

# Environmental Trail >>> Screening Tool

This Legislation & Guidelines Matrix is a resource to accompany the Environmental Trail Screening Tool developed by Recreation Sites and Trails BC.

## Legislation & Guidelines

Legislation/Guidelines	Implications for Trail Development	Applicability
Environmental Assessment Act Applicability (Federal and Provincial)	<ul style="list-style-type: none"> <li>• In 2012 Bill C-38 replaced the entire Canadian Environmental Assessment Act.</li> <li>• Narrowed definition of “environmental effects”</li> <li>• Unlikely that trail development projects outside of National Parks would require EA</li> </ul>	Rare
Fisheries Act (Federal)	<ul style="list-style-type: none"> <li>• No person shall carry on any work or undertaking that results in harmful alteration, disruption or destruction of fish habitat.</li> <li>• Trail development within riparian areas (up to 30 m from water body) can affect fish habitat</li> <li>• No person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish.</li> <li>• Sediment considered “deleterious”</li> <li>• Bill C-38 weakens fish habitat protection by focussing on activities that could cause permanent alteration or destruction of habitat (disrupting fish habitat is no longer prohibited)</li> <li>• Fish species that do not contribute to commercial, recreational or aboriginal fisheries are not protected under Bill C-38 changes.</li> </ul>	Frequent for projects crossing water bodies, however federal fisheries (DFO) will no longer review project activities related to bridge, causeway or culvert construction.
Forest and Range Practices Act (Provincial)	<ul style="list-style-type: none"> <li>• Under the FRPA, species at risk can be designated as Identified Wildlife if the species requires special management to address the impacts of forest and range activities.</li> <li>• The terms “wildlife” and “species at risk” have been defined in the Act so that endangered, threatened, or vulnerable species of vertebrates and invertebrates, endangered or threatened plants and plant communities, and regionally important vertebrates may be designated as Identified Wildlife.</li> <li>• The Identified Wildlife Management Strategy (IWMS) is a component of the FRPA. Its goals are to minimize the effects of forest and range practices on Identified Wildlife, and to maintain their limiting habitats throughout their current ranges and, where appropriate, their historic ranges. Identified Wildlife are managed through the establishment of wildlife</li> </ul>	Frequent

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<p>Forest and Range Practices Act (Provincial) - <i>cont</i></p>	<p>habitat areas (WHAs – established under Sections 9 and 10 of the Government Actions Regulation - GAR) and implementation of general wildlife measures (GWMs), or through other management practices specified in strategic or landscape level plans. See land use plans below.</p> <ul style="list-style-type: none"> <li>• Trail construction and legal status under FRPA sections 57 and 56 are required.</li> <li>• Regulations under FRPA that may apply to trail construction               <ul style="list-style-type: none"> <li>◦ Invasive Plant Regulation</li> <li>◦ Forest Recreation Regulation</li> <li>◦ Range Planning and Practices Regulation</li> <li>◦ Forest Planning and Practices Regulation                   <ul style="list-style-type: none"> <li>◦ Forest Stewardship Plans – objectives set by government of cultural heritage NOT regulated under the Heritage Conservation Act</li> <li>◦ Stream, wetland and Lake riparian classes (Riparian Reserve Zones, Management Zones and Management Areas)</li> </ul> </li> </ul> </li> <li>• FSP requirements apply to “agreement holders and those who engage in primary forest activities” and so generally do not apply to trail construction unless it involves construction, maintenance and deactivation of roads.</li> </ul>	<p>Frequent</p>
<p>Heritage Conservation Act (Provincial)</p>	<ul style="list-style-type: none"> <li>• The key piece of legislation affecting archaeology in British Columbia is the Heritage Conservation Act (HCA). The Act provides for the protection of British Columbia’s archaeological resources, covering sites dated before 1846, located on both public and private land.</li> <li>• The Act prohibits the destruction, excavation or alteration of archaeological sites without a permit. It also allows for the minister to order a ‘heritage inspection’ to assess the archaeological significance of a piece of land.</li> <li>• Often requires an impact assessment</li> </ul>	<p>Rare</p>

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<p>Heritage Conservation Act (Provincial) - <i>cont</i></p>	<ul style="list-style-type: none"> <li>• HCA requires that if any previously unidentified archaeological resources are found during construction that work stops and officials are contacted.</li> </ul>	<p>Rare</p>
<p>Land Use Plans (including Regional Land Use Plans, Land and Resource Management Plans, Sustainable Resource Management Plans and other land use decisions (e.g. Clayoquot Sound, Spotted Owls)</p>	<ul style="list-style-type: none"> <li>• Reference for high-level environmental and recreational management objectives</li> <li>• The Integrated Land Management Bureau (ILMB) provides leadership for developing land use plans and agreements for B.C.'s Crown lands and natural resources, including coastal and marine areas.</li> <li>• Land use plans and agreements provide increased certainty and form the foundation for informing both government decision makers and those seeking natural resource development opportunities.</li> <li>• Land Use Objectives Regulation (LUOR) provides authority to establish land use objectives under the Land Act (this includes Old Growth Management Areas – OGMA). LUOR is the highest order of objective recognized in FRPA.</li> <li>• Government Actions Regulation (GAR) provides authority to establish specific land designations, features, measures and objectives. This provides direction for land use decisions under FRPA (this includes Spotted Owl Management Planning and Wildlife Habitat Areas (WHA), Ungulate Winter Range (UWR), species at risk, community watersheds, fisheries sensitive watersheds, scenic areas, etc).</li> <li>• Higher Level Plans provide objectives for the purposes of FRPA either (a) under the Land Act (Sec 93.8) for resource management zones, landscape units and sensitive areas or (b) under FRPA (Sec 180 and 181) for recreation sites and trails and interpretive forest sites.</li> </ul>	<p>Frequent</p>

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<p>Migratory Birds Convention Act (Provincial)</p>	<ul style="list-style-type: none"> <li>• This Act and its complementary Regulations ensure the conservation of migratory bird populations by regulating potentially harmful human activities. A permit must be issued for all activities affecting migratory birds, with some exceptions detailed in the Regulations.</li> <li>• The Migratory Bird Sanctuary Regulations grant sanctuary status to areas that represent habitat that is important to migratory birds. These sanctuaries help protect the birds from hunting and all other disturbances while they are in breeding and other staging areas.</li> <li>• The Regulations ban all activities that are harmful to migratory birds, their eggs or their nests.</li> </ul>	<p>Rare, however trail building activities such as tree removal must be aware of this legislation and avoid disturbing nests</p>
<p>Off Road Vehicle (ORV) Framework, Forest Recreation Regulation (Provincial) (proposed)</p>	<ul style="list-style-type: none"> <li>• Mandatory vehicle registration of all ORVs for all current and new owners.</li> <li>• All ORV riders will be able to legally cross public roads and highways or portions of the right-of-way at designated locations with an optional annual vehicle licence and insurance. These crossings will connect our rural communities and support a world-class trail network.</li> <li>• The Forest and Range Practices Act has been amended to add penalties for mud bogging and damage of sensitive habitat. (FRPA Section 46 – Environmental Protection)</li> <li>• The operation of all motor vehicles, excluding snowmobiles is prohibited in Region 8 above 1,700 metre elevation, except on existing roads and trails.</li> </ul>	<p>Frequent</p>
<p>Riparian Areas Regulation (Provincial)</p>	<ul style="list-style-type: none"> <li>• Riparian areas are the areas bordering on streams, lakes, and wetlands that link water to land. The blend of streambed, water, trees, shrubs and grasses directly influences and provides fish habitat. Protecting this riparian fish habitat, while facilitating urban development that exhibits high standards of environmental stewardship, is a priority for the Government of British Columbia. Good quality</li> </ul>	<p>Frequent</p>

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<p>Riparian Areas Regulation (Provincial) - <i>cont</i></p>	<p>streamside habitat is essential for ensuring healthy fish populations.</p> <ul style="list-style-type: none"> <li>• Enacted under Section 12 of the Fish Protection Act, calls on local governments to protect riparian areas during development.</li> <li>• Development is defined as:               <ul style="list-style-type: none"> <li>◦ Removal, alteration, disruption or destruction of vegetation</li> <li>◦ Disturbance of soils</li> <li>◦ Construction or erection of buildings and structures</li> <li>◦ Creation of non-structural impervious or semi-impervious surfaces</li> <li>◦ Flood protection works</li> <li>◦ Construction of roads, trails, docks, wharves, and bridges</li> </ul> </li> <li>• [From Riparian Areas Regulation Implementation Guidebook] Activities not permitted in a SPEA (streamside protection and enhancement area):. The following activities that have historically occurred within SPEAS are no longer allowed: Trails.               <ul style="list-style-type: none"> <li>◦ The construction of formal trail networks within the SPEA are not supported as the construction and maintenance of such a trail systems often causes erosion, compaction of root systems, loss of trees and understory plants. In addition, trial development requires a high standard of hazard tree mitigation all of which significantly impact the form and function of the SPEA. Any formal trail system proposed in the SPEA will require DFO Authorization. However, some passive activities are compatible with protection of the SPEA including: hiking; nature viewing; access to water, and fishing.</li> </ul> </li> </ul>	<p>Frequent</p>

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Species At Risk Act (Federal)	<ul style="list-style-type: none"> <li>• SARA is federal legislation that aims to protect species at risk from becoming extinct or lost from the wild and secure the necessary actions for their recovery.</li> <li>• It covers all wildlife species listed as being at risk nationally (and their critical habitats).</li> </ul>	Rare
Weed Control Act (Provincial)	<ul style="list-style-type: none"> <li>• Noxious weeds are typically non-native plants that have been introduced to British Columbia without the insect predators and plant pathogens that help keep them in check in their native habitats. For this reason and because of their aggressive growth, these alien plants can be highly destructive, competitive and difficult to control.</li> <li>• The B.C. Weed Control Act imposes a duty on all land occupiers to control designated noxious plants.</li> <li>• The purpose for the Act is to protect our natural resources and industry from the negative impacts of foreign weeds.</li> </ul>	Frequent
Wildlife Act (Provincial)	<ul style="list-style-type: none"> <li>• British Columbia has no stand-alone endangered species act. The provincial Wildlife Act protects virtually all vertebrate animals from direct harm, except as allowed by regulation (e.g., hunting or trapping).</li> <li>• Legal designation as Endangered or Threatened under the Act increases the penalties for harming a species, and also enables the protection of habitat in a Critical Wildlife Management Area.</li> <li>• Wildlife Management Area regulation can designate areas as wildlife management areas through Order In Council. Critical Wildlife Areas and Wildlife Sanctuaries can be designated under the WMA.</li> <li>• Section 27 of the Wildlife Act states that an individual who “harasses wildlife with a motor vehicle or boat commits an offense”.</li> <li>• Wildlife Act allows for the designation of endangered and threatened species.</li> </ul>	Frequent

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Water Act (Provincial)	<ul style="list-style-type: none"> <li>Section 9 of the Water Act defines requirements for “changes in and about a stream”</li> <li>Part 7 Section 36-44 of the Water Regulation under the Water Act further defines requirements for changes in and about a stream.</li> </ul>	Frequent
Agricultural Land Reserve Act (Federal)	<ul style="list-style-type: none"> <li>Trails are considered a non-farm use of ALR and in the ALR have to be approved by the ALC, according to the AGRICULTURAL LAND RESERVE USE, SUBDIVISION AND PROCEDURE REGULATION Section 6(c)(ii). The application fee is \$400. As well the ALC has published a Guide to Using and Developing Trails in Farm and Ranch Areas (Ministry of Agriculture and Lands).</li> </ul>	Rare
Dike Maintenance Act (Provincial)	<ul style="list-style-type: none"> <li>The principal legislation pertinent to flood protection works is the Dike Maintenance Act (DMA).</li> </ul>	Rare
Drinking Water Protection Act (Provincial)	<ul style="list-style-type: none"> <li>The Drinking Water Protection Act sets out certain requirements for drinking water operators to ensure the provision of safe drinking water to their customers</li> </ul>	Rare
Ecological Reserve Act (Provincial)	<ul style="list-style-type: none"> <li>All consumptive resource uses, such as tree cutting, hunting, fishing, mining, domestic grazing, camping, lighting of fires and removing materials, plants or animals, and the use of motorized vehicles are prohibited in ecological reserves.</li> <li>While most ecological reserves are open to the public, they are not established for outdoor recreation</li> </ul>	Rare
Land Act	<ul style="list-style-type: none"> <li>Crown land is managed under the authority of three Acts of Legislation: the Land Act, the Ministry of Lands, Parks and Housing Act, and the University Endowment Lands Act.</li> </ul>	Rare
Motor Vehicle (All terrain) Act	<ul style="list-style-type: none"> <li>Snowmobile Regulation</li> </ul>	Frequent
Wildfire Act	<ul style="list-style-type: none"> <li>The key objective of the Wildfire Act is to specify responsibilities and obligations with respect to fire use, prevention, control and rehabilitation.</li> </ul>	Rare