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

(a) the Special Tree Protection Regulation as set out in the attached Appendix 1 is made, and

(b) the Administrative Orders and Remedies Regulation, B.C. Reg. 101/2005, is amended as set out in the attached Appendix 2.

Minister of Forests, Lands, Natural Resource Operations and Rural Development

Presiding Member of the Executive Council

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, 154 and 163

Other:  OIC 267/2005
APPENDIX 1

SPECIAL TREE PROTECTION REGULATION

Contents

PART 1 – INTERPRETATION AND APPLICATION
  1 Definitions
  2 Application

PART 2 – PROTECTION OF SPECIFIED AND SUPPORTING TREES
  Division 1 – Protection
  3 Protection of specified and supporting trees
  4 Exemption by minister
  5 Exception in relation to roads

Division 2 – Reporting
  6 Report about specified tree
  7 Cutting, damaging or destroying specified tree under exemption

SCHEDULE

PART 1 – INTERPRETATION AND APPLICATION

Definitions
  1 In this regulation:
    “Act” means the Forest and Range Practices Act;
    “breast height”, in relation to a tree, means 1.3 m above the higher of
    (a) the high side of the tree, and
    (b) the point of germination for the tree;
    “diameter at breast height”, in relation to a tree, means the outside bark diameter
    of the tree measured at breast height;
    “primary forest activity” has the same meaning as in the Forest Planning and
    Practices Regulation;
    “responsible person”, in relation to a primary forest activity, means
    (a) a holder of an agreement under the Forest Act that authorizes the primary
    forest activity, and
    (b) a person who is authorized to cut, damage or destroy Crown timber in the
    course of carrying out the primary forest activity
    (i) by section 52 (2) of the Act, or
    (ii) by an authorization under section 52 (1) (b) of the Act;
    “specified tree” means a tree specified in the Schedule;
    “supporting tree” means a tree within a horizontal radius of 56 metres around a
    specified tree.
PART 2 – PROTECTION OF SPECIFIED AND SUPPORTING TREES

Division 1 – Protection

Protection of specified and supporting trees

3 (1) This section is subject to
(a) section 4 [exemption by minister], and
(b) section 5 [exception in relation to roads].
(2) A responsible person for a primary forest activity must ensure that, in the course of carrying out that activity,
(a) specified trees are not cut, damaged or destroyed, and
(b) supporting trees are not felled, topped or destroyed.
(3) For certainty, a tree is cut for the purposes of this regulation if the tree is felled, topped, limbed, pruned or otherwise cut.

Exemption by minister

4 (1) Section 3 (2) does not apply in relation to a tree that is cut, damaged or destroyed in accordance with an order under this section.
(2) On application by a responsible person, the minister may, by written order, exempt the person from section 3 (2) in relation to a tree if the minister is satisfied of one or more of the following:
(a) the exemption is necessary or advisable for
   (i) forest management,
   (ii) protection of humans or property, or
   (iii) promotion of traditional or cultural activities;
(b) a primary forest activity cannot reasonably be carried out without cutting, damaging or destroying the tree;
(c) in the case of a supporting tree, the tree is not necessary to protect a specified tree.
(3) An application under subsection (2) must be made in the form and manner specified by the minister.

Exception in relation to roads

5 Section 3 (2) (b) does not apply in relation to a supporting tree if
(a) the primary forest activity is maintaining or deactivating a road, and
(b) supporting trees are felled, topped or destroyed no more than is necessary to carry out the activity.
Division 2 – Reporting

Report about specified tree

6  (1) A responsible person for a primary forest activity who is aware of a specified tree in the area in which that activity is authorized must submit a report about the tree to the minister within 30 days after the later of the following:
   (a) the tree becomes a specified tree;
   (b) the person becomes aware of the tree.

(2) Subsection (1) does not apply in relation to a tree if a report has previously been submitted under that subsection about the tree.

(3) A report under subsection (1) must
   (a) be in writing,
   (b) be submitted in the form and manner specified by the minister, and
   (c) set out the following information:
      (i) the authorization for the responsible person to carry out the primary forest activity and, if applicable, the number of that authorization;
      (ii) the date the tree was identified;
      (iii) the location of the tree, expressed as a latitude and longitude in decimal degrees;
      (iv) the species and, if applicable, variety of the tree;
      (v) the height and diameter at breast height of the tree.

Cutting, damaging or destroying specified tree under exemption

7  (1) A responsible person who fells, tops or destroys a specified tree under an exemption granted under section 4 (2) must notify the minister within 30 days after doing so.

(2) A notice under subsection (1) must be
   (a) in writing, and
   (b) submitted in the form and manner specified by the minister.

SCHEDULE

Specified Trees – Diameter at Breast Height

Definition

1  In this Schedule, “coastal biogeoclimatic zones” means the Mountain Hemlock, Coastal Douglas-fir and Coastal Western Hemlock biogeoclimatic zones as shown on the attached maps numbered 1 to 4 and titled “Coastal Biogeoclimatic Zones”.

Specified trees

2  A tree is specified under this Schedule if the tree
   (a) is standing,
   (b) is described in Column 1 of the Table,
(c) is located in an area described in Column 2 opposite that description, and (d) has a diameter at breast height equal to or greater than the diameter at breast height specified in Column 3 opposite that description.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1 Tree</th>
<th>Column 2 Location</th>
<th>Column 3 Diameter at breast height (cm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Arbutus</td>
<td>Anywhere</td>
<td>164</td>
</tr>
<tr>
<td>2</td>
<td>Cedar, yellow</td>
<td>Anywhere</td>
<td>265</td>
</tr>
<tr>
<td>3</td>
<td>Cottonwood, black</td>
<td>In the coastal biogeoclimatic zones</td>
<td>268</td>
</tr>
<tr>
<td>4</td>
<td>Cottonwood, black</td>
<td>Outside the coastal biogeoclimatic zones</td>
<td>176</td>
</tr>
<tr>
<td>5</td>
<td>Douglas-fir – coastal</td>
<td>Anywhere</td>
<td>270</td>
</tr>
<tr>
<td>6</td>
<td>Douglas-fir – interior</td>
<td>Anywhere</td>
<td>160</td>
</tr>
<tr>
<td>7</td>
<td>Fir, grand</td>
<td>Anywhere</td>
<td>146</td>
</tr>
<tr>
<td>8</td>
<td>Maple, bigleaf</td>
<td>Anywhere</td>
<td>198</td>
</tr>
<tr>
<td>9</td>
<td>Oak, garry</td>
<td>Anywhere</td>
<td>136</td>
</tr>
<tr>
<td>10</td>
<td>Pine, ponderosa</td>
<td>Anywhere</td>
<td>119</td>
</tr>
<tr>
<td>11</td>
<td>Redcedar, western</td>
<td>In the coastal biogeoclimatic zones</td>
<td>385</td>
</tr>
<tr>
<td>12</td>
<td>Redcedar, western</td>
<td>Outside the coastal biogeoclimatic zones</td>
<td>290</td>
</tr>
<tr>
<td>13</td>
<td>Spruce, Sitka</td>
<td>Anywhere</td>
<td>283</td>
</tr>
<tr>
<td>14</td>
<td>Yew, pacific</td>
<td>Anywhere</td>
<td>63</td>
</tr>
</tbody>
</table>
Coastal Biogeoclimatic Zones
Map 3 of 4

Area defined by: Mountain Hemlock, Coastal Douglas-fir, and Coastal Western Hemlock BEc Zones
APPENDIX 2

1 The Administrative Orders and Remedies Regulation, B.C. Reg. 101/2005, is amended in Division 2 of Part 3 by adding the following section:

Penalties – Special Tree Protection Regulation

18.1 The maximum amount that the minister may levy against a person under section 71 (2) of the Forest and Range Practices Act for a contravention of section 3 (2) of the Special Tree Protection Regulation is $100 000.