

# FRPA Facts: Forest Operations Plan

**IMPORTANT CAUTION:** The information contained in this document is intended to assist forestry practitioners with interpretation of recent changes to the *Forest and Range Practices Act* (FRPA). The information contained within does not constitute legal advice. Government practitioners should seek legal advice from the Ministry of Attorney General. Industry practitioners should seek independent legal advice.

## BACKGROUND

Recent amendments to the *Forest and Range Practices Act* (FRPA) and Forest Planning and Practices Regulation (FPPR) have introduced Forest Landscape Planning (FLP) as the new forest management planning framework in B.C. The FLP framework and its components – the Forest Operations Plan (FOP), the Annual Forest Development Schedule and the Site Level Plan (SLP) – will address forest management challenges at the landscape level, replacing the current Forest Stewardship Planning (FSP) regime over time. Produced in consultation and cooperation with Indigenous Nations<sup>1</sup> partners, the FLP is legally binding and sets clear, measurable direction for forest development within the plan area.

The FLP framework was introduced under the *Forests Statutes Amendments Act, 2021* (Bill 23) and is being brought into effect through supporting regulations. Where an FLP has been established for an area, specified forest agreement holders who seek to apply for and obtain a cutting or road permit in said area must hold an approved FOP. Transition periods and processes between FOPs and FSPs are outlined below.

Content and information included in a proposed FOP, and application requirements, are specified in the FPPR. Before submitting a FOP for approval, an agreement holder(s) must engage with affected Indigenous Nations and facilitate a public review and comment period regarding the proposed plan.

This FRPA Facts document presents an overview of the FOP and its requirements. For further detail, please review the FOP requirements under Division 2 of Part 1.1 of FRPA and Part 1.1 of the FPPR. For further information regarding the FLP, please review the FLP provisions under Division 1 of Part 1.1 of FRPA.

## HIGHLIGHTS

### **Applicability**

Regulations specific to the FOP came into force on July 15, 2024, and apply to the majority of agreement holders seeking to obtain a cutting or road permit in an area where an FLP has been established.

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<sup>1</sup> Note: In this document the term “Indigenous Nations” is used to reflect the language used in FRPA and the FPPR. It is intended to mean First Nations.

The following agreement holders will be subject to the FOP regulations (FRPA s. 2.2):

- Forest licence, timber licence, or tree farm licence holders
- Holders of a forestry licence to cut that is a major licence
- Community forest agreement holders and First Nations woodland licence holders, if the respective community forest agreement areas and First Nations woodland licence areas
  - are situated within the Coast Forest region and consist of Crown land of more than 800 ha, or
  - are situated outside the Coast Forest Region and consist of Crown land of more than 1200 ha

### **Transition**

FSP holders are initially exempt from possessing an approved FOP if the FSP or amendment was approved (or submitted for approval) before the overlapping FLP was established.

However, as of the earlier of the following dates, the exemption shall no longer apply and the FSP holder will be required to obtain an approved FOP (FRPA s. 2.48 (4)):

- The date that is one year following the date on which the related FLP comes into effect, or
- If the FSP holder submits a FOP within six months of the related FLP coming into effect, the date on which the minister either approves or rejects the submitted FOP

If no FLP is in effect for the relevant area, the agreement holder is subject to the FSP planning regime, as opposed to the FOP regime.

### **Content of a FOP**

#### ***FOP Information Requirements***

The FOP must identify the forest operations area and include, in relation to this area, requirements that address forest practices, silvicultural systems and stocking standards. If such a requirement is not present in the FOP, the holder must either submit a rationale for omitting the requirement or include a substituted requirement and a statement explaining how the substitution will attain a similar outcome.

The FOP must include each proposed holder's business contact information and business hours. The proposed FOP or amendment must also include the date of submission. Once approved, the holder must specify the plan's dates of approval or amendment and expiry. If the minister has extended the plan, the FOP must also include the dates of the extension's issuance and expiry.

Existing and proposed cutblocks and roads and the commencement years for these proposed features must all be named in the FOP. The FOP must be available digitally and in hard copy for review and comment purposes. Copies of assessments that support planning guidelines must also be included in the proposed FOP or amendment. The FOP holder may specify a plan term of five years or less, but the term shall not exceed five years.

The FOP must describe stocking standards that apply to the FOP area. However, this is not required if the FOP references stocking standards contained within the FLP planning guidelines. Regeneration dates and free growing heights must be provided for each situation (FPPR s. 4.14).

### ***Mapping Requirements***

The following information must be shown or indicated on a map contained within the FOP [FPPR Part 1.1 Division 3]:

- **Landscape features**
  - elevation and relief; any streams, wetlands, and lakes
- **Agreement boundaries**
  - boundaries of all areas under a proposed FOP holder's agreement, areas subject to an order (e.g., *Land Act* order), and other areas of land use (e.g., parks, regional districts, and municipalities, etc.)
  - indicate the forest region and district
- **Areas subject to harvesting constraints**
  - estimated locations and boundaries of areas where harvesting is limited or prohibited due to, for example, FLP planning guidelines, *Forest Act* designated areas, statutory orders, etc.
- **Cutblock information for both proposed and existing cutblocks**
  - locations of existing cutblocks, including those harvested by a non-FOP holder within 5 km of proposed cutblocks, commencement year for each proposed cutblock, etc.
  - cutting permit information and permit holder's name, if applicable
- **Road information for both proposed and existing roads**
  - construction and deactivation years for proposed roads, non-established roads that had been contained in a previously approved FOP or FSP held by the proposed FOP holder, locations, level of deactivation, and status of existing roads including those constructed by non-FOP holders within 5 km of proposed roads
  - road permit information and permit holder's name, if applicable

### **Engagement on and Review of a FOP**

#### ***Engagement with Indigenous Nations***

Prior to submitting a FOP or an amendment to a FOP for approval, the holder must provide to affected Indigenous Nation(s) the following information at the start of the engagement process (FPPR s. 4.25):

- FOP holder(s)' contact information
- FOP information: proposed term and submission date, activities to be undertaken under the FOP, etc.
- Text of each planning guideline and substitute requirement (if applicable) and the text of the FLP outcome to which each relates

A copy of the proposed FOP or amendment must be made available to the Indigenous Nation(s) in both digital and hard copy format. A copy of any assessment(s) required by planning guidelines must be provided upon request. The holder must also offer to meet with the affected Indigenous Nations to discuss the proposed FOP or amendment.

When submitting the FOP or amendment to the minister for approval, the holder is required to submit copies of the initial map and FOP provided to the Indigenous Nations, along with descriptions of matters raised that the holder did or did not address, timing and scheduling of engagement activities, and a description of the holders' engagement efforts (this can include received comments, correspondence and meeting notes). In addition, the timeline to provide feedback on the FOP and whether the Nation requested an extension to provide feedback must also be included in the engagement summary.

### ***Public Review and Comment***

In making a FOP or amendment publicly available for review and comment, the holder of a (proposed) FOP must prepare a notice that includes the following information (FPPR s. 4.31):

- FOP holder(s)' contact information
- FOP information: proposed term and submission date, activities to be undertaken under the FOP, etc.
- Text of each planning guideline and substitute requirement (if applicable) and the text of the FLP outcome to which each relates
- Period of time available for public review and comment

The holder must publish the notice on both a publicly accessible website and either a newspaper circulating in the relevant area or in the BC Gazette.

The FOP and any amendments made to the plan must be made publicly available in both digital and in-person formats for a review and comment period of 60 days. A FOP amendment that does not require the minister's approval must be made publicly available for a review and comment period of 30 days. The minister may shorten the review and comment period in select circumstances. A copy of assessments required by planning guidelines must also be provided upon request.

Before a FOP or an amendment to a FOP is submitted for approval, the holder of a FOP must give notice to individuals whose rights may likely be affected by the FOP. If the rights-holder requests to extend the review and comment period, the holder must grant an extension to a maximum total of 60 days. When submitting the FOP or amendment, the holder must also submit copies of the notice and FOP that were initially made publicly available, descriptions of public concerns that the holder did or did not address, the specified period for which the FOP was made available, and a description of the holder's engagement efforts, meetings, and correspondence.

### **Submitting a FOP for Approval**

#### ***Approval of a FOP***

The minister must not approve a FOP or amendment unless they are satisfied with all the following (FRPA s. 2.39 (1); FPPR s. 4.39):

- FOP or amendment made to the plan fulfills the requirements under FRPA ss. 2.36 and 2.37,
- FOP holder has made reasonable efforts to engage with potentially impacted Indigenous Nations and made the plan available to the public for review and comment,
- FOP holder has sufficiently considered public comments and Indigenous Nations concerns,
- FOP includes measurable or verifiable planning guidelines, substitute requirements or additional measures that align with the FPPR practice requirements and adequately support the matters referred to in section 2.28(2) (a) to (c) of FRPA,

- FOP adequately supports the objectives of the applicable FLP,
- FOP is not likely to result in increased fire hazard within a wildland urban interface area or increased risks to public safety,
- FOP is not likely to lead to negative impacts on cultural heritage resources,
- The cumulative impacts of FOPs in an area are not likely to surpass a threshold established in a FOP requirement or preclude one or more FLP outcomes from being achieved

A FOP that is submitted for approval may be considered inconsistent with the relevant FLP if:

- a) It does not contain a requirement in accordance with FRPA s. 2.36 (1) (b), or
- b) The location of a proposed road or the location, size, or configuration of a proposed cutblock contradict any planning guidelines under FRPA s. 2.28 (2) (a) or (b)

The minister may nevertheless approve an inconsistent FOP if they are satisfied that:

- The criteria listed under FPPR s. 4.39 are met
- The inconsistent portions of the FOP or amendment support the relevant FLP outcomes, and
- The FOP or amendment supports the proper management and conservation of forests and forest ecosystems

Additionally, if the proposed FOP holder omits a planning guideline requirement from the FLP and provides a rationale for the omission, the minister may approve the FOP only if they are satisfied that the criteria in the paragraph above have been fulfilled and that it is impracticable for the holder to implement the planning guideline or substitute requirement in the plan.

If the proposed FOP holder submits their plan or amendment for approval before receiving notice from the Chief Forester of an order made in relation to the FLP under FRPA s. 2.33 (1), then FRPA Part 1.1, Division 2 (Forest Operations Plan) applies to the submitted plan or amendment as though the order were not made.

The minister may require the holder of a FOP to deactivate an existing road as a condition of having the FOP otherwise approved. However, the minister may only do so if all the following circumstances apply (FPPR s. 4.41):

- At least a part of a proposed road is contained within an area, which, according to the minister, has reached the maximum acceptable level of disturbance to the natural environment
- The FOP holder is authorized to use an existing road in the same area under a road or cutting permit
- Deactivating this existing road, according to the minister, is necessary for effective management and conservation of the forest and forest ecosystems in the area containing the proposed road

### ***FOP Exemption from Practice Requirements***

The minister may exempt a FOP holder from selected practice requirements under FPPR, Part 4 if the following two conditions apply:

- The FOP contains a planning guideline requirement, substituted requirement, or some additional measure that addresses the same subject matter as a FPPR practice requirement
- The minister considers the FOP requirement to address the matter equally or more effectively than the practice requirement

## **Operating Under an Approved FOP**

### ***FOP Extensions***

The minister may grant an extension prior to or following the expiry of a FOP.

The minister may extend the FOP term by two years or less on one or more occasions if they consider that prior to the plan's expiry, the government is unlikely to complete consultation and cooperation with Indigenous Nations regarding a replacement FOP (FRPA s. 2.43 (2) (b)). Such an extension may be granted to any FOP holder but must not extend beyond two years following the plan's original expiry date.

The minister may extend the FOP term by a year or less on one or more occasions if all the following circumstances apply (FRPA s. 2.43 (2) (a); FPPR s. 4.42 (1)):

- The holder of a FOP holds a non-replaceable forest licence
- Any extension granted will not exceed the term of the forest licence
- The FOP is set to expire in less than 12 months
- The minister considers that the FOP holder requires additional time for a reason stated in either FPPR s. 4.42 (2) or (3)

An extension that meets the criteria under FPPR s. 4.42 (1) must not extend past one year following the plan's original expiry date.

### ***FOP Amendment Processes***

Depending on the nature of the amendment made to the FOP, the holder may be required to obtain the minister's approval and undertake an engagement process of varying degree and length. After the amendment comes into effect, the holder must update the FOP accordingly to reflect the changes.

#### **Amendments that Require Approval**

Amendments that result in a material change to the FOP require the minister's approval unless the regulations provide otherwise. Such amendments will be subject to engagement with Indigenous Nations and a 60-day public review and comment period. These amendments can also be initiated by either the FOP holder or government.

#### **Mandatory Amendments**

If an amendment requiring the minister's approval is initiated by the government, it is deemed a mandatory amendment. Unless the regulations state otherwise, a holder of a FOP is required to submit a mandatory amendment in the following prescribed situations (FRPA s. 2.45, FPPR ss. 4.47 and 4.48 (2)):

- An area in the FOP contains a proposed cutblock or road that will be impacted by selected statutes (*Forest and Range Practices Act, Environment and Land Use Act, Forest Act, Land Act, Water Sustainability Act, Wildlife Act*), amendments made to these statutes or their associated regulations, or enactments or repeals of any associated regulations
- The minister reasonably believes that cumulative impacts of the FOPs in a certain area:

- (a) exceed or is likely to surpass a threshold established in a FOP requirement, or prevents the achievement of one or more outcomes in the FLP, and
- (b) the mandatory amendment would assist in reducing the cumulative impacts
- (Note: that the minister must offer the FOP holder an opportunity to be heard prior to making this determination about cumulative impacts)
- The regulations require the FOP holder to propose and submit an amendment to the plan

The FOP holder is required to engage with affected Indigenous Nations regarding the mandatory amendment and make it publicly available for a review and comment period of 60 days. The FOP holder must also submit a mandatory amendment within the following periods, as applicable (FRPA s. 2.45 (3)):

- For a mandatory amendment required under FRPA s. 2.45 (1) (a), the longer of
  - 6 months following the date on which the enactment referred to in FRPA s. 2.45 (1) (a) is amended
  - Period specified in the enactment referred to in FRPA s. 2.45 (1) (a)
- For a mandatory amendment required by a regulation referred to in FRPA s. 2.45 (1) (b): a period of 6 months or longer as set out in the regulation

The FOP holder will be exempt from the requirement to amend if they have either:

- a) Submitted a new FOP within six months or more remaining in their current FOP term, or
- b) Have less than six months remaining in their current FOP term

#### Amendments that do not Require Approval

Amendments that do not need the minister's approval must meet all the following regulatory criteria (FPPR s. 4.43 (1)):

- The amendment does not permit timber harvesting or road construction in an area where such activities are prohibited (e.g., wildlife tree retention areas, old growth management areas, etc.)
- The amendment does not alter any planning guideline requirements, substitute requirement or additional measures, aside from replacing a substituted requirement with the original planning guideline requirement
- The amendment and amended FOP are consistent with all FOP conditions imposed by the minister
- The amendment and the FOP as amended are consistent with any objectives established under sections 93.4 and 93.8 of the *Land Act*,
- The amendment and amended FOP are consistent and compliant with FRPA s. 2.36 [Content of Forest Operations Plan] and FPPR Part 1.1, Divisions 2 (Information Requirements) and 3 (Mapping Requirements) requirements, and
- The amendment does not materially change the nature or scope of the activities proposed under the FOP

The holder of a FOP seeking an amendment must make reasonable efforts to engage with potentially affected Indigenous Nations and make the amendment publicly available for a review and comment period of 30 days. The amendments take effect 30 days following the submission of required documents, which include the amended FOP, a written statement describing the amendment's effect on the criteria under FPPR s. 4.43 (1), and information pertaining to Indigenous Nations' engagement and public review and comment. However, before the 30 days pass, the minister may deem that the amendment requires approval if they believe that the approval process is necessary to protect public

health and safety, the environment, or a cultural heritage resource. In this situation, the amendment cannot take effect until it obtains the minister's approval.

### Updates to Basic Information

Changes to basic information on a FOP do not require the minister's approval or engagement with Indigenous Nations or the public (FPPR s. 4.46).

Changes to basic information include the following (FPPR s. 4.46 (1)):

- Adding the date of approval and/or expiry of the FOP or amendment
- Adding the date on which an extension to the FOP was issued
- Changing the FOP holder's business hours and business contact information

### ***Annual Forest Development Schedule***

The holder of a FOP must make the annual forest development schedule available on a publicly accessible website and in paper format at the holder's place of business throughout the calendar year for which the schedule is applicable. The holder of a FOP must also prepare a notice including the FOP holders' business contact information and details pertaining to the schedule (identification name, applicable calendar year, etc.) (FPPR s. 4.53 (1)). The holder must publish the notice on both a publicly accessible website (e.g., ministry website) and either a newspaper circulating in the relevant area or the Gazette. The notice must also be provided to each FOP holder in the applicable FLP area and each rights-holder whose rights are likely to be affected by the activities listed under the schedule.

### ***Site Level Plans***

A site level plan to be prepared by the FOP holder is subject to the following requirements:

- **Content requirements**
  - site level plan must include FOP holders' contact information and site-specific details such site-level assessments (as applicable), the area's standard units, stocking standards, and soil disturbance limits
- **Map requirements**
  - site level plan must include a map showing the location of water resources, elevation and relief, unique identifiers of cutblocks and roads, standard units, and prescribed boundaries
- **Obligation to retain**
  - the site level plan holder must retain a copy of the plan until the date on which the holder has either fulfilled all FOP obligations or been granted relief under *FRPA* s. 108
- **Availability**
  - the site level plan holder must publish notice of the plan on a publicly accessible website and make the plan available upon request

A site level plan is not required for cutblocks if the proposed timber harvesting is restricted to a volume of 50 m<sup>3</sup> or less or conducted for a purpose prescribed in FPPR s. 4.59. Likewise, a site level plan is not required for a road if the proposed timber harvesting is restricted only to timber removal that improves the safety of road users.