

**ORDER – Wildlife Habitat Area**

**# 6-287**

**Grizzly Bear – Kalum TSA, Cascadia TSA, Pacific TSA, TFL 1 and TFL 41**

This order is given under the authority of sections 9(1), 9(2) and 10(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004) (GAR).

1. The Regional Executive Director of Forests, Lands and Natural Resource Operations - Skeena Region, being satisfied that

- i. the general wildlife measures (GWMs) described below are necessary to protect or conserve grizzly bear; and
- ii. GAR or another enactment does not otherwise provide for that protection or conservation;

orders that

- a) the GWMs outlined in Schedule 1 are established for WHA 6-287, for grizzly bear;
- b) the Wildlife Habitat Area shown in the map set out in the attached Schedule A (6-287) and contained in the wildlife habitat area (WHA) spatial layer stored in the Geographic Warehouse (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY) are established as a Wildlife Habitat Area (6-287) for grizzly bear. The centre point of the line on the attached Schedule A is what establishes the Wildlife Habitat Area boundary;
- c) if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the WHA spatial layer stored in the Geographic Warehouse (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY), the areas as detailed in the WHA spatial layer will take precedent; and
- d) for the purposes of section 2(3)(a) of the *Government Actions Regulation*, the general wildlife measures outlined in Schedule 1 apply to minor tenures.

**Schedule 1 – General Wildlife Measures**

*Definitions*

Words and expressions not defined in this order have the meaning given to them in the *Forest and Range Practices Act* and the regulations made there under, unless context indicates otherwise.

1. In order to provide functional thermal<sup>1</sup> or security cover<sup>2</sup>, 100% of the forested area of each WHA polygon must be retained in mature and old-growth condition with allowance to 90% to address operational flexibility where necessary. Harvesting should only occur for the following purposes:
  - access
  - operational safety considerations
  - to minimize impacts on adjacent environmental values.
2. GWM 1 does not apply where:
  - a. the WHA polygon boundary has been inaccurately mapped by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) with respect to topographic features and causes an overlap with an adjacent primary forest activity; and making the small change will not affect the intent or integrity of the WHA polygon; or
  - b. a minor mapping error has occurred between a cutblock, road, trail or landing at final design stage and a WHA polygon boundary.
  - c. where points a) and/or b) above are agreed to by the Authorized Person for the Ministry responsible prior to the commencement of primary forest activities.
3. GWM 1 does not apply where guyline anchors and tail holds are required to facilitate timber harvesting, provided trees that fall within the WHA polygon boundary are retained on site to function as coarse woody debris. Felling of single trees to facilitate adjacent timber removal must only occur where this is no other practicable option.
4. Where timber harvesting or road construction are planned immediately adjacent to any WHA polygon with >30 ha productive forest area, GWM 1 does not apply to the area of an incursion along the WHA polygon boundary if:
  - a) the incursion is required to provide for a logical harvesting boundary or a logical road or trail location that utilizes a physical feature or administrative boundary, and
  - b) the area of the incursion, or multiple incursions cumulatively, do not exceed:
    - i. 1 ha of productive forest area in the WHA polygon with >30 ha and ≤50 ha productive forest area; or
    - ii. 2 ha of productive forest area in the WHA polygon with >50 ha to ≤100 ha productive forest area; or
    - iii. 3 ha or 1% of productive forest area, whichever is greater, in the WHA polygon with >100 ha productive forest area;

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<sup>1</sup> Thermal Cover is defined as canopy cover that moderates atmospheric temperature, notably thermoregulation resulting in cooling during the summer.

<sup>2</sup> Security Cover is defined as sufficient forest cover and associated vegetation to create visual screening that permits a grizzly bear to feel secure despite adjacent activities, human or other, that would otherwise displace the animal (as determined by an appropriately qualified individual).

5. Do not use pesticides, except for the application of herbicides to control invasive plants or noxious weeds.



Signed this 18 day of June, 2018

Eamon O'Donoghue, Regional Executive Director

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

Skeena Region

## Appendix 1

The following information is intended to provide background information and support to the legal order establishing WHA 6-287. This appendix is not part of the legal order.

1. As per section 2(2) of the *Government Actions Regulation*, the order entitled “ORDER – Wildlife Habitat Area # 6-287” does not apply in respect of:
  - a. any of the following entered into before the order takes effect:
    - i. a cutting permit;
    - ii. a road permit;
    - iii. a timber sale licence that does not provide for cutting permits;
    - iv. a forestry licence to cut issued by a timber sales manager under section 47.6(3) of the *Forest Act*;
    - v. subject to section 3 of the Order, a minor tenure.
  - b. a declared area;
  - c. areas described in section 196(1) of the *Forest and Range Practices Act*; and
  - d. areas referred to in section 110 of the *Forest Planning and Practices Regulation*.

In these instances the requirement to comply with the order and the general wildlife measures does not apply.

2. Authority to consider an exemption from these general wildlife measures is provided in section 92(1) of the *Forest Planning and Practices Regulation* and section 79(1) of the *Woodlot Licenses Planning and Practices Regulation*. An exemption may be provided if the Minister’s delegate is satisfied that the intent of the general wildlife measure will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

An exemption application should be submitted to the Minister’s delegate (Director, Resource Management, Skeena Region) with a rationale describing the nature of the problem and options to integrate WHA conservation with proposed forest and/or range practices. A spatially explicit strategy for conservation of grizzly bear wildlife habitat will assist in timely consideration of the matter when submitted to the Minister’s delegate, and will inform the conditions, if any, of the exemption that may be granted. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 days of arrival. Incomplete packages will be returned to the proponent for re-submission.

3. Where an exemption is provided to the requirements of GWM 1 the delegated decision maker may consider adding the following conditions to the approval of the exemption:
  - Design roads or trails, as much as possible, to prevent all motorized vehicle access throughout the snow free season.
  - Deactivate roads or trails as soon as practicable, and no later than one year, following primary forest activities.

Exemptions to GWM 1 may be considered when it can be demonstrated that no other road location options exist to access timber beyond a specific WHA polygon or for the harvest of associated right-of-way timber.

*Deactivated or deactivation* refers to either partial or complete treatment of roads and trails with the intent to deter motor vehicle access, while taking into account site specific operating constraints.

4. Improvements in scientific and biological information, including field assessments completed by qualified professionals, may lead to amendment(s) consistent with the *Government Actions Regulation* of grizzly bear WHA general wildlife measures including:
  - a. the addition of new, or deletion of existing grizzly bear polygon units,
  - b. the adjustment of grizzly bear unit boundaries including their associated buffer sizes, and
  - c. modification of a specific measure to address operational constraints while maintaining grizzly bear populations and their habitat.
5. Primary forest activities should consider the seasonality use of grizzly bears within the WHA polygons, and where practicable, conduct operations outside of high seasonal use to mitigate human/bear interactions.
6. Access management planning as per 2002 *Kalum Land and Resource Management Plan* recommendations shall address high value grizzly bear habitat.
7. While it is recognized there is generally a 50 metre or greater forested buffer around the core habitats to supply thermal and security cover as well as other attributes, and that these buffers have been incorporated into the WHA polygons, strategies should still be put in place to minimize wind throw to protect the integrity of the polygons. Strategies should include, but are not limited to wind firming treatments, increasing buffer protection, and other techniques used in Riparian Management Areas proven to minimize wind throw and mitigate negative impacts from flooding and snow avalanching.
8. Overhead aircraft activity should, where practicable, attempt to keep to a minimum of 500 vertical metres above grizzly bear WHA polygons in the spring, summer and fall, when practicable.
9. Where practicable from a harvest block layout and forest operations perspective major grizzly bear trails leading to or connecting grizzly bear WHA polygons, as noted by bite and marked trees, shall have their integrity maintained in terms of existing natural stand structure.
10. The intent of GWM 4 is to facilitate pre-authorized boundary exemptions for those WHA polygons with >30 ha productive forest area provided that FLNRORD is notified prior to the incursion taking place. Examples of incursions include a cut-block, road, trail or landing that overlaps a WHA polygon and:
  - a) that the intent of the WHA polygon

boundary was to follow a creek/road and in some areas the boundary extends slightly beyond the creek/road due to a GIS mapping error and creates the overlap; or b) unintentional overlap occurs with an engineered primary forest activity that becomes evident when comparing map scales (e.g. 1:20000 vs 1:5000 often at final design stage); or c) *Forest Act* agreement holders can demonstrate that the block, road, trail or landing are located in a logical location and the incursion does not exceed the amount allowed.

In almost all instances the amount of incursion is anticipated to affect a small area. No replacement area is required when the discrepancy is caused by GIS boundary mapping error since the intent of the WHA polygon has not been altered. Where a boundary amendment is suggested by a *Forest Act* agreement holder and when the reduction is measurable (exceeding GWM 4 specifications), it will result in no net loss to habitat in the WHA polygon. Delineation of equal or better grizzly bear habitat, in quantity and quality, will be required contiguous to the WHA polygon. Any biological assessment to replace habitat should be conducted by a qualified professional with appropriate training and experience for the work being completed. If replacement habitat is required and equal or better habitat is not available contiguous to the WHA polygon in question then the incursion cannot proceed under GWM 4.

11. Boundary amendments meeting the conditions identified in GWM 4 will be periodically reviewed by FLNRORD and the WHA polygon boundary officially amended under the *Government Actions Regulation*. In any instances where the conditions in GWM 4 cannot be met, proposed primary forest activities will require an exemption as outlined under section 2 in this Appendix.
12. WHA polygons with <30 ha of productive forest area, are excluded from GWM 4 because of potential adverse impacts to the small amount of security cover from an incursion. An exemption request for any incursions in these WHA polygons should be submitted to the Director, Resource Management, as outlined under section 2 in this Appendix.
13. In addition to reporting incursions to the Director, Resource Management prior to commencement of timber harvesting or road construction as per GWM 4, it is the proponent's responsibility to keep accurate records of each occurrence. Records must also be made available to FLNRORD official upon request.
14. Where a permit or license is reasonably necessary to give effect to activities approved in a prior-existing Environmental Assessment Certificate, the Order will not be applied so as to prevent issuance of the permit or licence, or make acting under the permit or licence, impracticable or contrary to the overall project approved pursuant to the Environmental Assessment Certificate.