

FRPA Facts: New Definition for Natural Range Barriers

IMPORTANT: This document is intended to assist forestry practitioners with interpretation of recent changes to the *Forest and Range Practices Act*. The information contained within does not constitute legal advice. Government practitioners should seek legal advice from the Ministry of Attorney General, whereas industry practitioners should seek independent legal advice.

BACKGROUND

Natural range barriers (NRBs) are naturally occurring features (e.g., a dense patch of vegetation) that prevent or impede the movement of livestock and are critical for rangeland stewardship and livestock health. These features have long been identified as important, but under the *Forest and Range Practices Act* (FRPA), no definition was previously provided for NRBs. As a result, effective upon deposit, a new definition has been amended into the Forest Planning and Practices Regulation (FPPR) under section 1 (2).

HIGHLIGHTS

New Definition of Natural Range Barriers

The new definition may be applied broadly to the FRPA, the FPPR, and the Woodlot Licence Planning and Practices Regulation (WLPPR):

“natural range barrier” means a naturally occurring feature or a combination of naturally occurring features, including the following, that stops or significantly impedes livestock movement to and from an area adjacent to the feature or combination of features:

- (a) a lake, pond, river, creek or wetland;
- (b) a rock face;
- (c) a talus slope;
- (d) an embankment;
- (e) vegetation;
- (f) standing or non-standing timber.

The list of naturally occurring features within the definition is not limiting or meant to exclude other naturally occurring features. Therefore, a natural range barrier may include other types of naturally occurring features, if the feature(s) stop or significantly impedes the movement of livestock.

Forest Stewardship Plans and Forest Planning and Practices Regulation (FPPR)

Forest Stewardship Plan (FSP) holders continue to have an obligation under FRPA s. 48 to mitigate impacts to NRBs by following the measures specified in an approved FSP in compliance with FPPR s. 18.

The new definition of NRBs will apply to measures within:

- Current FSPs that do not include an NRB definition (The new definition automatically applies)
- Current FSPs that include an NRB definition (The new definition applies and FSPs must be amended accordingly)
- Future FSPs (extensions and replacements): (The new definition applies and must specify measures to comply)

The new definition will apply on the date new regulations come into force, as required under FPPR s. 18. Where an FSP has previously defined “natural range barriers”, the FSP holder must submit an amendment to remove the definition that was previously approved. This is considered a minor amendment and does not require approval of the Minister or delegated decision-maker. The submission of the amendment is required within 6 months of the date the new definition comes into force. An FSP that does not previously define “natural range barrier” will not require an amendment.

The new definition will apply upon effect of the OIC where an existing definition was not previously provided in the plan. Where an FSP has previously defined “natural range barriers”, the FSP holder must submit a minor amendment not requiring approval to replace that definition of NRB with the new definition under FPPR s. 1 (2). This amendment must be made within 6 months of the OIC’s effective date.

Woodlot Licence Plans (WLPs) and Woodlot Licence Planning and practices Regulation (WLPPR)

WLP holders also continue to have an obligation under WLPPR s. 15 to specify measures that will mitigate the impact of removing or rendering NRBs ineffective. The new definition of NRB will apply automatically to the WLPs that have not specifically defined “natural range barrier”. Section 78(1) of WLPPR also provides that the WLP holder may apply to the Minister for an exemption from specifying measures in WLPPR s. 15.

However, while FSPs will require a mandatory amendment, where WLPs have specifically defined “natural range barrier” and are now inconsistent with the new FPPR definition, the specific definition in the WLP will continue to apply unless amended voluntarily.

Range Planning and Practices Regulation (RPPR)

This change does not directly impact the Range Planning and Practices Regulation as the term ‘natural range barrier’ is not cited directly in the regulation. However, this change will support range agreement holders to meet existing practice requirements by limiting the movement of livestock to areas that require special range management.

Range tenure holders who carry out a range practice must consider the new definition to ensure their range practice does not damage or render the NRB ineffective, as per FRPA s. 48.