



FRPA ADMINISTRATION BULLETIN

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Interpretive Guidance Respecting the Extension of Woodlot Licence Plans

Forest and Range Practices Act (FRPA) bulletins are used to provide advice to the forest industry and ministry staff on forest practices and related administration. They are meant to provide a common understanding of how practices and related administration should be carried out. Bulletins are drafted with the advice of legal counsel and as such are intended to reflect legislative and regulatory requirements; however, in the case of any discrepancies the legislative and regulatory requirements will apply.

Purpose

This bulletin provides an overview of the applicable legislation and approval tests surrounding the extension of Woodlot Licence Plans (WLP). It outlines principles to encourage an efficient process for the extension of WLPs.

Introduction

The WLP is the operational plan for a woodlot licence. FRPA requires a woodlot licensee to have a WLP in place prior to conducting harvesting and/or road construction operations. A WLP includes information, maps, Results/Strategies, Measures and Performance Requirements to achieve the objectives established under FRPA.

Extension

A WLP extension is an extension of an approved WLP. At the time of extension, the WLP must conform to the prescribed requirements in FRPA, the Woodlot Planning and Practices Regulation (WLPPR) and other associated regulations. The extended WLP may include changes that are consistent with the prescribed requirements. District woodlot staff will initiate the extension process of expiring WLPs.

Relevant Legislation

FRPA, Section 13 outlines the content of a WLP. This is further defined in the WLPPR.

FRPA, Section 14(1) limits the term of a WLP to 10 years.

FRPA, Section 14(2) requires the minister to extend the term of a WLP that conforms to prescribed requirements for an additional 10 years. The licensee, through written notice, can request a shorter WLP term.

FRPA, Section 14(3) allows the minister to extend the term of a WLP that does not conform to the prescribed requirements for a period, or periods, not exceeding 2 years in total. This extension may occur before or after the expiry of the plan.

FRPA, Section 14(4) allows for the extended WLP to be changed to the extent authorized by regulation.

FRPA, Section 15(2) requires a woodlot licensee to submit a WLP amendment no later than 5 years after the date an objective is established if the WLP becomes inconsistent with the objective.

FRPA, Section 16 provides the standards for the submission and approval of a WLP or WLP amendment.

FRPA, Section 20(1) exempts the requirement for approval, except in prescribed circumstance, for amendments that conform to Section 13 of FRPA and do not materially change the intended Result or Strategy specified in the plan or the proposed amendment conforms to the prescribed requirements.

WLPPR, Sections 5 through 16 describe the required content of a WLP.

WLPPR, Section 17 describes the licensee's requirements to provide opportunities for the public, government agencies, and stakeholders an opportunity to provide written comments on the WLP. This section also requires the licensee to make reasonable efforts to share information with the affected First Nations.

WLPPR, Section 18 describes the various WLP approval tests. These tests also apply to an extended WLP.

WLPPR, Section 20 requires the approval of an amendment that would vary or add an alternative performance requirement.

WLPPR, Section 21(1) defines the prescribed circumstances noted in FRPA, Section 20(1)(b). Amendment approval is not required for:

- correcting mapping or non-substantive data entry, referred to in Section 8 of the WLPPR, that will not decrease the area where timber harvesting is avoided or constrained or increase the adverse impact on forest resources;
- reclassification of riparian features; and
- changes to the wildlife tree retention strategy, that will not decrease the nature or quality of wildlife trees or wildlife tree retention areas.

Interpretation

The minister has delegated the responsibility for the decision to extend a WLP to the district manager. The district manager **MUST** review the WLP prior to expiry to confirm that the plan conforms to the prescribed requirements as identified in FRPA and the associated regulations. If the plan is found to conform, then the district manager must extend the WLP for an additional 10 years.

If the review finds that the plan no longer conforms, then the district manager must inform the woodlot licensee that the WLP does not conform. The district manager may extend a non-conforming plan for a period not to exceed a total of 2 years.

Note: Even though extending WLPs is a ministry driven process, there are a few things a licensee could do (EG. Check to see when the plan expires. Notify/contact the district office to begin discussions RE: plan expiry.)

WLP Amendments

It is in the licensees' best interest to amend a plan into conformance prior to expiry so the District Manager can extend the Plan for the ten years. The amendment would follow the requirements noted in both FRPA and the WLPPR.

Woodlot Licence Plan Review

The following are things to consider during the WLP review and provide direction for changes to the WLP:

- Have any new landscape (Section 93.4 of the *Land Act*) or land use orders been established that affect the woodlot licence? An example of a Section 93.4 land order is the establishment of an Old Growth Management Area. Have any Government Action Regulation (GAR) orders been approved that affect the woodlot licence? Examples of GAR orders are: Fisheries Sensitive Watersheds, Ungulate Winter Range, General Wildlife Measures, or Species at Risk. Section 8 of the WLPPR requires that the licensee identify the portion of the woodlot affected by the order. Section 10 of the WLPPR exempts the woodlot licensee from requirement to prepare Results and Strategies to address these orders. The licensee has up to 5 years to amend their plan following the establishment of new objectives.
- Have there been any changes to First Nation asserted traditional territory that overlap the woodlot licence area? Has a First Nation declared Aboriginal title over a portion of the woodlot licence area? This will likely require modifications to the content

around cultural heritage resources. Have any new resource tenures been awarded that cover the woodlot licence area (e.g., range, guide, water rights, and land interests)? Have the current tenures changed hands?

- The licensee is required to prepare Results and Strategies (R/S) to address the objectives for Cultural Heritage Resources. The licensee must also prepare a Wildlife Tree Retention strategy. Are the R/S still appropriate or do they need revision? Are the R/S measurable or verifiable? Have issues become apparent during the 10 year term of the plan?
- Are the measures still appropriate or do they need revision? Are the measures measurable or verifiable? The licensee is required to prepare measures to prevent the spread of invasive plants and mitigate the loss of natural range barriers. Have issues become apparent during the 10-year term of the plan?
- The licensee has the option to prepare Alternative Performance Requirements to address a number of the objectives. Were any alternatives approved in the current plan? Are these alternatives still appropriate and meeting the objectives listed in Section 9 of the WLPPR? Are the alternatives measurable or verifiable?
- Have there been any changes to the area of Crown or Private land within the woodlot boundary?
- Does the mapping and information listed in Section 8 of the WLPPR need to be updated?

To assist with this review, copies of both the WLP template and review checklist can be found at: <http://www.for.gov.bc.ca/hth/timber-tenures/woodlots/forms.htm>.

Measurable Results and Verifiable Strategies

The ability to confirm that a licensee is meeting the objectives set by government is an important part of FRPA. The measures, performance requirements and results/strategies must be measurable or verifiable to be able to confirm whether or not they are appropriate. The licensee must also describe the situations or circumstance where these will apply. Measurable means that the actions a licensee takes are quantifiable. This may include a specific result or defined time line when an action would happen. Examples of this would be the commitment to re-vegetate a disturbed area within 2 years or the commitment to retain a minimum of 25 percent of the pre-harvest basal area within the cut block portion of a riparian management zone. Verifiable means that the result or strategy can be demonstrated to meet the commitment. This may include a commitment to implement the recommendations of an assessment or strategy. An example of this would be a commitment to implement the recommendations of an Archaeological Impact Assessment.

Public Review and Comment

There is no legal requirement in FRPA requiring public review and comment for an extension of a WLP. Please note that advertising may be required for amendments to the WLP.

First Nation Consultation

A WLP extension is a statutory decision. First Nation consultation may be necessary for the extension of the WLP. District staff will follow the consultation protocols for the affected First Nations as outlined in agreements such as Forest Consultation and Revenue Sharing Agreements (FCRSA), Strategic Engagement Agreements (SEA) and Reconciliation Protocols. FLNR staff processing the WLP extension should discuss the consultation requirements with their local First Nations Relations team to determine the level of consultation required. Note that it is the responsibility of government to ensure First Nation consultation is adequate. WL licensees may wish to share information with First Nations in advance of consultation and provide the results of their information sharing to the statutory decision maker prior to the decision being considered.

Process for Review

The district manager will initiate the WLP review process prior to expiry to assess that it conforms to the prescribed requirements. The district manager would then extend the WLP if the plan conforms to the prescribed requirements or inform the woodlot licensee that the plan does not conform. If the WLP is found to not conform, the district manager may extend the plan for a period not exceeding 2 years. An extension is meant to provide the licensee time to amend their plan while still allowing operations. There is no opportunity for extensions beyond 2 years. Please note that time is needed for the First Nations strength of claim assessment and/or consultation process. Additional time may also be needed for a major amendment to be approved.

Note: Even though extending WLPs is a ministry driven process, there are a few things a licensee could do (I.E. Check to see when the plan expires. If it's within a year then notify/contact the district office to begin the discussion. It's an opportunity to find out if there's anything to be concerned about. If there is then there's an ability/opportunity to amend the WLP before expiry so that it will conform to requirements.)

Frequently Asked Questions

Question #1: Can a woodlot licensee make changes to the WLP in addition to what is required to make the WLP conform to the prescribed requirements?

Yes, the licensee can make additional changes to the plan that they feel will better reflect how the woodlot licence is being managed. Please note that these changes would need to conform to the prescribed requirements and may need to be referred and consulted prior to approval by the decision maker. Changes that require approval would need to be amended outside the extension process.

Question #2: If a WLP is found to no longer conform to the prescribed requirements; does the licensee need to amend the WLP prior to extension?

Yes, the WLP needs to conform to the prescribed requirements before it can be extended. Amendments to the plan can be made either prior to the plan's expiry or during the up to

2-year extension period. The woodlot licensee should discuss the proposed amendment with district woodlot staff.

Question #3: Can cutting permits or road permits be issued to a licensee with an expired WLP?

No, the WLP needs to be in effect for cutting permits or road permits to be issued. Cutting permits and road permits can be issued to the woodlot licensee prior to the expiry of the plan, during the 2-year extension period or once the plan is extended. The woodlot licensee can still harvest on issued cutting permit or construct on issued road permit after the WLP has expired. Under specific situations, described in both FRPA and the WLPPR, a cutting permit or road permit may be issued without an approved WLP in place.

Question #4: Does the woodlot licensee need to provide the public an opportunity to comment on the proposed WLP extension?

No, the legislation does not require the public advertising of a proposed WLP extension. Advertising may be required as part of a major amendment needed to get the WLP to conform to the prescribed requirements.

Question #5: Who initiates the WLP extension process: minister or woodlot licensee?

The minister's delegate, the district manager, will initiate this process. The district manager will review the current WLP to confirm that the plan conforms to the prescribed requirements. However to be proactive, a woodlot licensee could review their own plan and propose any required amendments prior to the expiry of their WLP. Also they could remind/notify the district that their WLP is set to expire (in a year) and begin the discussion.

Contacts:

If there are any questions about the content of this bulletin, please contact either Forest Tenures Branch or your regional woodlot specialist.