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## ATTENTION: AMENDMENTS TO THE WILDFIRE REGULATION

**To:** BC Wildfire Service's industry and commercial partners

**From:** BC Wildfire Service (Ministry of Forests, Lands, Natural Resource Operations and Rural Development)

**Date:** June 29, 2020

**Re: Amendments to the Wildfire Regulation**

The B.C. government has recently made minor amendments to the Wildfire Regulation, BC Reg 38/2005, to clarify wording, update definitions and remove outdated terms.

These amendments cover various topics, including:

- 1) using drought codes to help determine the risk of a fire starting or spreading
- 2) updating criteria to assess the payment of compensation for fire control damage
- 3) amalgamating wildfire response cost-sharing agreements and service agreements
- 4) clarifying restrictions on high-risk activities

Stakeholders are asked to review the amended sections of the Wildfire Regulation and determine whether the changes affect their operations and activities. In particular, amendments related to the drought code value and restrictions on high-risk activities may be relevant.

### **Why have these amendments been made?**

The amendments to the Wildfire Regulation were implemented to improve clarity and align the Wildfire Regulation requirements with current BC Wildfire Service practices.

### **Overview of amendments:**

#### **1) Use of drought code to help determine fire risk – Section 1(5)**

When there is a risk of fires starting or spreading, the Wildfire Regulation aims to help prevent wildfires by requiring a person working in or near forests or grasslands to take certain precautions, such as having firefighting tools available, maintaining a fire watcher and not operating certain types of engines. The Wildfire Regulation describes when there is a risk of a fire starting or spreading by referencing threshold values of the fine fuel moisture code, duff moisture code and drought code. The drought code value has been removed from this list because it is not a good indicator of the likelihood of a fire starting or spreading.

#### **2) Criteria to assess the payment of compensation for fire control damage – Section 15**

For the purposes of determining whether the payment of compensation for fire control damage is required, the Wildfire Regulation was amended to clarify that “damage to private land” also includes damage to structures and moveable objects on the land. Previously, the

*Regulation* did not state whether damage to structures and moveable objects was potentially eligible for compensation. In addition, the section of the Wildfire Regulation that stated that “foreseeable losses” were ineligible for compensation was also removed, to align the Wildfire Regulation with common law principles and reflect the BC Wildfire Service’s current practice of paying compensation for foreseeable damage.

### **3) Amalgamating cost-sharing agreements and service agreements – Section 28**

The definitions of “cost-sharing agreement” and “service agreement” have been combined into one type of agreement called a “wildfire response agreement”. The previous distinction between cost-sharing agreements and service agreements may have been unclear to some readers. This amendment does not change the intent, services or obligations of current agreements under the Wildfire Regulation.

### **4) Clarifying restrictions on high-risk activities – Schedule 3**

Three amendments were made to Schedule 3 of the Wildfire Regulation, which sets out requirements for fire watchers, early shifts and shutting down high-risk activities. Two of the amendments made the wording more precise and consistent, but did not change any outcomes.

The third amendment changed the duration for fire danger class (DGR) IV, so a fire watcher now must be maintained after work for a minimum of two hours until the fire danger class falls to DGR III for two consecutive days or falls below DGR III. (Schedule 3 used to say that a fire watcher must be maintained after work for a minimum of two hours until the fire danger class falls below DGR III.) This requirement is now slightly less onerous and there will be more consistent outcomes for people working in DGR III conditions.

### **5) Other minor wording changes**

Other minor amendments have been made to the Wildfire Regulation to correct grammar and spelling errors, and to remove unnecessary words. For example, the terms “direct fire control costs” and “preparedness” are internal budget terms that no longer serve any purpose in the Wildfire Regulation.

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## **Appendix A – Amended sections of the Wildfire Regulation**

- 1** *Section 1 (1) of the Wildfire Regulation, B.C. Reg. 38/2005, is amended*

  - (a) in the definition of “direct fire control cost” by striking out “direct”,*
  - (b) by repealing the definition of “drought code value”, and*
  - (c) in paragraph (a) of the definition of “qualified holder” by striking out “a cost sharing agreement or service agreement” and substituting “a wildfire response agreement”.*
- 2** *Section 1 (5) is amended by adding “or” at the end of paragraph (a), by striking out “or” at the end of paragraph (b) and by repealing paragraph (c).*
- 3** *Section 15 is amended*

  - (a) in subsection (1) by adding “or” at the end of paragraph (c), by striking out “or” at the end of paragraph (d) and by repealing paragraph (e), and*
  - (b) by adding the following subsection:*
    - (3) For the purposes of section 9 (4) and (5) of the Act, private land includes personal property on the land.*
- 4** *Sections 19 (3), 20 (3), 21 (3), 22 (4) and 23 (4) are amended by striking out “fueled” wherever it appears and substituting “fuelled”.*
- 5** *Section 28 is repealed and the following substituted:*

**Definition**

**28** In section 29, “wildfire response agreement” means an agreement between the government and a person in which

  - (a) the person agrees to pay 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.*
- 6** *Section 29 (a) (i) is amended by striking out “a cost sharing agreement or a service agreement” and substituting “a wildfire response agreement”.*
- 7** *Section 30 (b) (v) (A) is amended by striking out “the timber” and substituting “timber”.*
- 8** *Section 31 (1) (a) is amended by repealing subparagraph (vii) and substituting the following:*

  - (vii) aircraft basing charges for contracted aircraft;.*
- 9** *Schedule 3 is repealed and the following substituted:*

### SCHEDULE 3

#### RESTRICTIONS ON HIGH RISK ACTIVITIES

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