m in height and 3 m in width,
- (b) burns material concurrently in 2 piles each not exceeding 2 m in height and 3 m in width, or
- (c) burns stubble or grass over an area that does not exceed 0.2 ha;

“**category 3 open fire**” means an open fire that burns

- (a) material concurrently in 3 or more piles each not exceeding 2 m in height and 3 m in width,
- (b) material in one or more piles each exceeding 2 m in height or 3 m in width,
- (c) one or more windrows, or
- (d) stubble over an area exceeding 0.2 ha;

“**direct fire control cost**” means a cost of the government for fire control activities that is recoverable under section 25 (1) (a) or 27 (1) (b) of the Act;

“**engine**” means an internal combustion engine but does not include

- (a) an engine on or in a water craft that is in the water,
- (b) an engine in or on a vehicle primarily used for the transportation of people, or
- (c) an engine in an aircraft;

“**Fire Danger Class**” means the Fire Danger Class as determined under section 6 (2);

“fire suppression system” means a system that is used for the purpose of suppressing a fire and is appropriate for the type of fire, including

- (a) a water delivery system,
- (b) a suppressant or surfactant delivery system, or
- (c) a fire extinguisher;

“Fire Weather Index” has the same meaning as under the Canadian Forest Service’s publication, the Canadian Forest Fire Weather Index System, as amended from time to time;

“fuel break” means

- (a) a barrier or a change in fuel type or condition, or
- (b) a strip of land that has been modified or cleared to prevent fire spread;

“fuel hazard” means the potential fire behaviour, without regard to the state of weather or topography, based on the physical fuel characteristics, including fuel arrangement, fuel load, condition of herbaceous vegetation and the presence of ladder fuel;

“harvest” has the same meaning as under section 1 (1) of the Forest Planning and Practices Regulation B.C. Reg.14/2004;

“heavy equipment” means crawler tractors, skidders, excavators or other suitable mechanized fire-fighting equipment;

“high risk activity” means each of the following:

- (a) mechanical brushing;
- (b) disk trenching;
- (c) preparation or use of explosives;
- (d) using fire- or spark-producing tools, including cutting tools;
- (e) using or preparing fireworks or pyrotechnics;
- (f) grinding, including rail grinding;
- (g) mechanical land clearing;
- (h) log forwarding;
- (i) skidding logs;
- (j) yarding logs using cable, helicopter and lighter than air vehicle systems;
- (k) using a vehicle with metal tracks, chains or studs;
- (l) operating a power saw;
- (m) clearing or maintaining right of ways, including grass mowing;
- (n) rock drilling;
- (o) tree processing, including de-limbing;
- (p) welding;
- (q) portable wood chipping, milling, processing or manufacturing;

“mining operation” means the operation and maintenance of a mine and includes any land clearing or construction of a mine;

“protected area” means

- (a) a
 - (i) park, or
 - (ii) recreation areaas defined in section 1 of the *Park Act*,
- (b) an area established under the *Environment and Land Use Act* as a park or protected area, or
- (c) an area established or continued as an ecological reserve under the *Ecological Reserve Act* or by the *Protected Areas of British Columbia Act*;

“railway operation” means

- (a) the operation and maintenance of the engines, locomotives and rolling stock of a railway, and
- (b) the repair, construction, reconstruction and maintenance of the railway track and the railway right of way;

“resource management open fire” means an open fire that

- (a) burns stubble or grass over an area that exceeds 5 ha,
- (b) burns unpiled slash over an area of any size, or
- (c) is not a category 1, 2, or 3 open fire and is lit, fuelled or used for silviculture treatment, forest health management, wildlife habitat enhancement, fire hazard abatement, ecological restoration or range improvement;

“sufficient fire fighting tools” means hand tools in a combination and type and of an appropriate number to properly equip all persons taking fire control action, including but not limited to shovels, axes, pulaskis, hand tank pumps, and fire extinguishers;

“utility transmission operation” means the operation, transmission, construction, establishment, maintenance and repair of electrical, oil, gas, radio, microwave, and telephone service;

“water delivery system” means a system that can

- (a) deliver a sufficient volume of water to effectively fight a fire of a reasonably foreseeable size, taking all factors into consideration, including the conditions of any area where the water delivery system may need to be used, and
- (b) deliver water to any place
 - (i) at the site of an industrial activity,
 - (ii) on the burn area or site of the high risk activity, or
 - (iii) reasonably adjacent to the burn area or the site of a high risk activity.

(2) In the Act:

“fire control” means an action to contain, extinguish or limit the spread of a fire;

“open fire” does not include a fire vented through a structure that has a flue and is incorporated in a building;

“site of an industrial activity” means the area on which, or within 500 m of which, a person is carrying out an industrial activity.

- (3) Each of the following activities is included in the definition of “industrial activity” in section 1 of the Act:
- (a) debris piling;
 - (b) mechanical modification of forest debris;
 - (c) railway operations;
 - (d) utility transmission operations;
 - (e) mining operations;
 - (f) silviculture treatments as defined under section 1 (1) of the Forest Planning and Practices Regulation B.C. Reg.14/2004;
 - (g) wood milling, processing and manufacturing;
 - (h) timber harvesting;
 - (i) road construction, maintenance and deactivation.
- (4) A lawful recreational activity of a person is excluded from the definition of “industrial activity” if it takes place in a protected area.

Workers Compensation Act

- 2** A person is exempt from the requirements of the Act and this regulation as necessary to conform to the *Workers Compensation Act* and the regulations under that Act.

Application

- 3** (1) This regulation, other than sections 1 and 2, 14 and 15 and Part 6, does not apply inside the boundaries of the City of Vancouver or of a municipality.
- (2) Part 5 and section 13 of this regulation do not apply inside the boundaries of a local government that
- (a) is a local government under paragraphs (c) to (f) of the definition of “local government” in section 1 of the Act, and
 - (b) has a bylaw that relates to the lighting, fueling or use of open fires.
- (3) Part 2 of this regulation does not apply inside the boundaries of a local government that
- (a) is a local government under paragraphs (c) to (f) of the definition of “local government” in section 1 of the Act, and
 - (b) has a bylaw that relates to fire prevention and forest protection.

PART 2 – FIRE PREVENTION

Division 1 – Precautions

Requirement to provide contact details

- 4** Before April 1 of each year, a person who, under the *Forest Act*, is the holder of
- (a) a major forest licence,

- (b) a timber sale licence that is not a major licence,
- (c) a community forest agreement, or
- (d) a woodlot licence

must provide an official with a 24 hour a day contact telephone number if the person proposes to carry out an industrial activity between April 1 and October 31 of that year.

Sufficient fire-fighting tools for an industrial activity

- 5** At all times while there is a risk of a fire starting and spreading on an area that is forest land or grass land or is within 300 m of forest land or grass land, a person who carries out an industrial activity at a site in that area must ensure that sufficient fire fighting tools are available at that site.

High risk activities

- 6** (1) A person carrying out a high risk activity on or within 300 m of forest land or grass land must determine the Fire Danger Class for the location of the activity
- (a) by using representative weather data for the area,
 - (b) by reference to
 - (i) the Danger Region from Schedule 1,
 - (ii) the applicable numerical rating under the Buildup Index, and
 - (iii) the applicable numerical rating under the Fire Weather Index, and
 - (c) by cross-referencing the Buildup Index with the Fire Weather Index, for their Danger Region, under Schedule 2.
- (2) A person carrying out a high risk activity on or within 300 m of forest land or grass land must
- (a) do so in accordance with the applicable restriction and duration set out in Schedule 3 for the Fire Danger Class, and,
 - (b) if there is a risk of a fire starting and spreading, keep at the activity site sufficient fire fighting tools and an adequate fire suppression system.
- (3) A person who, in accordance with subsection (2) (a) and Schedule 3, is required to maintain a fire watcher, must ensure that the fire watcher
- (a) can reasonably see the site of the high risk activity during the time the fire watcher is required,
 - (b) has sufficient fire fighting tools to carry out fire control,
 - (c) actively watches and patrols for sparks and fires on the site of the high risk activity,
 - (d) immediately carries out fire control and extinguishes the fire, if practicable, and
 - (e) has the means on site to report the fire.

Precautions to prevent escape of fire

- 7** A person

- (a) carrying out an industrial activity that is refuse disposal, wood sorting, wood milling, wood processing or wood manufacturing, or
- (b) operating a camp associated with that activity or any other industrial activity

on a site that is on or within 300 m of forest land or grass land must maintain a sufficient fuel break at or near the site to ensure that a fire originating at the site does not escape the site.

Engines

- 8** A person carrying out an industrial activity or high risk activity
- (a) on forest land or grass land or within 300 m of forest land or grass land, and
 - (b) at a time when there is a risk of a fire starting and spreading,
- must not operate an engine on that forest land or grass land unless
- (c) the necessary precautions are taken to ensure that the operation of the engine does not cause a fire,
 - (d) the engine is equipped with a safe and effective device for arresting sparks that is an integral part of the exhaust system and in good repair,
 - (e) the engine is equipped with an exhaust system and muffler that are within the manufacturer's specifications, and
 - (f) if the engine is over 7.5 kw (10 hp) and is stationary or semi-permanent, the engine is surrounded by a fuel break.

Railway operations

- 9** A person carrying out an industrial activity that is a railway operation, on or within 300 m of forest land or grass land, must
- (a) maintain locomotives and engines, equipment and rolling stock in a manner that does not produce an ignition source capable of starting a fire on or adjacent to the railway operation,
 - (b) maintain the railway right of way so that it is substantially free from dead or dry grass, weeds and other combustible materials,
 - (c) having regard to the Fire Danger Class, ensure that there are sufficient patrols of the railway right of way to provide for early and effective detection and suppression of fires on and adjacent to the right of way, and
 - (d) on or before April 1st of each year, provide to an official an annual schedule identifying the locations, dates and times of proposed rail grinding work.

Utility transmission operations

- 10** A person carrying out an industrial activity that is a utility transmission operation, on or within 300 m of forest land or grass land, must
- (a) maintain utility transmission equipment, apparatus and materials in a manner that reduces the likelihood of producing an ignition source capable of starting a fire on or adjacent to the site of the utility transmission operation, and

- (b) maintain the site in a manner that prevents any fire from spreading from the site.

Division 2 – Fire Hazard Assessment and Abatement

Hazard assessment

- 11** (1) For the purposes of section 7 of the Act,
- (a) each of the following is a prescribed activity under subsections (1) and (2) of that section:
 - (i) operating a waste disposal site;
 - (ii) operating a dry land sort;
 - (iii) operating a camp associated with an industrial activity, and
 - (b) each of the following is a prescribed circumstance under subsection (1) of that section:
 - (i) a fire hazard exists;
 - (ii) a person is carrying out an industrial activity;
 - (iii) a person is operating
 - (A) a waste disposal site,
 - (B) a dry land sort, or
 - (C) a camp associated with timber harvesting or mining;
 - (iv) an official notifies a person referred to in subparagraph (ii) or (iii) that a fire hazard exists at the site of the activity or operation.
- (2) The prescribed intervals, at which persons described in section 7 (1) of the Act must conduct fire hazard assessments, are
- (a) 3 month intervals during the period in which the persons are carrying on the industrial activity or the prescribed activity in an area inside, or within 2 km of, the boundaries of
 - (i) a local government under paragraphs (d) to (f) of the definition of “local government” in section 1 of the Act, or
 - (ii) a fire protection district in a regional district, and
 - (b) the shorter interval between the most recent 3 month interval and the date on which the activity ceases for an expected period of 3 months or more.
- (3) The prescribed intervals, at which persons described in section 7 (1) of the Act must conduct fire hazard assessments, are
- (a) 6 month intervals during the period during which the persons, in any area other than the area described in subsection (2), are carrying on the industrial activity or the prescribed activity, and
 - (b) the shorter interval between the most recent 6 month interval and the date on which the activity ceases for an expected period of 6 months or more.
- (4) A person required to conduct a fire hazard assessment under section 7 (1) of the Act must

- (a) ensure that the fire hazard assessment includes an assessment of the fuel hazard and its associated risk of a fire starting or spreading, and
- (b) provide a copy of the fire hazard assessment when requested to do so by an official.

Hazard abatement

- 12** (1) The following periods are prescribed as the periods in which persons described in section 7 (2) of the Act must abate fire hazards of which the persons are aware:
- (a) for an area described in section 11 (3) of this regulation, each of the 6 month periods beginning on the dates on which the persons are required under section 7 (1) of the Act to conduct fire hazard assessments;
 - (b) for an area other than an area described in section 11 (3) of this regulation, each of the 12 month periods beginning on the dates on which the persons are required under section 7 (1) of the Act to conduct fire hazard assessments.
- (2) A person required to abate a fire hazard under section 7 (2) of the Act must reduce the fuel hazard on the site of the industrial activity or prescribed activity as necessary to ensure that carrying out the activity
- (a) does not increase the risk of a fire starting on the site, and
 - (b) if a fire were to start, would not increase the fire behaviour or fire suppression associated with the fire.

PART 3 – FIRE CONTROL

Resources required for fire control activities

- 13** (1) A person who carries out fire control under section 6 (3) (a) of the Act must make the following available to fight the fire:
- (a) if on Crown land, all of the person's
 - (i) employees, contractors or agents who are working within 30 km of the site of the industrial activity, and
 - (ii) heavy equipment located within 30 km of the site of the industrial activity;
 - (b) if on land other than Crown land,
 - (i) all of the person's employees, contractors or agents who are working on the land, and
 - (ii) all of the person's heavy equipment located on the land;
 - (c) sufficient fire fighting tools.
- (2) A person carrying out an industrial activity is exempt from section 6 (3) of the Act in respect of a fire that starts at or within 1 km of the site of the industrial activity if the site is
- (a) in a protected area, or
 - (b) private land that is not owned by the person or another who acts on the person's behalf or under the person's direction.

Rates of compensation

- 14** (1) The amount of the compensation that the government must pay under section 17 of the Act to a person described in that section is,
- (a) for wages,
 - (i) at the rates as set out in Schedule 4 of this regulation, or
 - (ii) in the absence of rates as described in subparagraph (i), reasonable rates to be approved by the minister, and
 - (b) for use of equipment,
 - (i) at the rates, if any, for that type of equipment that are set out in the Equipment Rental Rate Guide authorized by the government, as amended or reissued from time to time, or
 - (ii) in the absence of rates as described in subparagraph (i), reasonable rates to be approved by the minister.
- (2) If the government exercises its discretion under section 17 (2) of the Act to pay compensation to a person for the expenses described in that provision, the amount of the compensation is,
- (a) for wages,
 - (i) at the rates as set out in Schedule 4 of this regulation, or
 - (ii) in the absence of rates as described in subparagraph (i), reasonable rates to be approved by the minister, and
 - (b) for use of equipment,
 - (i) at the rates for the same or similar equipment as set out in the Equipment Rental Rate Guide authorized by the government, as amended or reissued from time to time, or as agreed to in negotiated contracts, or published tariff rates, or
 - (ii) subject to subparagraph (i), the rates approved by the minister.

Compensation

- 15** (1) In sections 9 (4) and (5) of the Act, “**damage caused to the private land**” means damage that is caused to private land as established by proof of loss by the owner or the tenant but does not include damage associated with
- (a) indirect or consequential damage to property,
 - (b) reforestation costs,
 - (c) lost opportunities,
 - (d) aesthetics, or
 - (e) foreseeable losses.
- (2) For the purpose of section 9 (5) of the Act, the prescribed circumstances are that
- (a) if the fire was on the private land, the damage was avoidable damage caused by fire control carried out by the government, or
 - (b) if the fire was not on the private land, the damage was caused by fire control carried out by the government.

Rehabilitation if a person carries out fire control

- 16** For the purposes of section 6 (3) (d) of the Act, on Crown land the prescribed requirements are that the person carrying out the industrial activity, as soon as practicable, must
- (a) conduct a fire hazard assessment, ensuring that the fire hazard assessment includes an assessment of the fuel hazard and its associated risk of a fire starting or spreading,
 - (b) prepare and submit to an official for approval a site rehabilitation plan that specifies measures for
 - (i) minimizing any fuel hazard created as a result of fire control operations, and
 - (ii) maintaining natural drainage patterns for all of the fire control works to minimize surface soil erosion by
 - (A) stabilizing and re-vegetating soil disturbed or exposed by heavy equipment,
 - (B) stabilizing the stream channel and stream bed at stream crossings, and
 - (C) stabilizing sump and dam locations that were created for the purpose of carrying out fire control, and
 - (c) implement the measures specified in the approved site rehabilitation plan.

Rehabilitation if government carries out fire control

- 17** For the purposes of section 9 (6) of the Act, the prescribed requirements, applicable if the government exercises the discretion under that subsection to rehabilitate land, are that, as soon as practicable,
- (a) a fuel hazard assessment must be carried out,
 - (b) a site rehabilitation plan must be prepared that specifies measures for
 - (i) minimizing any fuel hazard created as a result of fire control operations, and
 - (ii) maintaining natural drainage patterns for all of the fire control works to minimize surface soil erosion by
 - (A) stabilizing and re-vegetating soil disturbed or exposed by heavy equipment,
 - (B) stabilizing the stream channel and stream bed at stream crossings, and
 - (C) stabilizing sump and dam locations that were created for the purpose of carrying out fire control, and
 - (c) the measures specified in the site rehabilitation plan must be implemented.

PART 4 – PERMISSIBLE OPEN FIRES

Right of government to use fire

- 18** This Part does not apply to or in respect of a fire to which section 18 of the Act applies.

Open fires in outdoor stoves

- 19** (1) The circumstances in which a person described in section 5 (1) or 6 (1) of the Act may light, fuel or use an open fire that is in an outdoor stove, and is in or within 1 km of forest land or grass land, are as follows:
- (a) the person is not prohibited from doing so under another enactment;
 - (b) to do so is safe and is likely to continue to be safe;
 - (c) the person takes reasonable precautions to ensure the fire is contained in the stove;
 - (d) before leaving the area, the person ensures that the fire is extinguished.
- (2) Without limiting subsection (1), a person who lights, fuels or uses an open fire referred to in that subsection must ensure that the fire does not escape.
- (3) If an open fire referred to in subsection (1) becomes out of control, the person who lit, fueled or used the open fire
- (a) immediately must carry out fire control and extinguish the open fire if practicable, and
 - (b) as soon as practicable must report the open fire as described in section 2 of the Act.
- (4) A person to whom subsection (3) applies may discontinue carrying out fire control if relieved from doing so by an official.

Category 1 open fire

- 20** (1) The circumstances in which a person described in section 5 (1) or 6 (1) of the Act may light, fuel or use a category 1 open fire in or within 1 km of forest land or grass land are as follows:
- (a) the person is not prohibited from doing so under another enactment;
 - (b) to do so is safe and is likely to continue to be safe;
 - (c) the person takes reasonable precautions to ensure the fire is contained in the burn area;
 - (d) while the fire is burning the person ensures that the fire is watched and patrolled by a person to prevent the escape of fire and the person is equipped with sufficient fire fighting tools;
 - (e) before leaving the area, the person ensures that the fire is extinguished.
- (2) Without limiting subsection (1), a person who lights, fuels or uses a category 1 open fire must ensure that the fire does not escape.
- (3) If a category 1 open fire spreads beyond the burn area or otherwise becomes out of control, the person who lit, fueled or used the open fire
- (a) immediately must carry out fire control and extinguish the fire if practicable, and
 - (b) as soon as practicable must report the open fire as described in section 2 of the Act.
- (4) A person to whom subsection (3) applies may discontinue carrying out fire control if relieved from doing so by an official.

Category 2 open fire

- 21** (1) The circumstances in which a person described in section 5 (1) or 6 (1) of the Act may light, fuel or use a category 2 open fire in or within 1 km of forest land or grass land are as follows:
- (a) the person is not prohibited from doing so under another enactment;
 - (b) to do so is safe and is likely to continue to be safe;
 - (c) the person establishes a fuel break around the burn area;
 - (d) while the fire is burning and there is a risk of the fire escaping the person ensures that
 - (i) the fuel break is maintained,
 - (ii) a fire suppression system is available at the burn area, of a type and with a capacity adequate for fire control if the fire escapes,
 - (iii) the fire is watched and patrolled by a person to prevent the escape of fire and the person is equipped with sufficient fire fighting tools, and
 - (iv) the fire does not exceed the capacity of the persons, fire fighting tools and heavy equipment on site to take timely action to prevent any fire from escaping;
 - (e) before leaving the burn area, the person ensures that the fire is extinguished.
- (2) Without limiting subsection (1), a person who lights, fuels or uses a category 2 open fire must ensure that the fire does not escape.
- (3) If a category 2 fire spreads beyond the burn area or otherwise becomes out of control, the person who lit, fueled or used the open fire
- (a) immediately must carry out fire control and extinguish the fire if practicable, and
 - (b) as soon as practicable, must report the open fire as described in section 2 of the Act.
- (4) A person to whom subsection (3) applies may discontinue carrying out fire control if relieved from doing so by an official.

Category 3 open fire

- 22** (1) The circumstances in which a person described in section 5 (1) or 6 (1) of the Act may light, fuel or use a category 3 open fire in or within 1 km of forest land or grass land are as follows:
- (a) the person is not prohibited from doing so under another enactment;
 - (b) to do so is safe and is likely to continue to be safe;
 - (c) the person obtains a burn registration number for the fire
 - (i) by
 - (A) calling the telephone number made known by the government for that purpose, or
 - (B) contacting an official by other means, and
 - (ii) by providing the information referred to in section 24 of this regulation;

- (d) the person takes all necessary precautions to ensure the fire is contained in the burn area;
 - (e) the person establishes a fuel break around
 - (i) the burn area, or
 - (ii) each debris pile or windrow;
 - (f) while the fire is burning and there is a risk of the fire escaping the person ensures that
 - (i) the fuel break is maintained,
 - (ii) a fire suppression system is available at the burn area, of a type and with a capacity adequate for fire control if the fire escapes, and
 - (iii) the fire is watched and patrolled by a person to prevent the escape of fire and the person is equipped with sufficient fire fighting tools.
- (2) A person who lights, fuels or uses a category 3 open fire on a burn area must ensure that
- (a) no windrow on the burn area exceeds 200 m in length or 15 m in width, and
 - (b) the category 3 open fire is extinguished by the date specified by the official or person who issued the burn registration number.
- (3) Without limiting subsection (1) or (2), a person who lights, fuels or uses a category 3 open fire must ensure that the fire does not escape.
- (4) If a category 3 open fire spreads beyond the burn area or otherwise becomes out of control, the person who lit, fueled or used the open fire
- (a) immediately must carry out fire control and extinguish the fire if practicable, and
 - (b) as soon as practicable must report the open fire as described in section 2 of the Act.
- (5) A person to whom subsection (4) applies may discontinue carrying out fire control if relieved from doing so by an official.

Resource management open fire

- 23** (1) The circumstances in which a person described in section 5 (1) or 6 (1) of the Act may light, fuel or use a resource management open fire in or within 1 km of forest land or grass land are as follows:
- (a) the person is not prohibited from doing so under another enactment;
 - (b) to do so is safe and is likely to continue to be safe;
 - (c) the person submits a burn plan to an official and receives the official's approval to it in writing;
 - (d) the person obtains a burn registration number for the fire
 - (i) by
 - (A) calling the telephone number made known by the government for that purpose, or
 - (B) contacting an official by other means, and
 - (ii) by providing the information referred to in section 24;

- (e) the person takes all necessary precautions to ensure the fire is contained in the burn area.
- (2) A person who lights, fuels or uses a resource management open fire on a burn area must ensure that the fire is extinguished by the date specified by the official or person who issued the burn registration number.
- (3) Without limiting subsection (1) or (2), a person who lights, fuels or uses a resource management open fire must
 - (a) do so in accordance with the applicable approved burn plan, and
 - (b) ensure that the fire does not escape.
- (4) If a resource management open fire spreads beyond the burn area or otherwise becomes out of control, the person who lit, fueled or used the fire
 - (a) immediately must carry out fire control and extinguish the fire if practicable, and
 - (b) as soon as practicable must report the fire as described in section 2 of the Act.
- (5) A person to whom subsection (4) applies may discontinue carrying out fire control if relieved from doing so by an official.

Burn registration number

- 24** (1) The following is the information to be provided under section 22 (1) (c) (ii) and 23 (1) (d) (ii):
- (a) the name, address and telephone or facsimile number, or other means of immediate contact, of the person who proposes to light, fuel or use the open fire;
 - (b) the whereabouts of, and a legal description of, the parcel of land that contains the proposed burn area;
 - (c) the category of the proposed open fire;
 - (d) other information relating to the proposed open fire that the official or the person answering the telephone number requires.
- (2) A person answering the burn registration telephone number or an official who receives an application from a person in accordance with subsection (1) may
- (a) assign a burn registration number to the person unless the proposed open fire has been prohibited or restricted under section 10 of the Act, and
 - (b) specify a date on or before which the open fire must be extinguished.
- (3) A person who has been assigned a burn registration number must provide it to an official immediately on request.

PART 5 – EXEMPTIONS

Exemptions from certain regulations

- 25** (1) An official may exercise the discretion granted under section 72 (3) of the Act to exempt a person, subject to conditions or alternative requirements the official may specify, from all or part of
- (a) Parts 2 and 4 of this regulation, or
 - (b) section 13 of this regulation
- only if satisfied that the exemption is necessary because the provision that will be the subject of the exemption is not practicable, given the circumstances or conditions applicable to a particular area.
- (2) A person exempted under this section by an exemption made subject to conditions must comply with the conditions.

Exemptions from certain provisions of the Act

- 26** (1) An official is authorized to exempt a person from section 5, 6 or 7 of the Act if satisfied that the exemption is necessary because the provision that will be the subject of the exemption is not practicable, given the circumstances or conditions applicable to a particular area.
- (2) In making an exemption under this section the official may make the exemption subject to conditions.
- (3) A person exempted under this section by an exemption made subject to conditions must comply with the conditions.

Process respecting exemptions

- 27** An exemption referred to in section 25 or 26 must
- (a) be in writing,
 - (b) specify the matter to which it relates,
 - (c) specify when the exemption comes into effect, and
 - (d) be delivered to the person to whom the exemption applies.

PART 6 – COST RECOVERY AND REMEDIES

Division 1 – Determinations

Definitions

- 28** In section 29:
- “cost sharing agreement”** means an agreement between the government and a person in which
- (a) the person agrees to pay to the government an amount of money, and
 - (b) the government agrees to either reduce or eliminate the costs it incurs in carrying out fire control in respect of a fire that is the responsibility of the person;

“service agreement” means an agreement between the government and a person in which

- (a) the person agrees to pay to the government an amount of money, and
- (b) subject to section 8 of the Act, the government agrees to
 - (i) carry out fire control services in respect of a fire that is the responsibility of the person, and
 - (ii) either reduce or not recover the government’s costs determined under section 25 (1) (a) or 27 (1) (b) of the Act incurred in carrying out fire control for a fire that is the responsibility of the person.

Circumstances for not seeking cost recovery

29 The circumstances in which the minister, under section 25 (2) or 27 (1) (b) of the Act may not by order require a person to pay to the government the government’s fire control costs determined under section 25 (1) (a) or 27 (1) (b) of the Act are

- (a) before the government has carried out fire control for the fire that gives rise to the government’s costs,
 - (i) the person has entered into a cost sharing agreement or a service agreement with the government, and
 - (ii) the agreement is in effect at the time of the fire, or
- (b) the fire that gives rise to the government’s costs results from timber harvesting carried out by a person who
 - (i) is the holder of an agreement or licence under the *Forest Act*, and
 - (ii) as of the date of the fire the annual rent payable for the agreement or licence by the person under the Annual Rent Regulation, B.C. Reg. 122/2003, is not in arrears.

Determination of damages

30 For the purposes of section 25 (1) (b) and 27 (1) (c) of the Act, the manner in which the dollar value of

- (a) Crown timber, if it is mature timber, is to be calculated is by ascertaining the amount of stumpage applicable to that timber under the *Forest Act* and assigning that amount as the dollar value for that timber,
- (b) Crown timber, if it is not mature timber, is to be calculated is by determining
 - (i) whether timber when damaged or destroyed was in
 - (A) the Coast forest region or the Kalum forest district, or
 - (B) elsewhere in British Columbia,
 - (ii) the average age of the timber when damaged or destroyed,
 - (iii) the area over which the damage and destruction occurred,
 - (iv) the extent of the damage and destruction, and
 - (v) either of
 - (A) the species composition of the stand of the timber when the fire occurred, or

- (B) the biogeoclimatic zone, subzone and variant of the area over which the damage and destruction occurred
- and assigning the amount that the minister considers reasonable as the dollar value of the timber after taking into account the matters set out in subparagraphs (i) to (v),
- (c) other forest land resources is to be calculated is by multiplying the number of hectares of other forest land resources damaged or destroyed,
 - (i) if in a protected area or an area that is the subject of an order under section 7, 8, 10, 12, 14 or 15 of the Government Actions Regulation, by \$5 000, or
 - (ii) if in any other area, by \$1 000
 and then assigning the product obtained as the dollar value for those other forest land resources,
 - (d) grass land resources is to be calculated is by multiplying by \$500 the number of hectares of grass land damaged or destroyed and then assigning the product obtained as the dollar value for those grass land resources, and
 - (e) other property is to be calculated is by ascertaining the amount of the replacement value of that property and then assigning that amount as the dollar value for that property.

Determination of government fire control costs

- 31** (1) For the purposes of section 25 (1) (a) and 27 (1) (b) of the Act, the manner in which the amount of the government's fire control costs in respect of a particular fire is to be calculated is
- (a) by ascertaining the sum of the following costs, expenditures and charges that are attributable to the fire:
 - (i) hourly wages and overtime wages of responding employees, including payroll loading costs;
 - (ii) distance charges for use of government and private vehicles;
 - (iii) food, transportation and accommodation expenditures;
 - (iv) costs for expendable supplies and materials consumed;
 - (v) air tanker fuel costs and flight costs;
 - (vi) helicopter fuel costs and flight costs;
 - (vii) aircraft basing charges (preparedness) for contracted aircraft;
 - (viii) retardant and other suppressant costs;
 - (ix) rent on use of equipment;
 - (x) replacement, repair or cleaning of damaged or used vehicles or equipment, directly resulting from the fire control;
 - (xi) private goods and services contracted, hired, rented or purchased;
 - (xii) investigation, research and analysis services related to
 - (A) post-incident evaluation,
 - (B) contingency plan reviews, and
 - (C) other incident follow-up activities;

- (xiii) consulting and other professional charges;
 - (ix) rehabilitation and/or slope stabilization costs, and
- (b) by adding to the sum ascertained under paragraph (a) for overhead an amount equal to the greater of
 - (i) \$200, and
 - (ii) 20% of the amount determined under paragraph (a)
 to arrive at the total dollar amount of the government's fire control costs for the fire.
- (2) The rates to be charged for the purposes of subsection (1) (a) are
 - (a) for wages,
 - (i) the rates, if any, that
 - (A) are applicable and in effect in the part of British Columbia in which the particular fire occurs, and
 - (B) have been established as terms and conditions of employment by collective agreement or by another method, or
 - (ii) in the absence of rates as described in subparagraph (i), the rates set out in Schedule 4, and
 - (b) for use of equipment,
 - (i) the rates, if any, for that type of equipment that are set out in the Equipment Rental Rate Guide authorized by the government, as amended or reissued from time to time, or
 - (ii) in the absence of rates as described in subparagraph (i), reasonable rates to be approved by the minister.

Prescribed categories of leases

- 32** Leases from the government under the *Land Act* of Crown land for purposes other than for grazing, aquaculture, float homes or private moorage are the prescribed categories of leases for the purposes of section 25 (2) (a) of the Act.

Division 2 – Administrative Penalties and Offences

Administrative penalties

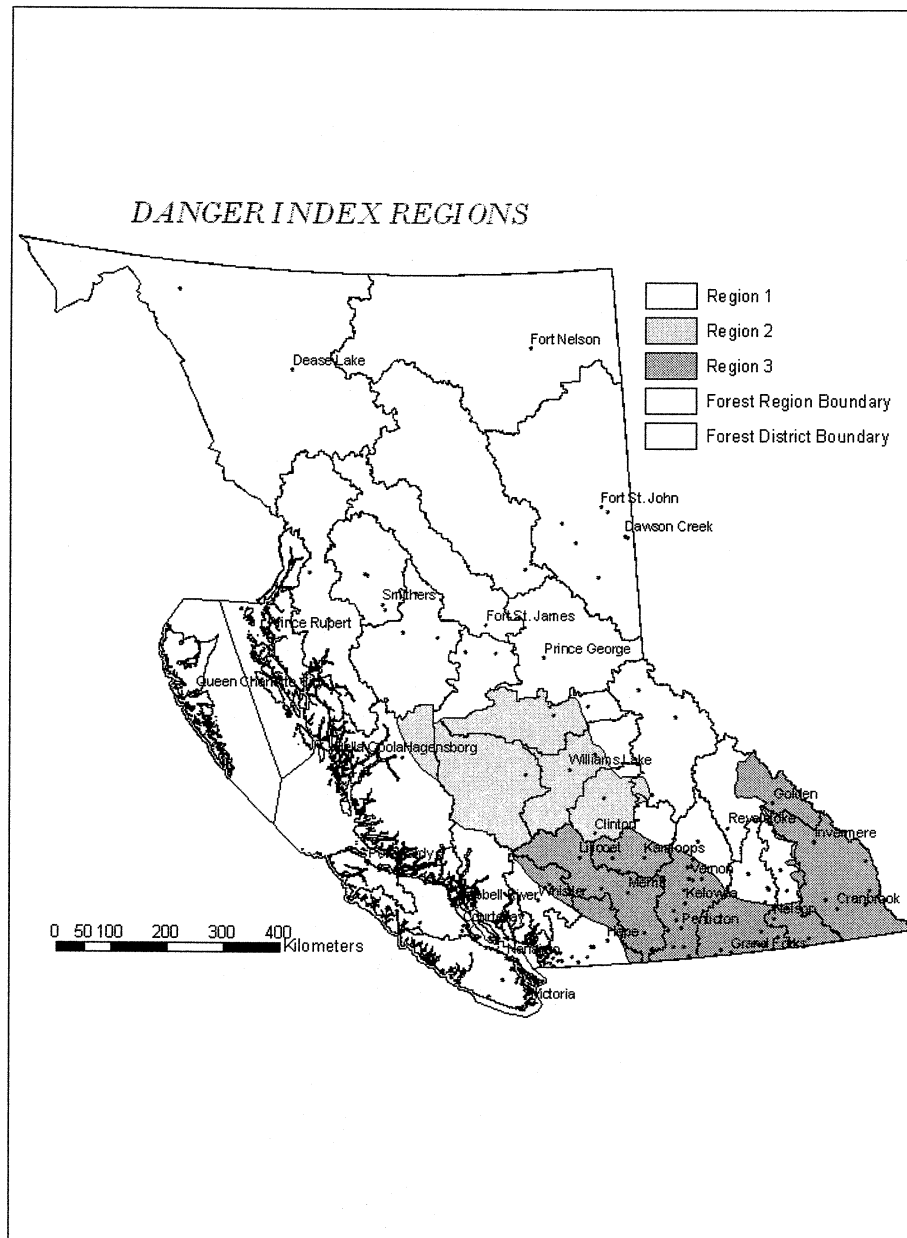
- 33** (1) The maximum amount of an administrative penalty that may be levied under section 27 (1) (a) of the Act is
- (a) is \$100 000 for the contravention of any of the following provisions of this regulation: 6 (1), (2) or (3); 9; 10; 12 (2); 13 (1); 19 (2) or (3); 20 (2) or (3); 21 (2) or (3); 22 (3) or (4); 23 (3) or (4); 25 (2); 26 (3), and
 - (b) \$10 000 for the contravention of any of the following provisions of this regulation: sections 4; 5; 7; 8; 11(4); 16; 22 (2); 23 (2).
- (2) The maximum amount of an administrative penalty that may be levied under section 27 (1) (a) of the Act is
- (a) \$100 000 for the contravention of any of the following provisions of the Act: section 6 (1), (2) (a) or (b) or (3); 7 (2) or (4); 22 (1); 56, and

- (b) \$10 000 for the contravention of any of the following provisions of the Act:
section 2; 3 (1) or (2) (a) or (b); 5 (1) or (2) (a) or (b); 7 (2); 10 (3) or (4);
11 (2); 12 (2) (a) or (b); 13 (2) or 16 (2).

Offences

- 34** (1) A person who contravenes section 6 (1), (2) or (3), 9, 10, 12 (2), 13 (1), 19 (2) or (3), 20 (2) or (3), 21 (2) or (3), 22 (3) or (4), 23 (3) or (4), 25 (2) or 26 (3) commits an offence and is liable on conviction to a fine not exceeding \$100 000 or to imprisonment for not more than 6 months or to both.
- (2) A person who contravenes section 4, 5, 7, 8, 11 (4), 16, 22 (2), 23 (2) or 24 (3) commits an offence and is liable on conviction to a fine not exceeding \$10 000.

SCHEDULE 1
DANGER REGIONS
(Section 6)



SCHEDULE 2
FIRE DANGER CLASS
(Section 6)

Danger Region 1

BUILDUP INDEX	FIRE WEATHER INDEX				
	0	1 - 7	8 - 16	17 - 30	31 +
0 – 19	I	II	II	III	III
20 – 42	II	II	III	III	IV
43 – 69	II	III	III	IV	IV
70 – 118	II	III	IV	IV	V
119 +	III	III	IV	V	V

Danger Region 2

BUILDUP INDEX	FIRE WEATHER INDEX				
	0- 4	5 - 16	17 - 26	27 - 37	38 +
0 – 48	I	II	II	III	III
49 – 85	II	II	III	III	IV
86 – 118	II	III	III	IV	IV
119 – 158	II	III	IV	IV	V
159 +	III	III	IV	V	V

Danger Region 3

BUILDUP INDEX	FIRE WEATHER INDEX				
	0- 4	5 - 16	17 - 27	28 - 46	47 +
0 – 50	I	II	II	III	III
51 – 90	II	II	III	III	IV
91 – 140	II	III	III	IV	V
141 – 200	II	III	IV	IV	V
210 +	III	III	IV	IV	V

SCHEDULE 3

RESTRICTIONS ON HIGH RISK ACTIVITIES

(Section 6 (3))

COLUMN 1 FIRE DANGER CLASS (DGR)	COLUMN 2 RESTRICTION	COLUMN 3 DURATION
III (moderate)	After 3 consecutive days of DGR III or greater, maintain a fire watcher after work for a minimum of 2 hours	Until after the fire danger class falls below DGR III for 2 or more consecutive days
IV (high)	Maintain a fire watcher after work for a minimum of 2 hours	Until after the fire danger class falls below DGR III for 2 or more consecutive days
	After 3 consecutive days of DGR IV, cease activity between 1 p.m. PDT (Pacific Daylight Saving Time) and sunset each day	Until after the fire danger class falls to DGR III for 2 consecutive days, or falls below DGR III
V (extreme)	Cease activity between 1 p.m. PDT (Pacific Daylight Saving Time) and sunset each day and maintain a fire watcher after work for a minimum of 2 hours	Until after the fire danger class falls below DGR IV for 2 or more consecutive days
	After 3 consecutive days of DGR V, cease activity all day	Until after the danger class falls below DGR V for 3 or more consecutive days, or falls below DGR IV

SCHEDULE 4

RATES OF COMPENSATION

(Sections 14 and 31)

CATEGORY	TYPE OF ASSISTANCE	RATE
1	Emergency assistance – non-fire line positions (warehouse, clerical, administration, heli-base, camp, and kitchen staff).	\$13/hr
2	Emergency Fire Fighter including Pump Operator, Cook, Equipment Swamper, Falling Spotter, Security Person, Radio Operator, and Class 5 Driver.	\$15/hr
3	Crew Leader, Power Saw Operator (bucker), Time Recorder, Fire Patrol Person, Planning, Logistics, or Finance Assistant with computer skills, and Resource Tracking System Dispatcher.	\$17/hr
4	Fire Warden, Field and Weather Observer, Unit Leader, Level 3 First Aid Attendant, Head Cook, Air Assistant, Infra-red Equipment Operator, and Class 1, 2, 3 or 4 Driver.	\$19/hr
5	Incident Commander Type 4, Task Force Leader, Heli-base Manager, Warehouse Manager, Security Manager, Strike Team Leader, Line Scout (locator), Heavy Equipment Operator, and Technical Specialists (mapping, computer systems, fire behavior, training, etc.).	\$20/hr
6	Division Supervisor, Group Supervisor, Staging Area Manager, Camp Manager, Helicopter Coordinator (Rotary Wing Air Attack Officer), Safety Assistant, Liaison Assistant, and Information Assistant.	\$21/hr
7	Incident Commander Type 3, Section Chief Type 2, Branch Director, Danger Tree Assessor, Safety Officer, Liaison Officer, Information Officer, Agency Representative, Risk Management Officer, and Rehabilitation Coordinator.	\$22/hr
8	Incident Commander Type 2 (and Deputy), Section Chief Type 1 (and Deputy), Trade person with tools, and Danger Tree Assessment Coordinator.	\$23/hr
9	Danger Tree Faller with personal protective equipment	\$32/hr
10	Deputy Incident Commander Type 1, Coach/Mentor Type 1, and Faller Coordinator.	\$35/hr