

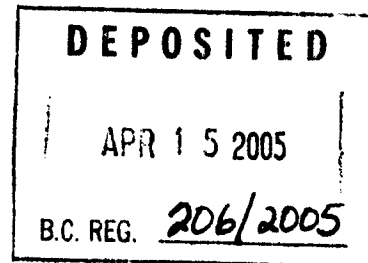
**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

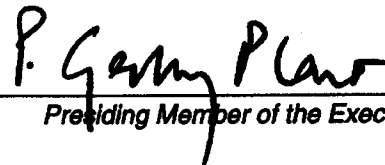
Order in Council No. **428**, Approved and Ordered **APR 15 2005**

  
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 Wildfire Regulation, B.C. Reg. 38/2005, is amended as set out in the attached Schedule.



  
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

Other (specify):- oic 94/2005

April 13, 2005

446/2005/11

## SCHEDULE

- 1 Section 1 of the Wildfire Regulation, B.C. Reg. 38/2005, is amended**
- (a) in subsection (1) by repealing paragraph (d) of the definition of “category 3 open fire” and substituting the following:**
- (d) stubble or grass over an area exceeding 0.2 ha; ,
- (b) in subsection (1) by repealing paragraphs (h) to (l) of the definition of “high risk activity” and substituting the following:**
- (h) log forwarding other than by logging truck on a road;
  - (i) skidding logs;
  - (j) yarding logs using cable systems;
  - (k) using a vehicle with metal tracks, chains or studs other than such a vehicle while in use
    - (i) in a stationary position,
    - (ii) for road construction, road maintenance or road deactivation, or
    - (iii) loading logs on a road or a landing or in a log sort area;
  - (l) operating a power saw other than while doing so on a road or a landing or in a log sort area; ,
- (c) in subsection (1) by repealing the definition of “resource management open fire” and substituting the following:**
- “resource management open fire” means an open fire that**
- (a) burns unstacked slash over an area of any size, or
  - (b) 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; , **and**
- (d) in subsection (3) by repealing paragraph (i) and substituting the following:**
- (i) road construction, road maintenance or road deactivation;
  - (j) yarding logs using helicopters or lighter than air vehicles;
  - (k) operating a power saw on a road or a landing or in a log sort area;
  - (l) the use of machinery on a road or a landing or in a log sort area;
  - (m) loading logs on a road or a landing or in a log sort area.
- 2 Section 3 (2) is amended by striking out “Part 5 and section 13 of this regulation” and substituting “Parts 4 and 5 and section 13 of this regulation”.**
- 3 Section 4 (a) is amended by striking out “major forest licence” and substituting “major licence”.**
- 4 Section 11 (1) (b) is repealed and the following substituted:**
- (b) each of the following is a prescribed circumstance under subsection (1) of that section:

- (i) an industrial activity or an activity prescribed under paragraph (a) of subsection (1) creates or increases a fire hazard or is likely to do so;
- (ii) an official notifies a person carrying out an industrial activity or an activity prescribed under paragraph (a) of subsection (1) that a fire hazard exists at the site of the activity or operation.

**5 Section 12 (1) is amended in paragraphs (a) and (b) by striking out “section 11 (3)” and substituting “section 11 (2) (a)”.**

**6 Section 13 is repealed and the following substituted:**

**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
      - (A) working within 30 km, by road, of the site of the industrial activity, and
      - (B) not working at a non-portable timber processing facility, and
    - (ii) heavy equipment located within 30 km, by road, 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
      - (A) working on the land, and
      - (B) not working at a non-portable timber processing facility, 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 fire is
- (a) in a protected area, or
  - (b) on private land that is not owned by the person or another who acts on the person’s behalf or under the person’s direction.

**7 Section 14 is repealed and the following substituted:**

**Rates of compensation**

- 14** The amount of the compensation that the government, under section 17 of the Act,
- (a) must pay to a person described in subsection (1) of that section, or
  - (b) may pay to a person described in subsection (2) of that section,
- is
- (c) for wages,
    - (i) at the rates set out in Schedule 4 of this regulation,

- (ii) if the minister is satisfied that the person to be paid is
  - (A) an employee who immediately before carrying out the compensable fire control was paid at a greater rate of remuneration than that set out in Schedule 4, or
  - (B) an employer who carried out the compensable fire control through employees and was paying employees at a greater rate of remuneration than that set out in Schedule 4, at rates agreed to between the minister and the person, or
- (iii) in the absence of rates as described in subparagraph (i) or (ii), reasonable rates to be approved by the minister, and
- (d) for use of equipment,
  - (i) at the rates, if any, for that type of equipment that are set out in the Province of British Columbia B.C. Road Builders and Heavy Construction Association Equipment Rental Rate Guide, as amended from time to time,
  - (ii) if the minister is satisfied that the equipment supplier's costs for the equipment used in carrying out the compensable fire control are at rates greater than those referred to in subparagraph (i), at rates agreed to between the minister and the supplier, or
  - (iii) in the absence of rates as described in subparagraph (i) or (ii), at reasonable rates to be approved by the minister.

**8 Section 17 (a) is amended by striking out "fuel hazard assessment" and substituting "fire hazard assessment".**

**9 Section 21 (1) (d) is amended by repealing subparagraphs (i) to (iv) and substituting the following:**

- (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.

**10 Section 22 (1) (f) is amended by striking out "and" at the end of subparagraph (ii), adding "and" to the end of subparagraph (iii) and by adding the following:**

- (iv) the fire does not exceed the capacity of the persons, fire fighting tools and heavy equipment on site for timely action to prevent any fire from escaping.

**11 Section 25 is repealed and the following substituted:**

**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 any provision of Parts 2, 4 and section 13 of this regulation, only if satisfied that

- (a) the exemption is necessary or desirable because the provision that will be the subject of the exemption is inappropriate, given the circumstances or conditions applicable to an area or to the operations of the person to be exempted, or
  - (b) the person exempted can and will use specified alternative means to achieve the objectives of the provisions that will be the subject of the exemption.
- (2) An official in granting an exemption on the basis set out in subsection (1) (b) must make the exemption conditional on the person exempted achieving the objectives referred to in subsection (1) (b) by use of the specified alternative means.
  - (3) A person exempted under this section by an exemption made subject to conditions must comply with the conditions.

**12 Section 26 (1) is repealed and the following substituted:**

- (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 or desirable because the provision that will be the subject of the exemption is inappropriate, given the circumstances or conditions applicable to an area or to the operations of the person to be exempted.

**13 Section 27 (d) is repealed and the following substituted:**

- (d) be delivered to the exempted person.

**14 Section 31 (2) is repealed and the following substituted:**

- (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,
    - (ii) if the minister is satisfied that the person to be paid is
      - (A) an employee who immediately before carrying out the compensable fire control was paid at greater rates of remuneration than the rates under subparagraph (i), or
      - (B) an employer who carried out the compensable fire control through employees and was paying employees at greater rates of remuneration than the rates under subparagraph (i),
 the rates agreed to between the minister and the person, or
    - (iii) in the absence of rates as described in subparagraph (i) or (ii), 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,
- (ii) if the minister is satisfied that the equipment supplier's costs for the equipment used in carrying out the fire control are at rates greater than those referred to in subparagraph (i), at rates agreed to between the minister and the supplier, or
- (iii) in the absence of rates as described in subparagraph (i) or (ii), reasonable rates to be approved by the minister.

**15 Schedule 2 is amended under the heading "Danger Region 3" by striking out "210 +" and substituting "201 +".**

**16 Schedule 3 is amended**

- (a) in Column 2 by striking out "After 3 consecutive days of DGR III or greater, maintain a fire watcher after work for a minimum of 2 hours" and substituting "After 3 consecutive days of DGR III or greater, maintain a fire watcher after work for a minimum of one hour", and**
- (b) in Column 3 by striking out "Until after the fire danger class falls below DGR III for 2 or more consecutive days" in the first 2 places it appears and substituting "Until after the fire danger class falls below DGR III".**