



scəwáθən məsteyəxʷ

TSAWWASSEN FIRST NATION

Fisheries, Wildlife, Migratory Birds and Renewable Resources Act

ŠXʷKʷECXƏNƏM RESOURCE MANAGEMENT OFFICER REGULATION (2022)

Date Enacted: 25 January 2022

Order Number: O.005-2022

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Table of Regulation Changes

Section(s) Amended	Date	Order number	Come Into Force Date

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Statutory Authority

- 1 This regulation is enacted pursuant to section 40(1) of the *Tsawwassen Fisheries, Wildlife, Migratory Birds and Renewable Resource Act*.

Citation

- 2 This regulation may be cited as the *Resource Management Officer Regulation*.

Definitions

3 In this Regulation:

“šxʷkʷecxənəm” means steward of the land, lookout, guardian on foot, watching over the land in hənqəmihən and refers to šxʷkʷecxənəm šxʷqəqəʔxən, the Tsawwassen First Nation Natural Resource Department;

“**Act**” means the *Fisheries, Wildlife, Migratory Birds and Renewable Resources Act*;

“**Code of Conduct**” means the Tsawwassen Resource Management Officer Code of Conduct set out in Part 3 of this Regulation;

“**Designation**” means the Tsawwassen Resources Management Officer Designation set out in Part 1 of this Regulation;

“**Designation Certificate**” means the Tsawwassen Resources Management Officer Designation Certificate set out in Part 1 of this Regulation;

“**Executive Council**” means the Executive Council of Tsawwassen First Nation established under the *Government Organization Act*;

“**Final Agreement**” means the Tsawwassen First Nation Final Agreement among Tsawwassen First Nation, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia, and includes amendments to that agreement made in accordance with it;

“**Judicial Council**” means the Judicial Council established under the *Administrative Review and Judicial Proceedings Act*;

“**Manager**” means the Manager of Fisheries, Wildlife, Migratory Birds and Renewable Resources appointed under the Act;

“**Resource Management Officer**” means a Tsawwassen Resource Management Officer appointed under section 28 of the Act; and

“**Tsawwassen Territory**” has the meaning given in the Final Agreement.

PART 1 – APPOINTMENT AND DESIGNATION

Authority

- 4 In accordance with section 28 of the Act, the Manager may designate a person, or a person in a class of persons, as a Resource Management Officer, to enforce the following:
- (a) *Fisheries, Wildlife, Migratory Birds and Renewable Resources Act*;
 - (b) *Fisheries Regulation*;
 - (c) *Hunting Regulation*;
 - (d) *Discharge of Firearms Regulation*;
 - (e) Any other Tsawwassen law; and
 - (f) Canadian federal or provincial law, if authorized by an Enforcement Agreement.

Designation

- 5 (1) The Manager must give to each Resource Management Officer a certified Resource Management Officer Designation, which shall prescribe the following:
- (a) the designations, powers, responsibilities, authorities, and conduct of the Resource Management Officer; and
 - (b) any other terms the Manager considers appropriate for designation.
- (2) The Manager may at any time prescribe new terms or vary existing terms of the Designation and must notify the Resource Management Officer in writing of the addition or variation.

Suspension or cancellation of Designation

- 6 (1) The Manager may suspend or cancel a Resource Management Officer's Designation if that Resource Management Officer:
- (a) has been charged with or convicted of an offence under the Act;
 - (b) has been charged with or convicted of an offence under an Act or regulation of Canada, British Columbia, another province or territory, or another Treaty First Nation;
 - (c) has contravened the terms of the Designation; or
 - (d) has acted in a manner that could, in the opinion of the Manager, bring Tsawwassen First Nation into disrepute.

- (2) The Manager must promptly notify a Resource Management Officer in writing of a suspension or cancellation of their Designation.

Designation ceases to be in effect

- 7 A Resource Management Officer's Designation ceases to be in effect:
 - (a) when the Resource Management Officer ceases to be employed or engaged by Tsawwassen First Nation in the capacity of a Resource Enforcement Officer, or
 - (b) when the Resource Enforcement Officer's Designation is suspended or cancelled pursuant to this Regulation.

PART 2 – CONDUCT

Complaints

- 8 Any person may file a written complaint with the Manager respecting the conduct of a Resource Management Officer. Complaints shall not be accepted unless they:
 - (a) are made within thirty (30) days of an incident in question, and
 - (b) include the name of the complainant, the reasons for the complaint, and the details of the complaint.

Investigation of complaints

- 9 (1) Where a complaint has been filed in accordance with section 8, the Manager, or their delegate, shall investigate the complaint and shall resolve the complaint within ninety (90) days of receipt, unless an extension to this time limit is approved by Executive Council.
 - (2) The Manager may dismiss a complaint, by declining to investigate a filed complaint or discontinuing an investigation of a complaint, if in the opinion of the Manager:
 - (a) the complaint is frivolous, vexatious, made in bad faith, or otherwise without merit, or
 - (b) no investigation is required.

Informal resolution of complaints

- 10 Prior to commencing an investigation, the Manager may attempt to resolve the matter informally.

Delegation of investigations of complaints

- 11** (1) The Manager may delegate any of their powers or duties under this Part to an independent entity, including but not limited to, the Judicial Council of Tsawwassen First Nation.
- (2) If Executive Council considers it in the public interest that a person other than the Manager, or their delegate, oversee the investigation, Executive Council may, at any time, designate an independent entity to assume the powers and duties of the Manager under this Part.

Notice to complainant

- 12** (1) Where a complaint is filed in accordance with section 11 of this Regulation and an investigation is commenced, the Manager shall provide the complainant with the following information:
- (a) written notice of receipt of the complaint, within thirty (30) days;
 - (b) written notice of the findings made, within thirty (30) days of the resolution.
- (2) Where a complaint is dismissed as unfounded, the Manager shall provide the complainant with written notice of such dismissal within fifteen (15) days.

Notice to the Resource Management Officer

- 13** (1) The Manager shall notify the Resource Management Officer within five (5) business days of the Manager's receipt of a complaint against that Resource Management Officer, unless such notice may reasonably prejudice the investigation of the complaint.
- (2) If notice is provided under subsection 1, the Manager shall inform the Resource Management Officer of the details of the complaint and shall afford the Resource Management Officer a reasonable opportunity to furnish evidence to contradict or explain the allegations.

Investigative Process

- 14** (1) The Manager conducting an investigation of complaint may use the following investigative methods:
- (a) requesting oral and/or written information from the complainant, the Resource Management Officer subject of a complaint, witnesses, and any other person who may have knowledge relevant to the incident;
 - (b) collecting and assessing relevant physical and documentary evidence;
 - (c) consulting technical experts; and
 - (d) other methods approved by Executive Council.

- (2) At the conclusion of an investigation, the Manager shall prepare a report which includes:
- (a) a summary of all evidence considered;
 - (b) the findings of an investigation;
 - (c) reasons for the findings;
 - (d) disciplinary action to be taken, if any; and
 - (e) remedial measures to be taken, if any.

Findings of an investigation

- 15 (1) Upon conclusion of an investigation, the Manager may find as follows:
- (a) “the complaint is unfounded”, if no reasonable grounds exist to believe the complaint has merit or basis;
 - (b) “the complaint is unsubstantiated”, if there is insufficient evidence to determine the facts of the complaint;
 - (c) “the complaint is found to have merit in part”, if the Manager reasonably believes that the Resource Management Officer has engaged in misconduct in regards to a portion of the complaint, but not in its entirety; or
 - (d) “the complaint is found to have merit in whole”, if the Manager reasonably believes that the Resource Management Officer has engaged in misconduct in regard to the entirety of the complaint.

Disciplinary measures

- 16 (1) If the Manager finds that misconduct occurred, any of the following disciplinary measures, or a combination thereof, in accordance with applicable Tsawwassen First Nation enactments, may be imposed on the Resource Management Officer subject of complaint, provided the severity of the discipline is proportionate to the gravity of the misconduct and consistent with applicable Tsawwassen human resources policies:
- (a) verbal warning;
 - (b) additional training or educational requirements;
 - (c) written reprimand;
 - (d) suspension from active duty, with or without pay, for a period not exceeding three (3) months; or
 - (e) termination of designation and employment.

- (2) When considering possible disciplinary measures, the Manager must:
 - (a) consider whether a community-based restorative justice process would be appropriate; and
 - (b) if the RMO is Indigenous, take into consideration the RMO's background and the unique circumstances of Indigenous peoples.

Appeal of complaint decision

- 17**
- (1) A complainant may appeal a finding made pursuant to section 14 by submitting a written notice of appeal to the Judicial Council within fourteen (14) days of receiving notice of the decision.
 - (2) A notice of appeal must include the complainant's name and contact information, and reasons for the appeal.
 - (3) Upon hearing an appeal, Judicial Council may:
 - (a) dismiss the appeal; or
 - (b) if it determines that the original order is inconsistent with TFN Laws, regulations, or policies, either:
 - (i) reverse the decision, or
 - (ii) alter the decision.
 - (4) A decision made by Judicial Council pursuant to subsection 3 is final.

Appeal of disciplinary decision

- 18**
- (1) A Resource Management Officer may appeal a disciplinary decision resulting in the revocation of their designation to the Judicial Council in accordance with the procedures set out in section 12 of the *Government Employees Act*.
 - (2) A Resource Management Officer may appeal a disciplinary decision, other than a revocation of designation, in writing to the Judicial Council within thirty (30) days of receiving notice of the decision.
 - (3) Upon hearing an appeal filed pursuant to this section, Judicial Council may:
 - (a) dismiss the appeal; or
 - (b) if it determines that the original order is inconsistent with TFN Laws, regulations, or employment policies or procedures, either:
 - (i) reverse the decision, or
 - (ii) alter the decision.
 - (4) A decision made by Judicial Council pursuant to subsection 3 is final.

PART 3 – RESOURCE MANAGEMENT OFFICER CODE OF CONDUCT

Resource Management Officer Code of Conduct

19 All Designated Resource Management Officers must abide by the following Code of Conduct while on duty or otherwise representing Tsawwassen First Nation:

- (a) Resource Management Officers shall:
 - (i) comply with the terms and conditions of their Designations;
 - (ii) promptly and diligently perform the Resource Enforcement Officer’s duties and responsibilities; and
 - (iii) strictly maintain Tsawwassen First Nation’s confidentiality standards.
- (b) Resource Management Officers are prohibited from:
 - (i) engaging in illegal conduct;
 - (ii) acting in a way that would be harmful to the discipline of Resource Management Officers or that is likely to discredit Tsawwassen First Nation;
 - (iii) withholding or suppressing information, complaints, or reports about any other Resource Management Officer;
 - (iv) making or signing false, misleading, or inaccurate statements;
 - (v) destroying, mutilating or concealing records or property;
 - (vi) altering or erasing an entry in a record;
 - (vii) engaging in activities which may result in a conflict of interest or an apprehension of a lack of integrity in the office of Resource Management Officer;
 - (viii) using the Resource Management Officer’s position for their own advantage or another person’s advantage;
 - (ix) unnecessarily or inappropriately exercising the Resource Management Officer’s authority; and
 - (x) consuming alcohol or cannabis while on duty.