



STOP WORK ORDERS

Purpose: This procedure outlines the process for identifying the circumstances under which a stop work order is issued and when it would be rescinded.

Introduction: Section 30 of the *Private Managed Forest Land Act* (the Act) provides authority for the council or a person authorized by council to issue an order that an activity being conducted on land administered under the Act ceases.

Procedure

- I. Prerequisites**
1. Confirm that there is, in fact, a contravention
 2. Determine that the contravention is ongoing and is resulting or likely to result in a significant material adverse effect to
 - fish and fish habitat,
 - drinking water quality, and
 - critical wildlife habitat
 3. Determine that the owner is not intending to voluntarily cease the contravening activity
 4. Determine the most appropriate time to cause the contravening activity to cease having regard to
 - operational considerations such as whether it may be appropriate to let some partially completed operations conclude, or
 - whether existing site conditions or deteriorating weather may dictate that the activity be shut down immediately.
 5. Determine what is required to be remedied in order for the contravention to cease and for the stop work order to be extinguished
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- II. Communication**
1. For potential written stop work orders, the auditor/inspector/investigator must
 - advise the executive director as soon as practicable of the findings with respect to the issue, and
 - provide the executive director with all of the information needed to determine whether to issue a stop work order and how to word the order.
 2. For potential verbal stop work orders (in cases where the contravention is resulting in or is about to result in serious damage to the environment), the auditor/inspector/investigator must
 - immediately contact the executive director and, in the event the executive director cannot be contacted, a member of the council, and
 - if the executive director or a council member cannot be reached, advise the owner that the issue is going to council with a recommendation that a stop work order be issued.
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III. Decision

Stop work orders are extremely powerful, in that they can stop operations on an entire parcel of land, cause significant financial hardship for the land owner, and can result in a loss of work. For this reason, stop work orders should be used in a judicious fashion to deal with specific serious contraventions, rather than in a broad manner that may cause disruption to other, compliant operations.

The executive director determines each of the following:

- whether a stop work order is possible and if it is, whether it is appropriate (see Appendix 1);
- whether a verbal stop work order is required, or if a written stop work order is adequate;
- when the stop work order becomes effective; and
- what is required for the stop work order to be extinguished.

IV. Issuance

1. For written stop work orders, the executive director must
 - complete the stop work order form
 - not be too prescriptive in outlining what is required to have the order lifted or extinguished.
 - Provide the stop work order to the owner by
 - Promptly emailing or faxing, and
 - Mailing the original via registered mail.
2. For verbal stop work orders, the executive director must
 - Provide the verbal stop work order
 - directly to the owner or on-site representative
 - State that it is in effect immediately
 - Require that the contravening activity to cease immediately.
 - Provide a written stop work order within 96 hours of issuing the verbal stop work order.

V. Extinguishment

The manner in which a stop work order is extinguished depends on how the stop work order is written.

1. Type A - Upon the Council being satisfied
 - By the Council authorizing an inspection is required, or
 - By requiring the person who was issued the order to provide a report prepared by a qualified professional
 2. Type B – Self-extinguishing
 - By having in the order that it extinguishes when the specified steps have been taken to address the contravention.
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VI. Rescission and variance

1. Rescission

- The person who issued the stop work order has the authority to rescind the order if, on new evidence, it is subsequently determined that there
 - was no need to issue the order, or
 - were insufficient grounds for issuing the order.
- the council also has the authority under section 30 (6) and 32 of the Act to re-visit the situation in light of new information, and rescind the order
- The rescission has the effect of making the stop work order go away, and of removing the order from the owner's record.

2. Variance

- The executive director (or the council) may vary or change a stop work order (usually after consideration of new information that was not available at the time of the original order).
- A stop work order may not be varied without the consent of the owner or of the person who was the subject of the order.

Stand alone remedy

The issuance of a stop work order is a stand-alone decision, and does not interfere with any subsequent decision to

- recommend to council a report to Crown Counsel to prosecution for the offence, or
 - place the matter before the council for a determination as to a finding of contravention, and an administrative penalty or a remediation order.
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Date: Jan 19, 2010

Approved: Original signed
Trevor Swan, Chair



APPENDIX 1

