



Environmental Management Act
**OPEN BURNING SMOKE
CONTROL REGULATION**
B.C. Reg. 145/93

Deposited and effective April 23, 1993
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Consolidated Regulations of British Columbia

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Environmental Management Act

OPEN BURNING SMOKE CONTROL REGULATION

B.C. Reg. 145/93

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Point in time from June 15 to September 30, 2018

Environmental Management Act

OPEN BURNING SMOKE CONTROL REGULATION

B.C. Reg. 145/93

Definitions and interpretation

- 1** (1) In this regulation and the Code:
- “**Category A area**” means a place in British Columbia designated as a Category A area in Schedule 1 of the Code;
 - “**Category B area**” means a place in British Columbia that is not a Category A area;
 - “**Code**” means the Open Burning Smoke Control Code of Practice set out in Schedule B;
 - “**Crown land**” means land, whether or not it is covered by water, or an interest in land, vested in the Crown;
 - “**debris**” means disturbed or undisturbed vegetative matter targeted for management or disposal by open burning;
 - “**demolition waste**” means any material resulting from or produced by the complete or partial destruction or tearing down of any structure;
 - “**domestic waste**” means household material and food waste but does not include newspaper and cardboard;
 - “**forest official**” means a person or class of persons employed by the Ministry of Forests and Range and designated in writing by a director as an officer;
 - “**improvement district**” means an improvement district as defined in the *Local Government Act*;
 - “**inversion**” means a stable air mass where temperature increases with elevation and stagnant air remains near the surface;
 - “**licence of occupation**” means a licence issued under the *Land Act* to occupy and use Crown land;
 - “**maximum reservoir elevation**” means the full supply or normal water level plus the design flood surcharge as approved in a water licence issued under the authority of the *Water Sustainability Act*;
 - “**open burning**” means the combustion of material with or without control of the combustion air and without a stack or chimney to vent the emitted products of combustion to the atmosphere;
 - “**parcel of land**” means any of the following:
 - (a) Crown land covered by a licence or right of occupation;
 - (b) leased Crown land covered by a single lease;
 - (c) Crown land disposed of by a Crown grant under the *Land Act*;
 - (d) a “park” as defined in the *Park Act*;
 - (d.1) a “conservancy” as defined in the *Park Act*;
 - (e) a “recreation area” as defined in the *Park Act*;

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- (f) an ecological reserve established under the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*;
 - (g) a “regional park” as defined in the *Local Government Act*;
 - (h) an area of private or Crown land defined as a cut block, and designated under the *Forest Practices Code of British Columbia Act* for prescribed burning;
 - (i) an area of land on private managed forest designated under the *Forest Practices Code of British Columbia Act* for prescribed burning;
 - (j) a wilderness area designated under the *Forest Act*;
 - (k) an area of vacant Crown land designated under the *Forest Practices Code of British Columbia Act* for prescribed burning;
 - (l) orchard land in an agricultural land reserve designated under the *Agricultural Land Commission Act* if
 - (i) orchard land that is not contiguous is farmed by the same owner or lessee, and
 - (ii) the owner or lessee has chosen to open burn solely for orchard renovation and replanting;
 - (m) a 5 kilometre continuous section of statutory right of way;
 - (n) a 5 kilometre continuous section of land surrounding a reservoir between the water line and the maximum reservoir elevation;
 - (o) any contiguous private land with the same owner;

“**piled debris**” means debris that has been piled or stacked on the parcel of land from which it originated for the purpose of disposal by open burning;

“**prescribed burning**” means the knowledgeable application of fire to a specific land area to accomplish predetermined forest management or other land use objectives in accordance with the “Glossary of Forest Fire Management Terms” published by the National Research Council of Canada, 1994;

“**public notice**” means a notice, given in the print or electronic media, respecting the suspension of an exemption from a requirement to hold an approval or permit under section 6 of the *Environmental Management Act*;

“**publicly available**” means available in the print or electronic media, by telephone information service, or from a director or forest official;

“**reservoir**” means an artificial lake, pond or basin used for the storage, regulation and control of water, silt, debris and other liquid or liquid-carried material;

“**smoke**” means the gases, particulate matter and products of combustion emitted into the atmosphere when debris is open burned;

“**smoke release period**” means a period which commences at the initial release of smoke from open burning of debris on a parcel of land and ends

- (a) in a Category A area after visible smoke ceases to be released from that debris, or

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(b) in a Category B area after not more than 5% of that debris continues to release visible smoke;

“**statutory right of way**” means a statutory right of way as defined in the *Land Title Act*;

“**telephone information service**” means an automated telephone service that conveys recorded information to a caller and is accessible by the public;

“**ventilation index**” means the forecast ventilation index prepared using Environment Canada data and approved by a director or a forest official.

(2) If a parcel of land is both inside and outside a municipality or improvement district, the portion that is outside the municipality or improvement district and the portion that is inside the municipality or improvement district are to be considered separate parcels of land.

(3) If a parcel of land is both inside and outside a Category A area, the portion that is outside the Category A area and the portion that is inside the Category A area are to be considered separate parcels of land.

(4) For the purpose of section 6 (3) of the *Environmental Management Act*, open burning of debris on a parcel of land is a prescribed activity.

[am. B.C. Regs. 56/94, ss. 1 and 2; 262/98, s. 1; 200/2000, s. 1; 321/2004, s. 18 (a) to (f); 215/2006, Sch. s. 2; 4/2010, s. 3; 41/2016, s. 23; 117/2018, s. 15.]

Exemption from requirement to hold a permit or approval

2 A person who carries out open burning of debris on a parcel of land is exempt from section 6 (2), (3) and (4) of the *Environmental Management Act* if

(a) the debris is open burned on the parcel of land from which it originated,

(b) substances which normally emit dense smoke or noxious odours, and those prohibited materials set out in Schedule A, are not included with debris that is open burned,

(c) every reasonable alternative for reducing, reusing or recycling debris has been pursued to minimize the amount of debris to be open burned,

(d) an open burning ban by a fire protection agency having jurisdiction, a municipality or an improvement district is not in effect,

(e) the open burning complies with any applicable municipal, regional district or improvement district bylaw or portion of a bylaw that has the effect of being more restrictive than this regulation,

(f) when required, a burning permit issued under the *Forest Practices Code of British Columbia Act* or under a municipal, regional district or improvement district bylaw has been obtained,

(f.1) the open burning is conducted in accordance with the *Forest Practices Code of British Columbia Act*,

(g) the open burning is conducted in accordance with the conditions set out in section 3,

- (h) the open burning is conducted in accordance with the Open Burning Smoke Control Code of Practice in Schedule B, and
- (i) before starting the open burning, the person confirms that no public notice suspending the exemption has been issued under section 4.

[am. B.C. Regs. 26/94; 262/98, s. 2; 200/2000, s. 2; 321/2004, s. 18 (g) and (h).]

Distance from buildings during open burning

- 3** (1) The open burning of debris must be carried out at least
- (a) 100 metres from neighbouring residences and businesses, and
 - (b) 500 metres from schools in session, hospitals and facilities used for continuing care as defined under the *Continuing Care Act*.
- (2) Strategies and techniques must be employed so that the smoke from open burning of debris does not pose a hazard at airports or on provincial highways by significantly reducing visibility.

[am. B.C. Reg 56/94, s. 3.]

Prohibited material

- 3.1** A person must not burn, with debris that is open burned, the prohibited material set out in Schedule A.

[en. B.C. Reg. 262/98, s. 3.]

Authority of a director

- 4** (1) If, in the opinion of a director, pollution is occurring from open burning, the director may
- (a) by public notice or written instruction, or both, suspend the exemption referred to in section 2 for specified areas and periods not to exceed one month in duration,
 - (b) require that burning debris be extinguished, or
 - (c) require that no additional debris be added to the fire.
- (2) If, in the opinion of a director, pollution may occur from open burning, the director may
- (a) by public notice or written instruction, or both, suspend the exemption referred to in section 2 for specified areas and for periods not exceeding 7 days in duration,
 - (b) require that the burning debris be extinguished, or
 - (c) require that no additional debris be added to the fire.
- (3) If, after 7 days, a director is of the opinion that pollution may continue to occur from open burning, the director may re-issue the notice as specified in subsection (2) (a).

[am. B.C. Regs. 262/98, s. 4; 321/2004, s. 18 (e).]

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Schedule A

Offence and penalty

- 5** A person who contravenes section 3 or 3.1, or a provision of Part 3 of Schedule B, commits an offence and is liable on conviction to a fine of not more than \$200 000.
[en. B.C. Reg. 262/98, s. 5.]

SCHEDULE A

[am. B.C. Reg. 321/2004, s. 18 (i).]

*(Section 2 (b))***Prohibited material**

- 1** The following material must not be included with debris that is open burned:
- | | |
|------------------|-------------------------------|
| tires | treated lumber |
| plastics | railway ties |
| drywall | manure |
| demolition waste | rubber |
| domestic waste | asphalt |
| paint | asphalt products |
| hazardous waste | fuel and lubricant containers |
| tar paper | biomedical waste |

SCHEDULE B

[en. B.C. Reg. 56/94, s. 4; am. B.C. Regs. 262/98, ss. 6 to 9; 321/2004, s. 18 (e); 4/2010, s. 3.]

OPEN BURNING SMOKE CONTROL CODE OF PRACTICE**PART 1 – PURPOSE****Purpose**

- 1** The purpose of this Code is to describe practices for open burning of debris that will reduce the health impact of smoke emissions and ensure that debris which is open burned is handled in an environmentally sound manner.

Application

- 2** (1) While recognizing that fire is a natural part of many ecosystems and can be used as a tool to maintain plant diversity and animal life, this Code applies to fires used to manage ecosystems for purposes such as
- silviculture management,
 - forest fuel management,
 - wildlife habitat enhancement, and
 - domestic range improvement.
- (2) This Code applies to debris disposal burning from operations such as land clearing and forest harvesting.
- (3) This Code does not apply to the following types of open burning:

-
- (a) the burning of leaves, foliage, weeds, crops or stubble for domestic or agricultural purposes or in compliance with the *Weed Control Act*;
 - (b) fires set or controlled by a person acting under a notice of a designated forest official as that term is defined in the *Forest Practices Code of British Columbia Act*, or under an order issued by a local assistant as that term is defined in the *Fire Services Act*.

PART 2 – CATEGORY CLASSIFICATION

Category A and B areas

- 3 (1) Every place in British Columbia where smoke could have a high impact is designated in Schedule 1 as a Category A area.
- (2) Every place in British Columbia that is not in a Category A area is designated as a Category B area.

Change of category classification

- 4 (1) A local government may request a change of category classification by making application to a director, after first having had a public consultation involving the local government, the stakeholders and other concerned persons and having passed a resolution that identifies the boundaries of the area to be changed.
- (2) After review of the application under subsection (1), the director of the Air Resources Branch may recommend to the Lieutenant Governor in Council that
 - (a) a place that is in a Category B area be designated as a Category A area, or
 - (b) a place that is in a Category A area be designated as a Category B area.

PART 3 – SMOKE EMISSION REDUCTION REQUIREMENTS

Duration of the smoke release from open burning

- 5 (1) Within a Category A area, the smoke release period for each parcel of land must not be greater than 72 consecutive hours.
- (2) Repealed. [B.C. Reg. 262/98, s. 7 (b).]
- (3) Within a Category B area, the smoke release period for each parcel of land must not be greater than 96 consecutive hours. If, after 96 hours, smoke is being released from more than 5% of the debris that was initially ignited, the piled debris must be broken apart, scattered or re-piled. Portions of the piled debris still burning may be re-piled or used to ignite new piles of debris. Open burning initiated in this manner will be considered a new smoke release period and must comply with all the restriction of the regulations and this Code.
- (4) It is the responsibility of the person conducting the burn to ensure that satisfactory control of the feeding of the fire is maintained and that adequate equipment and staff are available to ensure that the limits set in this Code are followed.

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Smoke free period

- 6 Within a Category A area, open burning of debris may proceed if no open burning has occurred on the parcel of land at any time during the 15 days preceding the open burning.

Burn periods per year

- 7 Within a Category A area, smoke may be released during open burning on a parcel of land on no more than 4 separate occasions during a calendar year.

Favourable weather for smoke dispersion

- 8 (1) Unless otherwise specified for smoke management purposes in a Ministry of Forests and Range burning permit or in a burn plan approved by the Ministry of Forests and Range, open burning of debris must not be initiated unless the ventilation index is forecast as
- (a) “good” for the day the open burning is to be started, and
 - (b) “good” or “fair” on the second day the debris is anticipated to release smoke.
- (2) If the ventilation index required by subsection (1) is not publicly available, a person who proposes to open burn debris must conduct a test burn, lasting no longer than 60 minutes, of sufficient debris on the site to evaluate the weather conditions so as to ensure that smoke from any subsequent open burning, initiated on the same day as the test burn, will not negatively impact on a nearby population or cause pollution.
- (3) Open burning of debris must not be initiated if the local air flow will cause the smoke to negatively impact on a nearby population or cause pollution.
- (4) Unless otherwise exempted for smoke management purposes by a Ministry of Forests and Range burning permit or in a burn plan approved by the Ministry of Forests and Range, open burning of debris must not be initiated if atmospheric mixing at the site where the debris is to be burned is insufficient to provide rapid dispersion of the smoke.

Smoke reduction if weather changes

- 9 Unless otherwise exempted for smoke management purposes by a Ministry of Forests and Range burning permit or in a burn plan approved by the Ministry of Forests and Range, debris must not be added to the open burn if
- (a) weather conditions change and the ventilation index becomes “poor”,
 - (b) local winds make the dispersion of the smoke inadequate, or
 - (c) an inversion forms trapping smoke near the surface.

SCHEDULE 1

[en. B.C. Reg. 56/94, s. 4; am. B.C. Regs. 262/98, s. 10; 321/2004, s. 18 (j) and (k); 117/2018, s. 16.]

- 1 Each of the following is designated as a Category A Area:
- (a) every city, town and village as described in section 10 (1) [*classification of municipalities*] of the *Local Government Act*;
 - (b) those district municipalities, as defined in the *Local Government Act*, that are within the Capital, Central Okanagan, Fraser Valley, Greater Vancouver and Okanagan-Similkameen regional districts;
 - (c) the District of Sechelt.

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