

HAZARD ASSESSMENT & ABATEMENT – June 12, 2013

This document is intended to provide overview refresher material and relevant information for review in preparation for a hazard assessment and abatement meeting scheduled for 09:00 at the MFLNR office in Port McNeill on June 12, 2013. It deals primarily with hazard assessment. Options for abatement and best practises will be covered off during the meeting. This document is not comprehensive, exhaustive or designed as legal advice.

This document contains;

- Relevant abbreviated interpretations of the Wildfire Act and Regulation and other overarching themes
- Relevant sections of the Wildfire Act & Reg.
- Relevant links to guidance documents and other reports

Abbreviated Wildfire Act/Reg./interpretation & overarching themes

- The Wildfire Regulation (WR) is subordinate legislation made under the authority of the Wildfire Act (WA). It provides details, direction and responsibilities to support the WA.
- The WA and WR are results based code and are intended to incorporate the professional reliance concept
- Use common sense, best science and best practice when completing hazard assessments and abatement prescriptions
- WR states that hazard assessment must be completed;
 - Every 3 months while operating within, or within 2 km, of local government boundaries as defined in the WA (Interface) – *WR 11(2)*
 - Every 6 months everywhere else – *WR 11(3)*
 - Option for qualified holder to complete assessments as specified by an RPF or RFT (rationale required) – *WR 11(3.1)(b)*
- WR states persons must abate hazard;
 - Within 6 months when operating within, or within 2 km, of local government boundaries as defined in the WA (Interface) – *WR 12(1)(a)*. Note exception; unless bylaws exist – *WA 4*
 - Within 12 months everywhere else – *WR 12(1)(b)*
 - Qualified holder;

- Within 24 months when operating within, or within 2 km, of local government boundaries as defined in the WA (Interface), beginning on start date of industrial activity *WR 12.1(2)(a)*. Note exception; unless bylaws exist – *WA 4*
- Within 30 months everywhere else, beginning on start date of industrial activity – *WR 12.1(2)(b)(i)*
- Option for qualified holder to complete abatement as specified by an RPF or RFT (rationale required) – *WR 12.1(2)(b)(ii)*
- Hazard assessments must include assessment of fire hazard and risk of fire starting/spreading – *WR 11(4)(a)*
- A person must abate fire hazard to levels that are not greater than prior to harvesting operations – *WR 12(2)(a)(b) & 12.1(3)(i)(ii)*
 - o Or, In the case of a qualified holder as specified by a RPF or RFT (with rationale) – *WR 12.1(3)(b)*
- An official may identify circumstances they consider constitutes a fire hazard and by written order may require applicable person to abate said fire hazard by a specified date. The person who is subject to this order must comply – *WA 7(3) and 7(4)*

THE WILDFIRE ACT

Use of open fires — application

4 (1) Sections 5 and 6 do not apply inside the boundaries of

(a) the City of Vancouver, or

(b) a municipality that is not a prescribed municipality referred to in subsection (2).

(2) Sections 5 and 6 apply to all areas inside the boundaries of a prescribed municipality, or of a local government that is a local government under paragraphs (c) to (f) of the definition of "local government" in section 1, except the areas in respect of which the municipality or the local government has a bylaw that

(a) relates to the lighting, fueling or use of open fires in the area, and

(b) meets prescribed criteria.

(3) Despite subsections (1) and (2), and except in prescribed circumstances, sections 5 and 6 apply to areas of private managed forest land as defined in the *Private Managed Forest Land Act*.

Hazard assessment and abatement

7 (1) In prescribed circumstances and at prescribed intervals, a person carrying out an industrial activity or a prescribed activity on forest land or grass land or within 1 km of forest land or grass land must conduct fire hazard assessments.

(2) A person, other than a person who is in a prescribed class of persons referred to in subsection (2.1), carrying out an industrial activity or a prescribed activity, must, within a prescribed time period and to the prescribed extent, abate a fire hazard of which the person is aware or ought reasonably to be aware.

(2.1) A person who is in a prescribed class of persons must, within the prescribed time period and to the prescribed extent, abate a fire hazard on a prescribed area.

(2.2) A person referred to in subsection (2) is not required to abate a fire hazard on an area if a person referred to in subsection (2.1) is required to abate the fire hazard.

(3) Despite subsections (2) and (2.1), if an official identifies circumstances that the official considers constitute a fire hazard in relation to

(a) an industrial activity, or

(b) a prescribed activity referred to in subsection (2),

the official by written order may require the applicable person to abate the fire hazard by a specified date.

(4) A person who is the subject of an order under subsection (3) and to whom written notice of the order has been given must comply with the order.

WILDFIRE ACT DEFINITIONS (relevant)

"industrial activity" includes

- (a) land clearing, and
- (b) other activities included in this definition by regulation,

but does not include activities excluded from this definition by regulation;

"local government" means

- (a) the City of Vancouver,
- (b) a municipality,
- (c) a regional district,
- (d) an improvement district,
- (e) a water improvement district, or
- (f) a prescribed organization;

"official" means a person

- (a) employed in the ministry of the minister responsible for the administration of this Act, who is designated by name or title to be an official by the minister for the purpose of a provision of this Act or of the regulations that is specified in the designation,
- (b) employed in the Oil and Gas Commission and designated, by the commissioner as defined in section 1 (2) of the *Oil and Gas Activities Act*, by name or title to be an official for the purpose of a provision of this Act or of the regulations that is specified in the designation, or

(c) who is a conservation officer designated by the minister responsible for the *Environmental Management Act*, by name or title to be an official for the purpose of a provision of this Act or of the regulations that is specified in the designation;

THE WILDFIRE REGULATION

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) 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.

(2) Subject to subsection (3.1) of this section, 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) Subject to subsection (3.1) of this section, 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.

(3.1) The prescribed intervals, at which a person described in section 7 (1) of the Act who is a qualified holder must conduct fire hazard assessments, are the intervals

(a) set out in subsection (2) or (3) of this section, as applicable, or

(b) specified by a professional forester or a registered forest technologist.

(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.

- (5) A person referred to in section 7 (1) of the Act is exempt from section 7 (1) of the Act in respect of an area if a person referred to in section 7 (2.1) of the Act is required to abate fire hazards in respect of that area.

[am. B.C. Regs. 206/2005, s. 4; 96/2011, s. 2;
157/2012, Sch. 5, s. 2.]

Hazard abatement: general

- 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 or ought reasonably to be aware:

(a) for an area described in section 11 (2) (a) 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 (2) (a) 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.

- (3) This section does not apply to a person who is a qualified holder.

[am. B.C. Regs. 206/2005, s. 5; 96/2011, s. 3.]

Hazard abatement: qualified holders

12.1 (1) In this section, "**abatement area**" means each area within which the industrial activity or prescribed activity takes place in each consecutive 12 month period that occurs after the date the activity begins.

- (2) The following periods are prescribed as the periods in which a person described in section 7 (2) of the Act who is a qualified holder must abate fire hazards of which the person is aware or ought reasonably to be aware:

(a) for each abatement area within an area described in section 11 (2) (a) of this regulation, a period of 24 months, beginning on the date the industrial activity or prescribed activity begins in the abatement area,

(b) for each abatement area within an area other than an area described in section 11 (2) (a) of this regulation,

(i) a period of 30 months, beginning on the date the industrial activity or prescribed activity begins in the abatement area, or

(ii) the period specified by a professional forester or registered forest technologist under the *Foresters Act*.

- (3) A person required to abate a fire hazard under section 7 (2) of the Act who is a qualified holder must reduce the fuel hazard on the site of the industrial activity or prescribed activity

(a) as necessary to ensure that carrying out the activity

(i) does not increase the risk of a fire starting on the site, and

(ii) if a fire were to start, would not increase the fire behaviour or fire suppression associated with the fire, or

(b) as specified by a professional forester or registered forest technologist under the *Foresters Act*.

[en. B.C. Reg. 96/2011, s. 4.]

Hazard abatement: fibre recovery tenure holders

12.2 (1) Fibre recovery tenure holders are prescribed for the purposes of section 7 (2.1) of the Act.

(2) The following periods are prescribed for the purposes of section 7 (2.1) of the Act:

(a) 6 months after the date the fibre recovery tenure holder is issued with the forestry licence to cut or fibre recovery permit, as applicable, in respect of an area, if the area is located inside, or within 2 km of, the boundaries of

(i) a local government referred to in paragraph (d), (e) or (f) of the definition of “local government” in section 1 of the Act, or

(ii) a fire protection district in a regional district;

(b) 12 months after the date the fibre recovery tenure holder is issued with the forestry licence to cut or fibre recovery permit, as applicable, in respect of an area, other than an area described by paragraph (a).

(3) The prescribed extent for the purposes of section 7 (2.1) of the Act is the extent necessary to ensure that, at the conclusion of the abatement operations, there are not more than 2 piles, each not exceeding 5 m³ in volume, of Crown timber on any hectare within the forestry licence to cut area or fibre recovery permit area, as applicable.

[en. B.C. Reg. 157/2012, Sch. 5, s. 3.]

WILDFIRE REGULATION DEFINITIONS (relevant)

"fibre recovery tenure holder" means a person that holds

- (a) a forestry licence to cut entered into under section 47.6 (2.11) of the *Forest Act*, or
- (b) a fibre supply licence to cut entered into under section 47.3 (1) or 47.71 (6) of the *Forest Act*;

"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;

"high risk activity" means

- (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) clearing and maintaining rights of way, including grass mowing;

(i) any of the following activities carried out in a cutblock excluding a road, landing, roadside work area or log sort area in the cutblock:

- (i) operating a power saw;
- (ii) mechanical tree felling, woody debris piling or tree processing, including de-limbing;
- (iii) welding;
- (iv) portable wood chipping, milling, processing or manufacturing;
- (v) skidding logs or log forwarding unless it is improbable that the skidding or forwarding will result in the equipment contacting rock;
- (vi) yarding logs using cable systems;

(j) to (q) Repealed. [B.C. Reg. 213/2008, s. 1 (b).]

"qualified holder" means a person, other than the government,

(a) who is a party to a cost sharing agreement or service agreement, as defined in section 28 of this regulation, or

(b) who

- (i) is the holder of an agreement or licence referred to in section 12 (1) (a), (c), (d), (e) and (g) and (2) (a) of the *Forest Act*, and
- (ii) is not in arrears under the Annual Rent Regulation for the annual rent payable respecting the agreement or licence;

3) Each of the following activities is included in the definition of **"industrial activity"** in section 1 of the Act:

(a) high risk activities;

(b) operating equipment or machinery in relation to forest management during

- (i) road construction, road maintenance and road deactivation,
- (ii) timber harvesting, including sorting logs,
- (iii) mechanical modification of forest debris and debris piling,
- (iv) silviculture treatments, or
- (v) portable wood chipping, milling, processing or manufacturing;

(c) operating equipment or machinery in relation to activities other than forest management during

- (i) debris piling,
- (ii) road construction, road maintenance or road deactivation,
- (iii) rock drilling,
- (iv) mining operations,
- (v) railway operations,
- (vi) utility transmission operations, or
- (vii) portable wood chipping, milling, processing or manufacturing.

(d) to (m) Repealed. [B.C. Reg. 213/2008, s. 1 (c).]

Guide to fuel hazard and abatement in BC

http://bcwildfire.ca/Industry_Stakeholders/industry/Assessment_Abatement.htm

Wildfire Reg. interruptive bulletin for industry

http://bcwildfire.ca/Industry_Stakeholders/industry/Interpretive_WildfireReg.pdf

WMB Stakeholders and Industry page

http://bcwildfire.ca/Industry_Stakeholders/industry/

ABCFP fire and fuel management guideline (May 2013)

http://www.abcfp.ca/regulating_the_profession/documents/Fire_Fuel_Management-Interim_Guidelines.pdf

Professional Accountability Process

http://www.abcfp.ca/practice_development/continuing_competency/Documents/Non-Discipline_Acc_Process.pdf

FPB – fire hazard assessment and abatement-special investigation (Interim Report)

http://www.fpb.gov.bc.ca/Survey_Results_Interim_Report_on_Fire_Hazard_Assessment_and_Abatement.htm?terms=hazard%20assessment

FPB – fire hazard assessment and abatement-special investigation

http://www.fpb.gov.bc.ca/SIR24_Fire_Hazard_Assessment_and_Abatement.htm?terms=hazard%20assessment

Wildfire Act and Regulation (complete)

<http://bcwildfire.ca/LegReg/>

Venting Index

<http://www.env.gov.bc.ca/epd/epdpa/venting/venting.html>

Open Burning smoke Control Regulation

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/34_145_93

