

ENVIRONMENTAL PROTECTION AND MANAGEMENT REGULATION

PART 1 – DEFINITIONS AND APPLICATION

Definitions and application

1 (1) In this regulation:

“**Act**” means the *Oil and Gas Activities Act*;

“**biogeoclimatic subzone**” means a biogeoclimatic subzone as described in the Ministry of Forests and Range publication, *Biogeoclimatic Ecosystem Classification Codes and Names*, as amended from time to time;

“**biogeoclimatic zone**” means a biogeoclimatic zone as described in the Ministry of Forests and Range publication, *Biogeoclimatic Ecosystem Classification Codes and Names*, as amended from time to time;

“**Crown range**” has the same meaning as in section 1 (1) of the *Range Act*;

“**deactivate**”, in relation to an oil and gas activity, includes removal of the equipment used to carry out the activity;

“**facility**” means a natural gas processing plant or production facility;

“**fish stream**” means a watercourse that

(a) is frequented by any of the following species of fish:

(i) anadromous salmonids;

(ii) rainbow trout, cutthroat trout, brown trout, bull trout, Dolly Varden char, lake trout, brook trout, kokanee, largemouth bass, smallmouth bass, mountain whitefish, lake whitefish, arctic grayling, burbot, white sturgeon, black crappie, yellow perch, walleye or northern pike;

(iii) a species identified as a species at risk;

(iv) a species identified as regionally important wildlife, or

(b) has a slope gradient of less than 20%, unless the watercourse

(i) does not contain any of the species of fish referred to in paragraph (a),

(ii) is located upstream of a natural barrier to fish passage and all reaches upstream of the barrier are simultaneously dry at any time during the year, or

(iii) is located upstream of a natural barrier to fish passage and no perennial fish habitat exists upstream of the barrier;

“**known**”, when used to describe something in this regulation, means that the something described

- (a) is identified in the LRDW, or,
- (b) in relation to a person carrying out an oil and gas activity, either
 - (i) has been identified to the person, or
 - (ii) is or ought reasonably to be known to the person;

low-impact seismic", in relation to geophysical exploration, means the use of special equipment and methods to create a narrow cut line that is

- (a) typically 1.5 to 5.5 meters wide,
- (b) avoids large standing trees, and
- (c) leaves the soil and ground cover generally undisturbed;

"LRDW" means the Land Resource Data Warehouse, the provincial depository for integrated land, resource and geographic data maintained by the Integrated Land and Management Bureau;

"natural range barrier" means a river, rock face, dense timber or any other naturally occurring feature that is known to stop or significantly impede livestock movement to and from an adjacent area;

"oil and gas road" means a road prescribed for the purposes of paragraph (g) of the definition of **"oil and gas activity"** in section 1 of the Act;

"person carrying out an oil and gas activity" includes a permit holder;

"private land" means

- (a) land owned by a person registered in the land titles office as the registered owner of the land surface or as its purchaser under an agreement for sale, and
- (b) Crown land disposed of in the form of a lease issued under the *Land Act*;

"qualified professional" means a person who is a member in good standing of a profession regulated in British Columbia and who is recognized by that profession as being qualified to work in an area of practice for which an opinion or advice is required;

"riparian class" means the riparian class of a stream, wetland or lake as determined in Division 2 of Part 3;

"riparian management area" means an area adjacent to a stream, wetland or lake in which special management is required to conserve fish or wildlife habitat, biodiversity and water values of the area;

"water body" includes a natural watercourse or source of water supply, whether usually containing water or not, but does not include a W3 wetland under section 31;

"water storage reservoir" means a reservoir for which a licence to store water has been issued under the *Water Act*;

"water supply well" means a water supply well, as defined in the Ground Water Protection Regulation, B.C. Reg 299/2004, that is

- (a) registered in the provincial ground water well database maintained by the Ministry of Environment, or
- (b) known;

“waterworks” means a known water supply intake, water storage reservoir whether natural or manmade, water diversion structure or a water supply system, if the intake, reservoir, structure or system is

- (a) licensed or which has been granted an approval for short-term use under the *Water Act*,
- (b) authorized under an operating permit issued under the *Drinking Water Protection Act*, or
- (c) allowed under the *Water Act*;

“wildlife tree” means a tree or group of trees that is

- (a) recorded in the LRDW as a wildlife tree or as being in a wildlife tree retention area, or
- (b) known, provides wildlife habitat, and assists in the conservation of stand level biodiversity.

(2) In the Act and this regulation:

“aquifer” has the same meaning as in the *Water Act*;

“biodiversity” means the biological diversity of plants, animals and other living organisms in all their forms and levels of organization, including the biological diversity of genes, species and ecosystems;

“commercial timber” means timber that has been determined to be merchantable timber in accordance with the *Forest Act*;

“cultural heritage resource” means an object, a site or the location of a traditional societal practice that

- (a) is of historical, cultural or archaeological significance to an aboriginal people,
- (b) is the focus of a traditional use by an aboriginal people that is of continuing importance to that people, and
- (c) is not regulated under the *Heritage Conservation Act*;

“invasive plant” means a species of plant identified in an order under section 45;

“recreation feature” means a biological, physical, cultural or historic feature that has been identified under the *Forest and Range Practices Act* as a feature of recreational significance or value.

“stream” means a watercourse, including a watercourse that is obscured by overhanging or bridging vegetation or soil mats, that contains water on a perennial or seasonal basis, is scoured by water or contains observable deposits of mineral alluvium, and that

- (a) has a continuous channel bed that is 100 m or more in length, or

(b) flows directly into

- (i) a fish stream or a fish-bearing lake or wetland, or
- (ii) a waterworks;

“wetland” means a swamp, marsh, bog, fen or other similar area that supports natural vegetation that is distinct from adjacent upland areas;

“wildlife” means

- (a) vertebrates that are mammals, birds, fish, reptiles, or amphibians,
- (b) invertebrates, and
- (c) plants

and includes all stages of development of the vertebrates, invertebrates or plants;

“wildlife habitat” means the physical and biological components and characteristics of the environment, including air, soil, water, food and cover, on which wildlife depend directly or indirectly to survive and carry out their life processes.

Measuring distances

- 4 In this regulation, a reference to distance in respect to riparian management areas, riparian management zones and riparian reserve zones, and in section 5 (2), is a reference to the slope distance.

PART 2 – ENVIRONMENTAL PROTECTION AND MANAGEMENT REQUIREMENTS

DIVISION 1 – WATER PROTECTION

Waterworks and water supply wells.

- 5 (1) A person carrying out an oil and gas activity must ensure that the activity does not cause a material adverse effect on
- (a) the quality or quantity of water, or
 - (b) the timing of the water flowing to a waterworks or a water supply well.
- (2) Without limiting subsection (1), a person must not carry out an oil and gas activity within 100 m of where water is diverted by a waterworks or a water supply well or stored in a water storage reservoir.
- (3) A person carrying out an oil and gas activity must ensure that the activity does not damage a waterworks or a water supply well.

Notice of impending construction

- 6.1 (1) Subject to subsection (2), at least 72 hours before a person carrying out an oil and gas activity begins construction, maintenance, deactivation or

abandonment of an oil and gas activity within 1 km upstream of a waterworks intake or a water supply well, the person must notify the holder or owner of the waterworks intake or water supply well of the pending construction, maintenance, deactivation or abandonment.

- (2) Notice need not be given under subsection (1) if maintenance of a road or pipeline may reasonably be expected not to have an adverse affect on the water quality, quantity or flow to a waterworks or water supply well.

Alternate water supply

- 6.2 (1) If a person carrying out an oil and gas activity is aware or is notified by an owner or user of a waterworks or water supply well that the water supply to the waterworks or water supply well has been adversely affected by the oil and gas activity, the person must do both of the following:
- (a) have a qualified professional assess the effect of the oil and gas activity on the waterworks or water supply well;
 - (b) at the request of the owner or user, provide the owner or user with an adequate alternate supply of water until the assessment is completed.
- (2) If the qualified professional referred to in subsection (1) determines that, on a balance of probabilities, the oil and gas activity has caused an adverse affect on the water supply, the person carrying out the oil and gas activity must provide the owner or user of the waterworks or water supply well with an adequate alternate supply of water while the waterworks or water supply well remains affected.
- (3) Water supplied under subsection (1) (b) or (2) must be of equal or better quality than the water supply it replaces.

Aquifers

- 6.3 A person carrying out an oil and gas activity must ensure that the activity does not cause a material adverse effect on an aquifer.

DIVISION 2 – RIPARIAN MANAGEMENT AREAS, FISH AND FISH HABITATS

Oil and gas activities in riparian reserve zones

- 7.1 (1) A person carrying out an oil and gas activity must not construct a well site or facility within a riparian reserve zone.
- (2) A person carrying out an oil and gas activity must not construct a pipeline or an oil and gas road within a riparian reserve zone unless the construction is limited to
- (a) a crossing of a stream, wetland or lake, or
 - (b) an approach to a crossing referred to in paragraph (a).

- (3) A person carrying out an oil and gas activity must not cut, modify or remove trees in a riparian reserve zone, except to construct an approach to or a crossing of a stream, wetland or lake.
- (4) A person carrying out an oil and gas activity within a riparian reserve zone in must ensure that the oil and gas activity disturbs or removes the vegetation in the zone no more than is necessary to carry out the oil and gas activity safely and efficiently.

Oil and gas activities in riparian management zones

- 7.2 (1) A person carrying out an oil and gas activity must not construct a well site or facility within a riparian management zone unless there is no other practicable option.
- (2) A person carrying out an oil and gas activity must not construct a pipeline or an oil and gas road within a riparian management zone unless
- (a) locating the pipeline or road outside the riparian management zone would create a higher risk of sediment delivery to the stream, wetland or lake to which the riparian management area applies,
 - (b) there is no other practicable option for locating the pipeline or road, or
 - (c) the pipeline or road is required to cross the stream for which the zone was created.
- (3) A person carrying out an oil and gas activity within a riparian management zone in accordance with subsection (2) must ensure that the oil and gas activity disturbs or removes the vegetation in the zone no more than is necessary to carry out the oil and gas activity safely and efficiently.

Protection of fish and fish habitat

- 11 A person carrying out an oil and gas activity must do so at a time and in a manner that is unlikely to harm fish or destroy, damage or harmfully alter fish habitat.

Temperature sensitive streams

- 13 A person carrying out an oil and gas activity in a riparian management zone adjacent to
- (a) a temperature sensitive stream identified by order under section 42, or
 - (b) a stream that is a direct tributary to the temperature sensitive stream, must retain either or both of the following in an amount sufficient to prevent the temperature of the temperature sensitive stream from increasing to an extent that would have a material adverse impact on fish:
 - (c) streamside trees whose crowns provide shade to the stream;
 - (d) understory vegetation that provides shade to the stream.

DIVISION 3 – CONSERVING WILDLIFE AND BIODIVERSITY**Wildlife habitat: general**

- 14 (1) A person carrying out an oil and gas activity must, to the extent practicable, avoid causing a material adverse effect or impact on wildlife and wildlife habitat, including
- (a) habitat loss,
 - (b) habitat fragmentation,
 - (c) increased predation,
 - (d) increased disturbance of wildlife, and
 - (e) direct mortality of wildlife.
- (2) To minimize harm to wildlife and wildlife habitat, a person carrying out an oil and gas activity on an area, or intending to do so, must do all of the following to the extent practicable and as applicable:
- (a) coordinate the use of and share access to the area;
 - (b) coordinate the use of existing infrastructure with others using the area;
 - (c) minimize the construction of new infrastructure and consolidate new facilities;
 - (d) choose an area for carrying out the activity that minimizes the amount of clearing required;
 - (e) ensure that new clearings for linear corridors (*seismic only?*) do not create an unobstructed line of sight exceeding 400 m;
 - (f) avoid carrying out activities in known wildlife travel corridors;
 - (g) minimize disturbance to vegetation and root zones, in part by leaving root structures intact within the areas on which oil and gas activities are being carried out;
 - (h) carry out oil and gas activities at a time and in a manner that does not result in
 - (i) physical disturbance to wildlife, including disturbance during sensitive seasons and critical life-cycle stages and disturbance by mechanical ground-based equipment, by aerial traffic, and by employees or contractors engaged in the oil and gas activity, and
 - (ii) mortality to wildlife;
 - (i) avoid materially increasing endangerment to wildlife in the area by improving access to the area by humans and predators;
 - (j) restore damaged habitat within two years after completing the oil and gas activity in the area by doing both of the following:

- (i) ensuring that no line of sight created by the gas activity exceeds 400 m;
- (ii) revegetating the area to as natural a state as practicable, if it is reasonably foreseeable that
 - (A) the area would not otherwise be substantially revegetated within 5 years of the completion of the activity, and
 - (B) the revegetation will materially improve the habitat present on the area.

Wildlife habitat features

- 16 A person carrying out an oil and gas activity must ensure that the oil and gas activity does not damage or render ineffective a wildlife habitat feature identified by order under section 43.

Old-growth management areas

- 17 (1) A person may carry out an oil and gas activity within an old-growth management area established by order under section 44 only if the combined area affected by the activity and other existing activities being carried out within the area is less than 5 % of the total of the area.
- (2) A person carrying out an oil and gas activity within an old-growth management area must ensure that the oil and gas activity disturbs or removes vegetation in the area no more than is necessary to carry out the oil and gas activity safely and efficiently.

Wildlife trees

- 18 A person carrying out an oil and gas activity must not cut, damage or remove a wildlife tree.

DIVISION 4 – CONSERVING RANGE AND FORAGE RESOURCES

Natural range barriers

- 19 If a person carrying out an oil and gas activity causes the removal or the rendering ineffective of a natural range barrier, the person must
- (a) before livestock is turned out on the area, or
 - (b) if turnout has occurred, as soon as practicable
- construct replacement barriers to mitigate the effect of the removal or ineffectiveness.

Crown range

- 19.1 A person carrying out an oil and gas activity on Crown range must ensure that the activity disturbs or removes vegetation no more than is necessary to carry out the activity safely and efficiently.

Invasive plants

- 20 Subject to an order under section 49 of the Act, a person carrying out an oil and gas activity in an area must
- (a) make reasonable efforts to ensure that seed, plant parts or propagules of the an invasive plant are not transported into the area while carrying out the oil and gas activities,
 - (b) to prevent invasive plants from becoming established, revegetate areas disturbed by the oil and gas activity using seed of ecologically suitable species as soon as practicable after the disturbance, and
 - (c) if the oil and gas activity is in relation to a well site or a facility, ensure that invasive plants do not become established within the area occupied by the well site or facility.

DIVISION 5 – CONSERVING TIMBER AND FOREST RESOURCES**Commercial timber**

- 21 A person carrying out an oil and gas activity must, if it is not practicable to avoid areas containing commercial timber,
- (a) minimize the amount of commercial timber that is harvested,
 - (b) maximize to the extent practicable the use of any commercial timber that has been felled, and
 - (c) minimize the impact on the commercial timber that remains on the area on which the oil and gas activity is carried out.

Forest health

- 22 A person carrying out an oil and gas activity in an area that is occupied by insects known to be harmful to forest health must not create conditions that increase the potential for the spread of the insects.

Resource features

- 23 A person carrying out an oil and gas activity must ensure that the oil and gas activity does not damage or render ineffective a known resource feature described in section 46.

DIVISION 6 – SOIL CONSERVATION**Soil profile and productivity: Crown land**

- 24 A person carrying out an oil and gas activity on an area of Crown land must do all of the following:
- (a) disturb no more soil than is necessary to carry out the oil and gas activity safely and efficiently;

- (b) if the activity, other than the construction of an oil and gas road, disturbs the land surface of an area, as soon as practicable after the completion of activity, ensure that
 - (i) the soil profile within the area is, to the extent practicable, returned to the profile that existed before the oil and gas activity was carried out, and
 - (ii) the productivity of the soil within the area is returned to a level that meets or exceeds the productivity that existed before the oil and gas activity was carried out.

Soil profile and productivity: private land

- 24.1** A person carrying out an oil and gas activity on an area of private land must
- (a) disturb no more soil than is necessary to carry out the oil and gas activity safely and efficiently, and
 - (b) if the activity disturbs the land surface of an area, as soon as practicable after the completion of the activity, ensure that
 - (i) the soil profile within the area is, to the extent practicable, returned to the profile that existed before the oil and gas activity was carried out, and
 - (ii) the productivity of the soil within the area is returned to a level that meets or exceeds the productivity that existed before the oil and gas activity was carried out.

Soil stability

- 25** A person carrying out an oil and gas activity on an area must ensure that the oil and gas activity does not cause the soil of the area to become unstable.

Natural surface drainage patterns

- 26** (1) A person carrying out an oil and gas activity on an area must ensure that the oil and gas activity does not alter the natural surface drainage patterns on the area both during and after completion of the activity.
- (2) Despite subsection (1), if it is not practicable for a person carrying out an oil and gas activity to maintain natural surface drainage patterns during the oil and gas activity, the person must ensure the altered surface drainage pattern is compatible with the original natural surface drainage pattern by the earlier of
- (a) the completion of the activity, and
 - (b) the next
 - (i) freshet, or
 - (ii) naturally occurring concentrated flow of water.

Revegetation to prevent erosion

- 27 (1) A person carrying out an oil and gas activity on Crown land must ensure that soil exposed by the oil and gas activity is, within two years after the soil is exposed, fully revegetated using species that will prevent erosion, unless the area is still being actively used for the purposes of carrying out the oil and gas activity if it is reasonably foreseeable that
- (a) the exposed soil is likely to erode and the erosion would
 - (i) cause sediment to enter a stream, wetland or lake, or
 - (ii) have a material adverse effect on water quality, fish habitat, wildlife habitat or lands used for agricultural purposes, and
 - (b) revegetation would materially reduce the likelihood of erosion.
- (2) A person carrying out an oil and gas activity on private land must ensure that soil exposed by the activity is fully revegetated to prevent erosion using species suitable for the location and purpose within two years after the soil is exposed unless the area is still being actively used for the purposes of carrying out the oil and gas activity if it is reasonably foreseeable that
- (a) the exposed soil is likely to erode, and
 - (b) revegetation would materially reduce the likelihood of erosion.

DIVISION 7 – CULTURAL HERITAGE RESOURCES**Cultural heritage resources**

- 28 A person carrying out an oil and gas activity must ensure that the activity does not damage or harmfully alter a known cultural heritage resource.

PART 3 – CLASSIFICATION**Stream riparian classes**

- 30 (1) In this section, “active flood plain” means the level area with alluvial soils, adjacent to streams, that is flooded by stream water on an average of one year in five and is at the same elevation as areas showing evidence of
- (a) flood channels free of terrestrial vegetation,
 - (b) rafted debris or fluvial sediments, recently deposited on the surface of the forest floor or suspended on trees or vegetation, or
 - (c) recent scarring of trees by material moved by flood waters;
- (2) A stream that is a fish stream or is located in a community watershed has the following riparian class:
- (a) S1, if the stream width is greater than 20 m;
 - (b) S2, if the stream width is not less than 5 m but not more than 20 m;

- (c) S3, if the stream width is not less than 1.5 m but is less than 5 m;
 (d) S4, if the stream width is less than 1.5 m.
- (3) Subject to subsections (4), for each riparian class of stream, the minimum riparian management area width is as follows:

Riparian Class	Riparian Management Area (metres)
S1	70
S2	50
S3	40
S4	30

- (4) If the width of the active flood plain of a stream exceeds the specified width for the riparian management area, the width of the riparian management area begins at the outer edge of the active flood plain.
- (5) The riparian management area for a stream begins at the high water mark of the stream channel bank and extends to the width described in subsection (3) or (4).

Wetland riparian classes

- 31 (1) Wetlands have the following riparian classes:
- (a) W1, if the wetland is greater than 5 ha in size;
 (b) W2, if the wetland is not less than 0.25 ha but not more than 5 ha in size;
 (c) W3, if the wetland is greater than 1000 ha in size and located in the BWBSmw1 or BWBSmw2 biogeoclimatic subzone;
 (d) W4, if the wetland is listed in the schedule to this regulation.
- (3) For each riparian class of wetland, the minimum width of the riparian management area is as follows:

Riparian Class	Riparian Management Area (metres)
W1	50
W2	30
W3	0
W4	50

- (4) If the minister responsible for the administration of the Wildlife Act considers it necessary, the minister, by order, may specify a larger riparian management area for a wetland than is set in subsection (1).
- (5) The riparian management area for a wetland begins at the edge of the wetland and extends to the width described in subsection (2).

Lake riparian classes

- 32 (1) Lakes have the following riparian classes:
- (a) L1, if the lake is 1 000 ha or greater in size;
 - (b) L2, if the lake is greater than 5 ha but less than 1 000 ha in size;
 - (c) L3, if the lake is not less than 0.25 ha and not more than 5 ha in size.
- (2) Subject to subsection (3), for each riparian class of lake, the minimum riparian reserve zone and riparian management zone width is as follows:

Riparian Class	Riparian Management Area (metres)
L1	60
L2	30
L3	30

- (3) If the minister responsible for the administration of the *Wildlife Act* considers it necessary, the minister, by order, may specify a larger riparian management area for a lake than is specified in subsection (1).
- (4) The riparian management area for a lake begins at the edge of the lake and extends to the width described in subsection (2) or (3).

PART 3.1 – RIPARIAN MANAGEMENT AREAS, FISH AND FISH HABITATS**Restrictions in a wetland and wetland crossings**

- 32.1 (1) Subject to subsections (2) to (4), a person subject to the Act must not carry out an oil and gas activity in a W2 or W4 wetland.
- (2) A person subject to the Act must not construct or remove a crossing of a wetland for an oil and gas activity unless it is a temporary crossing of a W1, W2 or W3 wetland and is
- (a) constructed or removed in winter on frozen ground, and
 - (b) located, built and maintained in a manner that
 - (i) protects the wetland immediately adjacent to the crossing,
 - (ii) mitigates disturbance to the wetland at the crossing, and
 - (iii) does not impact water quality and aquatic habitat.
- (3) A person who has constructed a wetland crossing for an oil and gas activity must ensure that the crossing is removed in a manner that will not result in a material adverse impact on the wetland.
- (4) A person carrying out an oil and gas activity in a wetland or wetland crossing must
- (a) in carrying out the activity, ensure that deleterious materials are not deposited into the wetland, and

- (b) on completion of the activity, restore the natural surface and subsurface water flow and drainage to its former state.

Restrictions on an enclosed upland

- 32.2 (1) In this section, an “**enclosed upland**” means a small patch of vegetative cover on an area of upland mineral soil or terrestrial island within and surrounded by a W1 or W3 wetland.
- (2) A person subject to the Act must not carry out an oil and gas activity
- (a) on an enclosed upland area that is 5 ha or less than in size and located within a W1 or W3 wetland, or
 - (b) on an enclosed upland area that is greater than 5 ha in size and located within a W1 or W3 wetland, unless
 - (i) there is no practicable option to carry on the activity elsewhere,
 - (ii) no more than X % of the enclosed upland is affected by the oil and gas activity, and
 - (iii) forest cover is maintained.

Restrictions on or in a lake

- 32.3 (1) A person subject to the Act must not carry out an oil and gas activity on or in a lake.
- (2) A person subject to the Act must not construct a road or pipeline across a lake.
- (3) Despite subsection (2), a person subject to the Act may construct a temporary road across a lake for the purposes of an oil and gas activity, provided that the temporary road is
- (a) constructed in winter on frozen ground, and
 - (b) located, built and maintained in a manner that
 - (i) protects the lake,
 - (ii) mitigates disturbance to the lake at the crossing,
 - (iii) does not impact water quality and aquatic habitat,
 - (iv) maintains the natural surface and subsurface water flow and drainage, and
 - (v) ensures that deleterious materials are not deposited into the lake.

Distances from a stream, wetland, lake or water body

- 32.4 (1) A person carrying out an oil and gas activity must ensure that construction of a well site or facility is at least 100 m away from
- (a) the high water mark of any stream, wetland, lake or water body, and
 - (b) the outer edge of any active flood plain.

Restrictions in a riparian management area

- 32.5** (0.1) Subject to subsections (1) to (4), a person subject to the Act must not carry out an oil and gas activity within a riparian management area.
- (1) A person subject to the Act must not construct a pipeline or an oil and gas road within a riparian management area unless the construction is limited to
 - (a) a crossing of a stream,
 - (b) a crossing of a W1 or W2 wetland in winter season, on frozen ground, or
 - (c) an approach to a crossing referred to in paragraph (a) or (b).
 - (2) Despite subsection (1), a person subject to the Act may construct a pipeline or an oil and gas road within a riparian management area if
 - (a) locating the pipeline or road outside the riparian management area would create a higher risk of sediment delivery to the stream, wetland or lake to which the riparian management area applies, or
 - (b) there is no other practicable option for locating the pipeline or road.
 - (3) A person who carries out an oil and gas activity allowed under subsection (2) must ensure that no more vegetation is disturbed or removed than is necessary for safely and efficiently carrying out the activity.
 - (4) Despite subsection (0.1), a person subject to the Act may carry out seismic activity in a riparian management area, but the person must not cut, modify or remove trees in the area unless there is no other practicable alternative or the action is required to ensure worker safety.

Stream crossings

- 32.6** (1) A person who constructs a stream crossing for an oil and gas activity must locate, build and maintain the crossing in a manner that
 - (a) protects the stream channel and stream bank immediately above and below the stream crossing, and
 - (b) mitigates disturbance to the stream channel and stream bank at the crossing.
- (2) A person who has constructed a stream crossing for an oil and gas activity must remove the crossing within 2 years after the completion of the oil and gas activity.

Fish passage

- 32.7** (1) A person carrying out an oil and gas activity in or about a stream must ensure that the oil and gas activity does not prevent or harmfully impede the movement of fish in a fish stream, in part by maintaining
 - (a) the pre-crossing width of the stream, and

- (b) the natural roughness of the channel bed.
- (2) Despite subsection (1), a person may temporarily prevent or impede the movement of fish to construct, maintain or deactivate a structure or installation, including a stream crossing, if
 - (a) fish are not migrating or spawning,
 - (b) the construction, maintenance or deactivation is carried out in a manner that does not materially affect the natural flow characteristics of the stream, and
 - (c) the source of the impediment is removed
 - (i) immediately on completion of the construction, maintenance or deactivation, or
 - (ii) if the immediate removal will result in harm to fish, as soon as practicable on completion of the construction, maintenance or deactivation.

Protection of fish and fish habitat

- 32.8 A person carrying out an oil and gas activity must do so at a time and in a manner that is unlikely to harm fish or destroy, damage or harmfully alter fish habitat.

Temperature sensitive streams

- 32.9 A person carrying out an oil and gas activity in a riparian management area adjacent to
- (a) a temperature sensitive stream identified by order under section 42, or
 - (b) a stream that is a direct tributary to the temperature sensitive stream,
- must retain either or both of the following in an amount sufficient to prevent the temperature of the temperature sensitive stream from increasing to an extent that would have a material adverse impact on fish:
- (c) streamside trees whose crowns provide shade to the stream;
 - (d) understory vegetation that provides shade to the stream.

PART 4 – ESTABLISHMENT AND IDENTIFICATION OF AREAS AND FEATURES

DIVISION 2 – ESTABLISHMENT OR IDENTIFICATION

Designated watersheds and measures established

- 36 The minister responsible for administering the *Water Act* by order may
- (a) establish a watershed or a portion of a watershed as a designated watershed for the purposes of paragraph (b), and

- (b) establish, for the purposes of section 36 (1) of the Act, a measure in relation to a designated watershed.

Aquifers identified and measures established

- 37 The minister responsible for administering the *Water Act* by order may
- (a) identify an aquifer for the purposes of paragraph (b), and
 - (b) establish, for the purposes of section 36 (1) of the Act, a measure in relation to an aquifer.

Categories of species of wildlife established

- 38 The minister responsible for administering the *Wildlife Act* by order may do any or all of the following:
- (a) establish one or more categories identifying species of wildlife as species at risk;
 - (b) establish one or more categories identifying species of wildlife as regionally important wildlife;
 - (c) establish one or more categories identifying ungulate species for which an ungulate winter range may be established.

Wildlife habitat areas and measures established

- 39 The minister responsible for administering the *Wildlife Act* by order may
- (a) establish an area as a wildlife habitat area for the purposes of establishing a measure, if satisfied that the area is necessary to meet the habitat requirements of a category of species at risk or regionally important wildlife, and
 - (b) establish, for the purposes of section 36 (1) of the Act, a measure in relation to a wildlife habitat area.

Ungulate winter ranges and measures established

- 40 The minister responsible for administering the *Wildlife Act* by order may
- (a) establish an area as an ungulate winter range for the purposes of establishing a measure, if satisfied that the area contains habitat necessary to meet the habitat requirements of a category of ungulate species, and
 - (b) establish, for the purposes of section 36 (1) of the Act, a measure in relation to an ungulate winter range.

Fisheries sensitive watersheds and measures established

- 41 The minister responsible for administering the *Wildlife Act* by order may
- (a) establish as a fisheries sensitive watershed for the purposes of establishing a measure, and

- (b) establish, for the purposes of section 36 (1) of the Act, a measure in relation to a fisheries sensitive watershed.

Temperature sensitive streams identified

- 42 The minister responsible for administering the *Wildlife Act* by order may identify a portion of a fish stream as a temperature sensitive stream.

Wildlife habitat features identified

- 43 (1) The minister responsible for administering the *Wildlife Act* by order may identify any or all of the following as a wildlife habitat feature:
- (a) a fisheries sensitive feature;
 - (b) a marine sensitive feature;
 - (c) a significant mineral lick or wallow;
 - (d) a nest of
 - (i) a bald eagle,
 - (ii) an osprey,
 - (iii) a great blue heron, or
 - (iv) a category of species at risk that is limited to birds;
 - (e) any other localized feature that the minister responsible for the *Wildlife Act* considers to be a wildlife habitat feature.
- (2) Identification of a wildlife habitat feature under subsection (1) may be by category or type, and may be restricted to a specified geographic location.

Old-growth management areas and measures established

- 44 The minister responsible for administering the *Land Act* by order may establish
- (a) one or more areas as an old-growth management area, and
 - (b) a measure, for the purposes of section 36 (1) of the Act, in relation to an old-growth management area.

Invasive plants identified

- 45 The minister responsible for administering the *Land Act* by order may establish one or more species of plants as invasive plants.

Resource features identified

- 46 For the purposes of section 23, each of the following is a resource feature:
- (a) a surface or subsurface element of a karst system;
 - (b) a range development;
 - (c) Crown land used for research or experimental purposes;

- (d) a permanent sample site used as a snow course by or on behalf of the federal or Provincial government for the purpose of measuring the water content of the snow pack on a given area;
- (e) an interpretative forest site, a recreation site or a recreation trail established or continued under the *Forest and Range Practices Act*;
- (f) a trail or other recreation facility that is authorized under the *Forest and Range Practices Act*;
- (g) a recreation feature.

PART 5 – EXEMPTIONS

Exemptions by minister responsible for administering the *Water Act*

- 46.2 (1) On application or on its own motion, the minister responsible for administering the *Water Act* may by order exempt a person carrying out an oil and gas activity from the requirement to comply with a measure established under section 36 or 37 if satisfied that, in the circumstances, it is not reasonably practicable to require the person to comply with the requirement.
- (2) An exemption under subsection (1) may be made with or without conditions.

Exemptions by minister responsible for administering the *Wildlife Act*

- 46.3 (1) On application or on its own motion, the minister responsible for administering the *Wildlife Act* may by order exempt a person carrying out an oil and gas activity from the requirement to comply with a measure established under section 39, 40 or 41 if satisfied that, in the circumstances, it is not reasonably practicable to require the person to comply with the requirement.
- (2) An exemption under subsection (1) may be made with or without conditions.

Exemptions by minister responsible for administering the *Land Act*

- 46.4 (1) On application or on its own motion, the minister responsible for administering the *Land Act* may by order exempt a person carrying out an oil and gas activity from the requirement to comply with a measure established under section 44 if satisfied that, in the circumstances, it is not reasonably practicable to require the person to comply with the requirement.
- (2) An exemption under subsection (1) may be made with or without conditions.

Exemptions by commission

- 47 The commission may exempt a person carrying out an oil and gas activity from one or more of the requirements of Part 2 of this regulation only if satisfied that, in the circumstances, it is not reasonably practicable to require the person to comply with the requirement.

PART 6 - DELEGATION**Ministers may delegate**

- 51 (1) Each of the ministers responsible for administering the *Water Act*, the *Wildlife Act*, the *Land Act* and the *Forest Act*, respectively, may, in writing, do one or more of the following:
- (a) delegate a power or duty of that minister under Part 4 or 5 to one or more of the following:
 - (i) another minister;
 - (ii) a person or class of persons employed under the *Public Service Act*;
 - (iii) the commissioner;
 - (b) vary or revoke a delegation.
- (2) A delegation under subsection (1) may be made generally or in relation to one of more of the following:
- (a) particular circumstances;
 - (b) particular periods;
 - (c) particular geographic areas;
 - (d) particular persons or classes of persons.