

# Proposed Forest Resource Road Regulation Content

*The following document contains the concepts that will be used to develop the Forest Resource Road Regulation. You are invited to review these concepts and provide comments and recommendations to the Forest Management branch of the Department of Energy, Mines and Resources.*

*For information on how to comment, please contact the Forest Management branch.*

*Comments must be made in writing and can be sent via regular mail, electronically or delivered by hand. Any comments provided in writing will be available to the public on the Energy, Mines and Resources website at the end of the consultation period, normal rules of information and privacy will apply to these documents. The Forest Management branch appreciates your participation in this process.*

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## Basic Concepts

- The purpose of the regulation is to ensure forest resource roads are constructed, maintained, used and decommissioned in an appropriate manner.
- The regulation does not address access management planning (the decision to build a road).
- Roads built to access forest resources are not roads under the Highways Act.
- The regulation requires that a construction, maintenance or industrial use of a road be authorized by a permit and sets out the basic requirements of a permit, including fees. It also provides for exemptions under certain circumstances.
- Maintenance of an active Forest Resource Road is mandatory.
- Requirements are included for safe use, and for restricting use or closing roads in certain circumstances.
- Yukon *Motor Vehicle Act* will apply to use of Forest Resource Roads.

# Proposed Forest Resource Road Regulation Content

## LEGISLATIVE REFERENCE:

### Forest Resources Act Part 4 – Forest Roads and Health

#### Establishment of roads

32. (1) Despite anything in any other enactment, the Director may construct or authorize the construction of roads to assist forest resource harvesting and may

- (a) maintain and administer these roads;
- (b) limit the loads carried by vehicles using these roads;
- (c) restrict the use of these roads to seasonal use or for reasons of public safety or environmental protection;
- (d) by order, close and decommission, in whole or in part, a road constructed under the authority of this subsection; and
- (e) authorize, by order, a person to use the road to access forest resources or other renewable or non-renewable resources.

(2) No person may clear any forest resources for the purpose of constructing a road or trail to assist with forest resource harvesting except as authorized by a cutting permit.

(3) Despite anything in a cutting permit, where the Director considers it necessary for the purposes of managing or protecting forest resources, the Director may, by order, close the road or order any person responsible for the construction or maintenance of the road to close the road.

(4) A road constructed under the authority of subsection (1) is not a highway under the Highways Act.

## 1. Purpose

The purpose of this regulation is to ensure that forest resource roads are constructed, maintained, used and decommissioned in a manner that provides for public and worker safety; protects the environment; and encourages efficient use of forest resources.

## 2. Definitions

1) Definitions used in this regulation have the same meaning as in the *Forest Resources Act*.

(2) Please use the following definitions for this regulation:

**Forest Resource Road:** see Section 3(1) and (2)

**Decommission:** is to discontinue the use and maintenance of a forest resource road, either temporarily through deactivation or permanently through rehabilitation.

# Proposed Forest Resource Road Regulation Content

## 3. Application

- (1) A road constructed for the purposes of providing access to harvest forest resources under the *Forest Resources Act* shall be deemed a forest resource road.
- (2) Subject to the provisions of this regulation, a road may be designated a forest resource road.
- (3) The *Yukon Motor Vehicle Act* shall apply to the use of a road designated as a forest resource road.
- (4) Construction, modification, maintenance, use, closure, restriction and decommissioning of a forest resource road must be consistent with the access management considerations in any applicable forest resources management plan, timber harvest plan, woodlot plan or site plan.

## 4. Limitations on Construction, Maintenance and Use of Forest Resource Roads

- (1) A person must not construct, modify or maintain a forest resource road unless the person is:
  - a. the Minister or a person delegated by the Minister;
  - b. the holder of a harvesting license or cutting permit that authorizes or requires the construction, modification or maintenance;
  - c. the holder of a forest resource road permit that authorizes or requires the construction, modification or maintenance; or,
  - d. otherwise authorized to do so by the Minister.
- (2) A person must not use a forest resource road for any purpose unless the person is:
  - a. the Minister or a person delegated by the Minister;
  - b. the holder of a harvesting license or cutting permit that authorizes the person to use the forest resource road for the industrial purpose;
  - c. the holder of a forest resource road permit that authorizes the person to use the forest resource road for the industrial purpose; or,
  - d. permitted in writing by the Director
  - e. a person named in s.15(2) of the Act

## 5. Forest Resource Road Permits

- (1) The Director may issue a forest resource road permit to a person if the person:
  - a. has submitted an application in a form required by the Director;

## Proposed Forest Resource Road Regulation Content

- b. demonstrates to the satisfaction of the Director that the activities proposed under the permit are consistent with a forest resource management plan or other government approved resource plan for the area;
  - c. is authorised to carry out an industrial activity requiring the construction, modification, maintenance or use of the road; and,
  - d. pays the prescribed fee and security, if any.
- (2) Forest resource road permit fees to be prescribed by regulation.
- (3) The Minister may prescribe a security for forest resource road permits.
- (4) The Director may impose conditions in a forest resource road permit:
- a. as may be required to protect the safety of workers, other industrial users of the road and the public;
  - b. if necessary to protect the environment and forest resources in the area; and,
  - c. if required to protect the road, including bridges and culverts.
- (5) The Director shall specify the term of a forest resource road permit.
- (6) The Director may amend the conditions in a forest resource road permit where:
- a. the person who holds the permit applies in writing to the Director and the reasons for the amendment are satisfactory to the Director; or,
  - b. the Director determines that an amendment is necessary, and the Director provides the person who holds the permit with 60 days notice of the change.
- (7) The Director may cancel a forest resource road permit where:
- a. the person who holds the permit applies in writing to the Director, and the holder of the permit has complied with the requirements of the permit and any other requirements determined by the Director as necessary for cancellation; or,
  - b. the Director determines that holder of the permit is not in compliance with the conditions of the permit and has been given adequate opportunity to rectify the non-compliance; or,
  - c. the Director determines that continuation of activities authorised by the permit would be detrimental to the safety of workers, other road users or the public, or could result in imminent damage to the environment of forest resources.

## **Proposed Forest Resource Road Regulation Content**

- (8) The Director may transfer a forest resource road permit where the person wishing to obtain the permit:
  - a. has submitted an application in a form required by the Director;
  - b. demonstrates to the satisfaction of the Director that the activities proposed under the permit are consistent with a forest resource management plan or other government approved resource plan for the area;
  - c. is authorised to carry out an industrial activity requiring the construction, modification, maintenance or use of the road;
  - d. pays the prescribed fee and security, if any; and,
  - e. obtains written consent for the transfer from the holder of the permit.
- (9) Where more than one person is authorized to use a forest resource road for industrial purposes, the Director may:
  - a. identify one person as the designated maintainer of the road; and,
  - b. enter into an arrangement with the designated maintainer for maintenance of the road, including costs for maintenance.

### **6. Construction and Modification of Forest Resource Roads**

- (1) Road construction or modification carried out under the authority contained in a harvesting license, cutting permit or a resource road permit shall be conducted in a manner, and to a standard approved by the Director.
- (2) The Director may establish standards, classifications, specifications and guidelines for the construction and modification of forest resource roads, including the design and installation of bridges, culverts and other structures.

### **7. Ownership**

Notwithstanding who constructs, modifies or maintains a forest resource road, the owner shall remain the Yukon government.

### **8. Maintenance of Forest Resource Roads**

- (1) A forest resource road that has not been decommissioned shall be maintained.
- (2) The Director may establish standards for maintenance of forest resource roads.
- (3) The Director shall identify a person who will be the designated maintainer for every forest resource road.
- (4) The person identified as the designated maintainer of a forest resource road may be:

## Proposed Forest Resource Road Regulation Content

- a. the Minister;
  - b. the holder of a harvesting license or cutting permit that authorizes or requires the person to maintain the road;
  - c. the holder of a resource road permit who is authorized or required to maintain the road; or,
  - d. another person operating under an agreement with the Minister.
- (5) Unless determined otherwise under 8(4), the designated maintainer of a new forest resource road shall be the person who constructed the road.
- (6) The person who is the designated maintainer of a forest resource road shall maintain the road in accordance with the standards prescribed in their harvesting license, cutting permit or forest resource road permit, or where these have not been specified, in accordance with maintenance standards established by the Director.

### 9. Road Use Fees

- (1) The Minister may establish a special account for the purposes of receiving and dispersing fees to pay for forest resource road maintenance, modification, construction, and decommissioning.
- (2) In addition to any other fees, the method for establishing road use fees is prescribed in regulation, for an industrial user who is not the designated maintainer of a forest resource road to pay an amount of the maintenance, or capital cost, proportional to that person's expected use of the road:
  - a. by remitting the fee to the Director; or
  - b. by entering into an agreement with the designated maintainer.

### 10. Safe Use

- (1) Subject to any closure or restriction made under this regulation, any authorized person may travel on a forest resource road provided they are acting in compliance with the *Forest Resources Act* and this regulation.
- (2) A person who uses a forest resource road must do so:
  - a. With due regard for safety, having regard to all circumstances, including the nature and condition of the road and its use, including the amount of traffic that might reasonably be expected.
  - b. In a manner consistent with the conditions for road use set out in a harvesting license, cutting permit or forest resource road permit if any applies; and,

## **Proposed Forest Resource Road Regulation Content**

- c. In compliance with any applicable notices, orders or conditions made by the Director.
- (3) The Director may order and post standing conditions:
  - a. Limiting the speed, size and weight, of vehicles using a forest resource road.
  - b. Restricting the use of a forest resource road in a manner necessary for safety.
  - c. For the use of communication devices or other safety measures by road users.
  - d. As otherwise appropriate for safe use of the road.

### **11. Restrictions and Closures**

- (1) The Director may order that a forest resource road be closed for a specified period, or may otherwise restrict its use:
  - a. To prevent damage to the road, including culverts and bridges;
  - b. To prevent damage to forest resources or the environment;
  - c. To protect human life or property; or
  - d. For the purposes of wildlife management and conservation; or
  - e. For the purposes of forest resources management.
- (2) The Director may erect, or order a designated maintainer to erect, a gate or other suitable structure to temporarily limit the use of a forest resource road.
- (3) In the exercise of 11(1), the Director may not prevent a person from using a forest resource road for the purpose of access to their permanent or seasonal dwelling.

### **12. Decommissioning of Forest Resource Roads**

- (1) A person must not decommission a forest resource road unless the person:
  - a. is the Minister;
  - b. is the designated maintainer of the forest resource road who is authorized by their harvesting license, cutting permit or resource road permit to decommission; or,
  - c. is a person authorised by the Director; and
  - d. has obtained an approval from the Director.
- (2) At least 30 days prior to the any decommissioning activity, a person must:

## Proposed Forest Resource Road Regulation Content

- a. notify the Director;
  - b. post a notice conspicuously at major access points; and,
  - c. take reasonable attempts to notify other users of the road.
- (3) A person who decommissions a forest resource road must do so in a manner that does not create a safety hazard to the public or to wildlife using the area.

### 13. Continuing Liability

- (1) If the authorization to use a forest resource road expires or is cancelled, the person who held the authorization must:
- a. pay to the government any money owing in relation to the forest resource road; and
  - b. pay to the designated maintainer any unpaid maintenance fees or capital cost contribution.
- (2) If the authorization to use a forest resource road expires or is cancelled and the person authorized has not completed required work or obligations pertaining to the forest resource road, the Director may:
- a. withhold any security for the purposes of paying for the work; and,
  - b. carry out the work and, if the above mentioned funds are insufficient, charge the person for the cost of doing the work.

### 14. Designation of Existing Roads

- (1) The Director may designate a road as a forest resource road where the road:
- a. is located on public land and is not a highway under the *Highways Act*;
  - b. will be used to provide access for harvesting or management of forest resources; or,
  - c. requires modification or maintenance to provide safe and efficient access for harvesting or management of forest resources.

### 15. Offence

A person who contravenes Sections 4 and conditions in a forest resource road permit under subsection 5(4) of this regulation, commits an offence.



