

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

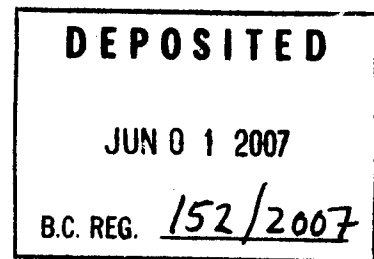
Order in Council No. **338**

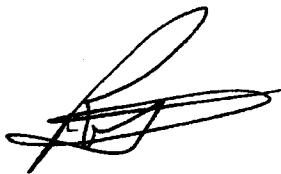
, Approved and Ordered **MAY 30 2007**


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 Forest Planning and Practices Regulation, B.C. Reg. 14/2004, is amended as set out in the attached Schedule.





Minister of Forest and Range
and Minister Responsible for Housing



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. 141, 142, 146, 147, 162

Other (specify):- oic 17/2004

May 14, 2007

SCHEDULE

1 *Section 44 (1) (b) of the Forest Planning and Practices Regulation, B.C. Reg. 14/2004, is amended by adding “free growing” after “for the area by a” and after “minister permits a later”.*

2 *The following section is added:*

Free growing stand requirement applies to each hectare

46.11 (1) Subject to subsection (2), a person who has an obligation to establish a free growing stand under

(a) section 29 of the Act in accordance with section 44, 46.1 or 46.2 (5) of this regulation,

(b) Part 11 of the Act in accordance with section 69.1 or 70 of the Code, or

(c) section 46 (1) or 111 (4) of this regulation

must ensure that the obligation is fulfilled on each hectare within the net area to be reforested, unless otherwise specified in a forest stewardship plan.

(2) If the stocking within a standards unit conforms to the applicable stocking standards, an area within the standards unit is not required to meet the applicable stocking standards if

(a) the area is less than 1 ha, or

(b) when the free growing stand is established,

(i) the area is mappable and is at least 1 ha but no more than 2 ha, and

(ii) the portion of the standards unit that is occupied by areas referred to in subparagraph (i) does not exceed 5% of the standards unit.

3 *Section 46.2 is amended by adding “and section 97.1 of this regulation” after “section 108 of the Act”.*

4 *Section 86 (3) (d) (iii) is amended by adding “or 97.1” after “97” and by adding “or the requirements of section 46.11 (2) (b) of this regulation have been met,” after “of this regulation,”.*

5 *Section 91 (1) (a) is amended*

(a) *by striking out “or” at the end of subparagraph (i),*

(b) *in subparagraph (ii) by adding “46.2 (5);” after “46.1;” and by striking out “85 (1),” and substituting “85 (1); 111 (4), or”, and*

(c) *by adding the following subparagraph:*

(iii) *an obligation under Part 11 of the Act to establish a free growing stand.”*

6 Section 97 (5) is amended by striking out paragraphs (a) and (b) and substituting the following:

- (a) section 29 of the Act in accordance with section 44, 45, 46.1 (2) or 46.2 (5) of this regulation,
- (b) Part 11 of the Act in accordance with section 69.1 or 70 of the Code, or
- (c) section 46 (1) or 111 (4) of this regulation .

7 The following section is added to Part 7:

Declaration regarding free growing stand obligations met to the extent practicable

- 97.1 (1) If a person who has an obligation to establish a free growing stand under**
- (a) section 29 of the Act in accordance with section 44, 46.1 or 46.2 (5) of this regulation,
 - (b) Part 11 of the Act in accordance with section 69.1 or 70 of the Code, or
 - (c) section 46 (1) or 111 (4) of this regulation

considers that the obligation has been met on an area to the extent that is practicable, the person may submit to the district manager a written declaration that

- (d) identifies the area,
- (e) includes
 - (i) a statement of the extent to which the obligation has not been met, and
 - (ii) an explanation of why it is not practicable to fully meet the obligation,
- (f) is signed by the person or on that person's behalf by an individual or individuals authorized in that regard, and
- (g) specifies the date on which the declaration is made.

(2) Subject to subsection (3), on the date a declaration is submitted under subsection (1), the person who submitted the declaration is deemed to have fulfilled the applicable obligation referred to in subsection (1) (a) to (c) on the area identified in the declaration.

(3) A person who submits a declaration under subsection (1) in respect of an area remains responsible for establishing a free growing stand on the area if the minister

- (a) determines, by order, that
 - (i) the obligation has not been fulfilled on the area to the extent that is practicable, or
 - (ii) the person
 - (A) made a material misrepresentation or misstatement of fact in the declaration in relation to the obligation, or
 - (B) omitted information from the declaration that the person knew or ought to have known was material to determining whether

the obligation had been fulfilled to the extent that is practicable,
and

- (b) gives written notice of the order to the person, including with the notice reasons for the order.
- (4) The minister may give written notice under subsection (3) (b) of an order referred to in subsection (3) (a) only if
- (a) the notice is given within 15 months after the date the district manager received the declaration,
 - (b) the person to whom the notice is given has been given an opportunity to be heard, and
 - (c) the minister determines that, given the circumstances or conditions applicable to the area,
 - (i) the obligation has not been fulfilled to the extent that is practicable, and
 - (ii) the benefits to the public derived from the person fully meeting the obligation outweigh any extra expenses that would be incurred by the person in meeting the obligation.
- (5) An order under subsection (3) (a) is reviewable as set out in sections 80 and 81 of the Act and those sections and sections 82 to 84 of the Act apply in respect of the review.