



Resource Tenures and Engineering Branch

*Forest and Range Practices Act*



# Administrative Guide for Forest Stewardship Plans (FSPs)

*Volume I*

*Preparation and Approval  
of an FSP*



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This document contains material to assist forest practitioners prepare, review and approve a Forest Stewardship Plan (FSP) under the *Forest and Range Practices Act (FRPA)*. This document contains both a summary of the legal requirements and advice/suggestions from the non-legal realm. The latter are not legal requirements you must follow, nor are they government policy.

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**Note:** This version is current to the *Forest and Range Practices Act* consolidated to May 29, 2009 and the Forest Planning and Practices Regulation as of July 25, 2008.



## Document Change Control

<b>Version</b>	<b>Date of Issue</b>	<b>Brief Description of Change</b>
1.0 – 1.07	June 30, 2007	<p>Detailed listing of changes in version 1.03 through 1.06 can be found in the corresponding Document Change Control section of each version.</p> <p>Version 1.03 (August 3, 2005)</p> <p>Version 1.04 (December 7, 2005)</p> <p>Version 1.04c (February 14, 2006)</p> <p>Version 1.05 (July 31, 2006)</p> <p>Version 1.06 (November 30, 2006)</p>
2.0	Sept 30, 2008	<p>Version 1.06 of the AGFSP was split into two volumes. Volume I contained sections related to the development and approval/rejection of an FSP. Sections covering administering and operating under an approved FSP were moved to Volume II.</p> <p>In addition, many sections in this Volume were added or updated to clarify and/or reflect the latest advice and experience in developing and approving an FSP. Several sections were reorganized to reflect common themes and related information.</p>
2.1	August 17, 2009	<p>The following changes have been made:</p> <ul style="list-style-type: none"> <li>▪ Minor changes throughout the document in formatting, wording, and updates to legislation</li> <li>▪ Update of the First Nations portions</li> <li>▪ Update of sections relating to the FSP Tracking System</li> <li>▪ Removal of Appendix 10 Objectives Matrix</li> </ul>



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**Abbreviations, Acronyms and Initializations**

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AAC	allowable annual cut
ABCFP	Association of BC Forest Professionals
BCTS	BC Timber Sales
CWS	community watershed
DDM	delegated decision-maker
DFO	Department of Fisheries and Oceans
ECA	equivalent clear-cut area
FDU	forest development unit
<i>FPCBCA</i>	<i>Forest Practices Code of British Columbia Act</i>
FPC	Forest Practices Code
FPPR	Forest Planning and Practices Regulation
<i>FRPA</i>	<i>Forest and Range Practices Act</i>
FSP	Forest Stewardship Plan
GAR	Government Actions Regulation
LRMP	Land and Resource Management Plan
MAL	Ministry of Agriculture and Lands
MoE	Ministry of Environment
NRFL	Non-Replaceable Forest Licence
NTFP	non-timber forest product
OGMA	Old Growth Management Area
OSBG	Objectives set by government
RMA	riparian management area
RMZ	riparian management zone
RP	road permit
RPF	Registered Professional Forester
RPPR	Range Planning and Practices Regulation
RRZ	riparian reserve zone
RUP	road use permit
s.	section
SNRFL	Salvage Non-Replaceable Forest Licence
SUP	special-use permit
TFL	tree farm licence
TSA	timber supply area
TSL	timber sale licence
TSR	Timber Supply Review
VQO	visual quality objective
WAP	watershed assessment procedure
WCB	Workers' Compensation Board
WL	woodlot licence
WLPPR	Woodlot Planning and Practices Regulation



## **Glossary of Forestry Terms**

A glossary of common forestry terms can be found on the following websites:

<http://www.for.gov.bc.ca/hfd/library/documents/glossary/>.

In addition, each of the various acts and regulations has definitions, for example:

- Definitions in *Forest Act* can be found at:  
<http://www.for.gov.bc.ca/tasb/legsregs/forest/foract/part1.htm>.
- Definitions in the *Forest and Range Practices Act* can be found at:  
<http://www.for.gov.bc.ca/tasb/legsregs/FRPA/FRPA/part1.htm#section1>.
- Definitions in the *Foresters Act* can be found at:  
[http://www.abcfp.ca/regulating\\_the\\_profession/foresters\\_act.asp](http://www.abcfp.ca/regulating_the_profession/foresters_act.asp)

More information on the term “practicable” can be found in the following *FRPA* Bulletins:

- *FRPA* General Bulletin # 3: Use of the Term "Practicable" under the *Forest and Range Practices Act (FRPA)* and Regulations - June 10, 2005; and
- *FRPA* Bulletin # 12: Use of Practicable in Results or Strategies – March 30, 2007.

The bulletins are available on the PFIT website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm)



## About the Guide

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Volume I of the Administrative Guide for FSPs (AGFSP) is designed as a tool to help promote consistent preparation, review and approval/rejection of FSPs. This volume brings together advice on developing Forest Stewardship Plans (FSPs), for agreement-holders who need an FSP, and for B.C. Ministry of Forests and Range and other government staff who review and approve/reject FSPs. This volume also includes advice on who is exempt from preparing an FSP. Information and advice for the implementation of approved FSPs is contained in Volume II.

Volume I is organized to follow the stages of the business cycle of an FSP, namely—preparing an FSP (Part 3), review and comment requirements for a proposed FSP (Part 4) and reviewing and approving a proposed FSP (Part 5).

The AGFSP is intended for reference use. It is structured to give agreement-holders and others the information and guidance they need to complete a stage of a business cycle, in a section-by-section process. For that reason, there is some repetition among sections.

Please note that the AGFSP deals with FSP planning requirements. It does not address planning requirements for other operational plans required under *FRPA* (e.g., woodlots, range).

The FSP business process is explained in detail and illustrated in a “business map” format in section 1.2 of this volume.

More information and/or questions regarding this AGFSP should be forwarded to the B.C. Ministry of Forests and Range, Resource Tenures and Engineering Branch:

Brian Westgate - 250 387-8620 ([Brian.Westgate@gov.bc.ca](mailto:Brian.Westgate@gov.bc.ca)).

Del Williams – 250-356-9361 ([Del.Williams@gov.bc.ca](mailto:Del.Williams@gov.bc.ca))



# **1 Introduction to Forest Stewardship Plans (FSPs)**

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## **1.1. What is an FSP?**

### ***1.1.1 Definition***

A Forest Stewardship Plan (FSP) is a map-based, landscape-level plan of potential forest development activities that are intended to take place on the area described in the plan, over a period of up to five or, if extended, up to 10 years.

A Forest Stewardship Plan (FSP) is the only operational plan for timber harvesting and related activities that agreement-holders (i.e., licensees, BCTS) must prepare and obtain government approval on, and it must be approved before the government can issue associated harvest authorities (e.g., cutting permits, road permits) to the agreement-holder.

As a government approved document, the FSP provides a vehicle for government to hold agreement-holders accountable for their choices on how they will harvest timber and build roads. It also provides a vehicle for agreement-holders to solicit and consider the expectations of the public and other stakeholders (e.g., First Nations) for their use of Crown land and resources.

### ***1.1.2 Purpose***

FSPs have several important purposes:

- To generally identify areas where forest development, such as harvesting and road work, may occur over the term of the FSP. These areas are identified as forest development units (FDUs). The licensee will have harvesting rights authorized within these FDUs via their agreement issued under the *Forest Act* such as a tree farm licence or forest licence. There is no requirement to show the location of cut blocks and roads in an FSP – only the areas where development may occur over the term of the FSP.
- To give the public, First Nations, resource agencies, and other agreement-holders an opportunity to review and comment on the agreement-holder's plans for forest development in an area – including:
  - The general location of forest development activities proposed by the agreement-holder.
  - The values identified (e.g., biodiversity, visuals, wildlife) within the plan area – both at the landscape and site level.
- To identify how the agreement-holder will be consistent with government objectives for the plan area through results and/or strategies proposed in the FSP.



- To assist in implementing government's objectives for the use of Crown land and resources – for example, planning forest activities that are consistent with the goals and objectives contained in strategic land use plans.
- To promote discussion and consultation among agreement-holders, resource agencies, non-government organizations, and the public about forest development and related activities including the values that are important for the public, First Nations, and other stakeholders.

### **1.1.3 Term**

An approved FSP will be effective for a maximum of five years. The length of the initial term is at the discretion of the agreement-holder, up to the maximum. At the request of the agreement-holder, the Minister of Forests and Range may extend the term for up to an additional five years, before or after the expiry of the FSP<sup>1</sup>.

### **1.1.4 Administrative process**

The administration of FSP preparation should normally have three stages:

1. Development of the FSP by the agreement-holder,
2. Review and comment period, and
3. Review and approval process by the MFR.

This Guide is organized into those three stages and provides information and suggestions for a structured process, roles and responsibilities of participants, suggested timelines and a number of helpful tools.

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<sup>1</sup> *Forest and Range Practices Act (FRPA)* section 6, and *Forest Planning and Practices Regulation (FPPR)* section 28.



## 1.2 What steps are involved in preparing and approving an FSP?

Figure 1: FSP development and submission

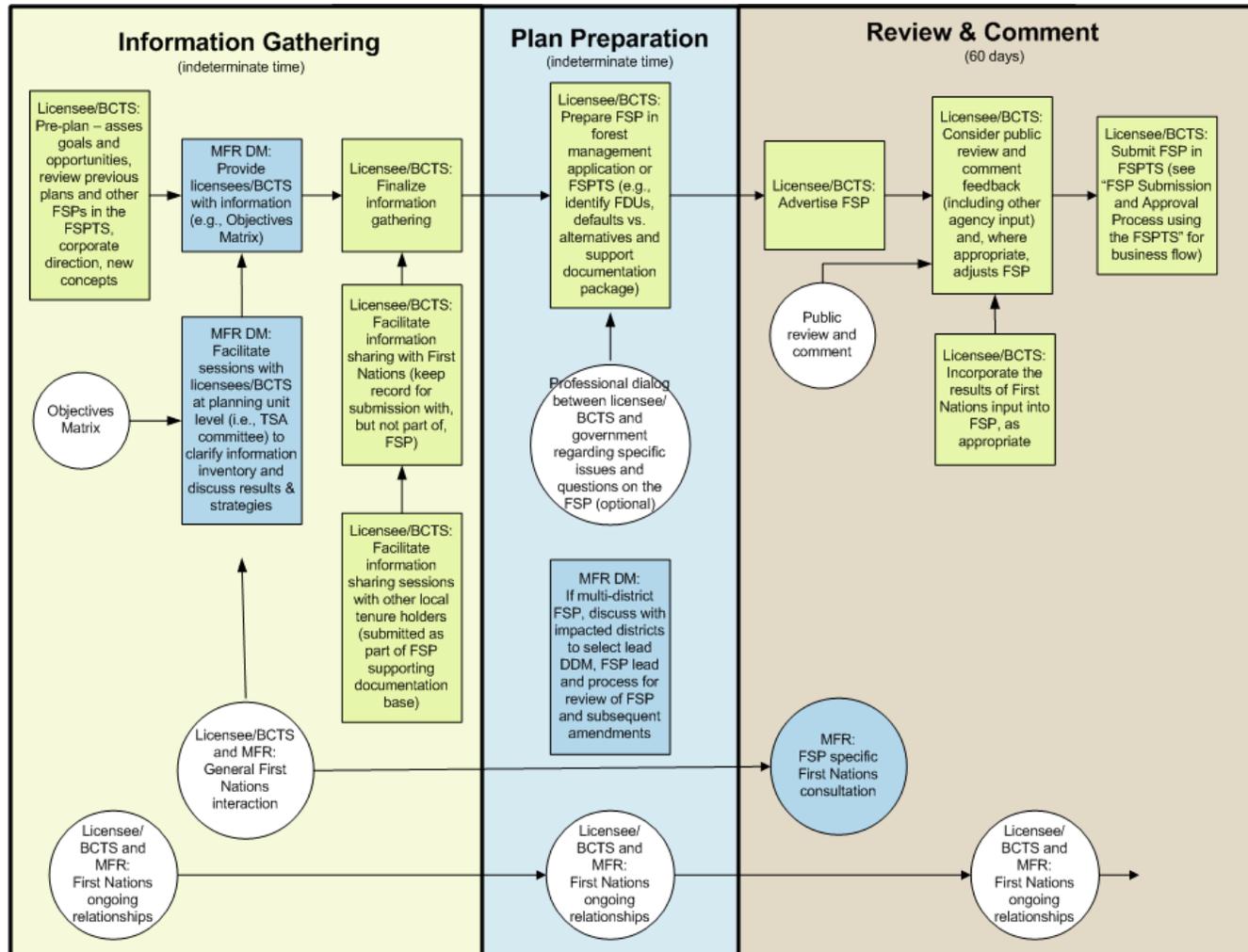
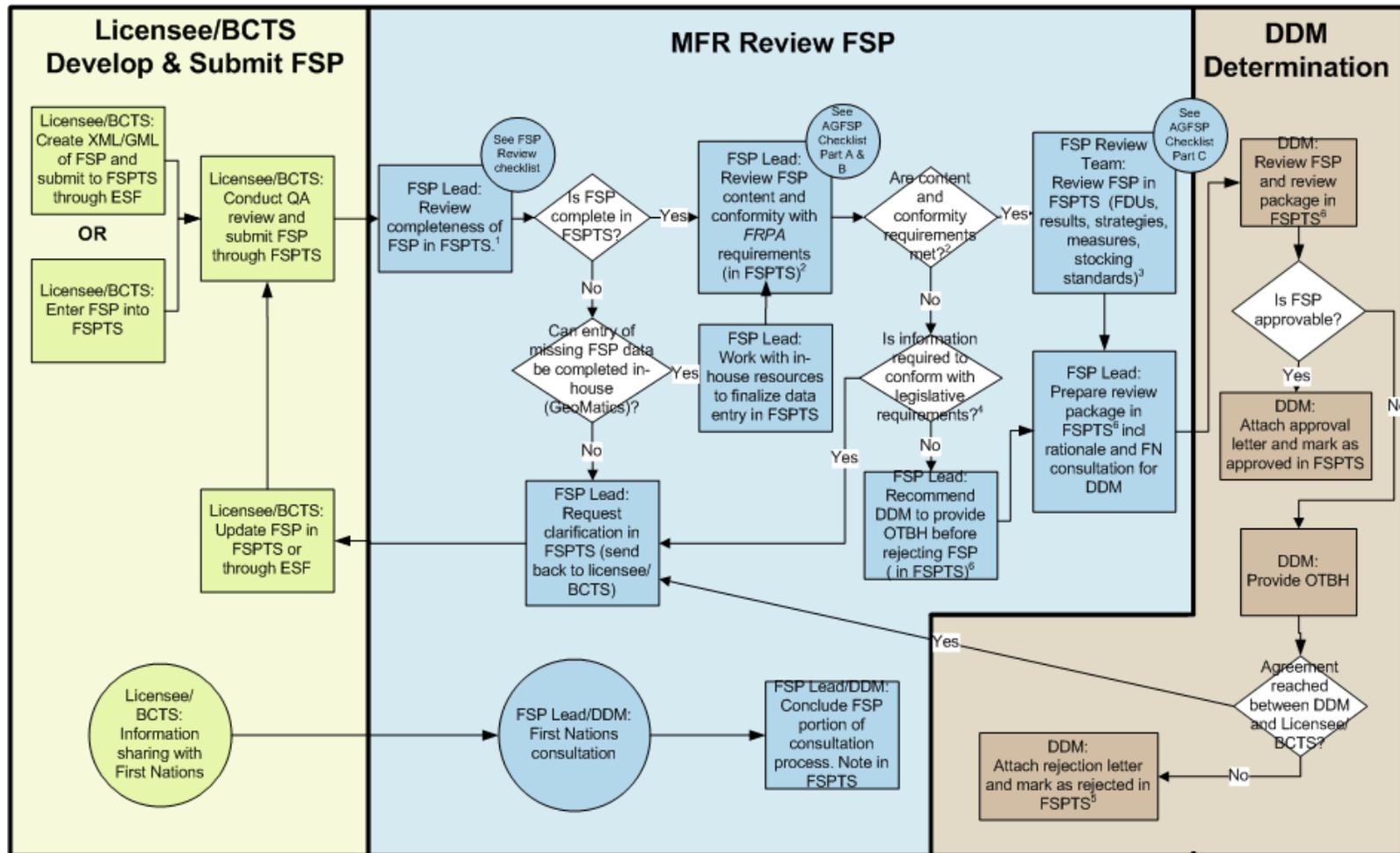




Figure 2: FSP district review and approval business process



1. FSP Lead determines FSP review team and process including referrals, First Nations consultation and process for district involvement if multi-district FSP.  
 2. Refer to FRPA s. 5(1)(a), 5(1)(b), 5(2), 5(3), 6(1)(a), 16(1)(a), 16(2). Refer to FPPR s. 12(3), 14(2), 14(3), 14(4), 14(5), 16(1), 16(3), 16(4), 17, 18, 20(1), 20(2), 21(1), 22(2), 26(3).  
 3. Refer to Objectives Matrix. Refer to FRPA s. 5(2)(a), 16(1)(b). Refer to Consistency Information Guide.  
 4. Refer to FPPR s. 16(2.1) subject to s. 24(2) and 26(2) of the FPPR. Note: Plan not approvable but may complete Part 1 and Part 2 of review or move to Part 3 of review (i.e., "reasons for refusing to approve", as applicable).  
 5. Refer to FRPA s. 16(3). Refer to "Reasons for Refusing to Approve" document. Need to determine if plan needs to go through a new public review (if resubmitted).  
 6. Proposed enhancement to the FSPTS to allow the attachment of MFR review materials in a secure area of the FSPTS.

\* Figure 2 is a generic example of the district business flow. Each district will determine its own needs and may adjust this flow accordingly.



The following “process flow card” outlines the steps noted in Figure 2: FSP District Review and Approval Business Process.

Updated March, 2009

Figure 3: Suggested process flow card for MFR review and approval of FSP

Step	Responsible party	Description of action		Time (days)	
				Min	Max
<b>Part 1: Content, conformity and timber harvesting consistency review</b>					
1	Licensee	Licensee submits FSP. (Preferably through the FSP Tacking System)			
2	Clerical	If Paper version received, reception receives FSP or any new FSP information requested. Reception date stamps material. Attaches a route slip (if applicable) and sends to appropriate tenures staff.			
3	Tenures / Stewardship	If paper version submitted, record in ledger FSP or any new FSP information requested. For both paper and electronic submissions, complete <b>FSP Plan Checklist Part A for compliance to content requirements. (See Appendix 2 for checklist).</b> Stocking standards are an important review item in this step (see section 5.4 for details).			
4	Tenures / Stewardship	Is content and conformity information satisfactory?	If No, go to 7. If Yes, go to 5.		
5	Tenures / Stewardship	Tenures staff determines if FSP is consistent with timber harvesting rights granted using <b>Checklist Part B</b> (see Appendix 2 for checklist).			
6	Tenures / Stewardship	Is FSP consistent with granted timber harvesting rights? (Does not automatically result in a formal DDM request for additional information under step 7 or the determination under step 20, but can form part of DDM’s approval determination input.)	If No, go to 7. If Yes, go to 13.		



<b>Part 2: Result or strategy consistency, verifiability, and measurability review.</b> (It is suggested that a whole review be completed. Even if this process leads to a DDM 'no' answer under step 20, it would provide better feedback to licensee for each objective identified in the Objectives Matrix for the applicable FSP.)					
13	Tenures / Stewardship	Review results or strategies for compliance with the legislation. Follow steps 14 through 17 (below) to determine if the results/strategies are in compliance with the legislation.			
14	Tenures / Stewardship	Does the objective have a default result or strategy?	If Yes, go to 15. If No, go to 16.		
15	Tenures / Stewardship	Was the default result or strategy used?	If Yes, go to 18. If No, go to 16.		
16	Tenures / Stewardship / Compliance and Enforcement	Does the result or strategy meet the definitions in the FPPR? Tenures and C&E should both review the result/strategy to ensure it is measurable / verifiable. (Does not automatically result in a formal DDM request for additional information under step 7 or the determination under step 20, but can form part of DDM's approval determination input [e.g., is the result or strategy verifiable or measurable?]). Tenures staff should refer to the consistency guidelines in section 5.3 for assistance and, where appropriate, seek the advice of Compliance and Enforcement Branch staff.	If Yes, go to 17. If No, go to 7.		
17	Tenures / Stewardship	Is the result or strategy consistent with the objective? Also see comments under step 16. Tenures staff should refer to the consistency guide for assistance and, where appropriate, seek the advice of technical and professional experts.	If Yes, go to 18. If No, go to 7.		
18	Tenures / Stewardship	Tenures staff prepares FSP review package for the DDM. The package should include a summary of First Nations consultation completed.	Go to 19.		
19	Delegated Decision-Maker	DDM reviews FSP and tenures staff FSP review package.	Go to 20.		
20	Delegated Decision-Maker	<b>Is FSP approved?</b> If the FSP is not approved, the DDM should meet with tenures staff to determine if additional information is required to support the FSP (step 7) or reasons why the FSP cannot be approved (step 11).	If Yes, go to 21. If No, go to 7.		
21	Tenures, Stewardship, and DDM	Tenures prepares FSP approval letter. DDM signs letter. Letter is scanned and filed on FSP Tracking System.	Go to 22.		
22		For paper submissions, tenures records in ledgers information request against FSP submission.	End.		



7	Tenures / Stewardship	Is all information required to be submitted to determine conformity with legislative requirements? Note: If content requirements, conformity, and/or timber harvesting consistency review have only been completed, then tenures staff may want to complete the review of the FSP, even though the plan will not be approved.  'No' means that asking the licensee for additional information will not make the FSP approved.	If Yes, go to 8.  If No, go to 11 (reasons for refusing to approve an FSP).		
8	Tenures, Stewardship and DDM	For paper submissions, tenures writes letter to licensee requesting information. DDM signs letter. For electronic submissions, "clarification" may be requested through FSP Tracking System.	Go to 9.		
9	Tenures / Stewardship	For paper submissions, tenures records in ledger information request against FSP submission.	Go to 10.		
10	Licensee	For paper submissions, licensee submits information. For electronic submissions, licensee makes changes and reubmitts through FSP Tracking System.	Go to 2.		
11	Tenures, Stewardship and Delegated Decision-Maker	<b>Reasons for refusing to approve a FSP.</b> Tenures provide a rationale to DDM specifying reasons why the FSP is not in compliance and therefore not be suitable for approval. Refer to "Reasons for refusing to approve" document and this <i>Guide</i> for guidance (i.e., determine reasons for refusing to approve, quote legislative reference, specify specific FSP deficiency, discuss and/or attach supporting documents). DDM signs letter. NOTE: Determination can be reviewed subject to Sections 78, 80, 82, and 110 of the <i>FRPA</i> . An Opportunity to be Heard may be an appropriate step prior to the refusal of an FSP. See Section 5.9.2 for more information. Tenures staff should determine if there are reasons for potential professional misconduct and take the appropriate action, as determined by the appropriate professional association.	Go to 12.		
12	Tenures / Stewardship	For paper submissions, tenures to record in ledger against FSP submission. For electronic submissions, notes may be made on workflow screen.	End.		
<b>Time Summary</b>					
FSP review and approval:					
Content:					
Result/strategy review:					
Total:					
Information request:					
Reasons for refusing to approve:					



## **1.3 How do I transition from the FPC to the *FRPA*?**

### ***1.3.1 Timelines for Forest Development Plans (FDPs) versus FSPs***

The transition to the planning requirements of the *Forest and Range Practices Act* (*FRPA*) will take place over several years. Therefore, there will be two legal frameworks – the *Forest Practices Code of BC Act* (*FPC*) and the *FRPA* – until all obligations under the *FPC* have been met (e.g., all stands under obligation achieve free-growing status) or have been rolled over into the *FRPA* regime.

As of April 1, 2007, forest agreement-holders require an approved FSP to harvest and build roads under newly issued cutting permits and road permits.

The *FPC* continues to apply to all cutting permits issued and harvested under a valid Forest Development Plan (*FDP*). Corresponding site plans, silviculture prescriptions and road layout and design plans will continue under the *FPC* until all obligations have been met or relieved by government (e.g., free-growing stands). Agreement-holders may choose to roll these obligations into their FSP under the *FRPA* section 196 and 197(7).

Agreement-holders may also create and submit a transitional FSP containing existing cutting permit, road permit, timber sale licences and approved Category A cut blocks and roads already included in their approved *FDP*. This creates, in effect, a transition FSP which is deemed to have received the Minister's approval. Agreement-holders may also create a transitional FSP containing their section 196 blocks. Additional information on transitional FSPs can be found in *FRPA* General Bulletin 2 – *Managing Through Transition* – FSP Opportunities available on the PFIT website at:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

If a Forest Development Plan (*FDP*) is associated with a Community Forest Agreement (*CFA*), it remains in effect until the end of the term specified in the plan approval. Agreement-holders may continue to operate under the *FDP* and Code requirements until that plan expires.

More information on transition to the *FRPA* can be found in the *FRPA* General Bulletin #2 – *Managing Through Transition* – FSP Opportunities available on the PFIT website at:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).



### 1.3.2 Operating in the Transition Period – FDPs or FSPs?

Activity	Ongoing
<b>Forest Practices Code</b>	
Submit new Forest Development Plan (FDP)	<b>No</b>
Amend a Forest Development Plan	<b>No</b>
Apply for and issue a CP, RP, TSL under an FDP*	<b>No</b>
Complete obligations under an FDP (e.g., silviculture)	<b>Yes</b>
<b>Forest and Range Practices Act</b>	
Submit new Forest Stewardship Plan (FSP)	<b>Yes</b>
Amend a Forest Stewardship Plan	<b>Yes</b>
Apply for and issue a CP, RP, TSL under an FSP	<b>Yes</b>
Complete obligations under an FSP (e.g., silviculture)	<b>Yes</b>

\*provided it has not been replaced by an FSP

During the transition period for planning, forest agreement-holders may work under either an FDP, provided an FSP has not been made effective, or an FSP.

If an agreement-holder is working using a:

- **Forest Development Plan (FDP)**, they must follow the requirements in the FPC unless the blocks and roads have been rolled-in to an approved FSP—in which case they operate as if it is an FSP.
- **Forest Stewardship Plan (FSP)**, they must follow the requirements of the *FRPA*.
- **Transitional FSP**, they must follow the practice requirements in Part 4 of the *FPPR*.

To transition to the *FRPA*, agreement-holders need to prepare, submit and obtain approval of their FSP. They must have an approved FSP in effect before their harvesting or road building activities can commence under *FRPA*.

When a FSP is approved and in effect, the agreement-holder will operate under the requirements of the *FRPA*, *except for* cutting permits, road permits and timber sales licences which were issued under the FPC.



If an agreement-holder is exempt from the requirement to prepare, submit and obtain an approved FSP (e.g., harvesting under circumstances identified in section 4 of the *FRPA*), they still must meet the practice requirements and other requirements in the *FRPA* when conducting any forest activities (see Part 5 of the *FRPA*—Protection of Resources).

### **1.3.3 Rolling areas into the *FRPA***

Agreement-holders having site plans and permits approved under the FPC may choose to roll those cut blocks and roads into an FSP in accordance with section 197 of the *FRPA*. Once a FSP is approved and effective, the *FRPA* rules and requirements will apply to the previously approved areas.

These are called section 196(1) blocks. More information on rolling over blocks and roads to an FSP can be found in the following *FRPA* Bulletins available on the PFIT website at [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm):

- *FRPA* General Bulletin # 2 - *Managing Through Transition - FSP Opportunities*;
- *FRPA* General Bulletin # 7 - *Interpreting Section 196 of the Forest and Range Practices Act for major Licences and BC Timber Sales*; and
- *FRPA* Bulletin #13 - *Transition Guidance for Licensees Making Cutting Permit and Road Permit Applications*.

If agreement holders do not roll their previously approved areas into FSPs, the FPC legislation continues to apply. (see sub-section labelled “How Section 197 of the *FRPA* applies” on the following page).

Cut blocks and roads that had limited protection under an FDP may also be eligible for rollover into an FSP, under *FRPA* Section 196(2), as long as they continue to be consistent with any of the following, if the following occurred in the period between four months before the FDP was submitted and four months before the FSP was submitted for approval:

- a new enactment that applies to the forest development unit (FDU),
- an objective set by government that has been established or varied that applies to the FDU,
- a community watershed that has been designated or varied on the area under the FDU, or
- timber in the vicinity of the FDU that has suffered catastrophic damage.

An approved FSP will replace a previous FDP, over the applicable area, on the date the approved FSP becomes effective.

The Forest Practices Code (FPC) will continue to apply to all matters where an area was harvested under a cutting permit issued under a valid FDP. This will extend many years past December 31, 2005 – with the exception of rolling the areas over to an FSP. This



basic premise can be overruled if the person preparing the FSP specifies that the *FRPA* requirements will apply to those areas in the FSP.

Agreement-holders will continue working under their FDP obligations and the FPC requirements (unless subject to section 197 of the *FRPA*) for:

- any harvesting or road construction underway when the FSP is approved,
- cutting permits, road permits or timber sales licences issued under a valid FDP, and
- obligations in site-level information or plans under an FDP. Stocking standards and obligations to establish a free-growing stand harvested under an FDP remain under FPC requirements. Amendments to the site-level information may be made in accordance with FPC requirements unless there is a desire to bring them over to the *FRPA*.

**How Section 197 of the *FRPA* applies:**

Agreement-holders who prepare an FSP may, for areas applicable in an approved FDP:

- apply the new results and/or strategies in the FSP to old timber harvesting or road construction begun under a previous plan, such as an FDP (section 197(4) of the *FRPA*), and
- apply the new stocking standards in the FSP to old cut blocks harvested before the FSP was approved, such as cut blocks under an approved FDP (section 197(5) of the *FRPA*).

Under section 197, agreement-holders may consolidate all of their obligations and operating standards under one set of rules, instead of having to deal with both the FPC and the *FRPA*. By specifically stating in their FSP that the *FRPA* standards apply, an agreement-holder may convert all existing FPC obligations and associated FPC standards to the applicable standards under the *FRPA* and the approved FSP. Once the FPC obligations and associated standards have been converted to the applicable standards under the *FRPA* in an approved FSP, this decision to convert cannot be reversed because the FPC, in regards to those obligations and standards, no longer exists.

For more information, consult the transition bulletin available from the *FRPA* implementation web site, at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).



### ***1.3.4 Protection of cut blocks during transition from an FDP to an FSP***

#### ***Full protection***

Transition provisions under section 196(1) of the *FRPA* provide that:

- if a Category A cut block has been included in a Forest Development Plan (note that these do not have to be in an existing FDP),
- the assessments required in sections 16, 17 and 37 of the Operational and Site Planning Regulation are shown to be completed, and
- the cut block is also included within a FDU in the FSP,

then that area is deemed to be approved in the FSP per section 23(1) (c) of the *FPPR*. The legislation provides that an agreement-holder may identify areas within a FDU where Section 196(1) cut blocks apply. This is not mandatory but it is reasonable that an agreement-holder would have to identify areas where they want Section 196(1) to apply so the DDM can determine if or where the protection provision provided in Section 196 of the *Act* will apply when making a determination under section 16 of the *Act*.

When included in the FSP, these carried-over areas are offered full protection in the new FSP. They are therefore not subject to any further review under the public review and comment provisions, nor are they subject to mandatory amendments under section 8 of the *FRPA*.

Section 196(1) areas act like their own FDUs and do not need to have other FSP requirements addressed, such as results, strategies and measures. However, these areas are subject to the practice requirements in the *FRPA*.

More information on the protection of cut blocks during transition can be found in the following *FRPA* Bulletins available on the PFIT website at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm):

- *FRPA* Administration Bulletin # 2 - Administration of Declared Areas under Section 14 of the Forest Planning and Practices Regulation;
- *FRPA* Administration Bulletin # 7 - Considerations for Making Orders under Section 9 of the Forest and Range Practices Act and Section 19 of the Forest Planning and Practices Regulation: Cumulative Effect of multiple Forest Stewardship Plans: Proportional Targets; and
- *FRPA* Bulletin #13 - Transition Guidance for Licensees Making Cutting Permit and Road Permit Applications.

#### ***Limited protection***

Section 196(2) of the *FRPA* addresses the limited protection of cut blocks carried over from an 'in effect' approved FDP. These carried-over areas are required to be revised:

- a) if one or more of the following events occur during the period specified in



- subsection (3):
- i) an enactment applicable to the forest development unit is made or amended,
  - ii) an objective set by government is established, varied or cancelled,
  - iii) an area of land is designated by regulation as a community watershed,
  - iv) an area of land that is a community watershed is varied or cancelled by regulation,
  - v) timber in the vicinity of the forest development unit has suffered catastrophic damage, and
- b) the minister considers that the forest development unit is inconsistent with the events described in paragraph (a) that occur.
- (2) The specified period under subsection 2(a) begins four months before the date the existing Forest Development Plan was submitted for approval and ends four months before the date the proposed forest stewardship plan was submitted for approval.

This is where the limited protection of these carried-over areas within an FDU applies.

Section 7(1)(a) of the *FRPA* specifies that cutting permits in effect on the FSP submission date are deemed approved along with those areas in the FSP that are covered by cutting permits providing that (section 23(1)(b) of *FPPR*):

- the agreement-holder had applied for the cutting permit before the FSP submission date, **and**
- the agreement-holder had received approval for before the FSP is submitted, but where the term of the CP has not yet started at the time of FSP submission.

Note: In the case of 196(1) cut blocks and roads, the FDP does not necessarily have to be in effect on the date the FSP is submitted, although the cut blocks need to have previously met the required tests. Whereas, the wording in 196(2) is very clear that these cut blocks and roads must be part of a FDP that is in effect on the date of the FSP submission.

## **1.4 What is the FSP Tracking System?**

### ***1.4.1 Introduction***

The FSP Tracking System is a web-based repository of FSPs and amendments as well as a spatially enabled application that supports agreement-holders and government personnel to electronically submit, review, approve and retrieve/view approved FSPs. Major processes supported include:

- **Submitting FSPs and amendments**—users can submit FSPs, and amendments, electronically to the government for the review and approval process. Once the FSP is submitted and validated, agreement-holders can view their FSPs on-line via the FSP Tracking System;



- **Reviewing/approving FSPs**—MFR district personnel can use the application to review and approve/reject the FSP and/or amendments requiring approval; and
- **Retrieving approved FSPs**—users can use the application to view FSPs, and amendments. The scope of FSPs that can be viewed will depend on the user's access level.

The FSP Tracking System supports an improved business process centred on the concept of enabling agreement-holders to electronically submit Forest Stewardship Plans (FSPs), including stocking standards and Forest Development Unit (FDU) boundaries, to the government. Instead of submitting paper copies of the plan and corresponding maps, agreement-holders will create a file in their planning application (including the spatial component); log onto a secure web site and submit the information to a submission framework.

The FSP Tracking System is linked to the RESULTS application so that any stocking standards submitted with the FSP are stored centrally and available for use in RESULTS. Spatial information submitted with the FSP (e.g., Forest Development Unit boundaries, declared areas) is automatically stored in the Land and Resource Data Warehouse (LRDW) and linked to the FSP via the MapView application.

#### ***1.4.2 Why use the FSP Tracking System?***

The MFR's strategic direction is to replace paper based submissions to the government with an Electronic Submission Framework (ESF) for accepting and reviewing/approving plans and other documents. The FSP Tracking System facilitates the replacement of a paper based FSP submission process with an electronic submission, tracking and retrieval process.

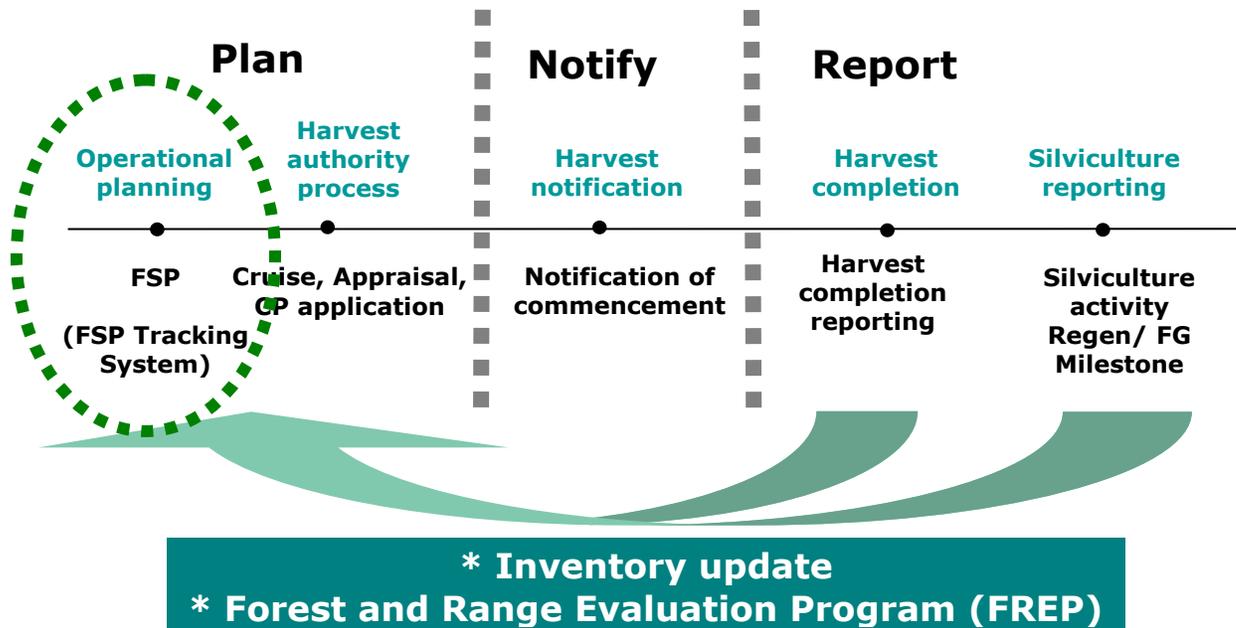
The FSP Tracking System provides several benefits to agreement-holders and the government including:

- Ability to electronically enter, submit and approve/reject stocking standards with the FSP for use in the RESULTS application.
- Ability to view approved FSPs – including those submitted by an agreement-holder's organization as well as approved FSPs submitted by other agreement-holder organizations. Government personnel can use the application to review FSPs for operational purposes (e.g., compliance and enforcement, monitoring).
- Reduced cost of submitting plans. The electronic submission eliminates the need to print and mail/send the FSP to the MFR. Only one electronic copy of the plan needs to be submitted – contrast this with the copies required for large multi-district FSP's!
- Improved amendment efficiency. Amendments will automatically be stored with the corresponding FSP and available through a central repository.



- Ability to access all approved FSPs and supporting documentation from one central, web based repository. Benefits of this include the ability for agreement-holders to identify FDU boundaries in other agreement-holders approved plans that may overlap their area. This will also help the Ministry’s tenure personnel determine if cutting authority submissions requiring FSPs are within approved FDU’s.
- Ability to view results, strategies, measures and stocking standards developed by others for situations that may work for your forest.

The FSP Tracking System fits within the MFR’s business integration initiative—information in the FSP Tracking System forms the starting point for subsequent information sharing and reporting.



### 1.4.3 Supporting the FSP Business Process

The FSP Tracking System supports the FSP business process by:

- Enabling agreement-holders to electronically submit FSPs, and amendments, to the government;
- MFR reviewers and decision makers can use the application to support the review and approval process; and



- Tenures, compliance and enforcement personnel and other users in industry and government can use the application to view approved FSPs and any corresponding amendments.

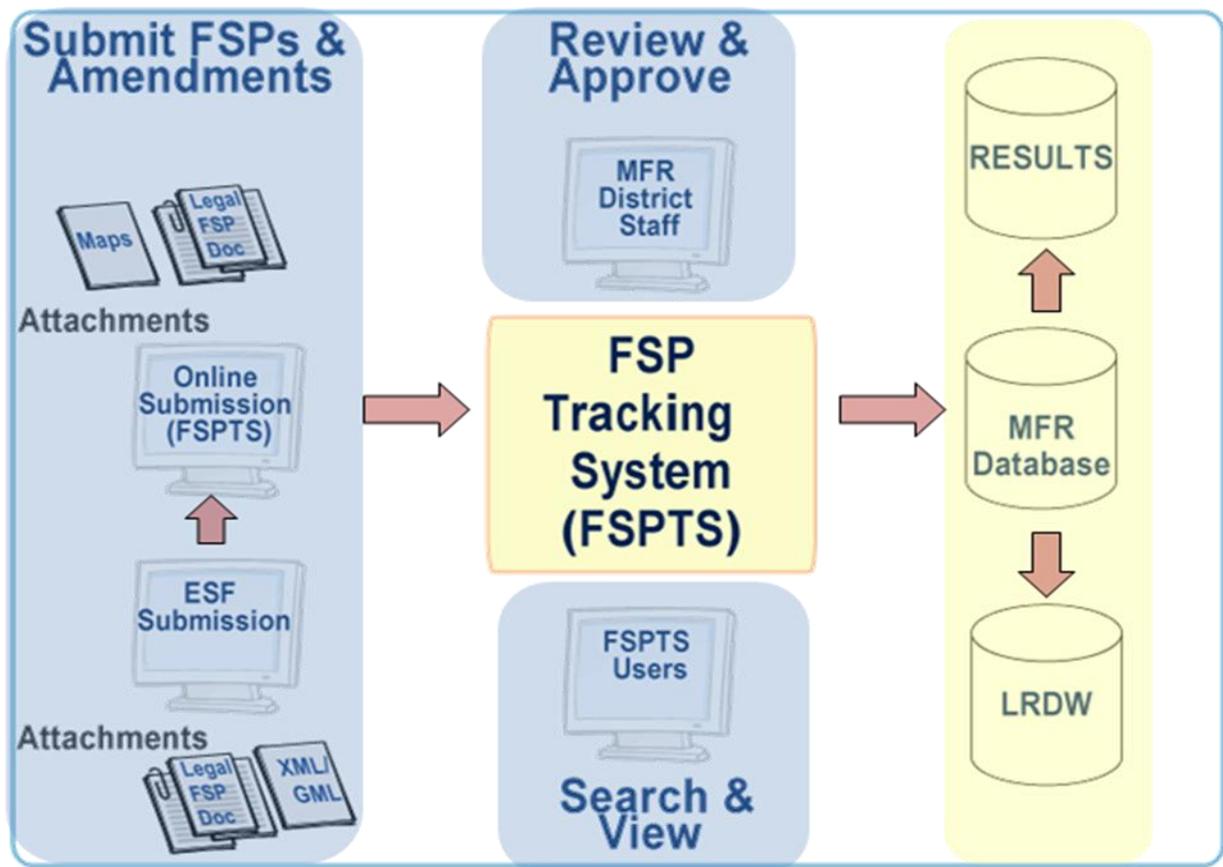
#### 1.4.4 General Submission Process

Agreement-holders can electronically submit their FSPs and amendments to the government through one of two options:

- The Electronic Submission Framework (ESF); or
- The FSP Tracking System.

The illustration below summarizes the submission process for both submission options.

## How does the FSP Tracking System work?





#### **1.4.4.1 Submission through the ESF**

The Electronic Submission Framework (ESF) is the same portal for submitting information to the government used by other MFR applications such as RESULTS and FTA. Submissions through the ESF involve the following activities:

- creating the XML/GML files. Typically, this involves setting up the FSP in a forestry management software package (e.g., eziLink, Cengea Forest, Phoenix Professional) and using the software package to create the XML/GML file. The FSP information that will be set up by the software package includes administrative information (e.g., name, term, agreement-holder(s), district(s), contact information), stocking standards and FDU boundaries;
- logging on to the ESF at: <http://www.for.gov.bc.ca/his/esf/> and creating a submission containing the XML/GML file; and
- attaching the FSP legal document, and any other documentation necessary to support the FSP (e.g., supporting documentation);
- uploading the submission comprising the XML/GML file and attachments, through the ESF to the FSP Tracking System;
- reviewing the draft FSP in the FSP Tracking System to confirm, revise and/or enhance the FSP as necessary (in the FSP Tracking System); and
- submitting the FSP to the government through the FSP Tracking System.

More information on the XML/GML schema and the requirements of the ESF can be found in the document titled “FSP ESF Submission Guide” available on the FSP website. Follow the link listed on the user guide page of the FSP website at <http://www.for.gov.bc.ca/his/fsp/userGuides/>.

#### **1.4.4.2 Submission through the FSP Tracking System**

If an agreement-holder does not have access to a software package to create the XML/GML files, they can submit their FSP, or amendment, through the FSP Tracking System. The submission process involves the following activities:

- entering the FSP header (administrative) information such as name, term, agreement-holder(s), district(s) and contact information on the FSP Information tab in the application;
- attaching the FSP legal document and any other documents to aid the review and approval process (e.g., supporting documentation) on the Attachments tab;
- attaching a zipped folder containing the shape files of their FDU boundaries (optional) on the Attachments tab. NOTE: information attached here is not automatically loaded into the Land and Resource Data Warehouse (LRDW). This information must be loaded into the LRDW before the plan can be marked as approved in the FSP Tracking System. Agreement holders should discuss this requirement with their MFR district contact for the FSP Tracking System;
- entering the stocking standards on the Stocking Standards tab; and
- submitting the FSP.



#### **1.4.4.3 Processing the submission**

Once the FSP is submitted through either the ESF or FSP Tracking System, the FSP is stored in a central, web-accessible repository. Once stored in the repository, the appropriate MFR district offices are notified that an FSP, or amendment requiring approval, is available for their review and approval process through an Inbox. The application will enable MFR district personnel to retrieve and view the submitted FSPs and track their progress using the optional workflow tools. The FSP Tracking System will automatically link to and populate other applications as necessary. For example, stocking standards in approved FSPs will be automatically available for use in RESULTS while Forest Development Unit (FDU) boundaries stored in the Land and Resource Data Warehouse (LRDW) will be accessible through the FSP Tracking System using the MapView application.



### 1.4.5 General Content Requirements

The following information is mandatory and optional in electronically submitting an FSP. The table below also lists where the information is ultimately stored—in the FSP Tracking System, RESULTS or the Land and Resource Data Warehouse (LRDW).

Data	Mandatory?	Storage
<b>Licensee/BCTS</b>		
FSP Header Information		
FSP name	YES	FSP
Agreement-holder(s)	YES	FSP
MFR district(s)	YES	FSP
FSP term (years and months) or FSP expiry date	YES – either FSP Term or FSP Expiry Date	FSP
Contact info—name, telephone number and email address	YES	FSP
Amendment description--type of amendment, short description and indicator for DDM approval or not	YES (if amendment)	FSP
FSP Information (non header)		
FSP Legal Document containing results, strategies, measures, stocking standards, forest development units and signature(s) of person required to prepare the plan	YES	FSP
Stocking standards report	Optional – required if standards not contained in the FSP legal document	FSP
Supporting documentation	Optional	FSP
Stocking Standards (for use in RESULTS)	YES	RESULTS / FSP
FDU boundaries * (electronic spatial files for LRDW)	YES	LRDW / FSP
FRPA Section 196 areas * (electronic spatial files for LRDW)	No	LRDW / FSP
Declared areas * (electronic spatial files for LRDW)	YES – if declaring an area	LRDW / FSP
<b>MFR</b>		
DDM decision letter	YES	FSP
Review details (Workflow Tab)	Optional	FSP

\* can only be submitted for direct storage in the LRDW through the ESF. A zipped folder of spatial files can be attached and submitted through the FSP Tracking System but then must be loaded into the LRDW via MFR district resources before the plan can be approved. This should be discussed with the MFR district contact for the FSP Tracking System.



### ***1.4.6 Obtaining Access to the FSP Tracking System***

Users may obtain access to the FSP Tracking System by requesting an access level on the FSP Tracking System website at <http://www.for.gov.bc.ca/his/fsp/>. Users will be able to perform different functions within the application based on their access level. The following access levels are recommended for users based on their organization:

- **Access by Government Staff**—Most current government users have been assigned “View all” access to the application—enabling them to use their IDIR account to view any approved FSP in the application. Those involved in reviewing FSPs will be assigned a role of “FSP reviewer”. Most district managers will be granted ‘Decision Maker’ status for approving/rejecting an FSP, “requesting clarification” and/or offering an Opportunity To Be Heard (OTBH) prior to the determination on the plan;
- **Access by Agreement-holder**—Licensee and BCTS staff should request an access level of either “FSP submitter”—for submitting FSPs and amendments or “view only”—for viewing FSPs submitted by their organization or “view all” to view FSPs submitted by other organizations. NOTE: with “view all”, users can view the legal FSP document from other organizations but cannot view the corresponding supporting documentation; and
- **Access by the Public**—In Release 1.4 of the FSP Tracking System, there is no ability to give the public access to the FSPs stored in the application. The system is only accessible to government users and FSP holders.

NOTE: Ensure the correct user identifier and password is entered when logging into the application. The logon id and password are case sensitive.



### 1.4.7 FSP Status

The FSP Tracking System uses a status field to indicate the various stages of an FSP and to control the actions that may take place on an FSP at any point in time. The statuses, and corresponding actions, include the following:

Status	Meaning
Blank	Agreement-holder has started to enter information into the FSP Tracking System but has not saved the information. The agreement-holder is not ready to submit the plan at this stage.
Draft	Similar to the “Blank” status, the agreement-holder has saved the FSP but is still working on their submission and is not ready to submit the plan. For this reason, MFR reviewers should not review plans with a status of draft. At this point, the FSP has been assigned a unique identifier by the FSP Tracking System.
Submitted	The agreement-holder has finished entering their plan and has submitted it to the MFR for the review and approval process. All legal requirements for the plan should have been met by the agreement-holder (e.g., review and comment complete, plan signed). The legal FSP document containing signatures, stocking standards and FDU boundaries should be attached. The stocking standards should be entered and the spatial information (FDU boundaries) submitted to the Land and Resource Data Warehouse (LRDW) or attached as a zipped folder in the Attachments tab of the FSP Tracking System. At this point, the agreement-holder cannot make any further changes to the plan. The exception is if the DDM “requests clarification” which changes the status back to Draft and enables the agreement-holder to make changes and re-submit.
Approved	The FSP has been approved by the DDM. No further changes can be made to this version of the plan and/or the supporting information. Any changes must be made through amendments.
In Effect	Approval of some amendments is not required. Once the licensee submits them, they are deemed to be “in effect”.
Rejected	The FSP has been rejected by the DDM. The agreement-holder or DDM cannot modify or delete a rejected FSP. A new plan must be created with a new FSP ID number.
Opportunity To Be Heard Sent (OTBH)	The DDM has granted the agreement-holder an Opportunity to be Heard (OTBH) before an approval or rejection decision is made. Plans with a status of Opportunity To Be Heard Sent cannot be changed by either the agreement-holder or the MFR. The plan cannot be approved or rejected in this state. Once the OTBH is held, the DDM can mark the event in the Workflow tab which changes the status back to “submitted” and the review and approval process can continue.



### ***1.4.8 User Guides***

User guides have been developed for each of the major business processes supported by the FSP Tracking System:

- Submitting an FSP
- Amending an approved FSP;
- Reviewing and Adjudicating an FSP; and
- Viewing an approved FSP.

The user guides contain detailed information on data entry, processing, reporting and tips and techniques for using the application. The user guides can be obtained from the FSP Tracking System website at: <http://www.for.gov.bc.ca/his/fsp/userGuides/>. The information contained within these guides may change based on experience and issues identified/resolved. Please check the website on a regular basis to ensure you are using the most recent version of the user guide.

### ***1.4.9 Application Help and Support***

There is a tiered support system in place for users of the FSP Tracking System. If users have a business or process question about the FSP, they should look to the AGFSP for more information.

For technical questions about using the FSP Tracking System, users should look to the following sources of support available on the FSP Tracking System website at:

<http://www.for.gov.bc.ca/his/fsp/>:

- training materials – containing information on how to use the application including recordings of training sessions delivered with the roll-out of the application;
- on-line help – each screen within the application has its own on-line help providing information to assist the user navigate and enter/view information on that screen. The on-line help is available within the application and on the FSP Tracking System website;
- Questions and answers – covering common questions asked during the training sessions and/or submitted to the application help desk;
- User guides – containing details on data entry, processing and reporting (viewing) FSP information (<http://www.for.gov.bc.ca/his/fsp/userGuides/>); and
- Application help desk – available through the Business Application Support Service (BASS) at [FORHISP.APPHELP@gov.bc.ca](mailto:FORHISP.APPHELP@gov.bc.ca) or 250-387-8888. Place the word “FSP” in the subject line of the email to aid the processing of the request.



**1.4.10      *More Information***

For more information on the FSP Tracking System, visit the FSP application website at:  
<http://www.for.gov.bc.ca/his/fsp>.

**1.4.11      *Access to the FSP Tracking System***

Access to the FSP Tracking System is available from the FSP application website at:  
<http://www.for.gov.bc.ca/his/fsp/>.



## 2 Who is involved in preparing and approving an FSP?

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### 2.1 Who needs to prepare an FSP?

BC Timber Sales or the holder of a major licence (including Salvage Non-Replaceable Forest Licences [SNRFLs]), a community forest agreement, a community salvage licence, or a pulpwood agreement are required to prepare an FSP to undertake forest harvesting, road construction and related activities, unless exempted. Community salvage licences may have different or limited content requirements.

The DDM must approve a FSP if it meets the legal content requirements and passes the legislated approval requirements (i.e., section 16 of the *FRPA* and Part 1 - Division 3 of the Forest Planning and Practices Regulation [FPPR]).

An approved FSP is the first step in the operational planning process. The agreement-holder must also prepare specific site plans and apply for and be granted cutting and road permits before work begins.

### 2.2 Who is exempt from having to prepare an FSP?

Exemptions from the requirement to prepare an FSP are provided in section 4 (automatic) of the *FRPA* and sections 19.1 and 32.3 (automatic) of the Forest Planning and Practices Regulation (FPPR).

There is no requirement for the delegated decision-maker (DDM) to grant exemptions; they are automatic (except under section 19.1) under the *FRPA*. The legislation sets out the circumstances under which an agreement-holder is exempted from the requirements for a FSP, and each agreement-holder is responsible for determining whether or not an exemption applies to their situation. If an agreement-holder invokes an exemption, they should be prepared to provide a rationale to the DDM, if requested. The DDM will audit exemptions and can pursue enforcement options if the agreement-holder has not followed the provisions of the legislation.

#### ***2.2.1 Possible exemptions (limited content FSP)***

There are possible exemptions (upon request to the DDM) from one or more of the content requirements of the FSP if the DDM is satisfied an exemption is appropriate given the nature and extent of the timber harvesting proposed. Exemptions can apply to the holder of a:

- Forestry licence to cut that is not a major licence;
- Community salvage licence; or



- Forest health salvage—the Minister may exempt a person from all or part of the requirements in the *FRPA* and *FPPR* in order to follow a course of action specified by the Minister to limit or mitigate the spread of forest pests. This could include an exemption for the requirement to prepare a FSP for sanitation harvesting.

### 2.2.1.1 Conditions to an exemption

Section 112 of the *FRPA* allows the district manager to add conditions to an exemption to a *FRPA* requirement. For example, if a district manager issues an exemption to generate a free growing stand in an area under bark beetle suppression activities, the district manager could attach a condition such as “provide the MFR with a map showing the approximate locations where the salvage operations were conducted”.

### 2.2.2 Areas not covered by existing FDUs

For areas not covered by existing forest development units (FDUs) in a FSP, the following are exempt from the requirement to be included in a FSP (*FRPA* s4(1)):

- harvest of timber to eliminate a safety hazard,
- harvest of timber to collect seed, provided that the resulting opening is smaller than 1 hectare,
- removing felled trees from landings and road rights of way,
- harvest of less than 500 cubic metres (m<sup>3</sup>) which, in the opinion of the minister:
  - is in danger of being significantly reduced in value, lost, or destroyed by insect infestation, fire or disease, or
  - has been treated or will be treated to facilitate the trapping or elimination of insects, and,
- other prescribed purposes.

“Other prescribed purposes” are covered under section 32.3 of the *FPPR* and relate to areas outside of FDUs:

- if timber harvesting or road construction is incidental to one or more primary forest activities and the timber harvested outside the FDU does not exceed 50 m<sup>3</sup>, and
- timber harvesting or road construction is related to a research installation approved by the government.

“Primary forest activity,” as defined in section 1 of the *FPPR*, means one or more of the following:

- timber harvesting,
- silviculture treatments, and
- road construction, maintenance and deactivation.



Some possible examples of where an exemption under section 32.3 of the FPPR (see above) may occur include:

- crew access (pre-engineering) and fly camps,
- publicly funded stream-restoration work (using trees in the riparian area to construct stream works),
- safety hazards,
- retrieving escaped logs,
- use of tail holds outside the cutting permit Exhibit A boundary,
- helipad construction,
- oil and gas shock points for exploration,
- minor blow-down,
- small cash sales,
- forestry licences to cut,
- falling trees to test “soundness” (e.g., cypress stain/rot),
- trap trees for beetles,
- power line rights of way to individual homes or cottages,
- fence-line clearing,
- special events, such as movie production, trees for scouts, and junior forest warden camp activities,
- incidental infected trees (forest health),
- danger trees for hydro and residences,
- recovery of timber and special forest products from stream rehabilitation activities (e.g., cants, blocks or bolts, and logs),
- recovery of timber and special forest products from waste and residue in previously harvested areas,
- recovery of timber from dead and downed material within merchantable stands prior to primary harvesting in the stand (limited but occasionally requested),
- corridors through reserved areas associated with cut blocks,
- timber obtained from roadside areas, outside of the road-clearing width, for use in constructing bridges and culverts,
- incidental trees outside of the Exhibit A cut block boundaries associated with helicopter logging, and
- helicopter drop zone areas along roadsides and helicopter service landings.

### **2.2.3 Minor tenures**

Minor tenures or licences not declared as major licences (i.e., forestry licences to cut of less than 2,000 m<sup>3</sup>) do not require an associated FSP. (Part 2 - Division 1, section 3 of the *FRPA* lists the types of resource tenures/agreements/licences that are required to produce an FSP.)



A minor tenure is defined by the FPPR as a:

- free-use permit,
- Christmas tree permit,
- occupant licence to cut, or
- forestry licence to cut that is not a major licence and limits the area to less than 1 hectare and the volume of timber to 2,000 m<sup>3</sup> or less.

While there are no legislated planning requirements at all for minor tenures, practice requirements still apply, to the limit of the FPPR, and these tenures are subject to any exemptions granted by the DDM and to the terms of the licence agreement. There are no transition provisions for minor tenures: the *FRPA* became effective for them in January 2004.

The fact that there are no planning requirements for minor tenures will have important implications for the DDM, when issuing minor tenures. The DDM will need to consider all other existing plans, to ensure that the work intended under the minor tenure in question is consistent with other plans and will not prevent other agreement-holders from exercising their rights and obligations. For example, when all of the other agreement-holders are working under FSPs in a particular area, minor tenure-holders must not prevent the major licensees or BCTS from exercising their timber harvesting rights or achieving approved results/strategies under their FSPs.

The most immediate form of minor tenure that will be administered in any great volume will be the forestry licence to cut. The forestry licence to cut document has been revised to be consistent with the *FRPA* and is publicly available as a Microsoft® Word document from the Resource Tenures and Engineering Branch main web site, at: [www.for.gov.bc.ca/hth/ForestRevitalization/DocTemplates.htm](http://www.for.gov.bc.ca/hth/ForestRevitalization/DocTemplates.htm), or to Ministry of Forests and Range personnel, at: [gww.for.gov.bc.ca/hth/timten/templates/](http://gww.for.gov.bc.ca/hth/timten/templates/)  
In preparing these licences, it is important that the licence and the *FRPA* legislation are properly integrated (e.g., optional clauses should not duplicate the regulation or the exemption process). Refer to sections 91 and 92 of the FPPR.

Appendix 1 of this *Guide* contains a draft exemption form for minor tenures. During the process of issuing a forest licence to cut, use of this form is designed to help agreement-holders and DDMs identify potential exemption requirements through use of optional clauses for the licence itself (including conditions).



### **2.2.4 Sanitation Exemptions**

Section 25 of the *FRPA* allows the minister to grant very powerful exemptions from all or parts of the *FRPA*, the regulations or standards (including the requirement for an FSP). The minister may grant exemptions if he or she considers it necessary or desirable, so that a person, and this is not restricted to the holder of an agreement under the *Forest Act*, may follow a course of action specified by the minister to limit and/or mitigate the spread of forest pests.

Section 64(1) of the *FPPR* specifies maximum cutblock sizes. This size limit does not apply in certain cases as specified in section 64(2)(a) including sanitation and recovery of damaged timber.

More information on the forest health related exemptions in the *FRPA* can be found in *FRPA* Bulletin #11 - Forest health bulletin Feb 28 2007, available on the PFIT website at: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

### **2.2.5 Land Act Dispositions**

*Land Act* dispositions (e.g., agriculture leases prior to becoming private property) are not subject to *FRPA*. The key is the definition of “agreement-holder”. If they are not the holder of a forest agreement, the *FRPA* would not apply.

Note: within the disposition document there may be practices requirements included or references to any of the *Acts* (e.g., *FRPA*, *FPC*) being applicable to any of the forestry activities that may be carried out on the area. The Licence to Cut document itself may also have practices requirements or references to all or parts of the *Acts* being applicable if the District Manager includes them in the Licence to Cut documents.

As well, any provisions in the *Act* that apply to a “person” would apply to them.

### **2.2.6 Incidental harvesting not requiring an FSP**

In most cases, an agreement-holder requires an FSP to harvest timber or construct a road. However, under section 4(1) and 4(2) of the *FRPA*, some types of harvesting are exempt from inclusion in an FSP. The cases outlined in section 4(1) are:

- Harvesting timber to eliminate a safety hazard,
- Harvesting timber to facilitate the collection of seed, leaving an opening not bigger than 1 hectare,
- Removing felled trees from landings and road rights of way,
- Harvesting timber not exceeding a volume of 500 m<sup>3</sup> which, in the opinion of the minister:



- is in danger of being significantly reduced in value, or lost or destroyed by insect infestation, fire or disease, or
- has been treated or will be treated by the holder or timber sales manager to facilitate the entrapment or elimination of pests, and
- Other prescribed purposes. These are described in section 32.3 of the FPPR and include
  - timber harvesting or road construction incidental to one or more primary forest activities, if the timber harvested outside the forest development unit does not exceed 50m<sup>3</sup>, and
  - timber harvesting or road construction related to a research installation that is approved by the government.

Section 4(2) of *FRPA* also has “prescribed purposes where an FSP is not required”. These are described in the FPPR section 32.4 and include situations where:

- the timber harvesting or road construction is needed in relation to a research installation approved by the minister, and
- timber harvesting or road construction is needed in support of activities authorized or required under an enactment other than the *Forest Act*

### ***2.2.7 Incidental harvesting outside of an FDU not covered by an FSP***

The general requirement for harvesting or road-building is that all of the activities are subject to having an approved FSP and must happen totally within an FDU. However, under section 4(1) of the *FRPA*, there are provisions for exemptions to this requirement. These are:

- Harvesting timber to eliminate a safety hazard,
- Harvesting timber to facilitate the collection of seed, leaving an opening not bigger than 1 hectare,
- Removing felled trees from landings and road rights of way,
- Harvesting timber not exceeding a volume of 500 m<sup>3</sup> which, in the opinion of the minister:
  - is in danger of being significantly reduced in value, or lost or destroyed by insect infestation, fire or disease, or
  - has been treated or will be treated by the holder or timber sales manager to facilitate the entrapment or elimination of pests, and
- Other prescribed purposes. These are described in section 32.3 of the FPPR and include
  - timber harvesting or road construction incidental to one or more primary forest activities, if the timber harvested outside the forest development unit does not exceed 50m<sup>3</sup>, and
  - timber harvesting or road construction related to a research installation that is approved by the government.

In these circumstances, an FSP is not required.



## **2.3 Who approves an FSP?**

The Minister of Forests and Range has the legislated authority for approving FSPs. This can be delegated to other ministry officials and is governed by a delegation matrix from the Minister of Forests and Range. The full delegation matrix is available to ministry personnel at: <http://gww.for.gov.bc.ca/hcp/legislation/authoritymatrix/> or to the public at <http://www.for.gov.bc.ca/hcp/legislation/authoritymatrix/>.

## **2.4 What role do professionals play in preparing the FSP?**

The role of professionals is very important in the preparation of an FSP. Agreement-holders are required to submit prepared FSPs for approval and to identify and implement activities that will achieve the obligations specified in their FSP (e.g., results, strategies, measures, stocking standards). Registered forest professionals, have specialized education, knowledge, training and experience that has qualified them to practice professional forestry, which includes the preparation and/or implementation of FSPs.

With *FRPA*, forest management in BC has moved to a professional reliance model, however the requirement for forest professionals to undertake forestry tasks and to sign and seal their professional documents have not been included in the *FRPA*. Those requirements are covered in the *Foresters Act* and its associated bylaws. Section 1 of the *Foresters Act* contains the definition of the “practice of professional forestry”. Bylaw 10 specifies the requirements for sign and seal.

While an RPF will sign/seal a FSP, a team of other Registered Forest Professionals (RFPs) (including registered forest technologists) and allied professionals may be involved in the preparation and peer review of the FSP. All RFPs are entitled to practice forestry and are responsible to act in accordance with their Code of Ethics (ABC FP Bylaw 11) and with the specific Standards of Practice outlined in ABCFP Bylaw 12. Other professions have similar requirements for their members.

The ABCFP Code of Ethics identifies specific responsibilities of RFPs to:

- 1) the public,
- 2) the profession,
- 3) the employer or client, and
- 4) other members.

The ABCFP Standards of Practice are:

- 1) competence,
- 2) independence,
- 3) integrity,
- 4) due diligence,
- 5) stewardship, and
- 6) safety.



In return for the right to practice professional forestry, forest professionals who prepare FSPs are professionally responsible and accountable for all aspects their plan, including their choices of measurable and verifiable results and strategies for the achievement of objectives, and consideration of values other than timber. In return for their right to conduct forest activities, including timber harvest, forest agreement holders/employers are legally responsible and accountable for meeting the requirements of FRPA, and other relevant legislation, in their submissions and activities. Employers and forest professionals have a mutually beneficial relationship, which includes each party working to help the other achieve their obligations.

#### ***2.4.1 What is Professional Reliance and Professional Deference?***

From ABCFP Reports:

Applying Professional Reliance Under FRPA (2008), and Professional Reliance in Forest and Range Management in BC – From Concept to Practice (2006):

*Professional Reliance is “the practice of accepting and relying upon the decisions and advice of professionals who accept responsibility and can be held accountable for the decisions they make and the advice they give.” “Professional reliance goes beyond simply expecting an individual to competently apply a standard, practice or rule, and includes the expectation that the professional will take into account a wide range of circumstances and interest, and will balance them within the legal construct.....”<sup>2</sup>*

*“Professional reliance rests on a framework in which:*

- Forest professionals, recognized as having the required education, knowledge, expertise and experience, are called upon to apply their judgment and make decisions for which they are accountable to the public through the Foresters Act and Bylaws of the ABCFP;*
- Respectful challenges to a forest professional’s decisions are accepted and can be addressed with a sound rationale; and*
- The rights and obligations of forest professionals are respected and supported by employers/clients and by government through the regime they put in place.”<sup>3</sup>*

*“Professional reliance is compatible with the principles of administrative law applicable to FRPA and other statutes.”<sup>4</sup> This principle affirms the understanding that the concept of professional reliance is not new and can be found in many areas of professional*

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<sup>2</sup> Professional Reliance in Forest and Range Management in British Columbia. From Concept to Practice. Professional Reliance Task Force. April 2006.

<sup>3</sup> ABCFP Guideline: Definition of Professional Reliance, September, 2004

<sup>4</sup> Applying Professional Reliance Under FRPA (2008)



practice in society. Professional reliance is successful when resource professionals develop practices (both technical and administrative) to ensure the public, their employer, their peers and their profession can be confident in relying on their professional work, judgment and accountability.

**Professional Deference** is the “*submission or courteous yielding to the opinion, wishes or judgment of another.*”<sup>5</sup> The Professional Reliance Task Force report in July 2006 also provided a working definition for the concept of deference as “*giving weight and credibility, or “respectful regard” to the opinion or work products of a professional*”. “*Although there is no set “formula” to arrive at the correct level of deference in any particular situation, there are considerations that, when weighted according to the individual circumstances, will provide guidance to someone who is a resource professional, or is acting in the role of a regulator, reviewer or employer:*

- *The demonstrated expertise and credibility of the individual resource professional based on education, training, experience and research in the particular field, the level of recognition for their work in the field from peers and others; and*
- *The quality and persuasiveness of their opinion, including facts that underlie the opinion, the steps taken to collect and analyze the facts, other contradictory opinions or alternative conclusions, and the apparent objectivity of the work.*<sup>6</sup>

“Blind deference”, or accepting professional work or opinion without objectively assessing its reasonableness, is never appropriate, however there are varying degrees of deference that can be applied during review of a FSP.

Guidance for interpreting the ABCFP Standards of Practice, and many other aspects of professional practice, is available through the ABCFP home page: <http://www.abcfp.ca/index.asp> - link through “**Regulating the Profession**” Through the same home page, associated discussion papers and reports may be accessed through the “**Publications and Forums**” link.

The Ministry of Forests and Range *FRPA* web site, also includes reference information at: [http://www.for.gov.bc.ca/code/training/FRPA/professional\\_reliance\\_module.html](http://www.for.gov.bc.ca/code/training/FRPA/professional_reliance_module.html)

## 2.5 What roles do the three resource agencies play?

### 2.5.1 Ministry of Forests and Range (MFR)

The Ministry of Forests and Range acts as the main resource agency for the approval and administration of FSPs. Agreement-holders submit all FSPs to the ministry’s district or

<sup>5</sup> Forest Stewardship Plans and You (ABCFP 2005 fall workshop presentation)

<sup>6</sup> Professional Reliance in Forest and Range Management in British Columbia. From Concept to Practice. Professional Reliance Task Force. April 2006.



regional offices. The Minister of Forests and Range is the statutory decision maker and has delegated the approval or rejection of FSPs to district managers, who are known as the delegated decision-maker (DDM).

### ***2.5.2 Ministry of Environment***

The Ministry of Environment (MoE) establishes objectives or general wildlife measures, designates certain types of land areas and identifies categories of species under authority of the Government Actions Regulation (GAR). When objectives are established, agreement-holders must propose results and/or strategies consistent with the objectives (See sub-section 3 of section 3.4.3 – Objectives Enabled by regulation for more information). MoE also sets notices under section 7 of the FPPR that trigger the legal effect of that section of the regulation as an objective. Where general wildlife measures are established, no content is required in a FSP, but rather a person carrying out forest practices must comply with the measures as required by regulation. . The MoE also manages the Species at Risk Coordination Office (<http://www.env.gov.bc.ca/sarco/>).

MoE staff will provide information to those who need to prepare and approve FSPs—such as clarifying and interpreting wildlife related notices and objectives. Specifically, ministry staff will offer information and interpretations to planners as they prepare FSPs, will make all information supplied at that phase available to the DDM, and will respond to requests for information and advice from a DDM. MoE is structured to provide service to professionals, practitioners and decision makers, but is not able to respond to general requests to review an FSP and provide comments, either before or after submission for approval.

For more information, please contact Rodger Stewart, Regional Manager, MoE, at [rodger.stewart@gov.bc.ca](mailto:rodger.stewart@gov.bc.ca).

### ***2.5.3 Ministry of Agriculture and Lands (MAL)***

The Ministry of Agriculture and Land will provide assistance, upon request, in clarifying and/or interpreting land-use objectives and Old Growth Management Areas (OGMAs) for DDMs and agreement-holders. The Ministry of Forests and Range or the agreement-holder preparing the FSP should organize this request through the respective MAL regional planning managers.

The Integrated Land Management Bureau (ILMB) facilitates the coordinated access and sustainable management of Crown land and resources. This includes the development and implementation of strategic land use plans containing land use objectives (e.g., maintain higher-level plan objectives). More information on the ILMB can be found at: <http://www.ilmb.gov.bc.ca/>.



## **2.6 What are the expectations for decision-making?**

A discussion paper titled “The Expectations that Affect the Management of Public Forest and Range Lands in British Columbia: Looking Outside the Legislation”, contains information on the legal and non-legal expectations for forest and range management in BC. The discussion paper aims to trigger the necessary dialogue between tenure holders, government officials and professionals to help gain a common understanding of the expectations in each of the components that influence decisions on managing Crown land and resources.

The discussion paper was prepared for the Ministry of Forests and Range and the Ministry of Environment by Roberta Reader (February, 2006). A copy of the paper can be obtained from the PFIT website at:

<http://www.for.gov.bc.ca/code/training/FRPA/looking.html>.



## **3 Preparing an FSP**

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### **3.1 How do I get started?**

To prepare an FSP that meets legislated requirements, the agreement-holder starts by deciding on the scope of their proposed FSP (e.g., area, timber supply area, or district[s]). The agreement-holder should then contact the appropriate DDM with their plans. This process can be positively supported by good communication between the agreement-holder and the DDM (as well as other agencies, such as the Ministry of Agriculture and Lands, and the Ministry of Environment, for setting objectives).

This will accomplish two things. First, it will clarify for the agreement-holder whether their proposal is appropriate and will meet legislated requirements (and thereby potentially reduce any delays in approvals later on). Second, it will give the agreement-holder a degree of confidence heading into the public review and comment stage. For the DDM, this early communication will alert him or her to any results or strategies that the agreement-holder might be pursuing and give them time to consider the sorts of supporting documentation that may be appropriate.

After this, the agreement-holder should continue to communicate with district staff but this should be on a more limited basis, for example, the need for clarification. The ministry is encouraging agreement-holders to take increasing responsibility for developing their FSPs. The next significant government involvement should be at the approval stage, after the agreement-holder has incorporated public review and comments and completed the FSP.

The information-gathering stage of the FSP process will be complex or simple, depending on the area for which the agreement-holder is preparing the plan. The information may be available from various government agencies, public bodies, or the private sector. Finding out where and what these types of information are could save the agreement-holder and the DDM time and effort in reviewing and approving the plan. A number of tools have been developed to help agreement-holders and ministry staff during the information gathering and disseminating phases (e.g., objectives matrix).



### **3.1.1 FSP Content Requirements**

#### **3.1.1.1 Introduction**

The content requirements for FSP submission are set in FRPA legislation, while the form and format of how the content items are expressed in the FSP is generally left to the discretion of the professional who prepares the plan. The reviewer(s) of the proposed plan will take into account the degree of risk the proposed development poses to government objectives. It is appropriate for a DDM to request stronger evidence or clarification if he or she believes that a required outcome, expressed as a result/strategy in the FSP, may not be achieved, or if there are unanswered questions about any of the objectives being tested in the approval process. If an agreement-holder is unable or unwilling to provide the requested evidence or clarification, a decision-maker will consider not approving the FSP.

#### **3.1.1.2 Legal content requirements**

The *FRPA* legislation (*FRPA* s.5) outlines the legal content requirements for an FSP. A submission must include a map showing forest development units (FDUs), it must specify intended results and strategies, and it must conform to any additional prescribed requirements. An FSP must be consistent with any objectives carried forward from legal higher-level plans, or from sections 3 to 5 of the *FPC*, the objectives set by government (OSBG) for the 11 resource values identified in the *FRPA*, or other objectives either enabled through legislation, or established, varied or cancelled under the Government Actions Regulation *GAR* or the *Land Act*. (See section 3.4.5 in this *Guide*.)

Appendix 2 of this *Guide* provides a checklist for all legal FSP content requirements. In summary, an FSP must:

- Contain an FDU that entirely contains the area where timber is to be harvested or roads are to be constructed.
- Describe the term of the FSP.
- Include a map at a scale and format that are satisfactory to the minister showing the boundaries of the forest development units (FDU) under the FSP and land designations and rights (e.g., ungulate winter ranges, wildlife habitat areas, scenic areas, cutting permits, road permits, declared areas). Agreement-holders should talk to their DDM to come to a mutually acceptable map scale – typically 1:20,000 to 1:50,000).
- Include results and/or strategies that are measurable or verifiable and consistent with government objectives.
- Be signed by the person required to prepare the plan.
- Identify measures to prevent the introduction and spread of invasive plants and mitigate the impact on natural range barriers.
- Propose stocking standards for areas subject to the FSP where the holder must establish a free growing stand.



- Consider comments from the public review process, First Nations, and referrals. The person preparing the plan must also submit with the plan a description of any changes made to the plan as a result of the comments received under the requirements of section 21.
- Identify in the plan (usually on the map) FPPR section 14(2) items, as required by regulation (ungulate winter range, wildlife habitat areas, etc.).
- Identify areas subject to the agreement-holder's existing cutting permits and road permits.

Further, an FSP *may*:

- Identify *FRPA* section 196 blocks.
- Identify declared areas through an amendment to an approved FSP.

In addition, an FSP must also be consistent with any harvesting rights granted by the government for the area of the plan within a timber supply area (TSA), a community forest agreement area, a tree farm licence (TFL), or a protected area.

Finally, an FSP or amendment must include the legal signature of the agreement-holder.

### **3.1.1.3 FSP content exemptions**

The legislation provides for various types of limited content FSPs. For example, section 196(1) of the *FRPA* provides for category A blocks to be rolled over into a limited content FSP.

The DDM may also grant an exemption to specified practice requirements under sections 91(1), 92 or 92.1 of the FPPR. The procedure for granting an exemption is defined in section 106.1 of the FPPR—the exemption must:

- (a) be in writing,
- (b) specify the matter to which it relates,
- (c) specify when the order or exemption comes into effect,
- (d) be delivered to the person to whom the order or exemption applies, and
- (e) be filed with the district office for the forest district in which the area or thing to which the order or exemption applies is located.

An exemption letter template can be found in Appendix 3C of this Guide.

There is no appeal mechanism/process for appeals under *FRPA* for agreement-holders to follow in the event they are not granted an exemption under sections 91(1), 92 or 92.1 (e.g., no appeals to the Forest Appeals Commission). Agreement-holders may seek a judicial review of the decision if they do not agree with the DDM's decision.

The DDM may also impose conditions on the exemption under section 112 of the *FRPA*. Under the legislated authority of section 12 of the Administrative Orders and Remedies



Regulation, there is a \$500,000 maximum penalty for contravention of section 112 (e.g., failure to comply with conditions attached to this exemption may result in a maximum penalty of \$500,000).

### **3.1.2 FSP Information Sharing Meeting**

Prior to the development of a Forest Stewardship Plan (FSP), it is recommended that meetings occur between district and agreement-holder staff in order to help streamline the review and approval process and minimize FSP changes following review and comment or the official submission. These meetings are part of a good communication process and should be looked at as an opportunity to build relationships and common understanding, reduce delays in FSP determination and facilitate the preparation of joint FSP submissions. DDMs should promote joint preparation of FSPs, where feasible. Particularly on volume-based tenures, joint submissions can save time and resources for both the industry and the ministry.

Information sharing meetings can occur prior to plan development and cover the following:

- The MFR can use these meetings to provide information relevant to the development of the plan and expectations related to administering the review process.
- Agreement-holders can inform the MFR about broad plan concepts (e.g., multi-licensee, multi-district, transition FSP) and what kinds of legislation options they may wish to pursue (e.g., exemptions, multi-block stocking standards). Agreement-holders can also provide some indication on the timing of review and comment and final submission to help MFR coordinate review resources.

At the end of the information sharing meetings, both parties should have a common understanding of submission expectations in terms of timing, format (i.e., electronic or otherwise), review and approval time requirements, contacts within the ministry, and what their information requirements are for results or strategies to address the *FRPA* value regime items.

Appendix 8 of this Guide provides guidance and tools that will assist ministry and agreement-holder staff share information at the FSP Information Sharing meeting. *FRPA* General Bulletin # 16 (Promoting Co-operative Planning under *FRPA*) contains information on the opportunities and options for agreement-holders to work together in their planning activities to help realize the increased efficiencies, flexibility and environmental stewardship goals of *FRPA*. The bulletin is available from the PFIT website at: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).



### **3.1.3 Tips for Your First FSP**

The following is a summary of the major lessons learned over the past few years.

#### **3.1.3.1 Gathering Information**

- Conduct upfront communication between plan preparer and DDM to share information on process, timeframes and roles, etc.;
- Communicate between agreement-holders. This communication is critical to avoid conflicts and to share effort;
- Communicate with, and consider input from, personnel responsible for plan implementation;
- Review information in AGFSP;
- Understand *FRPA* requirements and all applicable objectives for the land base;
- Consider developing their (licensee) own FSP internal review process as a project;
- Identify, early on in process, the stakeholders, members of public and First Nations groups;
- Identify and consider options for FDUs, results/strategies, measures and practices; and
- Consider how to engage First Nations groups, members of the public and other stakeholders throughout the process.

#### **3.1.3.2 Drafting the Plan**

- Communicate regularly between plan preparer and MFR to build relations and discuss possibilities well before the review and comment phase;
- Carry out an editorial review – for clarity, grammar and spelling;
- Conduct “independent peer review” of the prepared plan, with other professionals to “test” results/strategies before sending the plan out for review and comment;
- Keep plan simple and well written;
- Prepare supporting rationale, especially if alternative or uncommon choices;
- Identify verifiable or measurable triggers for the implementation of any optional results or strategies;
- Include other supporting documentation for audience specific (additional) information; and
- Share information and ideas early and often with stakeholders, members of public and First Nations groups.



### 3.1.3.3 First FSP block and area options

An agreement-holder’s first FSP is unique, in that there are a number of options in terms of the types of areas and FDUs that the agreement-holder can or must include in the plan.

For example, the *FRPA* provides, for the first FSP, that existing Category A blocks are accorded some planning-level protections (i.e., have “deemed approval”), depending on their status. So if an agreement-holder has a number of these types of blocks in its current Forest Development Plan (FDP) and a volume in current cutting permits, these types of areas may constitute the whole FSP, which could make developing the initial FSP a very simple process.

The *FRPA* outlines five options for the first FSP which the plan preparer can consider for inclusion, or must include cutting permits and road permits. The first FSP can include any or all of the five options:

Option	Block/Area Type	Legislative Authority	Comments
1	Category A carry-over blocks from an existing FDP with assessments completed	Section 196(1) of the <i>FRPA</i> and section 14(1) of the FPPR	Areas to which section 196(1) applies (per section 14(1) (c) of the FPPR) can be submitted in the first FSP, or anytime after via an amendment. These parts are considered to have received the minister’s approval with <b>full</b> planning-level protection provided.
2	Category A carry-over blocks from an existing FDP with assessments not completed	Section 196(2) of the <i>FRPA</i> and section 14(1) of the FPPR	Areas to which section 196(2) applies (per section 14(1) (c) of the FPPR) can be submitted in the first FSP, or anytime after via an amendment. These parts are considered to have received the minister’s approval. When these areas are declared they will receive full planning protection. For more information, see the <i>FRPA</i> General Bulletin # 7 - <i>Interpreting Section 196 of the Forest and Range Practices Act for major Licences and BC Timber Sales</i> on the PFIT website at: <a href="http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm">http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm</a>
3	Active cutting and road permits	Section 19 of the <i>FRPA</i> and section 14(3) of the FPPR	Legally required to be shown on FSP maps. <b>Full</b> protection from all planning requirements under the <i>FRPA</i> .
4	Proposed FDUs	Section 14(1) of the FPPR	Shown as FDUs on the map and referenced in results/strategies in the FSP.
5	Declared areas	Section 14(4) of the FPPR	Agreement-holders can declare areas as per section 14(4) of the FPPR as an amendment to the approved FSP.

FDP = Forest Development Plan

FDU = forest development unit

The “*FRPA* General Bulletin Number 2, *Managing Through Transition – FSP Opportunities*,” gives more background on the development of a first FSP and the options available as we move through the transition from the Forest Practices Code to the *FRPA*. The bulletin is available at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm). In addition, “*FRPA* General Bulletin # 7, *Interpreting Section 196 of the Forest and Range Practices*



Act for major licences and BC Timber Sales” and “*FRPA* General Bulletin # 13, Transition Guidance for Licensees Making Cutting Permit and Road Permit Applications” provide additional information on transition to the *FRPA*. These bulletins are also available on the website listed above in this paragraph.

Also of potential assistance is the ABCFP guidance document:

*Professional Reliance Principles for FRPA Operational Plans and Declarations (2007)*  
located at:

[http://www.abcfp.ca/regulating\\_the\\_profession/documents/guideline\\_FRPA%20OpPlansandDecs\(2007\).pdf](http://www.abcfp.ca/regulating_the_profession/documents/guideline_FRPA%20OpPlansandDecs(2007).pdf)

### **3.1.4 Multi-licensee FSPs (Joint FSPs)**

#### **3.1.4.1 Introduction**

The *FRPA* legislation does not preclude the possibility of a single FSP being prepared by more than one agreement-holder, to promote coordination and efficiency. Considerations for multi-licensee FSPs include the reduced effort to prepare an FSP, sharing of resources to develop the FSP and coordinating results/strategies for landscape level objectives (e.g., address cumulative effects) where more than one agreement-holder operates in the landscape. Multi-licensee FSPs should be encouraged where possible, and when agreement-holders are willing.

One factor that may discourage multiple-licensee FSPs is the potential for complications relating to First Nations or other consultations. These could hold up the FSP process for all agreement-holders involved.

More information on multi-licensee FSPs can be found in the *FRPA* General Bulletin # 16 (Promoting Co-operative Planning under *FRPA*). This bulletin contains information on the opportunities and options to facilitate cooperative planning under *FRPA* such as joint FSPs, information sharing efforts, data sharing networks and cost sharing agreements.

The bulletin can be found on the PFIT website at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

#### **3.1.4.2 Limited liability for FSPs with multiple holders**

If an FSP is held by more than one agreement-holder, individual plan holders are exempt from the requirement to ensure that the results and/or strategies specified in the plan are carried for areas subject to a cutting permit, road permit, or timber sale licence held by another co-holder (section 106.3 of the FPPR).



The co-holders of the FSP may want to use memorandum of understandings or other documents outside of the FSP to address any liability concerns or issues they may have. Generally, if any one of the co-holders of the FSP cause damage to landscape level values through their actions, all agreement-holders may be liable unless they can show due diligence through communication protocols, memorandum of understandings, minutes of meetings, etc.

A co-holder of a FSP **is not liable** for the acts or omissions of another co-holder of the plan associated with:

- *establishing a free growing stand* – section 29 of the *FRPA* requires that the free growing stand be established by
  - the holder of the major licence who harvested the timber, or
  - the timber sales manager if the timber was harvested under a timber sale licence,
- *carrying out a measure* – sections 47 and 48 of the *FRPA* require the measures to be implemented by the person who carried out the particular forest practice, or
- *achieving a result or carrying out a strategy* – if the result or strategy applies to an area that is subject to:
  - a cutting permit or road permit held by another co-holder, or
  - a timber sales or road permit issued by a timber sales manager (section 106.3 FPPR).

A co-holder of a FSP **is potentially liable** under section 21 of the *FRPA* for the acts or omissions of another co-holder that relate to results and strategies that apply to areas outside of the areas addressed in section 106.3. It would take a legislative amendment to completely remove this potential liability. However, in the meantime, government does not expect to pursue one co-holder when the FSP is clear that another co-holder is responsible for the result or strategy.

If the FSP tasks specific co-holders with specific results or strategies, it will be clear which co-holder failed to perform and should be held accountable. To limit the potential for a co-holder to be held liable for acts and omissions of another co-holder in these situations for example, a FSP can:

- set out which of the respective holders is responsible for carrying out a particular strategy or achieving a particular result, or
- set out which elements of a particular strategy are to be carried out by particular holders.

This can be set out in a single provision that addresses all applicable results or strategies or can be addressed in one or more individual results or strategies.

If the FSP tasks specific co-holders with specific results or strategies, it will be clear which co-holder failed to perform and should be held accountable. As a result, these types of provisions should avoid a co-holder being held liable under section 21 of the *FRPA* for the acts or omissions of another co-holder for areas not addressed in section 106.3.



### ***3.1.5 Multi-district FSPs***

Agreement-holders may submit an FSP that extends into more than one district. There are no legislative restrictions to prevent this. However, when it occurs, there should only be one DDM. The DDM will be determined through discussions between the corresponding district managers and/or through delegation from the Regional Executive Director.

More information on the FSP review and approval process for multi-district FSPs is available in section 5.7 of this Guide.

### ***3.1.6 Other sources of information for an FSP***

An agreement-holder may acquire the information they need to prepare an FSP from a variety of sources, ranging from information from other government agencies (i.e., other than the Ministry of Forests and Range) or from professionals in other fields, to in-house information compiled by the agreement-holder, to applied research material, to information available from First Nations sources within the proposed plan area. It is the agreement-holder's responsibility to obtain any needed information and resources to prepare and implement the FSP.

Appendix 14 of this Guide contains sources of additional information for preparing a FSP.

## **3.2 How can I use the FSP Tracking System to submit FSPs?**

Licensees/BCTS can use the FSP Tracking System to submit their FSPs electronically to the government. The FSP Tracking System enables licensees/BCTS to undertake the activities listed in the table below.



Activity	Description
Describe administrative information	Describe the MFR districts covered in the plan area, the agreement holders included in the FSP, the term of the FSP and a contact for the FSP.
Submit their proposed FSP legal document	Submit the proposed FSP including the results, strategies and measures.
Submit supporting documentation	Submit additional information to assist MFR reviewers and decision makers in reviewing and adjudicating the proposed FSP.
Describe and submit proposed stocking standards	Describe their proposed stocking standards in their FSP. Productivity tools exist within the FSP Tracking System to assist licensees/BCTS enter their stocking standards through adding/copying MFR district default stocking standards and/or copying stocking standards from other plans. When the FSP is approved, the proposed stocking standards will automatically be approved and be available for use in RESULTS.
Identify and submit proposed forest development units	Identify, spatially, the forest development units along with any <i>FRPA</i> section 196(1) or 196(2) areas.
View forest development units in other approved FSPs	View forest development units in approved FSPs from other licensees/BCTS to identify any overlaps and address any potential conflict before the cutting permit stage.

The MFR encourages agreement-holders to submit their FSPs electronically via the FSP Tracking System.

An overview of the FSP Tracking System is provided above in section 1.4 – What is the FSP Tracking System. Training and support for using the FSP Tracking System application is available on the FSP website at:

<http://www.for.gov.bc.ca/his/fsp/>.

Expertise is also available in MFR district offices.

**Tip:**

For ease in submitting FSPs consider these ideas:

1. Organize your FSP documents into:
  - a. FSP document
  - b. Support document
2. Ensure each of these documents are consolidated into single files (including your appendices) rather than separate files that you would need to combine later.
3. Create a single PDF file for each (FSP and the support document).

These steps make it much easier for FSP submission, and also emailing, publishing on the web, or other electronic sharing.

Additional information on procedures and standards for using the FSP Tracking System to electronically submit your FSP to the government is available in the “Submitting an FSP User Guide” available on the FSP website (<http://www.for.gov.bc.ca/his/fsp/userGuides/>).



### **3.3 What are considerations for choosing FDUs?**

#### ***3.3.1 Definition of a Forest Development Unit (FDU)***

Forest development unit (FDU) is defined in section 1(1) of the FPPR as an area identified in the FSP where forest development may occur during the term of the plan, and within which, during the term of the plan, timber to be harvested or roads to be constructed are entirely located. Under section 5(1) (a) (ii) of the *FRPA*, the FSP must include a map that shows the boundaries of all FDUs.

The function of an FDU is to identify an area or group of areas in which an agreement-holder or timber sales manager proposes to carry out harvesting or road construction.

#### ***3.3.2 Identifying FDUs and FDUs already in effect***

Under subsection 14(1) of the FPPR, a person preparing an FSP or an amendment to it may:

- Propose a new FDU.
- Include any FDUs that are in effect at the time of the submission of the FSP (i.e., carried-over FDUs from a previous FSP that is still in effect).
- Identify an area to which section 196(1) of the *FRPA* applies (transition protection of cut blocks carried over from a Forest Development Plan (FDP)).
- Identify areas as declared areas if the conditions outlined in section 14(5) exist.

Under section 14 of the FPPR, a person preparing an FSP must ensure that the plan identifies, for each FDU, if the following were in effect four months prior to the submission of the plan:

- Ungulate winter range.
- Wildlife habitat area.
- Fisheries-sensitive watershed.
- Lakeshore management zone.
- Scenic area.
- Lake classified as an L1 lake.
- Community watershed.
- Old Growth Management Area.
- Area in which commercial harvesting is prohibited by another enactment.

The plan preparer must also identify areas within an FDU that are subject to a cutting permit, a road permit, or a timber sale licence that is in effect on the date the plan is submitted to the minister. Agreement-holders may want to consider listing planning cells



to describe permits in effect (e.g., significant number of salvage cutting permits in an area).

If an FSP has expired, any FDUs must be proposed as new FDUs in a new FSP.

These areas required to be identified under section 14 of the FPPR can be shown on the FSP map and/or described in the text portion of the plan. Either way, it is important the plan clearly identifies the areas in the FDU so that the reviewers and the approver can fully do their tasks in the overall process.

### ***3.3.3 Size limits on FSP/FDU areas***

Under the *FRPA*, there is no “area under the plan,” as there is in the Forest Practices Code. The planning for FSP and FDU areas is the responsibility of the agreement-holder who prepares the plan. For example, there is nothing to legally prevent an agreement-holder from proposing an FDU to cover a cut block or even an entire operating area.

There are some general land base considerations that may play a role in how agreement-holder determine the number and location(s) of their FDUs (e.g., First Nations interest-area boundaries, trapper or guide interest/licence areas, areas where specific changes to results or strategies would apply, and operating areas specific to the agreement-holder versus ‘shared’ operating areas)

### ***Factors to consider in determining the number and location of FDUs***

Examples of what an agreement-holder may consider when determining the number and location of forest development units in their plan area include the following:

- Locations and boundaries of TSAs, TFLs, licences and other agreement-holders.
- Landscape unit boundaries.
- First Nations boundaries.
- Watershed boundaries.
- Operating areas (legal or non).
- Results and strategies pertinent to certain areas.
- Areas under a Memorandum of Understanding (MOU) with First Nations, other agreement-holders, etc
- Other landscape unit planning boundaries.

### ***Factors that may tend to encourage smaller FDUs***

These may include:

- Highly constrained areas (e.g., areas that may have been subject to a lot of harvesting in the past and which are the subject of an Old Growth Management Area objective that limits the amount of future harvesting).



- The need for “spatial” decisions and an assessment of the cumulative effects with other licences in a timber supply area (TSA).
- Volume-based agreement-holders.
- More effective public review.
- More effective initial consultation with First Nations.
- More accurate assessment of other tenure-holders’ rights being affected.
- Higher-level plan objectives.
- The consideration that, with larger FDUs, agreement-holders may, in some cases, need to address the ‘unduly reducing’ effects on the timber supply by doing some sort of timber supply analysis.
- Flexibility desired for exemptions—small FDUs lend themselves better to exemptions.
- Having a non-replaceable licence.

***Factors that may tend to encourage larger FDUs***

These may include:

- The need to reduce administration for future potential amendments.
- The agreement-holder is a tree farm licence-holder with no other harvesting rights to be considered in the FDU area.
- The agreement-holder wants more operational flexibility, to be able to adapt to market conditions associated with the different quantities and quality of timber types in the FDU.
- There are fewer land base constraints within the general area.
- If past consultation with the affected public and First Nations has already established the issues and land-use concerns in the area.

***3.3.4 Overlapping FDUs***

Overlapping FDUs are allowed under the legislation.

Agreement-holders should be encouraged to have an ongoing dialogue with the DDM while they are preparing the FSP. This can alert the DDM to possible overlaps among FDUs or plan areas and may provide an early notice of how other harvesting rights may be affected in the future. As well, an information meeting and other communications between the DDM and the agreement-holders should help the DDM understand where overlaps may occur. This is a very good example of where communication among the agreement-holders, especially in joint operating areas, is critical, and the DDM should be encouraging this in any way possible. The maps available in the FSP Tracking System application is also an excellent source of information regarding the location of FDUs in approved FSPs.



An option to avoid overlapping FDU is for agreement-holders to work together and prepare a joint or multi-licensee FSP. More information on multi-licensee FSPs can be found in the *FRPA* General Bulletin # 16 (Promoting Co-operative Planning under *FRPA*) available on the PFIT website at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

With a number of Non-Replaceable Forest Licences (NRFLs) being issued for beetle wood uplifts, there may potentially be more overlapping FDUs. Agreement-holders should be watchful of the cumulative effects of such situations.

If one or more agreement-holders are unduly constrained in the specifying of results or strategies and the agreement-holders are unable to reach an agreement, they may request the Minister to act under section 19 of the Forest Planning and Practices Regulation (FPPR) to set proportional objectives for wildlife and biodiversity.

### ***3.3.5 Designated areas in an FDU***

An FDU can include designated areas subject to any contrary written order under section 170(2) (b) of the *Forest Act*. A designated area is defined in Part 13 of the *Forest Act* as an area of Crown land designated, in regulation, by the Lieutenant Governor in Council as being in the public interest to be specified as a designated area (section 169(1) of the *Forest Act*).

If these statutory designations are removed during the term of the plan, the areas formerly subject to the designation will be subject to potential harvesting and road building.

The inclusion of a designated area within an FDU, on its own, does not give the holder of the FSP any right to harvest timber or to construct a road.

Section 170(2) (b) of the *Forest Act* gives the minister authority to order that a plan that relates to a designated order not be approved, or approved with conditions.

## **3.4 How do I identify objectives applicable to the plan area?**

### ***3.4.1 FRPA value regime***

The provincial government has identified eleven resource values (see Table 1) in the legislation (i.e., sections 3 to 5 of the Forest Practices Code, dealing with higher-level plans) to which government may assign objectives. This is the *FRPA* value regime. Agreement-holders preparing an FSP are responsible for recognizing those resource



values, as well as any grandparented objectives, that apply to the area they are proposing to cover by an FSP.

The following is a list of the values under section 149(1) of the *FRPA* for which the Lieutenant-Governor-in-Council may make regulations prescribing objectives:

- soils,
- visual quality,
- timber,
- forage and associated plant communities,
- water,
- fish,
- wildlife,
- biodiversity,
- recreation resources,
- cultural heritage resources, and
- resource features.

The objectives associated with the value regimes are intended to provide broad guidance for agreement-holders in managing both the legal and inherent environmental, social and economic resources in the proposed area under the FSP. These, in turn, will also guide the decision-maker in his or her review and approval of the proposed plan.



Table 1: *FRPA* value matrix

The *FRPA* value table is designed to show which parts of the various pieces of legislation apply to the different values in the *FRPA* model. Unless otherwise noted, references are to sections (s.) in the Forest Planning and Practices Regulation (FPPR), last amendment: B.C. Reg. 182/2008. (Table updated January 2009.)

Value	OSBG s. 149 <i>FRPA</i> Part 2 FPPR	Enabled designations, objectives, chief forester standards, ministerial orders/action	Practice requirements with ability to <b>UTC*</b> or propose a result or strategy in the FSP	Provision for results or strategies in FSP as alternative to practice requirements	Factors under Schedule (Schedule 1 of FPPR)	Practices requirements with no ability for FSP to propose alternative	Provisions for exemption
Soils	5: Conserve productivity and function	N/A	35: Soil disturbance ( <b>UTC</b> ) 36: PAS ( <b>UTC</b> )	Yes	1: Factors for PAS and soil disturbance	37: Must not cause landslides 38: Must not cause gully processes 39: Must maintain natural surface drainage 40: Must revegetate soils	91(1) Exemptions for holders of a forestry licence to cut, other than a major licence, and holder of any form of minor tenure
Timber—exemption to prepare results or strategies under FPPR section 12(8)	6: Maintain or enhance supply; enable exercise of rights	<i>FRPA</i> s.26(7) alternate forest health s.43(2): chief forester may make standards for the use of seed	N/A Note: Under FSP content requirement: s.16, FSP must specify stocking standards	Note: s.45: FSP may apply regeneration and free-growing to group of blocks	6: Factors relating to stocking specifications. 1.1: Secondary stand structure. FPPR s.26: Minister's consideration of stocking standards	41: Must destroy brood if concentrated 42: Use of livestock 43: Must comply with chief forester standards or alternative for use of seed; must keep records of seed use 44(1) and (2): Must establish a stand	12(8) Exempted from FSP having to provide results/strategies for timber objective 91(1): Exemption 44(3): Exempt from 29 Act
Riparian areas	8: Conserve across landscape, water quality, fish habitat, wildlife habitat, and biodiversity associated with riparian areas	GAR s.6: Lakeshore management zones GAR s.15: Temperature-sensitive streams	47: Stream riparian classes and widths ( <b>UTC</b> ) 48: Wetland riparian classes ( <b>UTC</b> ) 49: Lake riparian classes ( <b>UTC</b> ) 50: Restrictions within riparian areas ( <b>UTC</b> ) 51: Restrictions in a riparian zone ( <b>UTC</b> ) 52(2): Restrictions within a riparian management zone ( <b>UTC</b> ) 53: Temperature-sensitive streams ( <b>UTC</b> )	Yes: alternatives approved under this section apply in certain circumstances	2: Factors for water, fish, wildlife and biodiversity in riparian areas.	54: Fan destabilization 55: Stream crossings 56: Fish passage 57: Protection of fish habitat 58: Use of livestock in riparian areas	91(1) Exemptions apply in certain circumstances



Value	OSBG s. 149 FRPA Part 2 FPPR	Enabled designations, objectives, chief forester standards, ministerial orders/action	Practice requirements with ability to UTC* or propose a result or strategy in the FSP	Provision for results or strategies in FSP as alternative to practice requirements	Factors under Schedule (Schedule 1 of FPPR)	Practices requirements with no ability for FSP to propose alternative	Provisions for exemption
Fisheries-sensitive watersheds	8.1	GAR s.14	55: Stream crossings 56: Fish passage 57: Protection of fish and fish habitat	Yes: s.12.31	N/A	See "Water"	91(1)(a)(ii)
Community watersheds	8.2	GAR s.8	59: Protecting water quality 60(2): Licensed waterworks 61: Excavated or bladed trails	Yes: s 12.32	N/A	58: Use of livestock in riparian areas 60(1): Licensed waterworks 62: Roads in a CWS 63: Use of fertilizers	91(1)(a)(ii)
Water	N/A	GAR s.8(1): MAL designate by order CWS GAR 8(2): MoE establish water quality objectives	55: Stream crossings 56: Fish passage 57: Protection of fish and fish habitat 59: Protecting water quality 60(2): Licensed waterworks 61: Excavated trails in a CWS	N/A	N/A	54: Fan destabilization 60(1): Licensed waterworks 62(2): Roads in a CWS if spring identified 63: Fertilizer in a CWS	55-57, 59-63: Minister may grant exemptions to some practice requirements 91(1): Exemptions apply in certain circumstances
Biodiversity	9 and 9.1: Design areas to resemble natural disturbance patterns at the landscape level and retain wildlife trees at stand level	N/A	64(1): Max cut block, minor tenures exempt (UTC) 64(2) - (4): Exemptions (UTC) 65: Adjacency, minor tenures and 65(2) - (4) exempt (UTC) 66: Wildlife tree retention (UTC) 67: Must not harvest from wildlife tree retention areas referred to in s.66 (UTC)	Yes under 64(1) and (5), 65(2) and (5), 66 and 67	3: Factors for wildlife and biodiversity	68: Must retain coarse woody debris.	91(1): Exemption for s 68 coarse woody debris 91(2), 91(1)(a)(ii): Exemption for s.67 under certain circumstances
General Wildlife Measures	7: Conserve sufficient area for survival of species at risk, regionally important species, and specified ungulate winter survival	GAR s.9: MoE: Species at risk, regionally important wildlife and specified ungulate species	N/A	N/A	N/A	70(2): Must ensure primary forest activity does not damage or render ineffective a wildlife habitat feature	92(2): MoE exemption
Visual Quality	9.2	GAR s.17: Visual quality class continued	N/A	N/A	N/A	N/A	N/A
Cultural heritage resources	10: Conserve, or, where more appropriate, protect cultural heritage resources	N/A	N/A	N/A, as an alternative, but need a result/strategy in the plan	4: Factors relating to OSBG for cultural heritage resources	N/A	91(2): Exemptions may apply to minor tenures



Value	OSBG s. 149 FRPA Part 2 FPPR	Enabled designations, objectives, chief forester standards, ministerial orders/action	Practice requirements with ability to <b>UTC*</b> or propose a result or strategy in the FSP	Provision for results or strategies in FSP as alternative to practice requirements	Factors under Schedule (Schedule 1 of FPPR)	Practices requirements with no ability for FSP to propose alternative	Provisions for exemption
Recreation	FRPA s.56	FRPA s.180: Grand-parented areas established under FPC	N/A		N/A	FRPA s.58: Minister may restrict or prohibit both non- and recreational use	N/A
Resource features	1: Definition of resource features	GAR s.5(1): Identify ...list... as a resource feature	N/A	Need a result/strategy if enable objective is created (e.g., a recreation site)	N/A	70: Must ensure that the activity does not damage or render ineffective a resource feature	91(5): Exemption
Wildlife habitat features	1: Definition of wildlife habitat feature	GAR s.10: Identify ...list... as a wildlife habitat feature.	N/A	N/A	N/A	70(2): Must ensure that the activity does not damage or render ineffective a wildlife habitat feature	92(2): MoE exemptions
Scenic areas and VQOs	1: Definition of scenic area and visual quality objective	GAR s.7(1): Establish area as a scenic area GAR s.7(2): Establish VQOs for a scenic area	N/A	Result/strategy needed if enable objective is created for VQO in scenic area	N/A	N/A	N/A
Invasive plants and natural barriers	N/A	N/A	Note: FSP must specify measures to prevent the spread of invasive plants (s. 17) and mitigate impacts on natural range barriers (s. 18)	N/A	N/A	N/A	N/A

Abbreviations in table:			RMZ – riparian management zone
CWS – community watershed	GAR – Government Actions Regulation	OSBG – objectives set by government	RRZ – riparian reserve zone
FPC – Forest Practices Code	MAL – Ministry of Agriculture and Lands	PAS – Permanent Access Structures	UTC – undertake to comply
FSP – Forest Stewardship Plan	MoE – Ministry of Environment	RMA – riparian management area	VQOs – visual quality objectives

\* **UTC – or undertake to comply:** references marked with a “(UTC)” are the only sections of the FPPR that those required to prepare an FSP can undertake to comply with (as per section 12.1 of the FPPR).



In situations where agreement-holders are not required to have an approved FSP (e.g., Occupancy Licence to Cut—OLTC), yet may have values in the harvesting or road construction area that do not have practice requirements (e.g., cultural heritage resources, visual quality objectives, measures)—the licence document should include ways to protect these values. Additional information can be found in the *FRPA* General Bulletin # 17 – Application of *FRPA* to Independent Power Producers, Mineral Interests and Other Occupiers of the Land available on the PFIT website at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

### ***3.4.2 Objectives set by government (OSBG) overview***

Objectives set by government (OSBG), as they relate to forest management, are expressed in qualitative terms, at a high-level, on a provincial scope. Not all of the identified resource values have OSBG.

The OSBG overview is a high-level view of how different legislation directs the development of results and strategies for the identified resource values. OSBG are important for agreement-holders to understand, because the clarity of objectives and the development of these results or strategies is one of the cornerstones of their FSP preparation.

### ***3.4.3 Determining the applicable government objectives when developing results and strategies***

Once the agreement-holder has identified the area for their FSP, they need to identify the government objectives that apply to the area. It is the agreement-holder's responsibility to propose results and strategies in their FSP that are consistent with any known government objective in their plan area.

It is critical for agreement-holders, in developing these results and strategies, to understand how objectives are set, and which objectives actually apply to the areas they are proposing in their FSP. Determining the whole suite of objectives – what applies, and where it applies on the land base – is a complex task.

The ministry has a number of tools to help agreement-holders develop their results and strategies for an FSP. *Objectives matrices* are a tool available in some districts – they provide guidance on what objectives apply to proposed plan areas. *Matrices* (if available), and forest district contacts, are available at:

[http://www.for.gov.bc.ca/hts/fspdev/DISTRICT\\_CONTACTS.htm](http://www.for.gov.bc.ca/hts/fspdev/DISTRICT_CONTACTS.htm).

If an agreement-holder is aware of other objectives covering the plan area, they must address them and not blindly accept the districts Objectives Matrix work.



Three types of objectives can be set under the *Acts* and regulations for managing and protecting the forest and range values. The three types of objectives are:

1. Land-use objectives (established or carried forward under the *Land Act* and Land Use Objectives Regulation and sections 3 to 5 of the FPC). More information is available in the LUOR Policies and Procedures manual available from the following website: <http://ilmbwww.gov.bc.ca/slrp/legalobjectives/whatarelor.htm>.
2. Objectives set in regulation (enabled under section 149 of the *FRPA*, and set under sections 5 to 10 of the FPPR).
3. Objectives enabled by regulation (sections 56, 149.1 to 150.3, and 181 of the *FRPA*, and Part 1- Division 2 of the Government Actions Regulation [GAR]). More information is available in the GAR Policies and Procedures Manual available from the PFIT website at: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/GAR%20Memo%20and%20Manual.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/GAR%20Memo%20and%20Manual.htm).

Figure 4: Hierarchy of objectives



In setting objectives, the provincial government must consider the:

- interactions among established objectives, and
- legal requirements for “consistency” among objectives and across different legislation and geographic scales.

In the event of inconsistency, there is a hierarchy of objectives to help clarify how the various objectives apply to the land under an operational plan. Objectives from other statutes can override *FRPA* objectives. For example, a water-quality objective established under the Drinking Water Protection Act can override all other objectives. However,



objectives under other legislation are not impacted by *FRPA* and land use objectives and would have to be addressed based on the requirements of the associated legislation but not as part of *FRPA* or FSPs.

More information about the hierarchy and the relationships among the levels is available in the *FRPA* Companion Guide at:

<http://www.for.gov.bc.ca/code/training/FRPA/index2004.htm> .

Short summaries of the three types of objectives follow on the next pages.



### Land Use Objectives

**Land-use objectives** are established:

- or continued under sections 3 to 5 of the *Forest Practices Code of British Columbia Act*, and
- under the *Land Act* and Land Use Objectives Regulation (LUOR).  
Examples of objectives established under the *Land Act* include objectives from sources such as regional land-use plans, Land and Resource Management Plans (LRMPs) and landscape-unit plans.



Land-use objectives established under the *Land Act* are somewhat separate from objectives established under the *FRPA*. Most land-use objectives are outside of the policy limits on timber supply impacts established under the *FRPA*. However, Old Growth Management Areas (OGMA), wildlife-tree retention and other aspects of biodiversity, as per the *Land-Use Planning Guide*, will continue to be managed within *FRPA* policy limits. Other objectives from future strategic land-use plans may extend past timber supply policy limits.

#### **ESTABLISHMENT OF LAND-USE OBJECTIVES**

The Minister of Agriculture and Lands, who is responsible for the *Land Act*, will establish land-use objectives through orders once the amended *Land Act* and regulations are in force. If other objectives are inconsistent with the land-use objectives, to the extent of any conflict, the land-use objectives will always prevail.

#### **INTENT OF LAND-USE OBJECTIVES**

Land-use objectives guide agreement-holders in preparing results and/or strategies in operational plans and are key to maintaining environmental and economic values. They are also a mechanism for bringing forward existing and new objectives, which are developed under regional and sub regional planning processes, into the *FRPA*.

#### **CHANGING LAND USE OBJECTIVES**

New or modified land-use objectives are established by the Ministry of Agriculture and Lands (MAL). Land-use objectives cannot be changed at the local level (e.g., by alternative objectives proposed in an FSP).



### Objectives in Regulation

**Objectives in regulation** are the second of two types of Objectives Set by Government (OSBG). These “section 149 objectives” are derived from authority in section 149 of the *FRPA* and are only set in regulation. They apply province-wide, and are the most general type of objectives.



#### **ESTABLISHMENT OF OBJECTIVES IN REGULATION**

These objectives are set out in the FPPR, the Range Planning and Practices Regulation, and the Woodlot Planning and Practices Regulation. The objectives are slightly different in each of these regulations. The FPPR contains objectives in regulation for the identified resource values: soils; timber; wildlife; water; fish; wildlife and biodiversity in riparian areas; wildlife and biodiversity; cultural heritage resources; visual quality; community watersheds; and fisheries-sensitive watersheds.

#### **INTENT OF OBJECTIVES IN REGULATION**

Objectives in regulation are intended to provide goalposts for managing and protecting *FRPA* values. Results and/or strategies in operational plans must address and be consistent with these objectives. In addition, FSPs must specify results and/or strategies for other objectives, such as land-use objectives and objectives enabled by regulation (e.g., objectives for ungulate winter range, wildlife habitat areas, and visual quality).

In the case of woodlot licence plans, range-use plans and range stewardship plans, the plans themselves must be consistent with the objectives in regulation.

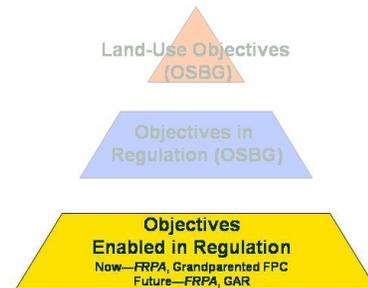
#### **CHANGING OBJECTIVES IN REGULATION**

New or modified objectives in regulation are established through the process of drafting and amending legislation. Objectives in regulation cannot be changed at local level (e.g., alternative objectives cannot be proposed in an FSP).



### Objectives Enabled in Regulation

**Objectives enabled by regulation** are established by the appropriate minister for a specified area. These are the most site-specific of all objectives. These are not stated in the regulations, but the legislation gives authority to the minister to establish them for various types of areas.



#### **ESTABLISHMENT OF OBJECTIVES ENABLED BY REGULATION**

The appropriate minister may designate areas, establish objectives for these areas, and establish other things such as measures or features. In some cases, different ministers are responsible for designating an area and setting objectives within that area.

Objectives enabled by regulation come into effect through government actions outlined in sections 2 to 4 of the Government Actions Regulation (GAR). In establishing these objectives, the appropriate minister must:

- ensure that the objective is consistent with established objectives,
- ensure that the objective does not unduly reduce the timber supply,
- ensure that the benefits to the public outweigh impacts on delivered wood costs or the ability of the agreement-holder to exercise their rights under the *Forest Act*,
- provide opportunities for review and comment, and
- file the objective at the closest Ministry of Forests and Range regional office.

The following ministers can designate areas and establish objectives enabled by regulation:

- The **Minister of Agriculture and Lands**, who is responsible for the *Land Act* may:
  - designate scenic areas and community watersheds,
- The **Minister of Environment**, who is responsible for the *Wildlife Act*, may:
  - establish water-quality objectives in community watersheds;
  - designate areas and establish objectives for fisheries-sensitive watersheds;
  - designate wildlife habitat areas and establish objectives or general wildlife measures (GWMs) for them;
  - designate ungulate winter range and establish objectives or GWMs for them;
  - establish specified areas and general wildlife measures for such areas;
  - establish categories of species at risk;
  - establish categories of regionally important species;
  - establish categories of specified ungulate species for which an ungulate winter range is required for winter survival of the species;
  - establish GWMs for categories of species at risk, regionally important species, and specified ungulate species to apply to a specified area, a wildlife habitat area or an ungulate winter range; and
  - identify categories of wildlife habitat features to protect certain bird nests, significant mineral licks, and other localized habitat features,
- The **Minister of Forests and Range**, who is responsible for the *Forests Act*, may:
  - establish resource features,
  - designate and establish objectives for lakeshore management zones, and
  - establish visual quality objectives for scenic areas,
- The **Minister of Tourism, Sport & the Arts** may:
  - designate and establish objectives for interpretive forest sites, recreation sites and trails.

Objectives enabled by regulation by the either minister must be consistent with any established objectives. When establishing these objectives, the minister must consider the impact of the proposed objective on the provincial timber supply, as well as the cumulative impact on rights granted to timber, woodlot or range agreement-holders.

Once a new objective has been in place for at least four months, new operational plans must contain results and/or strategies to address the new objective, if the objective is applicable to the area under the plan. Existing operational plans must be amended within two years, or longer if specified in the order under s.8 of the *FRPA*, to address the new objective if it is applicable to the area under the plan.

#### **INTENT OF OBJECTIVES ENABLED BY REGULATION**

These objectives guide effective forest management, for specific resource values, at the local level.

#### **CHANGING OBJECTIVES ENABLED BY REGULATION**

Designations and objectives can be established, varied or cancelled by the appropriate minister.



### **3.4.4 Grandparented designations, objectives and measures**

*FRPA* contains provisions to ensure that areas established under the FPC, the objectives for those areas, as well as general wildlife measures that were established under the FPC are to be continued. Section 180 of the *FRPA* states that:

“Every area established or continued under the Forest Practices Code as:

- a) an ungulate winter range,
- b) a wildlife habitat area,
- c) a scenic area,
- d) an emergency bark beetle management area,
- e) a community watershed,
- f) an area with significant downstream fisheries values,
- g) an area with significant watershed sensitivity,
- h) a lakeshore management zone,
- i) an interpretive forest site,
- j) a recreation site,
- k) a recreation trail, or
- l) a forest ecosystem network

that was in effect immediately before the effective date is continued under this *Act*.”

Section 181 of the *FRPA* states that: “All objectives in respect of areas continued under section 180 that were in effect immediately before the effective date are continued as objectives under this *Act*.”

Section 182 of the *FRPA* states that:

“All general wildlife measures that were

- a) established under the Forest Practices Code and the Code regulations, and
- b) in effect immediately before the effective date

are continued as general wildlife measures under this *Act*.”

**ESTABLISHMENT**

Existing objectives established under the FPC and listed in sections 3 to 5 of the FPC are grandparented to *FRPA*.

**INTENT**

The intent of grandparenting is to ensure the continuation of objectives established under the FPC, to the *FRPA*.

**CHANGING OBJECTIVES**

Designations and objectives can be established, varied or cancelled by the appropriate minister.



### **3.4.5 Government Actions Regulation (GAR) Order process**

For a GAR order to meet legislative requirements before approval, it must pass a four-tiered test:

The appropriate minister must be satisfied that:

1. The order is consistent with established objectives.
  - To be consistent with established objectives, it must be:
    - “in agreement with,” “compatible with” “**all objectives.**”
    - For example, a scenic area over a wildlife habitat area: maximum modification
      - visual quality objectives (VQO) =not compatible?
      - retention of VQO=compatible?
2. The order will not unduly reduce the supply of timber.
  - Does the additional protection offset the timber supply reduction?
  - There needs to be a balance of values, not excessive to one value, consistent with Timber Supply Review objectives (default objectives=consistent).
3. Public benefits outweigh any material adverse effects on delivered wood costs.
  - Material: “having real importance or great consequence” (*Webster*)
  - Adverse: “acting against or in contrary direction” (*Webster*)
  - Material/adverse definition may be guided by the timber objective within the *FRPA*.
  - The competitiveness of an agreement-holder is affected relative to equivalent cost of regulated primary forest activities in other jurisdictions, for agreement-holder to justify. The Minister (GAR order) and DDM (results/strategies) may measure using tools such as:
    - cost/benefit analysis ( $C/B < 1.0$ ),
    - risk assessment: perceived v. actual/likelihood/magnitude, and/or
    - log cost surveys.
4. Public benefits outweigh any constraints on agreement-holder’s right under licence.
  - For example, can the timing of the order be moved along to allow the company to meet the cut control requirement of the licence, to avoid a long-term reduction of the allowable annual cut of the licence, while still meeting protection objectives?

**GAR orders may be subject to a review and comment period.** For all orders other than section 13 orders, the minister must provide an opportunity for review and comment to holders of agreements that may be affected by the order. Requirements are not defined but are guided by administrative fairness principles and the appropriateness test. This is *not* a public review and comment requirement.

Notice of a GAR order must be posted on the Ministry of Forests and Range web site, and published in the *Gazette*.



Consultation with First Nations will probably be required. To determine this, the Ministry of Forests and Range should apply the standard tests for deciding on the appropriate level of First Nations consultation for these orders.

**GAR Administrative Guide**—a guide for government personnel, including decision makers, is available to assist those issuing orders under the Government Actions Regulation. The guide contains both policy and procedures to enable consistent application of the requirements in the regulation. The guide can be obtained from the PFIT website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/GAR%20Memo%20and%20Manual.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/GAR%20Memo%20and%20Manual.htm).

#### ***3.4.6 Directions for preparing an FSP: the Objectives Matrix tool***

Preparing an FSP starts with the legislation, but additional direction may come from other areas such as government objectives and approved higher-level plans or from designations grandparented from the Forest Practices Code (i.e., *FRPA* section 180).

Some MFR districts manage an objectives matrix containing a listing of the legal objectives applicable to a particular area that may need to be addressed in an FSP – check with the district to see if there is an objective matrix available.

Agreement-holders should use caution when relying on this, or other, information as it may be incomplete, subject to change, or include errors. Plan preparers, and reviewers, are expected to exercise due diligence in verifying that all legal objectives applicable to their planning area at the time of submission have been identified by consulting with a variety of information sources.

Questions on the Objectives Matrix could be discussed at the DDM/agreement-holder pre-FSP planning meeting.



### 3.5 What are considerations for proposing results and/or strategies?

#### 3.5.1 Development of results and strategies in the FSP

Results and strategies are required in FSPs, under section 5 of the *FRPA*. They provide operational commitments to achieve consistency with legal objectives set by government (OSBG) for forest practices on Crown land. The results and strategies in an FSP form the basis for implementing these OSBG for all of the values being managed.

The definition of a result and strategy are included in the FPPR and listed below:

“Result” means a description of:

- a) measurable or verifiable outcomes for a particular established objective, and
- b) the situations or circumstances that determine where in an FDU the outcomes under (a) will be applied.

“Strategy” means a description of:

- a) measurable or verifiable steps or practices that will be carried out to meet a particular established objective, and
- b) the situations or circumstances that determine where in an FDU the steps or practices will be applied.

Milestones can be built into the strategy to make it measurable/ verifiable. For example, a strategy for producing a free growing stand could include regen delay along the way to aid in ensuring that the commitment of a free growing stand would be met in 15-20 years out. A strategy for cultural heritage resources could include the process the agreement-holder would use to meet the review and comment provisions and on-going communications relationship between the agreement-holder and the First Nation band(s). For example, an agreement-holder could commit to having yearly meetings with First Nation band(s) as part of their on-going communications strategy.

**Note:**

Legal higher-level plan objectives will have a varying impact on the results and strategies, depending on the relevance of the higher-level plan objective to the *FRPA* objective. Higher-level plans have often used the words “results” and “strategies” when describing objectives they cover, but note that these higher-level plan results and strategies **may not** have been developed in the same context as the results and strategies defined in the *FRPA*, so may not meet the *FRPA* definition of results/strategies. It is very important to check this. Refer to sections 25 and 25.1 of the FPPR for reviewing the consistency of results and strategies.

The legal requirements on which the result or strategy must be based may originate from a number of sources. The Objectives Matrix is one tool to help guide both the plan



preparer and the DDM and staff about which legal objective the result or strategy must be based on. This may vary across the landscape, as different legal direction may be applicable to the different areas (i.e., FDU or portions of FDUs) proposed under the plan.

Results and strategies are also a statement of an agreement-holder's commitment, and compliance and enforcement will be based on that commitment.

### ***3.5.2 Getting from an objective to a result or strategy in the FSP***

The following is a simple, question-based thought process to help agreement-holders convert objectives into verifiable results and/or strategies for an FSP.

#### ***First question to ask yourself about the objective:***

*Is there a "general" legal objective embedded in the regulation for the value objective (section 149 of the FRPA)? For example, Division 1 of the FPPR.*

#### **IF YES**

Continue, below, to define the requirements.

#### **IF NO**

- There is ***no requirement*** to have a result or strategy in the FSP. Continue with the next value.

#### ***Next question to ask about the objective:***

*Are more specific objectives provided by objectives set under sections 3 to 5 of the Forest Practices Code of British Columbia Act (FPC) and carried forward from the FPC or from the Land Act (responsibility of the Ministry of Agriculture and Lands), or by the Ministry of Forests and Range or the Ministry of Environment, as provided for in regulation such as the Government Actions Regulation-GAR (e.g., ungulate winter range, or lakeshore management zones).*

#### **IF YES**

- Determine which objectives apply to the area under the plan and if any exemptions have been granted under Section 12(5) of the FPPR.
- Craft results and strategies that are measurable or verifiable and consistent with the specific objectives.
- Incorporate all results and strategies into the FSP. Once approved, these become part of the agreement-holder's obligations in the FSP.

#### **IF NO**

- There is ***no requirement*** to have a result or a strategy in the FSP, other than for the more general objective. Continue with the next value.



### ***3.5.3 Utilizing FPPR practice requirements***

For some objectives specified in the FPPR, the FPPR enables the holder of an FSP to elect to either:

- comply with the related practice requirements specified in the FPPR (in which case the holder is exempt from specifying a result or strategy for that objective); or
- specify a result or strategy for that objective (in which case the holder is exempt from the related practice requirement).

When drafting results/strategies, agreement-holders should determine if a practice requirement exists for an objective and, if so, determine if they wish to utilize the practice requirement or write their own. A rationale that supports choices of results/strategies and practices, especially innovative ones, will contribute to due diligence.

FPPR practice requirements that the agreement-holder elects to use as a result or strategy are deemed to have meet the approval tests—measurable or verifiable and consistent with government objectives. There is flexibility in how the agreement-holder can specify the use of the FPPR practice requirements as results and strategies in their FSP—provided the election is clear.

NOTE: The FPPR also contains some practice requirements that must be complied with and no results or strategies can be written for. These sections do not have to be shown in the FSP.

#### **Complying with practice requirements in the FPPR**

Section 12.1 of the FPPR specifies that a person is exempt from specifying a result or strategy for specific objectives if the FSP includes in it “an undertaking to comply with” specified practice requirements.

Language in the FSP that utilizes the concept of an undertaking to comply will be sufficient to indicate the choice of the holder of the FSP is to follow the practice requirements rather than to propose a result or strategy.

For the soils objective set by government in Section 5 of the FPPR, the related practice requirements are Sections 35 and 36 of the FPPR. If the holder of the FSP elects to comply with the practice requirements, the language used should be similar to the following:

*“The holder of this FSP undertakes to comply with Sections 35 and 36 of the FPPR.”*



### **Specifying a result or strategy**

If a person elects to prepare results or strategies in respect of an objective, the person may further elect to

- specify any results or strategies that meet the approval tests (e.g., measurable or verifiable, consistent to the extent practicable), or
- specify the related performance requirements in the FPPR as the results or strategies (e.g. for the soils objective, Sections 35 and 36 are the related practice requirements and could be accepted rather than writing a new result or strategy).

If the holder decides that the result or strategy will be the wording in the practice requirements in Sections 35 and 36, the language should be similar to the following:

*“For the objective for soils that is set out in Section 5 of the FPPR, the holder adopts, as a result or strategy, Sections 35 and 36 of the FPPR as those sections were on the date this FSP was submitted for approval.”*

Note also that the reference to “as those sections were ...” has a substantive effect in that it effectively fixes the result or strategy to that version of the practice requirements. This provides certainty to the holder of the FSP that any changes to the practice requirements do not automatically become part of the FSP.

A result or strategy in respect of an objective that adopts the related practice requirements exactly as written in the FPPR is considered to meet the applicable approval tests.

If the holder elects to adopt some, but not all of a practice requirement as its result or strategy, the language to signify this could be as follows:

*“For the objective for soils that is set out in Section 5 of the FPPR, the holder adopts, as a result or strategy, [indicate relevant practice requirements (except that / subject to) (specify whatever modifications are considered appropriate)]”.*

Any modifications to the practice requirements in the result or strategy would become a new result or strategy that would have to meet the approval tests.

#### **3.5.4 Guiding principles for developing results and strategies**

Section 5 of the *FRPA* stipulates that an FSP must contain results and strategies related to OSBG, as well as to other objectives established under the *FRPA* or the regulations that pertain to all or part of the area that is covered by the FSP. Section 5(1.1) also says that these results and strategies must be consistent with the OSBG and the other established objectives, but only to the extent prescribed in regulation.



Section 25.1(1) of the FPPR requires that each result and strategy must be consistent with the established objectives to the extent practicable<sup>7</sup> (taking into consideration the conditions or circumstances applicable to the area or part of the plan).

- **Results and strategies must meet the statutory definitions.** Results and strategies are described in the Forest Planning and Practices Regulation (FPPR) as being either “measurable or verifiable”. Generally speaking, results and strategies are “measurable” if they can be quantified (i.e., compared to an empirical set of data in order to determine if the outcome has been achieved), or “verifiable” if they can be demonstrated (i.e., either steps in a process and/or an end result that can be proven through examination or demonstrated to have occurred). The practice requirements set out in the FPPR describe measurable or verifiable outcomes, steps or practices and are therefore analogous to results and strategies that meet the definition of measurable or verifiable. In addition to the requirement that they be measurable or verifiable, is the requirement to describe the situations or circumstances where results and strategies will be applied. The way in which something is placed in relation to its surroundings can describe the situation (e.g., within a riparian area or not within a riparian area). A fact, condition, or occurrence affecting an event describes a circumstance (e.g., “event X” will occur when there is greater than 70% pine).
- “Freedom to manage” and “professional reliance” are not code words for “freedom to use fuzzy language to maximize flexibility and minimize accountability.” Again, **results and strategies must be measurable or verifiable.** Words like “must,” “shall” and “will” have to figure prominently in results and strategies (and “shall” is preferable to “will”). Non-mandatory language, such as “should,” “may,” “in general,” etc. is usually not measurable or verifiable. Others to avoid, for the same reason, are terms such as “maximize,” “minimize” and “optimize.”
- Results and strategies may be at the scale of the stand level, the forest development unit (FDU), or the whole area of the plan. It will depend on how they are worded for values (e.g., biodiversity, forest health, visual quality, etc.), and the complexity of the area with which they are associated. In any case, **it must be clear where the results and strategies apply.**
- The legislation provides for the use of results and/or strategies to address *FRPA* objectives. Agreement-holders may associate a component of a strategy with a result, if there is benefit to the result to be achieved, and if that benefit would be subject to compliance activities.
- **The FSP author must be able to clearly explain how the result or strategy can be measured or verified,** in the same way as a logging engineer who designs a cut block must always be able to explain his or her vision for how any of the timber in the cut block can be yarded. . A prepared rationale will help to achieve this.

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<sup>7</sup> The term ‘practicable’ is described in *FRPA* General Bulletins 3 and 12.



- To help make a result or strategy verifiable, **milestones**, especially when long timeframes are involved, may be something that is included in the result or strategy.
- Familiarizing yourself with the practice requirements can be a valuable way to understand what the legislature considers to be measurable or verifiable result and strategy. Practice requirements are considered to be consistent with objectives. Each of the practice requirements contains specific and essential elements—“**who, what, where and when**”. The “why” is usually implicit in the objectives or in the supporting documents for the FSP. The “how” is not needed for results while the strategy must articulate sufficient steps or practices to understand what is being described and determine if it is consistent with the objective. The “how” may be described in more detail in a site plan, or through the adoption of a guidance document, or even in an agreement-holder’s standard operating procedure.

*An example of the application of the “who, what, where and when” test to a FPPR practice requirement includes the following (section 37 of the FPPR)—Landslides: An authorized person (WHO) who carries out a primary forest activity (WHEN) must ensure that the primary forest activity (WHERE) does not cause a landslide that has a material adverse effect (WHAT) in relation to one or more of the subjects listed in section 149(1) of the Act.*

- **Other sources of information that may help agreement-holders develop results and strategies** that are consistent with the required objective(s) are listed below. Some of the documents could be included in the FSP supporting information to help the DDM make their decision. These sources of information include the following:
  - management practices that have been effective in the area,
  - successes elsewhere with similar results or strategies,
  - factors contained in Schedule 1 of the FPPR, and
  - guidelines and outputs identified in the Objectives Matrix exercise.

These guiding principles have been converted into a checklist (below) that agreement-holders may find useful in developing results or strategies.

More information on the use of the term “practicable” in drafting results or strategies can be found in the *FRPA* Bulletin #12 - [Use of Practicable in Results or Strategies March 30, 2007](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm) available on the PFIT website at:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).



Figure 5: Checklist for developing a result or a strategy

Checklist: Questions to ask yourself when developing a result or strategy

- Is the objective legal?
- Has any exemption been granted?
- Has the result or strategy been referenced to the forest development unit (FDU) in some manner (e.g., within the text, shown on a map)?
- Is there a practice requirement for the objective, and is it applicable to the FSP area for which I am developing a result or strategy?
- Are there guidelines or other information available for use in developing the result/strategy (e.g., non-legal, higher-level plan statements, other agreement-holder plans agreed to from public/First Nations consultations, or one-offs), or is supporting information needed?
- How can I make the result/strategy verifiable or measurable?  
Am I describing:
  - What will be done?
  - Who will do it?
  - Where it will be done?
  - When it will be done?
  - Why it will be done (generally found in the supporting documentation)?
  - Other (agreement-holder specified):



### ***3.5.5 Specifying how results or strategies are delivered***

The *FRPA* legislation does not require that an agreement-holder define how a result or strategy will be carried out. Once the result or strategy meets the approval test and the FSP is approved and effective, the agreement-holder has an obligation to deliver that result or strategy. How they deliver it is up to the agreement-holder unless the “how” is included in the result or strategy.

Some information on “how” the result or strategy is delivered may be required in the FSP in order to conduct the approval test on the result or strategy. For example, if the agreement-holder is proposing a strategy that includes an assessment:

- If the assessment is a well-known type of assessment (e.g., terrain stability field assessment), then the methodology for carrying out the assessment may not be required; and
- If the assessment is not well-known, the strategy may require further detail (or rationale) describing the steps or criteria involved in the methodology that satisfy the approval tests (e.g., measurable or verifiable).

### ***3.5.6 Results or strategies for “global” targets***

Some government objectives contain targets that are global in nature (e.g., not licensee/BCTS or landscape specific). In these situations, an agreement-holder does not need to prepare a result or strategy that fully meets the target. The FSP must include a result or strategy that is measurable or verifiable and consistent with the objective, to the extent practicable. The result/strategy cannot be rejected during the approval test solely because the result or strategy only partially or proportionately addresses the target.

### ***3.5.7 Results and/or strategies for notices under section 7 of the FPPR***

Results and strategies for section 7 notices in the FPPR (i.e., objectives set by government for wildlife) need to meet the approval test – measurable or verifiable and consistent with the objective to the extent practicable.

Part of the measurable or verifiable test will be to identify “where” the result or strategy applies. The clearest way to identify this is through showing the area where the result or strategy applies on a map. However, the agreement-holder can also provide textual detail in the FSP on where the result or strategy applies.



### ***3.5.8 Results and/or strategies for cultural heritage resources***

Government has set an objective for CHR that states:

“...to conserve, or, if necessary, protect cultural heritage resources that are;

- a. the focus of a traditional use by an aboriginal people that is of continuing importance to that people, and
- b. not regulated under the *Heritage Conservation Act (HCA)*.”

Results and/or strategies must be prepared for cultural heritage resources applicable to the area under the plan. The government objective for cultural heritage resources under section 10 of the FPPR is focused on the traditional uses by First Nations that are of continuing importance. This objective should not be confused with archaeological resources such as pit houses and other bounded space(s) that contain physical evidence of past human use or occupation. These archaeological resources are managed under the *Heritage Conservation Act*. The plan preparer must ensure these archaeological resources are protected as per the requirements of the *Heritage Conservation Act*.

Information provided by the First Nation should be used in developing the results or strategies for the CHR objective. The result or strategy respecting the CHR objective can, but does not need to, include a commitment to communicate with First Nations regarding site level operations. The person who prepares a FSP has complete flexibility in the design of the result or strategy – provided the result or strategy meets the approval tests including the review and comment requirements. If the FSP contains a communications commitment that has not been met at the cutting permit stage, the district may need to discuss the issue with the agreement-holder and First Nation. The district may also follow through by obtaining the appropriate information and providing it to the First Nation.

Before the cutting permit or road permit can be issued, the District Manager will need to ensure there is no infringement on aboriginal rights from the proposed harvesting or road construction activities. Efforts by licensees or BCTS planners to share information with First Nations before an application for a CP, RP or TSL is submitted (e.g., declared areas, site plans, operations plans) may support the decision maker’s consideration of the adequacy of consultation with First Nations prior to issuance of any corresponding CP, RP or TSL.

More information on sharing information with First Nations can be found in the *FRPA* Administration Bulletin # 1 - [Forest Stewardship Planning: First Nations Information Sharing - June 10, 2005](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm) available on the PFIT website at:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).



### ***3.5.9 Results and/or strategies for retention of trees in a riparian management zone***

Section 12(3) of the Forest Planning and Practices Regulation (FPPR) says that an FSP *must* specify a result or strategy that addresses retention of trees in a riparian management zone (RMZ), consistent with the objective set by government for water, fish, wildlife and biodiversity in riparian areas (section 8 of the FPPR). This obligation works together with the obligation in section 52(2) of the FPPR to retain enough trees to maintain stream bank stability:

- the retention of trees under section 52(2) of the FPPR addresses one element of the function of an RMZ – the conservation of fish, wildlife habitat, biodiversity and water values (the definition of “RMZ” is under paragraph (b)(i) in section 1 of the FPPR), and
- the retention of trees specified by section 12(3) of the FPPR addresses the second function of an RMZ – the protection of the riparian reserve zone, if one exists in the Riparian Management Zone.

The table in section 52(1) of the FPPR contains residual basal area requirements for management zones in riparian, wetlands and lakes. This table applies to minor tenures. If major tenure holders choose to include a similar table in their plan, they should review and refine this table to reflect the heavier impact their operations have on the land (compared to minor tenures). For example, a refinement of the numbers, with clear rationale where the numbers came from, how they will be measured, why they chose basal area verses volume, number of trees or crown closure as the means of retention, etc. Descriptions of the structure, quality and distribution of the retention stems will assist the DDM review the result/strategy for consistency with the objective.

### ***3.5.10 Results and/or strategies for visual resources***

Section 9.2 of the FPPR describes the objectives set by government for visual quality. Agreement-holders preparing an FSP containing scenic areas need to include results and strategies that are consistent with these requirements. Information on the location of scenic areas, visual quality objectives and visual landscape inventories is managed in, and available from, the Land and Resource Data Warehouse (LRDW). New VQO orders since 2005 are posted on the MFR website at:

<http://www.for.gov.bc.ca/tasb/legsregs/FRPA/FRPAregs/govact/GAR-ORDERS.htm>.

Information on managing visual resource values in the FSP is available in the *FRPA* bulletin number 9—Managing Visual Resources. This bulletin can be obtained from the following website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm)

For more information, contact Jacques Marc, Senior Visual Resource Management Specialist, Forest Practices Branch, MFR at (250) 387-8481 or [jacques.marc@gov.bc.ca](mailto:jacques.marc@gov.bc.ca)



### **3.5.11 Results and/or strategies for recreation resources**

If the Minister of Tourism, Sport & the Arts establishes an objective for an interpretative forest site, recreation site or recreation trail under section 56 of the *FRPA*, the FSP must contain results and/or strategies consistent with the objective (if applicable to the area under the FSP).

### **3.5.12 Results and/or strategies for the timber objective**

Section 6 of the FPPR contains an objective set by government for timber. Agreement-holders may speak to this by including a result or strategy in their FSP for this objective. However, they are not required to do so under FPPR section 12(8).

The timber objective and timber supply is also addressed in several other areas of the FSP including the items described below.

#### **Unduly affect the timber supply**

The timber supply impact concept is an integral part of several government objectives. With the exception of the government objective for cultural heritage resource objectives (FPPR section 10), government objectives cannot require results or strategies that unduly affect the timber supply. The legal effect of the inclusion of the statement “without unduly reducing the supply of timber” is that the objective has no effect to the extent that it would result in the undue reduction in the supply of timber from BC’s forests. The intent of this language is to ensure the conservation of non-timber values is undertaken and balanced with the socio economic benefits associated with timber values. Put another way, above this “undue” threshold, there is no objective for which the FSP must specify intended results or strategies.

Given that the relevant FPPR objectives do not have any effect to the extent that they result in an undue reduction in the supply of timber, it is reasonable for the person preparing the plan to try to articulate that “undue” threshold in the context of preparing related results or strategies.

The government has made policy statements that address the degree of acceptable timber supply impact from certain forest practices restrictions. For example:

- the Chief Forester’s 1996 Analysis of FPC Impacts on Timber Supply, and
- the maximum impact of Identified Wildlife Management Strategy (IWMS) of 1 percent by District.

The DDM will be using these policy statements in their approval or rejection of the FSP. A person preparing a FSP may also want to use these government policy statements when formulating their results or strategies that are applicable to that specific FSP. Results or



strategies related to the affected FPPR objectives do not fail to meet the *FRPA* approval tests only because they address the issue of impact on timber supply.

**Results or strategies consistent to the “prescribed extent”**

Each result or strategy must comply with the requirements of section 5(1.1) of the *FRPA*. The consistency required in section 5(1.1) is to the “prescribed extent.” The prescribed extent is outlined in sections 25 and 25.1 of the FPPR. This is then tied to the section 16 *FRPA* approval tests.

**Stocking standards**

There are specific requirements for stocking standards in an FSP before a DDM can approve the plan. (For information on stocking standards, see section 3.6 of this *Guide*.)

**Timber supply considerations when establishing objectives under GAR**

Under the Government Actions Regulation (GAR), a proposed new objective or any change to an existing objective has to comply with tests. One of these (section 2(1) (b)) is the requirement that any order issued under GAR will not unduly reduce the supply of timber.

**3.5.13 Providing information on established objectives**

The result or strategy does not need to provide current information on the state of a given established objective (e.g., commitments to undertake inventories of resources such as old growth or wildlife habitat).

As part of the agreement-holder’s due diligence process, they may need to collect and document information through inventories and/or assessments in order to prepare their result or strategy and/or ensure they deliver on their result or strategy. They do not have to describe this in their FSP.

**3.5.14 Limiting the application of a result or strategy**

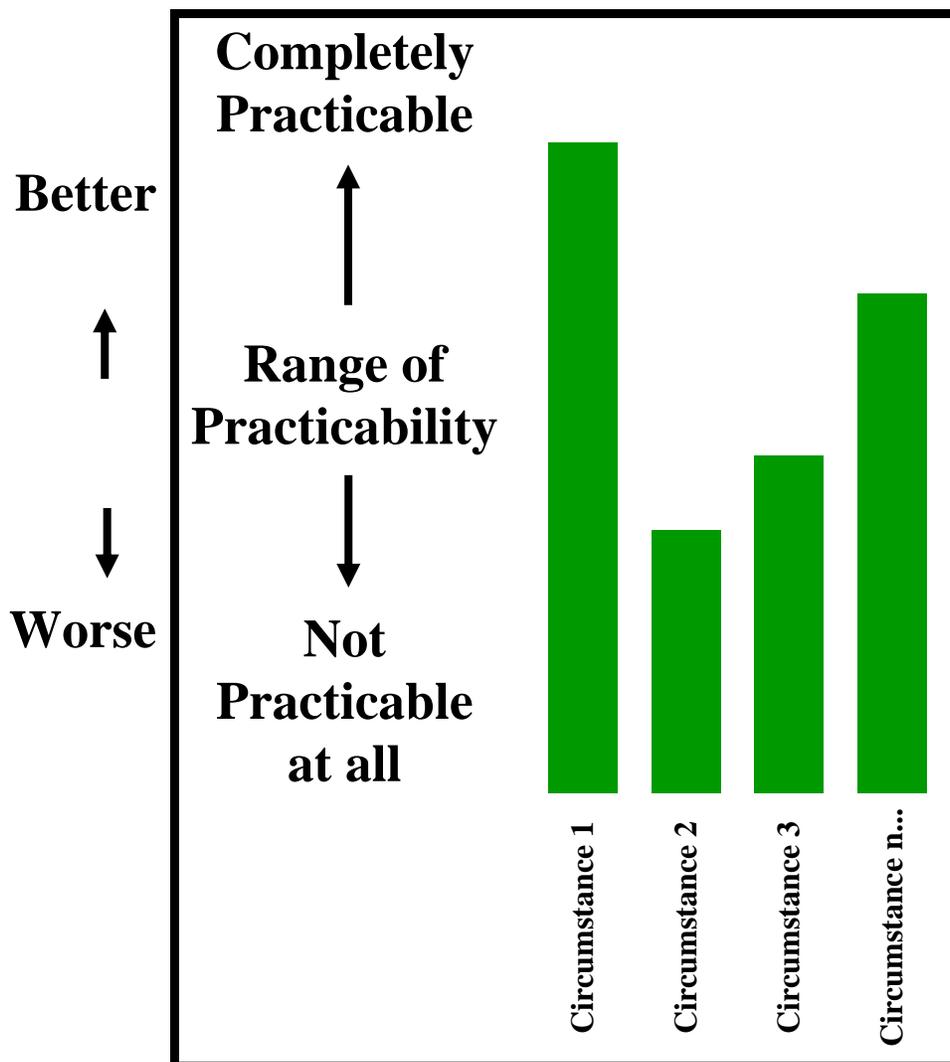
The FSP can specify circumstances that limit the application of a result or strategy—provided that the result or strategy, with the limitation, meets the approval tests of being measurable or verifiable and consistent with government objectives to the extent practicable.

There are two key elements in the approval tests for results and strategies that enable the use of limitations:

1. **Consistent, Not Achieve:** The *Act* requires that intended results or strategies specified in a FSP be *consistent* with the objective to which they relate *to the extent practicable* (taking into account the circumstances or conditions applicable



to that FDU). Both the “consistent” and “to the extent practicable” aspects of this test enable the plan to provide for different results or strategies in different circumstances. As shown in the illustration below, there are many possible combinations of “to the extent practicable” given specific circumstances. A result or strategy should aim to be as practicable as possible (e.g., better than worse) given the circumstances. This could include a reduced result in defined circumstances. The plan must clearly specify what standard will apply in any particular circumstances.



2. **No Universal Application:** The legislation requires the plan to specify where a result or strategy will be implemented; it does not require that a particular result or strategy must be implemented in all circumstances. Therefore, it is open to the plan preparer to identify those circumstances where a result or strategy will be (and by inference, where it will not be) implemented.



Once specified in the plan, section 21 of the *FRPA* requires that results be “achieved” and strategies “carried out”. Thus, the drafting of the limitation must be done in a manner that it is not construed as an attempt to disapply section 21 of the *FRPA*. To avoid any possible concern that a qualification or limitation on a result or strategy is seeking to do so, that qualification should avoid using the terms “not achieve” or “not carry out”, as those words come from section 21 and their use may be construed as an attempt to avoid its application. For example, it is unacceptable to say “the holder is not required achieve the specified results or carry out the strategies if....”

However, it is acceptable for the FSP to specify where a result or strategy does not apply, by using the words “does not apply”, because the concept of where the results or strategy “applies” comes directly from the definition of those terms. Thus, language such as “This result or strategy does not apply...” is acceptable.

The distinction is simply to state where or when the result or strategy “does not apply”, rather than to state “the licensee will not achieve or carry out this result of strategy in the following circumstances”.

Information on the use of term “practicable” in drafting results or strategies can be found in the *FRPA* Bulletin #12 - [Use of Practicable in Results or Strategies March 30, 2007](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm) available on the PFIT website at:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

### ***3.5.15 The role and use of factors in developing results and strategies***

Factors have no legal standing within the context of the review and approval of the FSP, but section 12(1) of the FPPR does make reference to them. They are also used to limit the extent to which the DDM may request additional information under section 24. Section 12 of the FPPR states that a person preparing an FSP *may* consider the factors in the schedule when developing results and strategies.

Factors are important only for developing results and strategies, or for creating results and strategies for which the regulation does not have defaults. The factors listed in Schedule 1 of the FPPR were ‘considerations’ that the government used to formulate the practice requirements associated with some objectives. Agreement-holders who are formulating any results and strategies may want to revisit these factors, to help them determine the amount and type of supporting documentation they need. Understanding the factors may also make the consistency test easier to meet.

Section 5.3 of this *Guide* has more advice on results and strategies. For more information on the approval of results and strategies using the factors in the schedule, and guidance on the DDM requesting additional information, refer to section 5.3.5 of this *Guide*.



### **3.5.16 *Burden of proof requirements for results/strategies proposed in an FSP***

The level of ‘proofing’ of the support documentation for proposed results or strategies varies, depending on the degree of deviation from practice requirements and/or established standards. If a proposed result or strategy:

- falls in the low-risk category,
- is a common practice, action, or result for the associated area, or
- the DDM is comfortable with the documentation presented,

then no further outside checking may be warranted. However, if the risk is determined to be high, the DDM may believe that input from appropriate professionals or experts, and/or a written rationale, may be warranted.

The role of the DDM is to understand evidence and be satisfied that any results and strategies are consistent with objectives to the extent practicable.

## **3.6 What are considerations for developing stocking standards?**

### ***3.6.1 Developing stocking standards***

Section 5 of the *Forest and Range Practices Act (FRPA)* requires stocking standards to be developed and included in the FSP. The Forest Planning and Practices Regulation (FPPR) contains the approval tests applicable to stocking standards under *FRPA*. Stocking standards must meet the requirements contained in section 26 (46.1 for community salvage licenses) of the FPPR. Stocking standards must be approved if the DDM is satisfied all of the conditions under section 26(3) or 26(4) are met.

The DDM may approve other standards under section 26(5), if he or she is satisfied that the standards are reasonable, having regard for the future timber supply for the area. For example, under FPPR section 26(5), the DDM could approve different densities (e.g., providing for grizzly bear habitat) or alternative species, or other alternatives if there are inconsistencies between the current TSR and forest management assumptions if the alternatives are supported by a rationale and the DDM is satisfied that the standards are reasonable, having regard for the future timber supply for the area (providing the approval tests in section 26 of the FPPR are met).

The FSP can specify circumstances that limit the application of a stocking standard – provided the DDM is satisfied that the stocking standards specified meet the requirements of the FPPR (section 26).



The FPPR provides an avenue, through section 45, to apply stocking standards collectively across cutblocks. To do this, the person must specify the situations or circumstances when section 45 will apply. This document, “[Letter re: Approval/Rejection of Multi-block Stocking Standards in Forest Stewardship Plans](#)”, provides further information on the topic.

Section 29 of the *FRPA* imposes the obligation to establish a free growing stand within harvested cut blocks in accordance with the plan, prescribed requirements and standards that apply to the harvested area. The exceptions to this requirement are set out in the FPPR. Although the FSP cannot specify additional exemptions to the requirement to produce a free growing stand, *FRPA* provides flexibility regarding the criteria to be specified in the FSP regarding the free growing stand that must be established.

Such flexibility is permissible provided the approval tests in section 26 of the FPPR are met. These tests generally require that the DDM be satisfied that the standards:

- will result in the area being stocked with species and to a density or basal area that, in either case, is consistent with maintaining or enhancing the supply of commercial timber and with the applicable timber supply analysis and forest management assumptions, or
- are reasonable having regard to the future timber supply for the area.

These tests are broad and enable the preparer of the plan to propose (and the minister to approve) standards for establishing a free growing stand that vary considerably from one circumstance to the next.

### ***3.6.2 Stocking Standards Reference Material***

Reference material for evaluating stocking standards within an FSP is available from the Forest Practices Branch website at <http://www.for.gov.bc.ca/hfp/silviculture/>. Documents currently available are entitled “[An Overview Reference for the Evaluation of Stocking Standards Under FRPA](#)” and “[Letter re: Approval/Rejection of Multi-block Stocking Standards in Forest Stewardship Plans](#)”.

This material is intended to provide overview guidance to Ministry of Forests and Range (MFR) staff in reviewing and approving stocking standards under *FRPA*. As such, it is intended to clarify context and intent and focuses on the key content, tests, and critical issues or questions: It is not to be considered comprehensive and must be used in conjunction with other relevant legislative, planning and professional guidance documents.

This guide will be useful to agreement-holder staff or consultants who are preparing FSP and associated stocking standards. Most, but not necessarily all, approaches previously widely accepted under the FPC, will continue to be acceptable under *FRPA*. All FSP stocking standards must meet the requirements of the key approval tests contained in the



applicable legislation. FSP stocking requirements containing new innovative approaches may require an associated rationale thorough enough to facilitate this evaluation.

The overarching purpose of the guide is to help ensure that the proposed standards are evaluated against the applicable legislative requirements both in a fair and consistent manner and in accordance with the intent of the evaluation requirements in the legislation. Nevertheless, flexibility is provided under *FRPA* for approval of new innovative standards. The use of, and rationale for, this flexibility is clarified as well.

## **3.7 What are considerations for developing measures?**

### ***3.7.1 Measures in a FSP***

In addition to results and strategies, agreement-holders must propose measures for specified items in their FSP – measures for invasive plants and measures for natural range barriers. These items are described in further detail in this section. Agreement-holders must also meet general wildlife measures as defined in section 69 of the FPPR—although these measures do not need to be included in their FSP.

The DDM will review the measures in a FSP against two tests—that they are reasonable and appropriate – determined on the basis of both efficacy and what is practicable. Measures should be those which a reasonable person would propose in similar circumstances. They do not need to be the most comprehensive measures—only reasonable and appropriate given the circumstances.

### ***3.7.2 Measures for invasive plants***

Section 47 of the *FRPA* requires a person carrying out forest practices to carry out measures that are either specified in an FSP or authorized by the minister, to prevent the introduction or spread of invasive plants. .

Invasive species are defined as “any species not native to a particular ecosystem whose introduction causes, or is likely to cause, economic or environmental harm or harm to human health.” This definition is from the MFR glossary of terms available on the MFR website at: <http://www.for.gov.bc.ca/hfd/library/documents/glossary/>.

Measures for invasive plants are not required in every FSP. Measures must be included in the FSP whenever:

- there are species of invasive plant prescribed in regulation as of 4 months before the FSP is submitted for approval that could (if introduced) inhabit an area in an identified FDU if introduced, and
- it is reasonably foreseeable that the forest practices of a holder of the plan will likely result in the introduction or spread of one or more prescribed species of invasive plants.



The mere possibility that a forest practice will introduce or spread invasive plants is not sufficient to trigger the requirement to include measures – it must be reasonably foreseeable that the forest practice will “likely” cause the introduction or spread.

Examples for assessing likelihood include the following:

- Are there or has there ever been a history of a particular species of invasive plant growing within an identified FDU?
- Is it likely that any of the identified invasive plants would survive or spread if seed was introduced to an area within an identified FDU?
- If the harvesting is largely limited to winter operations, is it likely that seed could be introduced by the harvesting or that conditions would be created for seed establishment in the summer?

The measures specified in the FSP should be reasonable in the circumstances and need not provide certainty that the measures will prevent the introduction or spread. Examples of assessing if measures are reasonable and appropriate include the following:

- considering different measures for different species of invasive plants depending on the risk of a particular species being introduced or spreading;
- in cases where the invasive plant species is already fully established in the area, recognizing that it is not reasonable to expect the plan to include exhaustive measures;
- the period within which a particular invasive plant species is known to establish on exposed mineral soil will be relevant in assessing whether or not the proposed timing for grass seeding of these areas is reasonable;
- the measures should be consistent with those which a reasonable person would propose in similar circumstances. For example, it may be possible to grass seed immediately upon completion of each metre of road, but it is operationally impractical to do so (unreasonable and inappropriate).

If the agreement-holder does not believe their activities will result in the spread, etc. of a particular species of invasive plant, found in their plan area, they should make it clear to the DDM in their supporting documentation of their rationale. The FSP does not need to include a measure if the agreement-holder activity does not impact the invasive plant. However, an explanation in the supporting documentation will address any uncertainty over whether the issue has been considered by the agreement-holder.

### **3.7.2.1 Additional Information on Invasive Plants**

The **Invasive Alien Plant Program Reference Guide** has been written to explain the business of invasive plant management. The reference guide can be found on the IAPP application website at: <http://www.for.gov.bc.ca/hra/Plants/application.htm>. Chapter 1.3 of the reference guide covers the prevention of invasive plants and may be of interest to preparers of an FSP:

[http://www.for.gov.bc.ca/hra/Publications/invasive\\_plants/IAPP\\_Reference\\_Guide/1.3-IAP-ReferenceGuide-V5.1.pdf](http://www.for.gov.bc.ca/hra/Publications/invasive_plants/IAPP_Reference_Guide/1.3-IAP-ReferenceGuide-V5.1.pdf)



The **Invasive Alien Plant Program (IAPP) application**, a web-based database and mapping application managed by the Range Program of the MFR, contains information on invasive plants including an inventory and treatment, monitoring and planning activities.

Agreement-holders can use the application to assist in identifying any invasive species that might be located within their tenured area and assist in determining strategies to minimize their spread. The IAPP's map display component is available to anyone with internet access. This component visually displays the current inventory information (refreshed every 24 hours) as well as providing functionality for identifying sites with specific invasive plant species, or treatment types (e.g. biological, chemical, mechanical).

The invasive plant inventory layer is also accessible via the LRDW and agreement-holders can easily download and view/use this information in their in-house GIS applications. Agreement-holders can also provide information on invasive plants (e.g., new sightings) to the IAPP and generate extracts and reports from the IAPP via the forest companies registered as agencies in IAPP.

Access to the application, as well as additional information, can be found on the IAPP application website at: <http://www.for.gov.bc.ca/hra/Plants/application.htm>. To assist in ensuring data integrity, users must request access to this module and be affiliated with either a currently established agency within IAPP, or be an entity that has land management responsibilities

### ***3.7.3 Measures for natural range barriers***

The MFR Glossary of Terms defines natural range barriers as “a river, rock face, dense timber, or any other naturally occurring feature that stops or significantly impedes livestock movement to and from an adjacent area.” This definition and MFR glossary is available on the MFR website at:

<http://www.for.gov.bc.ca/hfd/library/documents/glossary/>.

Measures for natural range barriers are not required in every FSP. Measures must be included if 4 months before the FSP is submitted for approval:

- there exists an agreement under the *Range Act*, or an advertised agreement will be awarded before the date the plan is submitted that will authorize livestock to graze in an identified FDU,
- there is likely to be a natural range barrier located in that FDU that impede livestock that are the subject of such agreement from moving through or across the barrier, and
- it is reasonably foreseeable that the holder of the agreement will rely on the natural range barrier to control the movement of the livestock.



The legislation requires measures to mitigate, not measures that will completely eliminate the effect of the change to the natural range barrier.

Mitigation means a lessening of the impact, and action that is reasonable and appropriate in the circumstances. The measures must be sufficiently comprehensive so that the reasonable person would believe that the measures would, if implemented, be reasonable in the circumstances. However, the measures need not be the most comprehensive measures that a person could propose in those circumstances.

## **3.8 What are considerations for developing the FSP Map?**

### ***3.8.1 FSP map scale, format and content***

An FSP map must identify the outer boundaries of proposed forest development units (FDUs). Agreement-holders do not have to identify the specific locations of any particular timber harvesting or road construction activity, until they choose to exercise their option to develop an area within the FDU through a cutting permit or road permit, a license to cut, or, in the case of BC Timber Sales, through the award of a timber sale licence.

Under Section 5 of the *FRPA*, the DDM can set the standard for map scale and format. (This may be done to ensure that electronic submissions are compatible with government platforms.) This is a good topic to discuss at any pre FSP meetings, or in other communications prior to starting the FSP process.

The FSP map must:

- be at a scale and format that are satisfactory to the DDM: suggested scales are 1:20,000 (coast) or 1:50,000 (interior), but may depend on the nature of the submission, and
- include the boundaries of FDUs. (note that boundaries of FDUs are a certifiable content section 3.10.3 in this *Guide* for more information on professional certification).

The references to showing the location of FDUs are similar to the old Forest Development Plan (FDP) requirements, but do not include specific requirements for cut block and road location boundaries.

The terrain resource information management (TRIM) map is a good base for agreement-holders to use in their spatial submissions. TRIM is the government's custodial dataset for base map information – providing information at a 1:20,000 scale. TRIM is used for many different types of maps across the government – using this format will make the communication of spatial information to and within government easier and more efficient.



The following are some of the factors that the DDM may consider when he or she determines whether the scale and format of the map submissions are satisfactory:

- an appropriate level of information, if the DDM needs to make a determination of consistency,
- any directions from the minister from the delegation matrix (The full delegation matrix is available to ministry personnel at: [www.for.gov.bc.ca/hcp/legislation/authoritymatrix](http://www.for.gov.bc.ca/hcp/legislation/authoritymatrix) or to the public at <http://www.for.gov.bc.ca/hcp/legislation/authoritymatrix/>), and
- an appropriate level of detail in the resource information (e.g., if there is pertinent information detailed at the 1:20 000 scale for the wildlife habitat mapping within the FDUs, it may be reasonable to require the use of 1:20 000 scale maps, *or* there may be a need to show some detail at even larger scales, but the larger scale may only be required for portions of the FSP area or even portions of an FDU).

See section 3.3.3 of this *Guide* for additional FDU mapping requirements and more factors that may be taken into consideration when setting the scale and format of FSP map submissions.

For electronic submissions, the format requirements may be more specific, which is why this section was included in the legislation. Consistency of data in both submissions type and format is critical for electronic-based data storage and management.

The agreement-holder may, at their option, include additional details about the proposed development, in a table appended to the FSP map or as part of the supporting documentation package. This may include key evidence to support why the FSP proposal is believed to be consistent with the various government objectives. For example, it may be used to provide evidence that the FSP proposal is consistent with the objectives for land-use zones that apply to the FDU.

There may be different maps for different processes (e.g., there may be additional information on the maps made available during the public review and comment period). If the agreement-holder uses different maps for the public review and comment process than for the FSP submission and comments were received based on, or in reference, to the public maps, then the agreement-holder must ensure that this map information is included in the FSP submission maps.

Although they are not required by legislation, possible additional legend elements can enhance the clarity of an FSP map, either included with the legal submission or as part of the supporting documentation. These elements include:

- forest cover information,
- topographic information,
- existing harvested areas and roads,
- previously approved FDUs of the agreement-holder contained in another FSP held by the agreement-holder or other agreement-holders within the general FSP area,
- areas of road deactivation,



- streams, wetlands, and lakes<sup>8</sup>,
- special management areas,
- private property,
- utilities,
- declared areas,
- other agreement-holders' cutting permit and road permit areas,
- current cutting permit areas, where harvesting has not started or been completed,
- any logged blocks that may provide for a value regime review, and
- other pertinent elements related to the tests.

### ***3.8.2 Map accuracy***

The plan preparer is responsible for ensuring that the information contained on the FSP map(s) is accurate (regardless of the source) and portrays the information required to support the approval of the FSP.

## **3.9 What are considerations for preparing supporting documentation for my FSP?**

### ***3.9.1 Supporting documentation package for FSPs***

As mentioned in section 1.1.1 of this *Guide*, the FSP is the only statutory planning approval mechanism for forest harvesting and related activities under the *FRPA* regime. The *FRPA* framework was built on the key principle that agreement-holders will manage the risks associated with achieving specified results or strategies, and that government will hold agreement-holders accountable for achieving those results. This means that agreement-holders are solely responsible for bearing the burden of proof/supporting documentation for meeting the statutory tests associated with the approval of the FSP. Agreement-holders will need to submit sufficient information to satisfy the DDM that the requirements have been met. This should be found in the supporting documentation.

The expertise needed to craft supporting documentation for a result or strategy can come from a variety of sources. Agency staff, including the Ministry of Environment, the Ministry of Agriculture and Lands, institutions, applied research and interest groups may be a useful sounding board for discussing proposed results and strategies. These sources also have insights into the appropriate level of peer review and/or risk associated with proposals.

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<sup>8</sup> Note that L1 lakes are a required item (FPPR s.14(3)(f))



### ***3.9.2 Supporting documentation package submission and format***

Agreement-holders have the option to *not* include their supporting documentation package as part of the legal submission of the FSP. Generally, if there is supporting documentation – either requested by the DDM or voluntarily prepared and submitted by the agreement-holder to support part of the FSP – then this documentation should be included as a separate package.

### ***3.9.3 Agreement-holder considerations about supporting documentation***

The DDM may ask agreement-holders for additional information, to help the DDM make his or her determination whether a result or strategy is consistent with a stated objective. The supporting documentation base is for the FSP requirements only: the DDM will not be trying to address issues or reduce risk outside of the requirements themselves (i.e., approval tests).

If an agreement-holder wants to be proactive and avoid this situation, they can initiate meetings or other information sharing activities with the DDM prior to submitting the FSP in the first place, to ensure that the submission includes evidence that the DDM considers appropriate. Without this type of information sharing about the agreement-holder's plans for an area, the DDM will not likely know in advance what supporting information he or she might need, so there is potential for wasted time and resources on the agreement-holder's part in preparing the plan, and on the government's part in assessing it.

The degree of proof required to satisfy the DDM and the supporting documentation required to support an FSP submission will vary with the degree of risk of a negative outcome. Where the consequences of a negative outcome to an established objective are severe (e.g., where human safety is threatened or a critical environmental objective may be compromised), a stronger body of supporting documentation may be required.

Agreement-holders and professionals should be aware of and should document the risks of carrying out their proposed plan. They should also have contingency plans for objectives at risk where there is little tolerance for damage, or where damage, should it occur, would be of a magnitude or scope that is clearly unacceptable.

To help the DDM assess the evidence, a professional may provide supporting documents with information such as assessment results, objectives (i.e., higher-level plan objectives or OSBG), any known information, or any additional information to support the proposed FSP.

If the agreement-holder is accepting the practice requirements for a particular OSBG (e.g., Protected Areas Strategy or soil disturbance levels), then a statement to that effect is all that is required in the FSP submission. More information on accepting practice



requirements is provided in section 3.5.3 (Utilizing FPPR Practice Requirements) of this Guide.

The ABCFP provides associated information on its website:

*Guidance for Professional Quality Rationales and Commitments (2008)* at

[http://www.abcfp.ca/regulating\\_the\\_profession/documents/Pro\\_Quality\\_Rationales.pdf](http://www.abcfp.ca/regulating_the_profession/documents/Pro_Quality_Rationales.pdf)

## **3.10 What are other considerations in developing the FSP?**

### **3.10.1 Forest health considerations in the FSP**

There is only one FSP requirement for forest health. Under section 26(2) of the *FRPA*, the minister may require the holder of an FSP to submit a proposal to deal with any insects, disease, animals, or abiotic factors that are causing damage on Crown land that is covered by the FSP.

Section 44 of the FPPR requires a person who has an obligation to establish a free-growing stand to meet the stocking standards contained in the FSP. These stocking standards must address immediate and long-term forest health issues on the area that is subject to the stocking standards (section 26(3) (a) of the FPPR). Under section 16 of the *FRPA*, stocking standards must be included in the FSP.

Areas outside of the FSP are subject to sections 25 and 27 of the *FRPA*.

### **3.10.2 Roads associated with an FSP**

The definition of a “forest practice” in the *FRPA* includes the activities associated with:

- road construction,
- road maintenance,
- road use, and
- road deactivation.

This means that all references to forest practices in the *FRPA* and the requirements for an FSP must include and address the effects of these road-related forest activities on the identified resource values defined under section 149 of the *Act*.

All activities associated with road construction must be within a Forest Development Unit (FDU) under the approved FSP.

### **Sources of Additional Information**

There are a variety of publications available to help agreement-holders develop the results and strategies associated with road construction, general access development, and deactivation of roads. The *Forest Road Engineering Guidebook* (June 2002) is an



example. See also the *Guidelines for Terrain Stability Assessments in the Forest Sector* (October 2003), published by the Association of Professional Engineers and Geoscientists of BC, available on the publications website of the MFR’s Resource Tenures and Engineering Branch:

[http://www.for.gov.bc.ca/hth/engineering/publications\\_guidebooks.htm](http://www.for.gov.bc.ca/hth/engineering/publications_guidebooks.htm).

The ABCFP website contains two documents developed jointly with the Association of Professional Engineers and Geoscientists of BC (APEG), they are:

*Guidelines for Professional Services in the Forest Sector – Crossings (Revised 2008)*

[http://www.abcfp.ca/regulating\\_the\\_profession/documents/guidelinesforestcrossings\\_2008.pdf](http://www.abcfp.ca/regulating_the_profession/documents/guidelinesforestcrossings_2008.pdf) , and

*Guidelines for Management of Terrain Stability in The Forest Sector (2008)*

[http://www.abcfp.ca/regulating\\_the\\_profession/documents/Management\\_Terrain\\_Stability.pdf](http://www.abcfp.ca/regulating_the_profession/documents/Management_Terrain_Stability.pdf)

A summary of legislative requirements for forest roads is contained in the Appendix of this Guide. This document, developed in June 2004 by the MFR’s Resource Tenures and Engineering Branch, summarizes the road related requirements in both the Forest Practices Code and the *Forest and Range Practices Act* and regulations.

**Figure 6: FRPA road regime**

**Roads – Planning Requirements**

Reference	Specific Requirement (wording paraphrased from relevant legislation)
FPPR s.1	Defines “road” for the purposes of the regulation.
FRPA s.3	Roads <i>to be constructed</i> must be within an FDU in an FSP.
FRPA s.10	Must prepare a site plan that shows road location and how results/strategies apply to the site.

**Roads – Practices/Results Requirements**

Reference	Specific Requirement (wording paraphrased from relevant legislation)
FRPA s.22	Defines the applicability of FRPA road requirements.
FRPA s.22.1	Sets out authorization requirements related to industrial use of a road. Provides exemption provision to authorization requirements with or without conditions.
FRPA s.22.2	Sets out public use of forest roads
FRPA s.22.3	Sets out requirements for payment for use of roads
FRPA s.23	A person must obtain consent of the minister prior to connecting a road to a Forest Service Road.
FPPR s. 37	In relation to roads, requires that a person who carries out road construction, maintenance and deactivation activities must ensure that the activity does not cause a landslide that has a material adverse effect in relation to one or more of the values



Reference	Specific Requirement (wording paraphrased from relevant legislation)
FPPR s. 38	In relation to roads, requires that a person who carries out road construction, maintenance and deactivation activities on the Coast must ensure that the activity does not cause a gully process that has a material adverse effect in relation to one or more of the values.
FPPR s.39	Requirement for a person to maintain natural drainage patterns during and after construction of a road or a temporary or permanent access structure.
FPPR s.40	A person who constructs or deactivates a road must revegetate it within two years if it is reasonably foreseeable that erosion could occur which could result in: <ul style="list-style-type: none"> <li>sediment entering a riparian feature, or</li> <li>a material adverse effect on another forest resource,</li> </ul> and that revegetation will serve to materially reduce the likelihood of such erosion.
FPPR s.50	Unless otherwise specified in an FSP, a person must not construct a road in a riparian management area unless: <ul style="list-style-type: none"> <li>locating it outside would create a higher risk of sediment delivery to the riparian feature,</li> <li>no other practicable option exists for locating the road, or</li> <li>the road is part of a stream crossing.</li> </ul> Unless otherwise specified in an FSP, a person must not carry out road maintenance activities beyond the clearing width of the road, except if necessary to maintain a stream crossing. Unless otherwise specified in an FSP, a person who is authorized in respect of a road must not remove gravel or other fill within a riparian management area during construction, maintenance, or deactivation of the road, unless: <ul style="list-style-type: none"> <li>the gravel or fill is within a road prism,</li> <li>the gravel or fill is a stream crossing, or</li> <li>there is no other practicable option.</li> </ul>
FPPR s.54	A person authorized in respect of a road carrying out road construction, maintenance, or deactivation on the Coast must ensure that the activity does not cause fan destabilization which has a material adverse effect on a forest resource.
FPPR s.55	Unless otherwise exempted, an authorized person who builds a stream crossing as part of a road or a temporary or permanent access structure must locate, build, and use the crossing in a manner that: <ul style="list-style-type: none"> <li>protects the stream channel and stream bank adjacent to the crossing, and</li> <li>mitigates disturbance to the stream channel and stream bank at the crossing</li> </ul>
FPPR s.56	A person authorized in respect of a road carrying out road construction, maintenance, or deactivation must ensure that the activity does not result in a failure to maintain fish passage in the stream. A person who maintains a fish stream crossing built after June 15, 1995, must ensure that the crossing provides for fish passage. Despite 1 and 2 above, a person referred to above may temporarily block fish passage to construct, maintain, or deactivate a road, including a stream crossing, if the blockage: <ul style="list-style-type: none"> <li>does not occur at a time when fish are migrating or spawning, and</li> <li>is removed immediately on completion of the activity.</li> </ul>
FPPR s.57	Unless otherwise exempted, a person authorized in respect of a road carrying out road construction, maintenance, or deactivation must not conduct the activity at a time or in a manner that harms fish or destroys, damages or harmfully alters fish habitat.
FPPR s.59	Unless otherwise exempted, a person authorized in respect of a road carrying out road construction, maintenance, or deactivation must ensure that the activity does not cause material that is harmful to human health to be deposited in, or transported to, water that is diverted for human consumption by a licensed waterworks.
FPPR s.60	An authorized person must not construct a road in a community watershed if the road construction is within a 100 m radius upslope of a licensed waterworks where the water is diverted for human consumption, unless the road construction will not increase sediment delivery to the intake
FPPR s.62	Unless otherwise exempted, a person who constructs, maintains or deactivates a road must ensure that the activity does not interfere with the subsurface flow path of a drainage area that contributes to a spring in a community watershed that has been identified by a ministerial order.



Reference	Specific Requirement (wording paraphrased from relevant legislation)
FPPR s.72	Unless otherwise exempted, a person who constructs or maintains a road must ensure that the road and structures associated with the road are structurally sound and safe for use by industrial users.
FPPR s.73	Unless otherwise exempted, a person who builds a bridge for the purpose of constructing or maintaining a road must ensure that the design and fabrication of the bridge are in accordance with the specified standards.
FPPR s.74	<p>1. A person who builds a bridge across a stream or installs a culvert in a stream for the purpose of constructing or maintaining a road must ensure that the bridge or culvert is designed to pass the highest peak flow that can reasonably be expected within the specified return period.</p> <p>Despite 1 above, a bridge may be constructed that does not meet the specified standard for the anticipated peak flow if:</p> <ul style="list-style-type: none"> <li>the bridge will pass the flow that is actually expected during the time the bridge remains onsite, the construction of the bridge occurs during a low flow period, and</li> <li>any portion or component of the bridge that may be damaged by peak flow is removed before a period of high flow occurs.</li> </ul> <p>Despite 1 above, a culvert may be installed that does not meet the specified standard for the anticipated peak flow if the:</p> <ul style="list-style-type: none"> <li>installation is temporary and will not be replaced,</li> <li>stream is not a fish stream,</li> <li>culvert will pass the flow anticipated while it is onsite,</li> <li>installation occurs during a period of low flow, and</li> <li>culvert is removed before a period of high flow.</li> </ul>
FPPR s.75	Unless otherwise exempted, a person building a bridge for the purpose of maintaining a road must carry out one or more of the specified activities to address structural defects or deficiencies of the bridge.
FPPR s.76	Unless otherwise exempted, a person who builds a culvert must fabricate all permanent culvert materials according to specified standards.
FPPR s.77	A person who builds a bridge or major culvert must retain construction data and as-built data. A person who maintains a bridge or major culvert must retain inspection reports.
FPPR s.78	Unless otherwise exempted, a person who constructs or maintains a road must ensure that the clearing widths are the minimum necessary to accommodate the road, having regard to all of the following: safety of industrial users; topography; drainage and stability in the area; and the specified operational requirements.
FPPR s.79(2)	Unless otherwise exempted, a person must maintain the road and its associated structures until: <ul style="list-style-type: none"> <li>the road is deactivated,</li> <li>the district manager notifies the person that the road will be used by other users and deactivation is not required,</li> <li>a road permit or special use permit for the road is issued to another user, or</li> <li>the road is declared a Forest Service Road.</li> </ul>
FPPR s.79(3) and (4)	The government must maintain a Forest Service Road and any associated structures until it is deactivated, OR, by district manager order, all or part of the maintenance obligations are assigned to the holder of a road use permit authorizing use of the road.
FPPR s.79(6)	A person required to maintain a road must ensure that the: <ul style="list-style-type: none"> <li>structural integrity of the road prism and clearing width are protected,</li> <li>drainage systems of the road are functional, and</li> <li>road is safe to be used by industrial users.</li> </ul>
FPPR s.79.1	A “minor salvage operation,” for use of a road that is exempt from section 22.1 of the Act to require a road use permit or road permit: <ul style="list-style-type: none"> <li>must notify permit-holders prior to use and contribute to maintenance, and</li> <li>is required to maintain the road if there is no permit-holder.</li> </ul>
FPPR s.79.2	A “minor salvage operation,” for use of a road that is exempt from section 22.1 of the Act to require a road use permit or road permit: <ul style="list-style-type: none"> <li>must notify permit-holders prior to use and contribute to maintenance, and</li> <li>is required to maintain the road if there is no permit-holder.</li> </ul>



Reference	Specific Requirement (wording paraphrased from relevant legislation)
FPPR s.80	Specifies maintenance requirements for persons exempted from the requirements to have an agreement.
FPPR s.81	Provides clarity about reduced maintenance obligations, specified in s.79(6), for “wilderness roads” level of maintenance.
FPPR s.82	<p>A person who deactivates a road must:</p> <ul style="list-style-type: none"> <li>barricade the road surface to prevent access by motor vehicles (other than all-terrain vehicles), while making the barricade clearly visible,</li> <li>remove bridge or log culvert superstructures and stream pipe culverts,</li> <li>remove bridge and log culvert substructures, if their failure would have a material, adverse effect on downstream property, improvements or forest resources, and</li> <li>stabilize the road prism and clearing width of the road.</li> </ul> <p>If the road specified above was used under the authority of a road permit or a cutting permit under a tree farm licence, then the holder of the licence is responsible for maintaining the stability of the road or part of the road that was deactivated.</p>
FPPR s.83	During the period that the road is being deactivated, a person must post a sign to warn users about the deactivation.

**Roads – Information Requirements**

Reference	Specific Requirement (wording paraphrased from relevant legislation)
FPPR s.77(1)	<p>A person who builds a bridge or major culvert for the purpose of constructing or maintaining a road must prepare or obtain:</p> <ul style="list-style-type: none"> <li>• Pile driving records</li> <li>• For new materials, mill test certificates, fabrication drawings, concrete test results</li> <li>• Soil compaction results</li> <li>• Other relevant field and construction data</li> </ul> <p>Prepare</p> <ul style="list-style-type: none"> <li>• As-built drawings of the bridge or major culvert</li> <li>• Retain the information related to above until the structure is removed, or the date the person is no longer required to maintain the road.</li> </ul>
FPPR s.77(2)	A person responsible for maintaining a road must retain a copy of inspection records for a bridge or major culvert, associated with the road, while the structure is on site, and for 1 year after it is removed.
FPPR s.77(3)	A person, who is no longer required to maintain a road as a result of the district manager cancelling the applicable agreement, must submit to the DM the documents referred to in subsection (2).



**Roads – Notification Requirement**

Reference	Specific Requirement (wording paraphrased from relevant legislation)
FRPA s.22.1(7)	The holder of a range use permit, in the case of a Forest Service Road, and other industrial users of road permit, woodlot licence or special use permit roads must give five days' clear notice to the holder of the range use permit, road permit, woodlot licence or special use permit, or to the minister in the case of a Forest Service Road, if no one has designated responsibility for maintenance, PRIOR to using the road.
FRPA s.22.3	The holder of a road permit, woodlot licence and, in some cases, a range use permit may, by written notice, require another user to contribute to maintenance costs, for the use of a road that the agreement-holder is obligated to maintain.
FPPR s.79(7)	The holder of a range use permit who is required to maintain a Forest Service Road must give the district manager 30 days' notice before building or installing a bridge or major culvert, or before replacing or adding a culvert in a fish stream.
FPPR s.84	Unless otherwise exempted, a person who is authorized in respect of a road must notify water licensees or their representatives at least 48 hours before commencing road construction or deactivation in a community watershed.
FPPR s.85	Unless otherwise exempted, the holder of an agreement must notify the district manager prior to commencing construction of a road that is not a temporary access structure. The notice must specify the location (including any administrative identifier that pertains to the location), a contact name, and the projected start date.

**Roads – Reporting Required**

Reference	Specific Requirement (wording paraphrased from relevant legislation)
FPPR s.86(2)	The holder of an agreement is no longer required to submit road information. Section 86(2) of the FPPR has been repealed (BC reg 104 2008). ** Be aware that this may be reinstated **

**Roads – Powers of Intervention**

Reference	Specific Requirement (wording paraphrased from relevant legislation)
FRPA s.22.2(2) to (4)	The district manager for a Forest Service Road, or the holder of a road permit/woodlot licence of a permitted road, with prior consent of the district manager may close a road, restrict use on the road, remove a vehicle or animal from the road at the expense of the owner, IF it is likely that use of the road would cause significant damage to the road or significant sediment delivery, or endanger property, public health or public safety, or if the presence on the road of a vehicle or animal would likely cause damage to the road or significant sediment delivery or endanger life or property. The Minister may specify expenses that must be paid by non-industrial users to use a road.



### **3.10.3 Professional certification**

#### **3.10.3.1 Introduction**

Qualified professionals may now “certify” that specific elements of an FSP meet the content requirements of section 5 of the *FRPA* (section 22.1 of the *FPPR*). Section 16(1.01) of the *FRPA* authorizes that prescribed subject matter, if certified by a qualified professional, have “deemed approval” with respect to the requirements of section 5, which deals with content requirements.

“Certify” in section 16(1.01) of the *Act* means:

“to attest by means of a certificate that the agrologist, the professional biologist, the professional engineer, the professional geoscientist or the forest professional who issues the certificate

- (a) is of the opinion that a forest stewardship plan or amendment to a forest stewardship plan conforms to section 5 of the *Act* in relation to the subject matter described in section 22.1 (2) of (the Forest Planning and Practices Regulation)
- (b) in forming that opinion, he or she took all steps required of him or her as a professional, and
- (c) the opinion referred to in paragraph (a) is based on either or both of the following:
  - (i) his or her own knowledge
  - (ii) information from credible sources;”

Section 22.1 of the *FPPR* describes the prescribed professional requirements. Per the prescribed subject matter under section 16(1.01) of the *FRPA*, it also lists the parts of the FSP that can be certified by one of the four listed professionals (providing they are authorized under their respective *Acts* to practise as a professional in relation to that part of the FSP). Professionals can certify that:

- the FSP map shows the boundaries of FDUs,
- results and/or strategies for visual quality are consistent with objectives (i.e., visual quality objectives carried forward under section 181 of the *FRPA*, objectives set by government for visual quality under section 9.2 of the *FPPR*, and visual quality objectives under section 17 of the Government Actions Regulation),
- FDU areas meet the requirements of section 14(1) of the *FPPR*—listing new and existing FDUs, *FRPA* section 196 areas and areas subject to the FPC requirements as specified in *FRPA* section 197(4), (5) and (7),
- elements that are required to be specified in an FDU are accurately identified (per section 14(3) of the *FPPR*) including ungulate winter range, wildlife habitat areas, fisheries sensitive watersheds, lakeshore management zones, scenic areas, class L1 lakes, community watersheds, old growth management areas, cutting permits, road permits and timber sale licences,
- the FSP accurately describes each area that is identified in it as a declared area,
- proposed measures will be effective for invasive plants and natural range barriers, and



- free-growing height is appropriate and sufficient to demonstrate that the tree has adapted to the site, is growing well and can reasonably be expected to continue to do so.

The DDM continues to be responsible for approving the entire plan and is required under section 16 (1.01) of the *FRPA* to ensure that the plan conforms to the content requirements for those items not certified by a qualified professional.

### **3.10.3.2 Professional certification certificate requirements**

Under section 16 (1.01) of the *FRPA* and section 22.1 of the FPPR, forest professionals and other specified resource professionals are allowed to certify, through the signing and sealing of a certificate, that specific portions of a FSP are in compliance with section 5 of the *FRPA*.

By certifying one or more of these elements of a plan, the professional is attesting that, in their opinion, these parts of the FSP conform to specific requirements as outlined in section 5 of the *FRPA* and section 22.1 of the FPPR, and thereby meet the approval tests specified for those elements. In forming that opinion, the professional must take all the steps necessary as a professional and be qualified and competent in the particular area being certified.

It is possible to have more than one certificate submitted with a FSP, each certified by a different qualified professional.

### **3.10.3.3 "Challenging" professional certification**

Under section 16(4) of the *FRPA*, the DDM can challenge a "certified" element, in the future, if information becomes available to indicate that the element is not consistent with content requirements of section 5 of the *FRPA*. In that case, and after providing an opportunity to be heard, the DDM can ask the agreement-holder to amend the plan.

**Note:** The agreement-holder must notify the DDM if they know that the "certified" elements in their FSP do not conform to the content requirements of section 5 of the *FRPA* (section 32.2 of the FPPR).

### **3.10.4 Incorporating interpretive provisions**

The FSP can incorporate interpretations provided these provisions do not change or limit the meaning of a provision contained in the *FRPA* or regulations. Interpretive provisions can increase certainty and clarity within the plan. It is recommended agreement-holders use terms in their FSP that are the same as any definition in the *FRPA* or FPPR. It is best



to use a different term if needed in the FSP rather than suggest an alternative definition to a defined term in the legislation.

Some examples of interpretive provisions are:

1. acronyms for terms used in the plan (including terms such as “FDU” means forest development unit’);
2. adopting a definition used in the legislation (e.g. “Act” means the *Forest and Range Practices Act*’);
3. including definitions in the results or strategies for terms that are used or defined in the practice requirement from which the holder is now exempt (e.g. if a result or strategy is being included for the soils objective, the holder will be exempt from section 35 of the FPPR and the definition of “sensitive soils” used there, so can propose an alternative definition, which will be subject to the approval tests).

Definitions in an FSP are subject to any applicable approval test and may not be accepted if they do not meet the approval tests. For example, if a definition applies to a result or strategy, the minister must assess whether or not the proposed result or strategy, given the application of the particular definition, is consistent with the relevant objective and is measurable or verifiable.

**Example:**

The relevant objective includes but does not define the phrase “sufficient habitat”. The FSP may specify:

“In the following result or strategy ‘sufficient habitat’ means 100 hectares of an area with a stand structure comprising well-developed crowns and small openings with a variable overstorey canopy that averages 50-90% closure”.

The minister must then determine if 100 hectares of this stand structure, in the context of the whole of the result or strategy, is consistent with the objective, including the overall determination made using natural meaning of the phrase “sufficient habitat”.

Approval of an FSP is an administrative, not a legislative, function. This means that the approval of an FSP **cannot** have the effect of directly or indirectly changing or limiting the *FRPA* or the FPPR.

**Example:**

An example of a direct change or limitation to a *FRPA* requirement in an FSP is:

“When market conditions are unfavourable for the products generated from our mill and the mill must shut down, the agreement-holder does not have to comply with the obligations in this FSP nor the requirements in *FRPA*”

This, of course, is not permissible in an FSP



### 3.10.5 *Altering commitments based on contemplated future events*

The FSP can contain a provision that provides for alterations of a commitment based on a contemplated future event. This is provided that the description of the future event is consistent with the legislative framework, and the alteration of the commitment meets the applicable approval criteria.

The use of specifying circumstances that will result in different commitments in the FSP being triggered is a very useful way of reducing the number of potential amendments.

**Examples:**

Future events that may trigger an alternative commitment and which are consistent with the legislative framework include:

1. **Action of government:** government taking a particular type of action that applies to the area (e.g. the objective to which the results or strategies relate is rescinded by government),
2. **Environmental event:** an environmental event occurring that applies to the area (e.g. if more than 40 percent of the mature timber in the riparian reserve zone being blown down, then....), and
3. **Plan holder specified impacts of result or strategy:** the implementation of the initial results or strategies has (or will have) a stated consequence (e.g. it is objectively determined that, if the initial results or strategies continue to be implemented, the effect will be to reduce the supply of timber in the area by an amount that exceeds the specified threshold).

The description of the future event must be clear and objective in other words not stated to rely on a person's opinion but rather stated as factual events. For example, describing the event as the holder's professional forester simply "determining that it would be appropriate", is not acceptable as it is not measurable or verifiable and therefore cannot be approved as part of the result or strategy approval test.

The new commitment (i.e. result, strategy, measure or stocking standard) that is to apply due to the occurrence of the future event must be able to meet the approval criteria that are applicable to that commitment.

### 3.10.6 *Consistency in an FSP*

#### 3.10.6.1 *Types of consistency*

Consistency comes into play in at least two ways under the *FRPA*. First, consistency of process is desirable from a professional standpoint for plan preparers and for those in government engaged in the review and approval of FSPs. Second, it is a legally required component of each FSP, forming part of the approval test.



Both of these facets are in keeping with the *FRPA* model, which places greater emphasis on professional reliance, and on achieving results and carrying out strategies consistent with government objectives.

### **3.10.6.2 Consistency of processes**

Consistent processes on the part of both government and industry are desirable because they should lead to quicker plan approvals.

Agreement-holders can achieve a measure of consistency by using processes and checklists that are provincial in scope. These should help identify the needs and actions required for FSP preparation and approval. Before a process becomes commonly accepted, it needs to be reviewed by practising professionals (and technicians) within the relevant field. The review should promote a common understanding of accepted practices within specific management areas.

For government's part, there needs to be a common understanding of how to engage agreement-holders and how to apply the legislation without fettering decision-makers. One of the aims of this Guide is to promote consistent processes across the Province for reviewing and approving FSPs.

The following may be helpful in promoting consistent processes:

- The risk graph shown in *Figure 8: Risk-based amount of support documentation required for approval of an FSP* in Part 5 of this Guide. This illustrates the level of potential supporting documentation that may be necessary, depending on the risk associated with a proposed result or strategy for the management of a particular value. By the general application of this table, agreement-holders and DDMs will be better able to determine the level of evidence required for a particular management value, and
- If available the OSBG Matrix example table, to identify all of the different components associated with each OSBG value. DDMs can use this as a checklist to communicate information needs to all agreement-holders. What is applicable to each agreement-holder may differ, depending on the particular area covered by the FSP.

### **3.10.6.3 Consistency within the FSP**

Consistency is required within an FSP in two main areas:

1. results and strategies must be consistent, to the prescribed extent, with objectives set by government, and
2. the FSP must be consistent with timber harvesting rights granted in the areas to which the FSP applies.



***1. Results and strategies must be consistent with government objectives***

Section 5(1.1) of the *FRPA* says that results and strategies must be consistent, to the prescribed extent, with objectives. Section 25.1(2) of the Forest Planning and Practices Regulation (FPPR) says that “to the prescribed extent” means “to the extent practicable,” taking into account the circumstances or conditions applicable to the relevant area or part of the FSP.

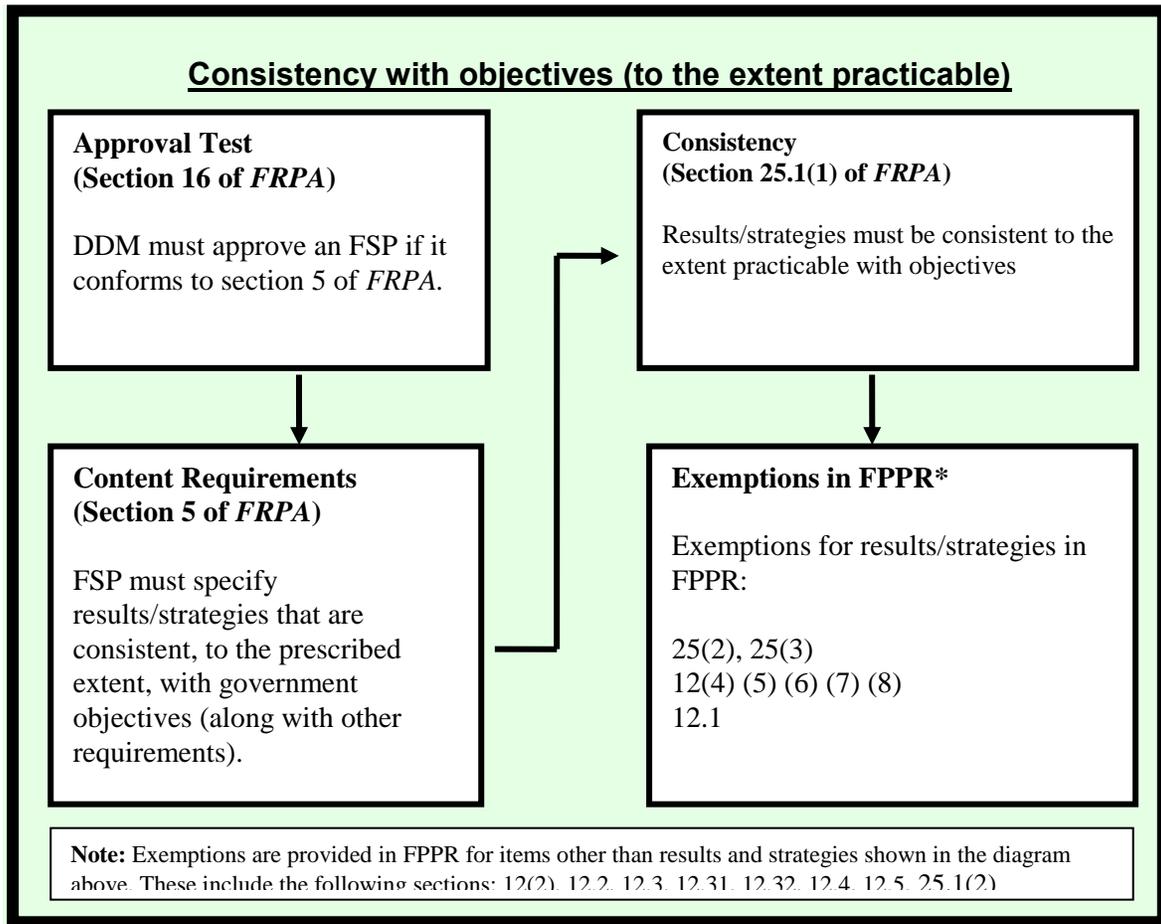
“Consistency” is not defined in the *FRPA* or its regulations, unlike the Forest Practices Code (in the Code, “consistent” was defined in the Operational and Site Planning Regulation as “not in material conflict”). In the absence of legislative definitions, we turn to dictionary definitions. The dictionary definition of “consistent” is “to be in agreement with”; “in harmony with”; or “compatible with”. (*Black's Law Dictionary*)

The dictionary definition of “practicable” is “that which may be done, practised, or accomplished”; “that which is feasible or performable in the circumstances”; or “that which is actually possible”. (*Black's Law Dictionary*). More information on the term “practicable” under the *FRPA* is available in the following *FRPA* bulletins available on the PFIT website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm):

- *FRPA* General Bulletin # 3: Use of the Term "Practicable" under the *Forest and Range Practices Act (FRPA)* and Regulations - June 10, 2005.
- *FRPA* Bulletin #12 - [Use of Practicable in Results or Strategies March 30, 2007](#)

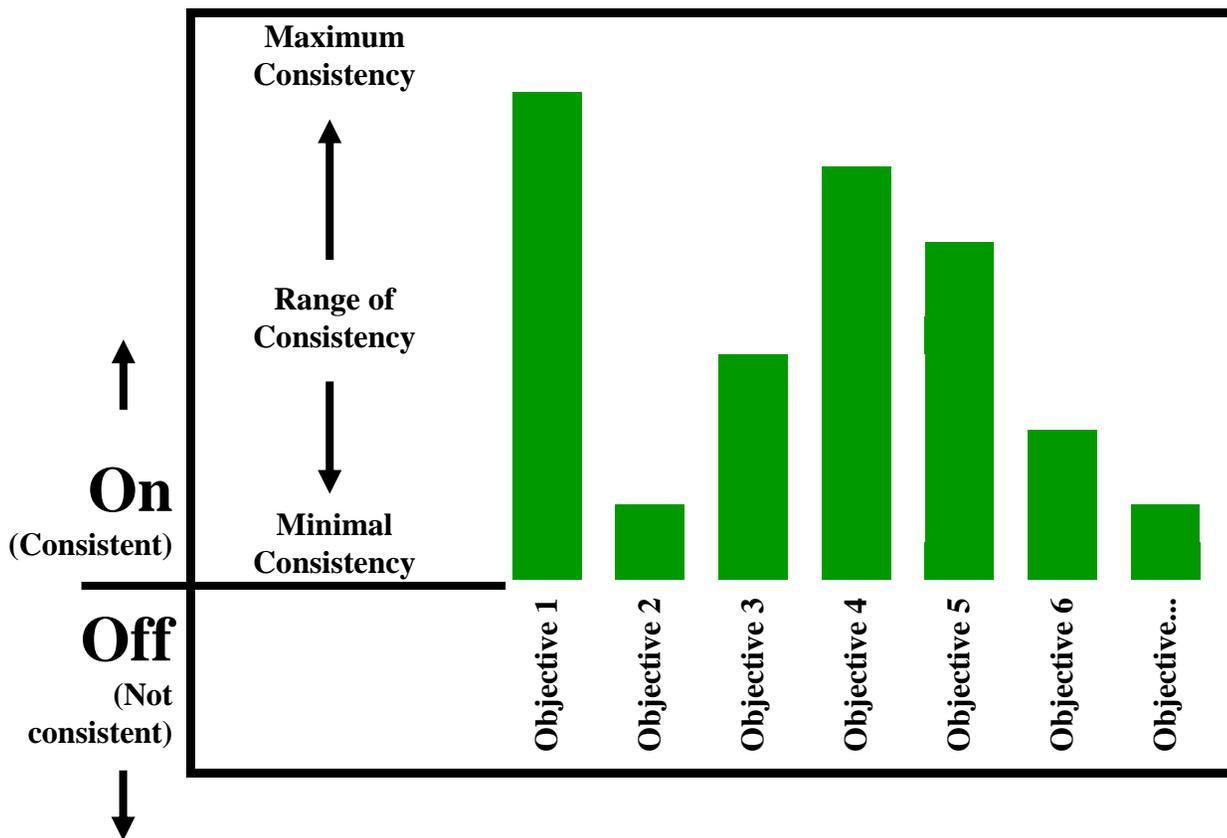
“Consistent to the extent practicable” can usefully be understood to mean compatible with to the extent feasible in the circumstances. Feasibility should take into account all considerations that apply to the area, including, but not limited to, reasonable commercial considerations.





**Range of Consistency (Objectives)**

Unlike the consistency test under *FRPA* prior to Bill 33, in which a result or strategy was either consistent or inconsistent with an objective, like an on/off switch, the consistency test now in *FRPA* is more like a dimmer switch that contemplates degrees of consistency depending on what is practicable in the circumstances. Results/strategies are not required to be fully consistent with objectives if the DDM is satisfied that it is not feasible in the circumstances. The DDM has to exercise his or her discretion regarding the appropriate amount of consistency between each result and strategy and each objective. The DDM will also need to determine what is reasonable in light of all the objectives (see section 5(1.1) of *FRPA* and this section (below) which deals with “The relationship of results and strategies to objectives”).



**Results and strategies**

As already noted, the terms “result” and “strategy” are defined in section 1 of the FPPR. Before agreement-holders, or DDMs, can begin to assess the consistency of results and strategies with objectives, they must ensure that the descriptions of these terms in the FSP meet the statutory definitions.

Each of these terms has a definition made up of two components:



- measurable or verifiable outcomes, steps or practices in respect of a particular established objective, and
- the situations or circumstances that determine where in a forest development unit (FDU) the outcomes, steps or practices will be applied.

The requirement that outcomes, steps or practices be measurable or verifiable ensures that results and strategies are enforceable. Verifiability is normally considered a *qualitative* measure, while measurability is usually considered a *quantitative* measure.

To assist in making a result or strategy verifiable, agreement-holders may include milestones, especially when long timeframes are involved, such as the establishment of a free-growing stand. This will allow Compliance and Enforcement personnel to evaluate the results and assess compliance with stated strategies.

The requirement to state the situations or circumstances where results and strategies will be applied also helps ensure enforceability.

#### *Consistency test*

As noted, the consistency test currently in use in the *FRPA* is more like a dimmer switch than an on/off switch: there are degrees of consistency. The goal and requirement is to achieve as much consistency as is feasible in the circumstances. The “to the extent practicable” test was *not* intended to allow approval of results and strategies that are inconsistent with objectives. The legislation is geared to achieving consistency with government objectives. The intent is to allow for some leeway, so that results and strategies that are not entirely consistent with objectives may still be approved, if it is simply not feasible in the circumstances to make them fully consistent.

If the DDM determines that it is not practicable given the circumstances or conditions to specify a result or strategy for a particular objective, section 12(7) of the *FPPR* *requires* the DDM to exempt the agreement-holder from having to do so.

There is also an exception noted in section 25.1(2) of the *FPPR* which provides that if an objective is made up of measurable or verifiable steps, processes or outcomes, and an intended result or strategy specified in the FSP restates the same measurable or verifiable steps, processes or outcomes and describes the circumstances in which those are to be achieved or carried out, then the result or strategy is considered to be consistent to the extent practicable. This means that, for the purposes of the objective in question, the consistency test is automatically met.

When determining whether the results and strategies in an FSP are consistent to the extent practicable with objectives, a DDM must consider all of the relevant supporting information submitted by the agreement-holder, and may wish to consider:

- the best management practices that have historically been used in the area,
- successes elsewhere with similar results or strategies, and



- whether or not the agreement-holder has used Forest Planning and Practices Regulation (FPPR) Schedule factors.

DDM's discretion may be informed by these things, along with any other information that is relevant to their determination; but they should not be limited by them. Section 25(1) of the FPPR specifically provides that a result or a strategy is not *inconsistent* with an established objective *only* because it:

- “is capable of producing a condition outside the range of natural variation characteristic of a season, an area or a forest resource,”
- “proposes an innovative means of addressing the established objective,” or
- “is based on a factor other than one specified in the Schedule.”

*The relationship of results and strategies to objectives*

Section 5(1)(b) of the *FRPA* says that an FSP must specify intended results or strategies, each in relation to:

- i) objectives set by government, and
- ii) other objectives that are established under the *FRPA* or its regulations and which pertain to all or part of the area that is subject to the plan.

“Objectives set by government” are defined in section 1(1) of the *FRPA* as:

- (a) objectives prescribed under section 149(1) of the *FRPA* [which are found in sections 5 to 10 of the FPPR], or
- (b) under section 93.4 of the *Land Act* by the Minister responsible for the administration of the *Land Act*.

“Other objectives that are established under the *FRPA* or its regulations” include objectives continued under the Code pursuant to sections 180 and 181 of the *FRPA*, objectives established under the Government Actions Regulation (GAR), and objectives established under specific sections of the *FRPA*, such as section 56(3), section 149.1(1), sections 150(1)(a)(ii), section 150.1(1)(b), section 150.2(1)(b), and section 150.3(1)(b).

Accordingly, section 5(1)(b) requires that, unless otherwise exempted, a result or strategy must be specified for every relevant objective – for each objective set by government and for each objective that pertains to all or part of the area subject to the plan. This establishes a one-to-one relationship between results and strategies and objectives. This does not necessarily mean that each objective must have its own unique result or strategy. It may be possible for a result or strategy to speak to more than one objective.

Section 5(1.1) of the *FRPA* then says that the results and strategies must be consistent to the prescribed extent with the objectives in section 5(1)(b). Section 5(1.1) requires that each result and strategy must be consistent, to the extent practicable, not just with the objective to which it specifically relates, but to all of the other objectives as well.



*Relative importance of objectives*

Although there is no single hierarchy of objectives in the *FRPA* to identify which objectives are more important, sections 12(5) and (6) of the FPPR state that when two or more objectives are applicable to a common area and the same (or similar) subject matter, the DDM may exempt the plan preparer from specifying a result or strategy for all but one of the established objectives. In that case, the DDM must exempt the plan preparer from specifying a result or strategy for the following kinds of objectives in the following order with the land-use objective being the most important:

1. an objective established under the Government Actions Regulation (GAR),
2. an objective established in sections 5 to 10 of the FPPR, and
3. a land-use objective.

Another hierarchy between objectives is set out in section 149(2) of the *FRPA*. It applies when there is an inconsistency between an objective established by sections 5 to 10 of the FPPR and an objective established under section 93.4 of the *Land Act* by the Minister responsible for the administration of the *Land Act*. In that case, the latter kind of objective prevails, to the extent of the inconsistency.

Under section 27 of the FPPR, the **DDM may balance established objectives**, results, strategies or other plan content when he or she is making an approval determination under section 16, if he or she is asked to do so by the agreement-holder. Balancing cannot override the consistency test, but the DDM may use it when considering consistency between results/strategies and objectives.

More information on balancing objectives can be found in Part 5 of this Guide under Approving Results and Strategies.

*Requesting information*

Section 16(2.1) of the *FRPA* states that, except in prescribed circumstances, before approving a plan or amendment, the minister may require the holder of a proposed plan or amendment to submit information that the minister reasonably requires to determine if the proposed plan or amendment conforms to subsection 16(1). This power is limited by the “prescribed circumstances” set out in section 24(2) of the FPPR and by the administrative law requirement of reasonableness.

Section 24(2) of the FPPR is limited to information requests concerning results and strategies. This section states that a DDM can only request information about results and strategies if the information is:

- relevant to the factors addressed by the agreement-holder in the FSP, and
- available to the agreement-holder or in their control or possession (which means that the DDM cannot ask an agreement-holder to embark on a study, for example, because that information is not currently available to the agreement-holder).

Section 24(1) also deals only with the results and strategies. The subsection states that if all of the Schedule factors have been addressed (with respect to a particular objective),



the DDM cannot require the agreement-holder to address other (non-Schedule) factors. This implies that if one or more of the Schedule factors have *not* been addressed, the DDM can require the agreement-holder to address those factors. Reasonableness would demand a sound rationale, focussed on the consistency test, before requiring an agreement-holder to address Schedule factors that were not included in the FSP.

The question of what are appropriate factors for developing a result or strategy for a particular value may be a good topic of discussion at any pre-FSP information sharing meeting or in communication with agreement-holders. Care must be taken, however, not to constrain plan preparers in the kinds of designs they wish to prepare. *FRPA* is intended, in part, to facilitate innovation and the freedom of agreement-holders to manage. To assist government reviewers and DDMs in their consideration of alternative, or unusual, results and strategies, submitters can support their plans with rationales that demonstrate scientific and technical soundness of their choices. Such rationales may include reference to: independent published research, internal monitoring data, advice from independent specialists, and any other supporting information.

## 2. Consistency with harvest rights

Section 5(2) of the *FRPA* provides that an FSP must be consistent with timber harvesting rights granted by the government for any of the following to which the plan applies:

- a timber supply area
- a community forest agreement area
- a tree farm licence area, and/or
- a pulpwood area.

Consistency in section 5(2) does not mean “to the extent practicable.” It more closely follows the dictionary meanings: to be in harmony with, in agreement with, compatible with, and not contradictory to.

Section 5(2) requires that the entire FSP be consistent with the timber harvesting rights noted above. “Timber harvesting rights” are not defined in the *FRPA*. Accordingly,

**Note:**

**How would you propose and review results/strategies for consistency with objectives in situations where objectives may conflict or not be consistent (e.g., for safety and visual quality)?** For example, an agreement-holder is harvesting an area impacted by beetle infestations. It is close to a public area and the agreement-holder wants to remove slash and trees to minimize the fire hazard to the local community. However, the cut block will be more visible if all timber and slash is removed—impacting visual quality objectives.

The plan preparer will need to consider a wider range of solutions in defining results/strategies that are practicable and consistent with all the objectives. The results/strategies proposed to be consistent with objectives are like a series of dimmer switchers (see illustration below)—some results/strategies are more “on” than others in order for all objectives to be consistent. Switches cannot be “off” (e.g., not consistent with objectives).

In this circumstance, these options could be highlighted during the public review and comment stage to solicit input on what might be acceptable. This could be “incorporated” into the FSP regarding a strategy or result for these types of areas.



timber harvesting rights means any and all rights arising from licence agreements, permits, or approved operational plans are likely included.

### **3.10.7      *Declaring areas***

*FRPA* carries forward the concept of full planning protection where an agreement-holder has made stand level investments with the concept of a “declared area”. The provisions and requirements for declared areas are covered under section 14(4) of the *FPPR*, which states that:

*“A person who prepares an FSP may identify an area as a declared area if, on the date that the area is identified, **both** of the following apply:*

- *the area is located in an FDU that is in effect, an*
- *all of the activities and evaluations that are necessary in relation to inclusion of cut blocks and roads in the area have been completed.”*

Note that **both** of the provisions must be in place before an area can be declared.

An approved FSP must be in place before you can declare areas, however a declared area does not need to be in place prior to issuing a CP, RP or TSL. Areas that meet the declared area definition are amended into the approved FSP and do not require Delegated Decision Maker (DDM) approval in doing so.

More information on declaring areas is contained in Volume II of the AGFSP, additionally, the ABCFP provides *Professional Reliance Principles for FRPA Operational Plans and Declaration (2007)* at [http://www.abccfp.ca/regulating\\_the\\_profession/documents/guideline\\_FRPA%20OpPlansandDecs\(2007\).pdf](http://www.abccfp.ca/regulating_the_profession/documents/guideline_FRPA%20OpPlansandDecs(2007).pdf).

### **3.10.8      *Protection of areas: moving to the next plan***

When a current FSP in effect comes to the end of its term and a replacement is submitted to the DDM for approval, protection from mandatory amendments or changes to approved cutting permits, road permits, and FDUs is addressed by sections 7 and 19 of the *FRPA*. These sections say that, if an approved cutting authority (i.e., a cutting permit or a road permit) has been issued prior to the end of the term of the current FSP, these areas have full protection and remain valid after the end of the term of the current FSP. They also are not subject to any further review under the public review and comment provisions for the new proposed plan. Nor are they subject to mandatory amendments under section 8 of the *FRPA*.

For FDU areas not subject to a cutting or road permit, this protection is limited. Section 7(1.1) of the *FRPA* outlines the limits of this protection.



### 3.10.9 Limited planning protection

Parts of an approved FSP that pertain to a Forest Development Unit (FDU) in the approved plan are not subject to the application of the plan approval tests when a subsequent FSP is submitted for approval, subject to the occurrence of certain events within a specified time period (section 7(1)(b) of the *FRPA* and section 23 of the *FPPR*).

Under section 7(1.1) of the *FRPA*, a proposed FSP must be considered to have the Minister's approval for the parts of the FSP that pertain to a Forest Development Unit (FDU) in an approved FSP that is in effect on the date the proposed FSP is submitted for approval – unless one or more of the following events are applicable to the FDU and the FDU is considered by the Minister to be inconsistent with the event (e.g., the following events may cause parts of a previously approved plan that pertain to a FDU to go back through the approval process).

Event Applicable to FDU	Limited protection is turned off if event is:
New or amended enactment	Within specified period*
An objective set by government is established, varied or cancelled	Within specified period*
An objective by order under <i>FRPA</i> or the regulation (e.g., GAR) is established, varied or cancelled for: <ul style="list-style-type: none"> <li>• wildlife habitat areas</li> <li>• water quality</li> <li>• fisheries sensitive watersheds</li> </ul>	Within specified period* Within specified period* Within specified period*
A community watershed designation in or adjacent to the FDU is added, varied or cancelled by order	Within specified period*
Timber in the vicinity of the FDU has suffered catastrophic damage	Within specified period*
*□ The specified period within which the specified event has to have occurred in order to turn off limited protection: <ul style="list-style-type: none"> <li>▪ <b>begins</b> – four months before the date the existing plan is submitted for approval; and</li> <li>▪ <b>ends</b> – four months before the date the proposed plan is submitted for approval</li> </ul>	

**NOTE:**

The events listed below were subject to the limited protection provisions until December 31, 2005. As this date has past, the limited protection provisions no longer apply. The events are as follows:

- An objective by order under *FRPA* or the regulation (e.g., GAR) for:
  - interpretive forest sites, recreation sites or recreation trails under *FRPA* s.56(3),
  - ungulate winter range,
  - lakeshore management zones, and
  - visual quality.



Even if these areas are considered approved in the new FSP, under section 196(2) of the *FRPA*, the agreement-holder should not assume that protection will apply. If the agreement-holder wants full planning protection under a declared area, the agreement-holder will have to complete all of the assessments on these areas, to comply with the requirements to be called a declared area. The agreement-holder will also have to amend the current approved plan to show the areas as declared areas (no approval is required for this amendment) or obtain a cutting authority (cutting permit/road permit) for the area (subject to the normal requirements for a cutting authority).

NOTE: as with cut blocks specified under section 196(1) of the *Act* (full protection), the agreement-holder must specify the cut blocks under section 196(2) of the *Act* in order for the DDM to determine if or where the protection provisions apply when making a determination under Section 16 of the *Act*.

### **3.10.10 Requesting proportional targets**

Section 19 of the FPPR states that an agreement-holder may request the DDM to act under section 9 of the *FRPA* and establish targets referred to in that section, if, where there are likely to be multiple FSPs within an area:

- a) one or more agreement-holders may be unduly constrained in specifying results or strategies in the holder's plan unless targets are established under section 9 of the *Act*,
- b) the agreement-holders within the area are unable to reach an agreement that would remove the constraints referred to in paragraph (a),
- c) an agreement-holder subject to a constraint referred to in paragraph (a) requests the minister to act under section 9 of the *Act*, and
- d) the minister is satisfied that a fair and effective order can be made under this section.

When requesting proportional targets, FSP preparers must show that, without targets, their ability to specify results, strategies or legal rights under their licence document may be unreasonably affected by the activities or FSPs of other agreement-holders. They must also identify, to the DDM, the efforts made to reach an agreement with other agreement-holders. Options to resolve the issue include the coordinated development of FSPs, the development of joint FSPs by a number of agreement-holders and/or the setting of voluntary targets by the agreement-holders themselves. More information on the opportunities and options to facilitate cooperative planning under *FRPA* can be found in the *FRPA* General Bulletin # 16 (Promoting Co-operative Planning under *FRPA*). This bulletin can be found on the PFIT website at:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).



Agreement-holders should keep track of the cumulative volume of proposed and past FDU activities in case they may need to make a request for the DDM to set these proportional targets.

In summary, the important points here are that:

- the agreement-holder has to make efforts to resolve problems with other agreement-holders before requesting an action,
- failing resolution, the agreement-holder has to request an action, and
- the DDM has to be satisfied that he or she can make a decision that will be fair and equitable.

Note: The order in which FSPs are submitted, or the size and capacity of the agreement-holder does not matter.

The *FRPA* Administrative Bulletin # 7, available on the PFIT website: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm) contains advice and considerations for FSP preparers and DDMs when requesting and setting proportional targets.

### **3.10.11 Required referrals to other governmental agencies**

Under section 21(1) of the Forest Planning and Practices Regulation (FPPR), the minister may require the agreement-holder who is preparing the plan, and who publishes a notice in a newspaper stating that the plan is available for public review, to send a copy of the FSP, or a portion of it, to another agency of government. This includes DFO and WCB. Any written comment received back from these required referrals must be addressed by the agreement-holder, in accordance with the requirements of the regulation.

### **3.10.12 WCB and FSPs**

Under section 2(3) of the FPPR, to allow a person to conform to the *Workers Compensation Act* and regulations, a person preparing an FSP is exempt, as necessary, from a requirement of Parts 4 and 5 of the FPPR and any obligation under sections 21, 29, 47 or 48 of the *FRPA*. The new ABCFP standard of practice for safety, in Bylaw 12.7, identifies the expectation that forest professionals will include consideration for safety in their professional work.

[http://www.abcfp.ca/regulating\\_the\\_profession/bylaws/documents/bylaws.pdf](http://www.abcfp.ca/regulating_the_profession/bylaws/documents/bylaws.pdf)

### **3.10.13 The relationship of non-timber forest products (NTFPs) to an FSP**



Non-timber forest products (NTFPs) are also known as non-wood forest products and botanical forest products, and include all of the human-exploited botanical and mycological species of the forest other than timber, pulpwood or shakes. Examples include medicinal and herbal plants and mushrooms, floral greenery, wild foods, art and craft products, pharmaceuticals, biocides, anti-phytovirals, landscaping plants, and other plant products.

Unless there is an objective in a higher-level plan – from where these objectives would normally originate – there is no legal requirement to include results and strategies in an FSP to manage any NTFPs. In most cases, where these objectives do exist, the NTFP sector is not often in a position to work with forest companies on management strategies, because the sector lacks property rights and legal authority to invest in resource stewardship. Even if the agreement-holder wanted to put a statement into the FSP about NTFPs, this lack of knowledge makes it a difficult task. First Nations have long been concerned about the effects of forest practices on non-timber species, which may have to be addressed under cultural heritage resource objectives. First Nations are also concerned about the unregulated growth of the commercial NTFP sector, which may exacerbate existing concerns about the sustainability of understorey species that generally make up the bulk of the NTFPs currently being utilized.

#### **3.10.14 Overlooked objectives for FRPA values**

If any established objective for a *FRPA* value was overlooked during the development and approval of the FSP, the following options are available to ensure the *FRPA* values applicable to the plan area are adequately managed, protected or conserved:

- Voluntary amendment by agreement-holder—if the agreement-holder identifies the oversight, they can prepare and submit an amendment, requiring approval, to the DDM to address the objective in question;
- Voluntary amendment request by DDM –if the DDM identifies the oversight, they can notify the agreement-holder and discuss the option of a voluntary amendment by the agreement-holder to address the objective in question; or
- Professional reliance—once the professional(s) who prepared the plan is aware of the oversight, they can take responsibility for protecting, managing or conserving the corresponding *FRPA* value. This could result in the professional adjusting the corresponding harvesting, road construction, silviculture activities to address the oversight. Failure of a professional to manage appropriately for a known oversight in the FSP may be an issue to take forward to the professional association(s) (e.g., if a professional continues to follow a result/strategy that is known to not be consistent with an established government objective).



**3.10.15 Who is responsible for signing-off on the FSP?**

Who will be signing the FSP should be clarified at an early meeting between the MFR and the agreement-holder. Under section 5(3) of *FRPA*:

*“A forest stewardship plan or an amendment to a forest stewardship plan must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.”*

Sign-off by professionals is not prescribed in the *FRPA*. Agreement-holders are free to engage the expertise they require to produce the FSP submission. When an agreement-holder is advertising the plan, they must name the contact person. Neither the company seal nor an authorizing signature is necessary on the proposed FSP before taking it to public review.

However, an FSP is a professional document under the *Foresters Act*, so it must be signed and sealed by a forest professional. An FSP submitted for approval without a Registered Professional Forester's (RPF's) signature and seal must still be approved if it conforms with section 5 of the *FRPA*, but consideration should be given to notifying both the professional and agreement-holder, and the ABCFP, of suspected non-compliance with the *Foresters Act*.



## 4 Review and comment requirements for a proposed FSP

### 4.1 What are considerations for Public review and comment?

#### 4.1.1 Public review: providing for effective input into the FSP

Before a new FSP is submitted to the minister for approval, an agreement-holder must provide an adequate opportunity for review and comment on the forest development activities they are proposing in the FSP. Adequateness regarding the scope and appropriateness of the review and comment activities must be addressed by the agreement-holder before submitting the proposed FSP to the DDM.

To comply with the prescribed public review and comment requirements, agreement-holders must:

- make reasonable efforts to meet with First Nations groups affected by the plan,
- publish a notice and provide copies of the notice in the FSP submission package,
- refer to government agencies if the DDM has required it,
- provide interested persons with an opportunity to review the FSP,
- provide copies of written comments received,
- consider any written comments relevant to the FSP,
- provide a description of any changes made to the FSP as a result of the comments received,
- provide an opportunity for people whose rights may be affected by the FSP to review the FSP in a manner commensurate with the nature and extent to which those rights may be affected, and
- provide a description of the efforts made to provide those whose rights may be affected by the FSP with an opportunity to review the plan.

How could you provide opportunities for holders of water rights to review an FSP? There could be many people who should be given an opportunity to review the plan – some belonging to associations and some not. Factors to consider include the following:

- Is it commensurate with rights to send (refer) the complete plan to all water rights holders?
- Is it enough to just consult with the associations representing the majority of water rights holders?
- Would a notice in local paper advertising the plan available for review and comment be enough for contacting the water rights holders that are not part of an association?
- Could you create an information package (summary of plan) and send to all water rights holders and invite comments?

Is there anything that could be done as part of the plan preparation stage to mitigate this situation (e.g., advertise and hold a meeting with water rights holders to solicit their input before preparing the plan—making the process easier downstream)?



Beyond the legal requirements for providing for public review and comment, there are other opportunities that an agreement-holder may consider, such as utilizing their local public advisory committee(s) to review planning details on the FDU areas.

#### ***4.1.2 Public review and comment period***

Section 20(1) of the Forest Planning and Practices Regulation (FPPR) stipulates that before a person submits a new FSP or an amendment to an existing FSP to the minister for approval, that person must publish a notice in a newspaper stating:

- that the plan or amendment is publicly available for review and written comment, at the person's place of business or specified other venue,
- that people may attend at that place during business hours to review the plan or amendment, and
- the address of the person proposing the plan or amendment, where people may submit written comments by mail or in person.

The normal public review period is 60 days, but under some conditions, the minister<sup>9</sup> or the agreement-holder may decide that a different period will apply—for example (FPPR s.20):

- a period longer than 60 days if the minister determines necessary to provide adequate opportunity for review and comment,
- a period shorter than 60 days if the minister considers that the lesser number of days will provide an adequate opportunity for review and comment, or
- 10 days after the notice is published if the timber under the plan area:
  - i) is dead, infested with pests or otherwise damaged, or is required to be harvested to facilitate the removal of dead, infested or damaged timber, and
  - ii) must be harvested expeditiously to prevent the spread of pests or a significant reduction in the economic value of the timber.

The decision about the use of the 10-day timeframe is the responsibility of the person preparing the plan, *not* the minister.

#### ***4.1.3 Exemptions from publishing a notice***

By order, the minister may grant an exemption from the requirement to publish a notice under 20(1) to a person who proposes an FSP or an amendment to an FSP.

If the minister makes an order and the FSP or amendment is approved, the person exempted under the order must publish in a newspaper a notice specifying:

- a) that the FSP or the amendment has been approved without having been made publicly available for review and comment, and

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<sup>9</sup> The authority to make a determination under this section has been delegated to the district manager where the minister is cited in the legislation.



- b) the date on which operations under the plan are authorized to begin.

**Note:** The authority to make an order under this section has been delegated to the district manager and the regional staff manager.

Despite section 20(1), a person who proposes an amendment to an FSP in respect of section 16 (change in stocking standards) is not required to publish a notice in a newspaper.

#### ***4.1.4 FSP exemption from public review***

In section 20(5) of the Forest Planning and Practices Regulation (FPPR), there are circumstances under which an agreement-holder is not required to make an FSP available for review and comment. Examples include amendments that do not require DDM approval, and activities exempted from the preparation of an FSP.

#### ***4.1.5 Expectations of interest groups or individuals about input into the FSP***

Given that the provincial government has been one of the lead agencies in soliciting public input in the past, the DDM will probably receive a lot of inquiries about the public's role and opportunities to provide input into FSPs. The DDM should explain that the agreement-holder preparing the FSP is responsible for soliciting input on the FSP. The DDM should also encourage individuals and interest groups to provide informative, constructive advice and recommendations to the agreement-holder within the agreement-holder's public review and comment process. The agreement-holder can then take appropriate action, within their FSP, to address any concerns identified.

The ABCFP provides guidance relating to expectations of the public in its guidance document: *Guidance for Managing Non-Statutory Expectations in Forest Practices* (2009). It is available on the ABCFP website at [http://www.abcfp.ca/regulating\\_the\\_profession/documents/Non-Stat\\_Expectations.pdf](http://www.abcfp.ca/regulating_the_profession/documents/Non-Stat_Expectations.pdf)

#### ***4.1.6 Confidentiality of comments***

Ministry of Forests and Range freedom of information and protection of privacy policy includes criteria for confidentiality which should be followed. In preparing an FSP, the agreement-holder should ensure that all groups that have reviewed and commented on the proposed FSP understand the government's policy on the right of the public to access any comments they have made. All written comments must be included in an FSP submission, but the agreement-holder may wish to separate the names of those commenting from the comments themselves. This is perfectly acceptable if



confidentiality is required. They can do this by filing the original correspondence on a separate, secure file and keeping all edited comments (i.e., without names) on the main file, either as part of a global document created to track all comments, or as individual original documents with any names removed.

#### ***4.1.7 Agreement-holders' responsibilities in responding to comments***

Section 22 of the FPPR requires that the agreement-holder must consider any written comments received that are relevant to the plan. This includes comments on new FDU's, amendments that require approval, or, to the extent that section 7(1.1) applies, to cut blocks with limited protection carried over from an existing FDU or an expiring FSP. Cut blocks that have been afforded full protection (FRPA section 196(1)) are not subject to any additional requirements for public review and agreement-holders do not need to consider any comments received related to these items.

Section 22 of the FPPR requires agreement-holders to submit, with their proposed FSP, a copy of the notice published, a copy of each written comment received and a description of any changes made to the plan to address the comments received. The agreement-holder must also submit a description of the efforts made to comply with the review and comment requirements.

#### ***4.1.8 Late comments***

For the purposes of this section, "late comments" are those received after the public review and comment period has passed.

There is no requirement in *FRPA* or the FPPR for the agreement-holder to consider or incorporate comments received after the public review and comment period has passed; however the agreement-holder may do so voluntarily. In these circumstances, professional responsibility of the plan preparer in particular, and/or due diligence may come into play. Regardless of what the agreement-holder chooses to do, it is open to the DDM to consider these comments as part of the overall information at his or her disposal when reviewing the FSP or amendment for approval.

There are several types of late comments:

- *Comments received after the end of the formal review and comment period but prior to the plan being submitted to the DDM:* These comments might have been submitted to the agreement-holder, or to the district (not through any formal process under the *FRPA*, but possibly as a holdover from the way FDP comments were sent to the district under the Forest Practices Code). If comments are received by the district, they should be forwarded to the agreement-holder for consideration. The agreement-holder may voluntarily consider comments received after the formal review and comment period.



- *Comments received after the plan has been submitted to the DDM but prior to approval:* In this situation, the agreement-holder has no legal obligation to consider the comments or incorporate them into the FSP or amendment. However, as noted above, the agreement-holder may choose to do so voluntarily. Regardless of what the agreement-holder chooses to do, it is open to the DDM to consider these comments as part of the overall information at his or her disposal when reviewing the FSP or amendment for approval.
- *Comments received after the plan has been approved by the DDM:* At this point it is too late for the DDM to consider the comments. However, the plan preparer's professional responsibilities may require him or her to determine what impact this type of comment may have on the approved plan. The agreement-holder may table the comments for incorporation into the next plan, or develop an amendment for submission to the DDM.

#### **4.1.9 Consultation “commensurate with rights”**

Section 21(1)(c) of the Forest Planning and Practices Regulation (FPPR) requires that the plan preparer provide a person whose rights may be affected by the plan with an opportunity to review the plan in a manner that is commensurate with the nature and extent to which the person's rights may be affected. NOTE: This is separate and should not be confused with the requirement to consult with First Nations.

There is no clear direction in legislation to measure what constitutes adequate consultation “commensurate with rights”. The plan preparer needs to turn their mind to who has legal rights granted by the Crown in the area covered by the plan and how to consult with them to meet the FPPR requirements.

Tenure holders with rights granted by the Crown, over which a Forest Stewardship Plan is proposed, are due some attention beyond that of the common public, or stakeholders without tenured rights. The specific efforts made to notify other tenure holders about the FSP, and the changes, if any, made to the FSP as a result of written comments received, should be submitted to the DDM with the formal submission of the FSP for the DDM's consideration as to whether adequate public consultation has been completed.



## 4.2 What are considerations for First Nations consultation?

### 4.2.1 Policy framework

The Ministry of Forests and Range “Aboriginal Rights and Title Policy” and associated Consultation Guidelines provide Ministry staff with guidance when making statutory decisions that may affect aboriginal interests (asserted aboriginal rights and title). Other advice and guidance provided in the document titled “Gitanyow and Klahoose Court Decisions, Implications and Advice to MFR staff” will be distributed to staff regarding recent court decisions and First Nation consultation requirements. The policy and guidelines can be viewed at the following website:

[http://www.for.gov.bc.ca/haa/policies\\_reports.htm](http://www.for.gov.bc.ca/haa/policies_reports.htm). The policy and guidance documents should be considered when making a decision on the adequacy of First Nations consultation prior to making a decision on an operational plan - or plan amendment, or harvesting or road development authority issuance.

**Agreement-holders** have obligations in legislation and regulation that call for development of results or strategies, consistent with objectives set by government for cultural heritage resources (CHR), and to make reasonable efforts to meet and share information with First Nations about proposed FSPs in accordance with the review and comment provisions.

**Government** has an obligation to ensure that First Nations have been adequately consulted regarding proposed forest and range decisions and, where appropriate, accommodated for potential impacts on aboriginal interests by forest and range activities including FSPs. Steps taken by the agreement-holder to meet their legislated obligations will be considered by the Delegated Decision Maker (DDM) prior to making a FSP determination.

Accommodation may include:

- i. economic benefits that address the economic component of an aboriginal interest, such as those in a Forest and Range Agreement, or
- ii. non-economic adjustments or compromises such as changes to proposed forest activities or conditions on those activities that serve to recognize aboriginal cultural interests.

Prior to making a determination with respect to a FSP, or FSP amendment, the DDM must consider two things.

4. Does the plan, or plan amendment, fulfil the legislated requirements?
5. Has the First Nation consultation process, including appropriate accommodation, been adequate?

Prior to information sharing and consultation beginning with a First Nation, the district should undertake a general preliminary assessment of the strength of aboriginal interests



and the potential impact the proposed FSP decision may have on those interests, to determine the appropriate depth of consultation that should be engaged in for the circumstances. A preliminary assessment involves a review of existing information about aboriginal interests, including information previously made available by the First Nation during consultation, or information provided as part of research materials (e.g. traditional use studies, past anthropological reports, or ethno-historic studies). The use of information previously made available should be documented in the decision process and rationale. (For further information regarding preliminary assessments please see “Gitanyow and Klahoose Court Decisions, Implications and Advice to MFR staff”).

Where possible and appropriate, a meeting with the proponent to discuss the general preliminary assessment should occur prior to starting the information sharing and consultation process. Note that not all information (such as TUS) can be physically provided to the proponent due to confidentiality issues however, general indications and findings can be verbally shared to ensure a consistent understanding with respect to the appropriate level of consultation and what interests, issues, and concerns the proponent should be aware of when undertaking information sharing with the First Nation. As well, discussions should include possible timeframes for further communication while information sharing and consultation is occurring in order to touch base and address issues that may arise including possible accommodation options.

It is recommended that the district share the findings of the preliminary assessment with the First Nation. This may either be accomplished in person where the First Nation agrees to meet as part of the consultation process or through correspondence in circumstances where the First Nation refuses to meet. When sharing this information with the First Nation, it is recommended that staff focus on the potential impact the proposed decision may have on those activities the First Nation may be practicing in the area potentially impacted, including the depth of the consultation considered appropriate for the proposed decision.

If the DDM determines that further consultation and/or accommodation is required, the DDM may be unable to approve a FSP until such time as those obligations are considered to have been adequately addressed.

It is important to note that the need for further consultation with the First Nation prior to issuing a development authority (CP/RP/TSL) should not, in itself, prevent approval of a FSP. More information on consultation with First Nations in the post-FSP approval phase is found in Volume II of the AGFSP.

There are few detailed operational information requirements in a FSP. Therefore, situations will likely arise where a First Nation seeks further relevant site-specific information throughout the planning process following the FSP approval, and prior to development authority (CP/RP/TSL) issuance.



### ***4.2.2 Consultation Process***

The First Nations consultation process must consider:

6. the degree to which the First Nation likely has aboriginal interests within the area being impacted by the decision,
7. the degree to which the proposed plan impacts the land base, and therefore, the degree to which those identified aboriginal interests may be impacted by the proposed plan activities.

The consultation process requires the participation of the First Nation and the proponent, through the sharing of information, along with government in order to be as productive and informative as possible. Information regarding the nature and scope of the aboriginal interest(s) and how these interest(s) may be impacted by the FSP should be provided by the First Nation. There is a legal onus on First Nations to respond to consultation efforts and to be specific about both the nature and scope of the claimed aboriginal interests in the FSP, as well as the nature of any impacts that they foresee occurring as a result of the forest development.

The consultation process also requires the ministry to share accommodation options with the First Nation (where accommodation is deemed necessary) and to provide the First Nation with an opportunity to discuss possible options and express their views prior to a decision being made.

The MFR should strive to facilitate the sharing of information that may assist agreement-holders in the development of CHR objective results or strategies.

The FSP consultation process map shown below describes the consultation process for both the agreement-holder and the MFR in the development and approval of an FSP. This map is designed to assist in applying a consistent, province wide, approach to First Nations consultation during the FSP process. The process map below needs some revision – MFR and proponent meet to discuss information including preliminary assessment. MFR sends letter to FN setting out preliminary assessment and/or offering to meet to discuss the preliminary assessment. MFR sends letter to FN regarding how interests and concerns may be addressed/accommodation options, offers to meet to discuss and FN's views regarding possible accommodation requirements.

#### **4.2.2.1 First Nations Information Sharing Bulletin**

To create consistency in the approach to FSPs, a First Nations Information Sharing Bulletin was drafted by a group of Ministry of Forests and forest industry representatives. The Bulletin provides a task list that sets out the roles and responsibilities (for industry or MFR) regarding the FSP development and approval process and First Nation



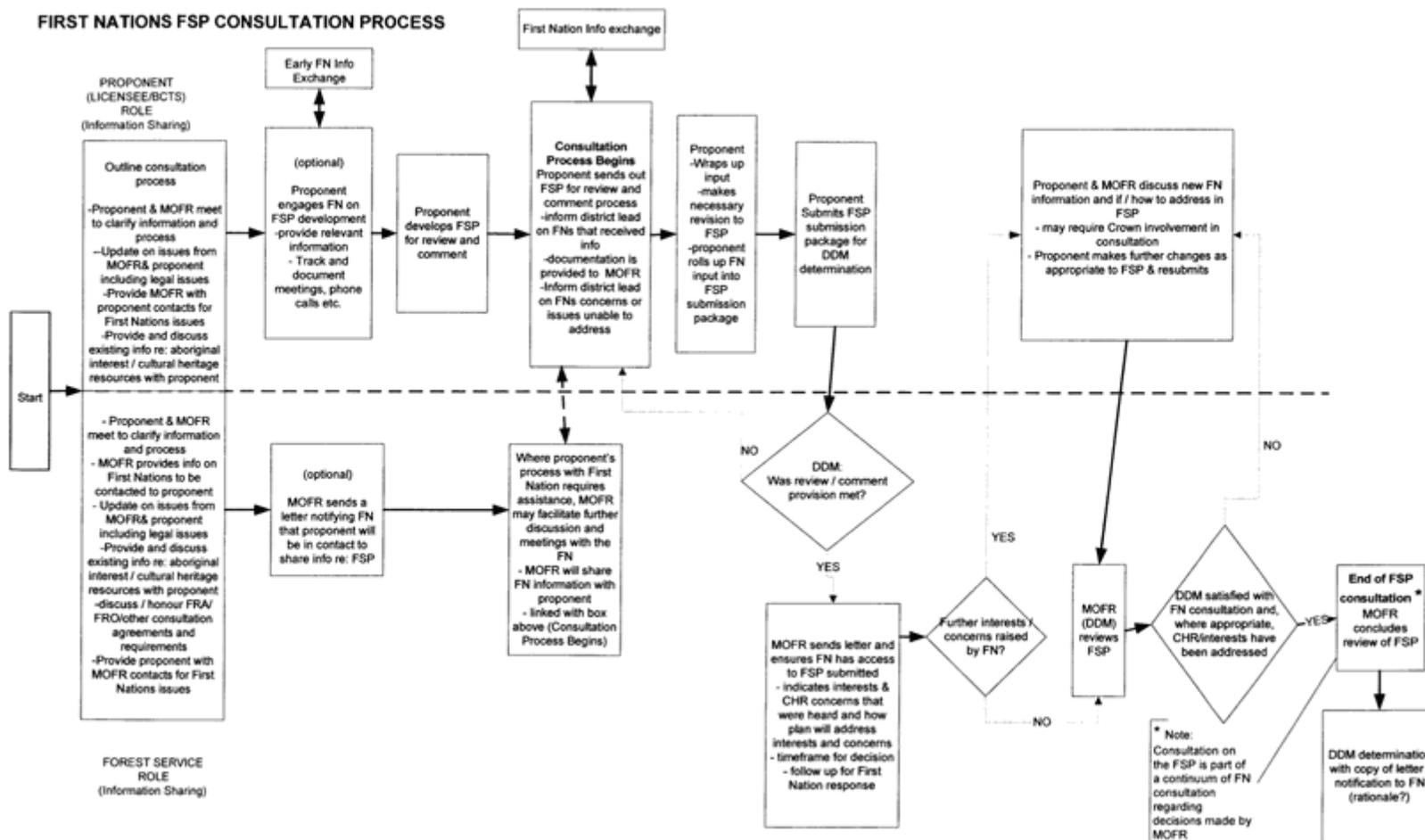
consultation. This work has been translated into *FRPA* Bulletin #1 ([http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm)).

Similar to the “Aboriginal Rights and Title Policy”, the Bulletin provides the detailed background as to why consultation with First Nations regarding their aboriginal interests must be considered by any decision-maker making statutory decisions on behalf of the Crown.

(Note: *FRPA* Bulletin #1 and the Aboriginal Rights and Title Policy do not reflect recent case law clarifying the requirement for general preliminary assessments. Please see “Gitanyow and Klahoose Court Decisions, Implications and Advice to MFR staff” for advice and guidance regarding general preliminary assessments.)

#### **4.2.2.2 Working Together Under *FRPA* Workshop Package**

A package to prepare and conduct a workshop to facilitate dialogue between local First Nations, agreement-holders and the MFR is available via the MFR’s aboriginal affairs manager in each regional office. The workshop can be customized to address local circumstances including information sharing and consultation requirements and expectations for developing FSPs and making operational decisions under an approved FSP.





#### ***4.2.3 Consultation where Forest and Range Agreements are in place***

The consultation process and how information is shared and discussed with a First Nation may be different where there is a Forest and Range Agreement (FRA) or an Interim Agreement on Forest and Range Opportunities (FRO) with the First Nation. The FRA establishes consultation processes to address both operational and administrative decisions. The FRO may include a consultation protocol, a provision requiring the parties to follow Haida principles, or other provisions to address consultation requirements. It will be important for agreement-holders and government to be aware of FRAs and FROs and any contractual obligations that are outlined in the agreement.

#### ***4.2.4 Electronic copies of the FSP***

There is no standard approach to providing electronic or paper based copies of the FSP to First Nation(s). As one of the first steps in the consultation process, agreement-holders should check with the First Nation(s) to determine what format they would like to receive the FSP in and whether they have the capabilities to receive/review electronic copies.

#### ***4.2.5 FSP Exempted Areas and First Nation Consultation***

Under certain prescribed circumstances some forest activities are exempt from the requirement to complete a FSP, such as minor tenures. In this case, if First Nation consultation is deemed necessary, then this would occur prior to making a decision to issue the development authority (i.e. Forestry License to Cut).

#### ***4.2.6 First Nations consultation process for a multi-district FSP***

Section 5.7.3 of this Guide contains a process map for consulting with First Nations when an agreement-holder is submitting a multi-district FSP.

### **4.3 What are considerations for FSP referrals?**

#### ***4.3.1 Overview***

The DDM should provide the agreement-holder with the referrals, if any, that are necessary under section 21(1) (a). This is a DDM triggered section—identifying to whom the FSP or amendment must be referred.



The referral requirements of sections 21(1) (b) through (d) include the following:

- persons with an interest in the plan must be provided an opportunity to review the plan as required by section 21(1)(b);
- persons whose rights may be affected by the plan must be provided an opportunity to review the plan in a manner commensurate with the nature and extent to which their rights may be affected, per 21(1) (c). This would include range tenure holders and other forest tenure holders with rights granted in the area under the plan, among others; and
- Agreement-holder must have made reasonable efforts to meet with First Nation groups affected by the plan to discuss the plan per 21(1) (d).

#### ***4.3.2 Referrals to the Workers Compensation Board (WCB)***

The DDM can require the agreement-holder to refer the proposed FSP to the Workers Compensation Board (WCB) under section 21(1) (a) (i) of the FPPR. The agreement-holder must consider any written comments from the WCB (e.g., the FSP contains an unsafe result and/or strategy). The professional reliance component of *FRPA* also suggests that professionals should not be proposing results and/or strategies that are unsafe. The ABCFP Standards of Professional Practice, Bylaw 12, includes requirement for members to maintain safe work practices and to consider the safety of workers and others in the practice of professional forestry.

The DDM can refuse to approve a proposed FSP if it contains unsafe results and/or strategies. Proposing results or strategies that are unsafe is contrary to public policy and therefore contrary to common law.

## **4.4 What happens when I submit my FSP for MFR Review?**

### ***4.4.1 Process overview***

This will normally be the first stage where a largely complete product, designed to meet the FSP content requirements, is available for review by government staff. Given this, it represents a significant opportunity for the proponent and government staff to interact on key considerations potentially affecting the approval decision. The process should have three steps following completion of review and comment:

Tip:  
Submitting the FSP through the FSP Tracking System helps streamline the review process.

1. **MFR Response:** First, the agreement-holder provides the complete FSP package including plan text, maps and any associated rationale or supporting information to the MFR review staff. The MFR staff review the plan and,



depending on necessity, consider requesting the agreement-holder to present the plan and answer questions for clarity on its content. The MFR then prepares a coordinated, single, written and specific response from government, to the agreement-holder, prepared by a qualified professional, that identifies each question or uncertainty regarding FSP Content and Approval Tests and for each question or uncertainty, the following information:

Question or Uncertainty	Relevant Legislative Provision	Basis for Question or Uncertainty	Risk Assessment*
A description of the Question or Uncertainty Identified in Government Review.	Specific citation of the provision in the <i>FRPA</i> Act or its regulations that is relevant to the Question or Uncertainty	The basis for the question or uncertainty relative to the cited provision in the legislation.	An assessment of the degree of risk to relevant approval tests arising from the question / uncertainty, including application of professional reliance; or Identification of key information gaps preventing an adequate assessment.

\* Consult FSP, accompanying documents, other legislative requirements, the AGFSP, *FRPA* Bulletins, existing relevant data including agreement-holder performance, background & experience of prescribing professional(s), etc. Assessment results should greatly assist in focusing subsequent exchange of views on specific items. Those items identified as low risk should not normally be brought forward. The following document is a helpful reference for conducting a structured approach to risk assessments:

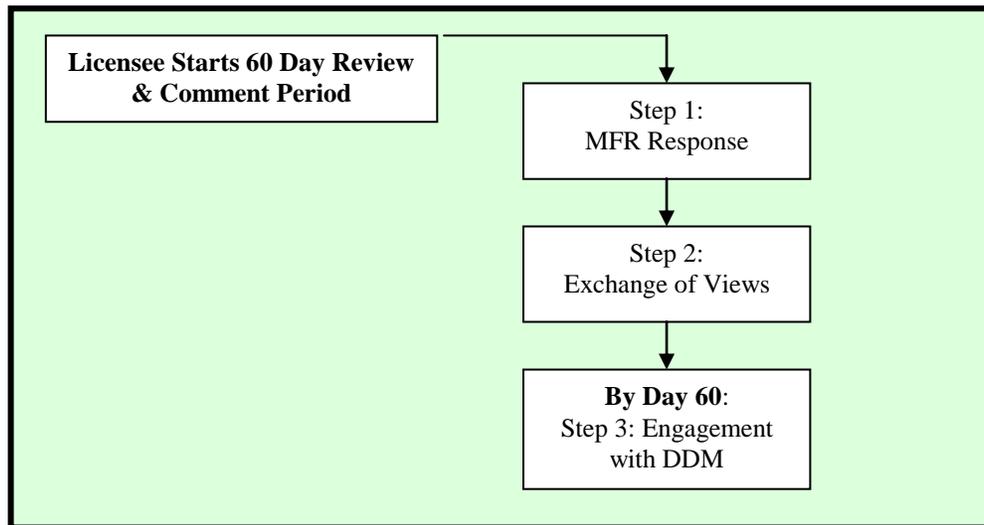
<http://www.for.gov.bc.ca/rsi/proreliance/kamproreliance/Risk%20Model.htm>

If the question or uncertainty is related to **content requirements**, a risk assessment will not normally apply although there may be questions of legal interpretation applicable to the requirement. If this is the case, consult relevant *FRPA* Bulletins. If not covered in a Bulletin, other documents such as Chapter 6 in the first document referenced above may help clarify the question. If still an outstanding question, legal advice should be sought.

2. **Exchange of Views:** Second, an exchange of views between the agreement-holder and government staff to determine what issues can be resolved and what issues remain outstanding. MFR staff make any initial requests for additional information, within legal requirements (will usually apply only to outstanding issues); and
3. **Engagement with DDM:** Third, if there are any outstanding uncertainties or questions after the exchange of views, including questions about the appropriateness of requests for further information, then there should be an engagement with the DDM. This engagement is not for the purpose of making a decision. It should be viewed as an opportunity for the DDM to provide information or clarity on how they will approach making a decision on the matter including, the specific considerations that will affect the decision. (Also see *FRPA* Administration Bulletin #5 for suggestions on these “considerations” available on the PFIT website: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).)



This process should attempt to fall within the following suggested provincial timelines recognizing that in some situations, such as where extensive First Nations Consultation<sup>10</sup> is required, the timelines may not always be feasible:



This information is extracted from the document “Towards Efficient, Effective Administration of Forest Stewardship Plans”. The complete document can be found in Appendix 9 of this *Guide*.

<sup>10</sup>First Nations Issues: This process should be consistent, and integrated, with the process for First Nations Information Sharing as set out in the *FRPA* Administration Bulletin # 1



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## 5 Reviewing and approving proposed FSPs

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### 5.1 How do I get started?

#### *5.1.1 Receiving the FSP submission*

##### **5.1.1.1 FSP Submission Components**

A FSP submission should have three parts:

1. The first is the review and comment component—containing information to meet the review and comment requirements (e.g., copies of written comments received, description of any changes made to the FSP as a result of the comments received, description of the efforts made to meet with those whose rights may be affected by the FSP). This component is required but not actually part of the plan—it may be submitted as part of the supporting documentation (part 3 described below);
2. The second component is the plan itself—expressing all the legal content requirements; and
3. The third part is the supporting documentation, which is not legally part of the plan, but necessary to support the plan. The supporting documentation is the “evidence” the agreement-holder used to create the results/strategies in the plan and the basis which the DDM uses to make a decision regarding consistency. The amount of information in the supporting rationale will depend on the approach chosen by the agreement-holder and should be referenced very clearly so the DDM can make their decisions.

##### **5.1.1.2 Administration process for reviewing the FSP**

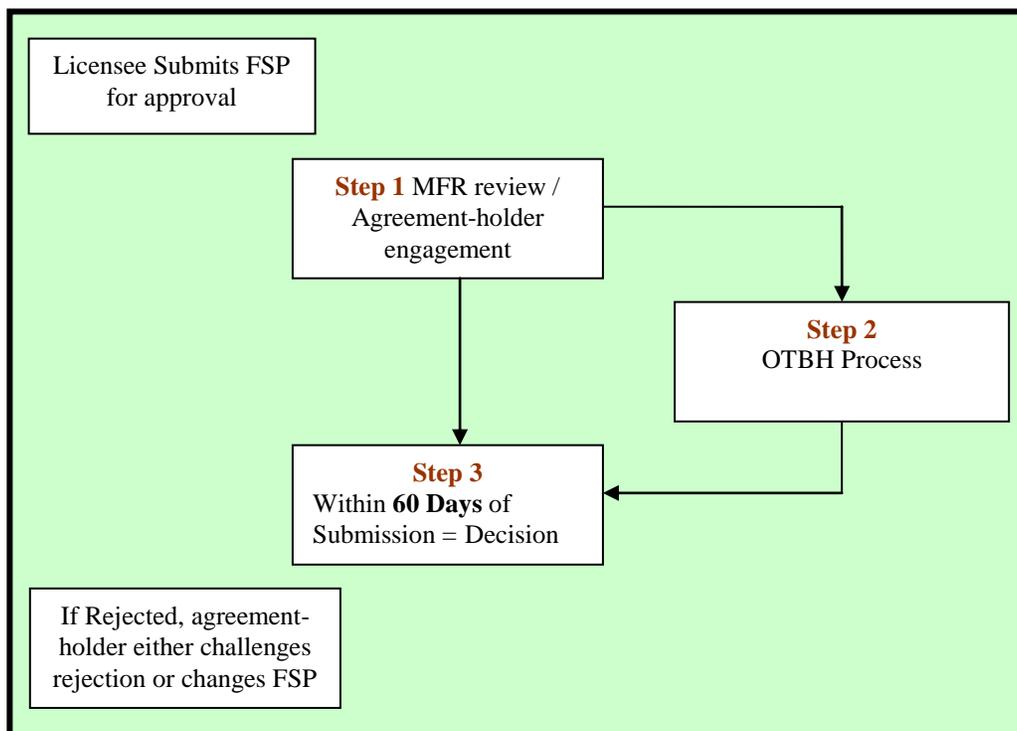
When the agreement-holder submits the FSP for approval (note that submitting with changes marked allows efficient review at this stage) there should be 2-3 steps:

1. **MFR Review/Agreement-holder engagement:** first, the MFR should determine if it still has questions or uncertainties (these may be items from the public review and comment phase or new items arising from incorporation of review and comment requirements),



2. **OTBH Process**<sup>11</sup>: If there are questions or uncertainties outstanding, the DDM should offer the agreement-holder an Opportunity To Be Heard (OTBH), and
3. **Decision**: after the OTBH, the DDM should render a decision on whether the FSP is approved or rejected.

It is entirely up to the agreement-holder to decide when to submit an FSP. Once an FSP has been submitted, there is no statutory deadline by which a DDM must make an approval determination. However the goal for a DDM to review and approve a straightforward FSP is 60 days. Deficiencies in an FSP will of course lengthen the time the DDM needs to review and approve it. As well, where extensive First Nations consultation<sup>12</sup> is required or there are complex OTBH's, the goal may not be feasible:



<sup>11</sup> **OTBH Process**: The opportunity to be heard should follow administrative law principles already widely acknowledged and applied by the MFR, including:

- Right to know the case against the agreement-holder (following second step noted above, the MFR must confirm in writing what remaining uncertainties / questions exist in the context of *FRPA* legislation requirements for FSP content & approval tests)
- Sufficient time for the agreement-holder to develop a written response.
- Submission of the written documents to the Delegated Decision Maker.
- Oral hearing if requested by the agreement-holder.
- Written decisions and rationale (required by *FRPA*).

<sup>12</sup> First Nations Issues: This process should be consistent, and integrated, with the process for First Nations Information Sharing as set out in the *FRPA* Administration Bulletin # 1.



This information is extracted from the document “Towards Efficient, Effective Administration of Forest Stewardship Plans”. The complete document can be found in Appendix 9 of this *Guide*.

### **5.1.1.3 FSP review and approval checklists**

Developing checklists will help the DDM and staff review and approve FSPs. Checklists promote consistency in the process at the local and regional levels, can save resources by providing a framework of critical review processes, serve to map information flows during the review process, and show the decision-maker where staff resources are needed.

Checklists could be developed for:

- timelines for review by topic area within the FSP,
- topics that require multiple agency review or input,
- where in the review process professional resources are needed,
- multiple submissions and overlapping FSPs, and
- considering alternative or unusual practices, results, strategies.

See Appendix 2 for a sample FSP review checklist.

Appendix 10 contains a sample tracking spreadsheet to assist districts during the district review and approval process. The spreadsheet is a simple tool that can be modified to reflect district specific requirements and processes.

### **5.1.1.4 FSP Review team**

The DDM needs to identify the staff who should be involved in the review process. Consistency and thoroughness of the review are considerations in identifying the review team. This will ensure that all of the necessary reviews are completed and all of the required recommendations are made available to the DDM for the approval determination.

The DDM should identify specialist and professional staff who are qualified to review a FSP for the identified resource values and government objectives covered in the plan area. Staff should also involve Compliance and Enforcement personnel in complex reviews, to ensure that proposed results and strategies are measurable or verifiable, and therefore enforceable within the limits of the ministry’s resources.



### **5.1.1.5 Use of guidelines/non-legal framework**

Formal guidelines may be an option for use as reference material in any supporting documentation associated with an FSP. These can be provincial in scope, or refer back to previous DDM policy specific to local conditions.

Guidelines are provided as information only. They contain information that has general acceptance by practising professionals within a field. The guidelines included in the Objectives Matrix are not an exhaustive list, and they are not intended to stifle innovation in any way. They are provided to help practising professionals determine the evidence required to support proposed results and strategies within an FSP. Guidelines can also be used as a tool to help with coordinated planning, such as for overlapping forest development units (FDUs). The information contained in guidelines can be very wide in scope and is supplied to promote an understanding of commonly acceptable practices within a specific management area. Guidelines might include existing DDM policy, non-Cabinet-approved Land and Resource Management Plans (LRMPs), guidebooks, Tree Farm Licence Management Plans, certification commitments, research papers, Sustainable Forest Management Plans, etc.

DDMs who consider providing guidance to agreement-holders regarding their FSP should refer to the principles in the document titled “*Helpful Hints for Government Staff in Providing Information in Support of FRPA Implementation*”. This document is available on the PFIT website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/FRPA%20General%20Guidance.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/FRPA%20General%20Guidance.htm).

## **5.1.2 Decision-making**

### **5.1.2.1 Who approves an FSP?**

Under section 2(2) (a) of the *FRPA*, the minister may delegate the determination of FSPs to persons who are referred to as Delegated Decision Makers (DDMs). A delegation matrix has been approved by the minister which delegates this power to district managers

Under section 2(2) (b) of the *FRPA*, the minister may provide directions that are binding on his or her delegate as to the exercise of the power delegated.

And under section 2(2) (c) of the *FRPA*, the minister may vary or revoke a delegation or direction.



### 5.1.2.2 What is approved in an FSP?

Section 16 of the *FRPA* provides that the minister must approve an FSP or amendment if it conforms to the requirements of section 5 of the *FRPA*. Among the key tests for approving FSP content are:

- **Results and Strategies:**

Results and strategies must meet the requirements of the definitions of the terms and be consistent with the objectives to which the results or strategies relate, to the extent practicable.

- **Stocking Standards:**

Stocking standards must describe applicable regeneration dates and stocking standards that:

- will result in the area being stocked with species and to a density that is consistent with maintaining or enhancing the supply of commercial timber and with the applicable timber supply analysis and forest management assumptions, or
- stocking standards that are reasonable having regard to the future timber supply for the area.

The stocking standards must also contain applicable free growing heights that are sufficient to demonstrate that the crop trees are growing well and likely to continue to do so.

- **Measures:**

The FSP must specify measures to:

- prevent introduction or spread of invasive plants, if likely to be caused by the holder of the FSP; and
- mitigate removing or rendering ineffective natural range barriers.

#### **Exception**

Under section 17 of the *FRPA* (Approval in emergency cases), the Minister has administrative powers to approve an FSP in an emergency, even if the plan does not comply with section 16 of the *FRPA*.

#### **Certification**

If a person with prescribed qualifications certifies that a section of the FSP or amendment conforms to section 5 of the *FRPA*, the DDM does not need to review and approve/reject that section in terms of the approval test – provided the DDM is satisfied the portions not certified also conform to section 5.



### 5.1.2.3 Review and Comment Requirements

Before embarking on a formal review of the FSP for approval purposes, the DDM will conduct a test of the agreement-holder's review and comment activities to determine if the review and comment requirements of the *FRPA* and the *FPPR* have been met. If the DDM has concerns that these requirements have not been met, he or she cannot approve the FSP and should return it to the agreement-holder. Before returning the FSP, the DDM should give the agreement-holder an informal opportunity to respond to the DDM's concerns.

If the DDM concludes that the agreement-holder has not addressed their concerns satisfactorily, and the agreement-holder offers to do more, the DDM may wait for a further response from the agreement-holder. If, however, the agreement-holder maintains that there is nothing more to do, the DDM may make a contravention determination under section 71 of the *FRPA* and may levy a penalty of up to \$10,000. Note: an Opportunity to be Heard (OTBH) must be offered to the agreement-holder before a determination is made. The DDM should provide written reasons to the agreement-holder, whether they have found a contravention or not.

If a contravention is found against the agreement-holder, the FSP must be returned to the agreement-holder. It will then be up to the agreement-holder to decide what more must be done to comply with the review and comment requirements. A FSP that has been revised after being submitted for approval does not need to go through the review and comment phase again – provided that a reasonable person would not view the revised FSP as being altered to such an extent that, in essence, it is a different plan.

If the DDM is satisfied with the review and comment activities, the DDM can include a statement in the FSP approval letter (e.g., plan underwent satisfactory review and comment activities).

Once the DDM is satisfied that the review and comment obligations have been met, they may begin to consider the FSP for approval.

### 5.1.2.4 Officially Induced Error

MFR personnel should be aware of the Officially Induced Error defense but should not consider it an impediment or barrier to good communications with agreement-holders and the Public. Staff within the MFR who respond to enquiries or dialogue with agreement-holders should only provide advice when it is within their field of expertise and should not provide information that conflicts with statutory provisions or common law. Stay within your area of expertise and give good advice – for example, good advice could be “here is where you can go to get information”, “this is what the legislation says”. Avoid advice such as “you must write your results/strategies like this...” Any relevant assumptions on which you provide advice upon should be clearly stated and the advice and assumptions documented. Ministry officials should, however, refrain from giving



“advance rulings” to agreement-holders on such things as whether or not an amendment requires DDM approval. The legislation leaves that determination up to the agreement-holder, to be reviewed later by a DDM, and possibly overturned.

More information on Officially Induced Error can be found in the Compliance and Enforcement Advice Bulletin # 9 on the MFR website:

<http://www.for.gov.bc.ca/hen/bulletins/advice.htm>.

#### **5.1.2.5 Use of decision-maker policy under the FRPA**

Decision-maker policy continues to exist under *FRPA* with the following three key limitations:

- Decision-makers do not have the legal authority to require or direct agreement-holders to adopt non-legislated items into their FSP.
- Decision-makers must focus on the specific circumstances of each proposed FSP submission on a case-by-case basis.
- Decision-maker policy does not have any legal standing under the *FRPA*.

#### **5.1.2.6 Professional Reliance when reviewing FSPs for approval**

Forest professionals who are responsible for preparation of FSPs are professionally accountable for the quality of their plans. Similarly, forest professionals who are responsible for the review of FSPs are professionally accountable for the quality of their reviews. Both the prescribing and the reviewing forest professionals have professional responsibility for the quality of their interactions and dialogue

Professional reliance rests on the foundation of respectful regard, which is the acknowledgement of a person’s professional expertise, regardless of their employer. Respectful regard includes recognition that a person with professional designation has met stringent entrance and continued membership standards, and has earned the legislated right to practice. It means that any professional’s work product, opinions and judgements will be given weight and credibility based on the professional quality of the work. Quality FSP preparation work that will promote a reviewer’s use of professional deference may include:

- a. measurable and verifiable results and strategies,
- b. qualified registered professionals (specialists) contributed to the plan,
- c. sound rationales support choices and decisions,
- d. past record of dependable performance (may include awareness of programs implemented for quality assurance and due diligence).

When reviewing submitted FSPs for approval, government reviewers are expected to include professional deference in their use of professional judgement. This does not mean “blind deference”, but means that reviewers will objectively assess the



reasonableness of FSP submissions and, where they are found to be reasonable will courteously yield to the professional judgement, qualifications, education and accountability of the prescriber. This will allow for prescribing professionals to be innovative in their choices, providing they support them with sound rationale.

In their FSP review packages for a DDM, professional reviewers are expected to include rationales that support their choices and recommendations. Such a rationale could include: 1) reasons for choices/recommendations, 2) supporting research or other independent information, 3) history of relevant communications with the prescriber/submitter, and 4) reasons why reviewer may be requesting a decision without recommendation.

## **5.2 How can I use the FSP Tracking System to review and approve/reject an FSP?**

### **Overview**

MFR personnel can use the FSP Tracking System to support their review and adjudication activities by providing the following elements listed in the table below.

<b>Activity</b>	<b>Description</b>
View administrative information	Identify the MFR districts covered in the plan area, the agreement holders included in the FSP, the term of the FSP and a contact for the FSP.
Review proposed FSP legal document	View the proposed FSP including the results, strategies and measures.
View supporting documentation	View information submitted by the licensee/BCTS to aid the review of the proposed FSP.
Review proposed stocking standards	View the stocking standards proposed in the FSP.
Review proposed forest development units	View the spatial location of proposed forest development units through a link within the FSP Tracking System to the MapView application—providing reviewers the functionality of MapView to view the FDUs in relation to other resource information (e.g., location of ungulate winter range, wildlife habitat areas, community watersheds).

The FSP Tracking System also contains optional tools to document the MFR review process. On the Workflow tab, reviewers can enter comments on the various review activities. These comments can only be viewed by government (IDIR) users. They can also attach documents from the review (e.g., checklists) in the Supporting Documents



section of the Attachments tab. Documents attached in this section of the Attachments tab can only be viewed by government (IDIR) users and the agreement holder(s) of the FSP.

Approval or rejection of the FSP is performed on the Workflow tab. Once the DDM decision letter is attached (Attachment tab), the DDM can mark the FSP as approved or rejected. The DDM can also “request clarification” on the FSP—a feature in the FSP Tracking System that changes the status of the FSP back to draft to enable licensees/BCTS to revise their plan and re-submit. This feature is helpful if the licensee/BCTS decides, after they submitted their plan, that they would like to change their plan before it is approved/rejected. The DDM can also provide and record an Opportunity To Be Heard (OTBH) prior to rejecting an FSP (Workflow tab).

The FSP Tracking System also aids in the review of a multi-district FSP. The central storage of the FSP and supporting documents ensures all MFR reviewers have access to the same documents. The Review Details tools on the Workflow tab can help the various reviewers track their progress. The FSP Tracking System also enables districts to setup an email distribution list to automatically send an email when an FSP, or amendment, is submitted to the FSP Tracking System—aiding the communication flow across districts.

### **Additional Information**

An overview of the FSP Tracking System is provided above in section 1.4 – What is the FSP Tracking System. Training and support for using the FSP Tracking System application is available on the FSP website at: <http://www.for.gov.bc.ca/his/fsp/>. Expertise is also available in MFR district offices.

Information on procedures and standards for using the FSP Tracking System to support the FSP review and approval process is available in the “Reviewing and Adjudicating an FSP User Guide” available on the FSP website (<http://www.for.gov.bc.ca/his/fsp/userGuides/>).

## **5.3 What are considerations for reviewing results and/or strategies?**

### **5.3.1 Introduction**

Section 5 of *FRPA* requires that results and/or strategies for every relevant OSBG be included in an FSP. Results and strategies form operational commitments to achieve consistency with government objectives for forest practices on Crown land. Reviewing the results and strategies submitted as part of an FSP is a critical part of the DDM’s approval decision—assessing the proposed results and strategies to determine if they:

- fulfill the descriptive requirements. See section 3.6 of this *Guide* for more information; and



- are consistent with the objectives. See section 3.10.6 of this *Guide* for a detailed discussion of consistency within an FSP.

The terms “result” and “strategy” are defined in section 1 of the FPPR. Before assessing the consistency of results and strategies with objectives, staff/DDMs must ensure that each result/strategy contains:

- measurable or verifiable outcomes, steps or practices that will be carried out or in respect of a particular established objective, and
- the situations or circumstances that determine where in a forest development unit (FDU) the outcomes, steps or practices will be applied.



### “Measurable” or “verifiable”

The requirement that outcomes, steps or practices be measurable or verifiable ensures that results and strategies are enforceable.

- **Measurability** is usually considered a *quantitative* measure. Generally speaking, something is measurable when an outcome can be compared to an empirical set of data in order to determine if the outcome has been achieved. This will usually involve numbers.
- **Verifiability** is normally considered a *qualitative* measure. Something is verifiable where there are either steps in a process and/or an end results that can be proven through examination or demonstrated to have occurred. To assist in making a result or strategy verifiable, agreement-holders may include milestones, especially when long timeframes are involved, such as the establishment of a free-growing stand.

#### Note:

How would you review a result and/or strategy if it contained a broad range of possible outcomes (e.g., result “X” will be in the range of 0 to 1000)?

- The DDM needs to ensure they are satisfied the result and/or strategy meets the definition and is consistent with the objective at all possible outcomes (i.e., result of “0” is consistent as well as a result of “1000”);
- Need to understand where and when the range applies (e.g., does the range of “0” to “1000” apply across all FDUs or a result of “0” occurs in one FDU and a result of “1000” in another);
- Need to look at the supporting material to understand why the range is proposed; and
- Need to look to professionals (professional reliance) to use due diligence in planning and implementing the result/strategy.

### Situations and Circumstances

The requirement to state the situations or circumstances where results and strategies will be applied also helps ensure enforceability. The way in which something is placed in relation to its surroundings can describe the situation (e.g., within a riparian area or not within a riparian area). A fact, condition or occurrence affecting an event describes a circumstance (e.g., “event X” will occur when there is greater than 70% pine).



### 5.3.2 General considerations for reviewing results and strategies

Sample questions for the DDM or staff to consider when reviewing a result or strategy are listed below. Further questions and information, along with a review checklist, can be found in Part C of Appendix 2 in this Guide:

- Does the objective apply to the area?
- Is there a result or strategy specified for the objective? Each objective must have a result or strategy specified unless an exemption applies.
- Is the result or strategy certified by a professional (s. 22.1 of FPPR)?
- Are there any exemptions or constraints for this objective in FPPR sections 12 or 25?
  - Has an undertaking been given to comply with the practice requirements in lieu of proposing a result or strategy? If so, the agreement holder is exempt from specifying a result or strategy.
  - If the undertaking to comply is valid, does it exempt the agreement-holder from specifying a result or strategy that addresses the retention of trees in a Riparian Management Zone (s.12.1 (2) and 12(3) of FPPR)?
- If no exemptions, has the result or strategy been properly defined?
  - Is the objective identified for which the result or strategy is proposed?
  - Does it meet the definitions for a result or strategy?
  - Is there sufficient information in the FSP to allow me to understand the following (with one of the following essential elements, the result or strategy may not be measurable or verifiable, or describe the situations or circumstances where it will be applied in a FDU):
    - what the result or strategy is (e.g., what will occur),
    - when it will be carried out or achieved,
    - where it will be carried out or achieved,
    - who will carry it out or achieve it, and
    - when it will be measured or verified, including milestones, if necessary?
  - Can you answer the following questions on the proposed result or strategy?
    - Can an empirical set of data be used to determine whether or not the proposed result has been achieved? and/or
    - Are there specific, clear steps or practices in a well described process that can be shown to have occurred? and
    - Can it be determined under what situations or circumstances the result or strategy will be applied?
- Is the result or strategy consistent to the extent practicable?
  - Have all the factors in FPPR Schedule 1 been addressed? If not, should other factors be addressed (s. 24(1) of FPPR)? The DDM can use the Schedule 1 factors (FPPR s.25(1) (c)) as a guide when reviewing a result or strategy for consistency with objectives (e.g., considerations on what is relevant to an



objective). However, the DDM cannot reject a result or strategy only because it is based on a factor other than one specified in Schedule 1.

- If the DDM believes other factors should be addressed, can he/she require the agreement-holder to address them?
- Can the DDM request additional information on the factors that were addressed, if any (s. 24(2) of FPPR)?
- Can the DDM request additional information on the factors that were not addressed?
- Is there a need for more information in order to make a determination, and if so, what information would the DDM need?

The C&E Program Staff Bulletin # 12: Guidance to C&E Program Staff on the Assessment of Measurable or Verifiable Results or Strategies Within a FSP contains information that may be helpful when reviewing and/or approving results and strategies in a proposed FSP. The Bulletin is available on the PFIT website:  
[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

Information such as the following may be helpful in considering the consistency of results and strategies with objectives:

- management practices that have been used effectively in the area,
- successes elsewhere with similar results or strategies,
- Schedule factors, and
- guidelines from the Objectives Matrix exercise.

Note:

What if the plan preparer calls their result or strategy a result but it is really a strategy?

- The FSP should be clear on whether it is a result or strategy so the DDM can apply the appropriate test/definition; and
- If it is unclear whether it is a result or strategy, then test against both definitions to ensure it meets the definition of at least one. DDMs should document this in the rationale.

A workshop for DDMs on applying the approval test to results and strategies was delivered in 2005. A summary of the observations and discussions from the workshop can be found on the website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/FSP\\_Support\\_Tools.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/FSP_Support_Tools.htm).

### **5.3.3 Standards of practice for results/strategies**

Through the approval/rejection process, the DDM will be managing the risk to values by reviewing results and strategies consistent with government objectives. The DDM will need to be able to articulate how they will view “consistent” and “satisfied”.

Information meetings with plan preparers can assist in explaining the “standard of practice” for each value and forestry discipline. If the plan preparer and reviewers have a



common understanding of the risk and “standard of practice” for a particular value, the plan preparer has the best information for proposing results and strategies. See Appendix 8 of this Guide for more information on the expectation meetings.

“Standards of practice” can be considered to be existing practices that have been informed by non-legal guidance and believed to be the benchmark from which the degree of consistency with objectives can be determined. If the “standard of practice” was adequate under the FPC, then it is probably consistent with objective(s). However, results and/or strategies do not have to reflect existing practices – but existing practices give a basis to measure degree of departure, assessment of risk and the amount of information to support the proposed result/strategy.

The DDM can point to LRMPs as one source of results/strategies that speak to the “standards of practice” by value that also balance across values. In highlighting the results/strategies in a LRMP, the DDM can create expectations around “standards of practice”. While encouraging plan preparers to be innovative, DDMs should ensure plan preparers understand that results and/or strategies that deviate from the “standard of practice” and balance articulated in the LRMPs will require stronger support rationale. Also, the substance and scientific credibility of the support rationale will need to reflect the risk to respective values.

#### **5.3.4 Approving results and strategies**

If the agreement-holder undertakes to comply with certain practice requirements, all that the DDM must consider is whether the undertaking itself complies with legislated requirements. For example, if the holder of the FSP elects to comply with the practice requirements, the language used should be similar to the following:

*“The holder of this FSP undertakes to comply with Sections 35 and 36 of the FPPR.”*

#### Note:

What happens if the agreement-holder follows the result/strategy during their operations yet the end result is not consistent with objectives? (e.g., environmental damage occurs even though the results/strategies were followed:

- If the agreement-holder followed the results/strategies in the approved plan, they would not be liable.
- Government is accountable for setting/developing objectives.
- Professional reliance would be important here—depending on the amount and availability of information indicating that environmental damage may result from implementing a specific result/strategy.
- The Minister may, by order, require a person to remedy, mitigate or stop an act or omission that the Minister reasonably believes will result in a contravention and will, or probably will, cause any of the events listed in Section 77(1) of *FRPA*.
- Minister may also intervene in certain circumstances where a plan will result in a potential unjustifiable infringement of an aboriginal right or title in the area (Section 77.1 of *FRPA*).



The DDM is responsible for approving results or strategies when no undertakings are given and where there are no practice requirements with which to comply. If the DDM has any questions about the validity of a proposed result or strategy, he or she should look to the submitted documentation for answers. However, ultimately, the FSP is a stand-alone document for enforcement purposes. Companion documentation may be very useful in helping the DDM determine how the agreement-holder arrived at a result or strategy, the rationale for using it, and whether or not it is consistent with government objectives. However, there must be sufficient information contained in the FSP itself to enable effective ministry compliance and enforcement activities for years into the future.

### ***5.3.5 Additional considerations when approving results and strategies proposed in an FSP***

The type and quantity of supporting documentation that the DDM might require for a result or strategy will be determined by the complexity and value that the agreement-holder is proposing to manage in a different way.

The DDM may ask for more information on the factors addressed in the plan:

- Must be reasonable to contents of the plan (e.g., if no temperature sensitive streams – you can't ask for more information on this);
- Must be available to the person (e.g., cannot ask them to do a survey to determine something); and
- Can ask what studies and surveys they used to determine the result/strategy.



The supporting documentation package may contain information explaining the proposed results and strategies. Generally speaking, agency staff, and any other “expert” persons, should be able to confirm the levels of peer review and risk. Once submitted, and on the specific request of the DDM, agency staff and/or other “experts” cited in the supporting documentation should be available to support any specific questions the DDM may ask during the evaluation and approval process.

A more detailed checklist for reviewing a result or strategy, or for reviewing when there are no practice requirements available, is included in Part C of Appendix 2.

### **5.3.6 Determination of “unduly reduce”**

The expression “without unduly reducing the supply of timber from British Columbia’s forests” is used in the Forest Practice and Planning Regulation (FPPR) in:

- Section 5: Objectives set by government for soils
- Section 7: Objectives set by government for wildlife
- Section 8: Objectives set by government for water, fish, wildlife and biodiversity within riparian areas, and
- Section 9: Objectives set by government for wildlife and biodiversity.

This expression is not defined in regulation, but it is an important consideration for agreement-holders when they are preparing results and strategies in an FSP and for the DDM when he or she is assessing the consistency of results and strategies against any of these objectives.

The term “unduly reduce” was incorporated into the *FRPA* to carry forward the Forest Practices Code policy assumptions of timber supply limits and impacts. To help bring meaning to the term, it is important to note that certain practice requirements are considered to be consistent with objectives, and therefore do not “unduly reduce the supply of timber from B.C.’s forests.” See *Figure 7: Practice requirements for objectives in sections 5, 7, 8 and 9 of the FPPR* below.

**Sample of questions for the DDM or staff to ask when reviewing an alternative result or strategy (in addition to the checklist questions in Figure 5):**

- Is the result or strategy straightforward, with no issues
- Have previously approved Forest Development Plans (FDPs) or FSPs held by this agreement-holder included this result or strategy
- Have other agreement-holders proposed this, or something similar?
- If other agencies are affected, does the evidence package include referrals, process, and comments?
- Have other levels within the Ministry of Forests and Range been consulted (e.g., Timber Supply, Research, etc)



**Figure 7: Practice requirements for objectives in sections 5, 7, 8 and 9 of the FPPR**

Objective set by government (OSBG)	Practice requirement
Section 5: Soils	s. 35 - soil disturbance limits s. 36 - permanent access structure limits
Section 7: Wildlife	None—Section 7 notices based on timber supply review reports.
Section 8: Water, fish, wildlife and biodiversity	s. 47 - stream riparian classes s. 48 - wetland riparian classes s. 49 - lake riparian classes s. 50 - restrictions in a riparian management area s. 51 - restrictions in a riparian reserve zone s. 52 - restrictions in a riparian management zone s. 53 - temperature-sensitive streams
Section 9: Wildlife and biodiversity	s. 64 - maximum cut block size s. 65 - harvesting adjacent to another cut block s. 66 - wildlife tree retention s. 67 - restriction on harvesting

For results and strategies under section 7 of the FPPR, and alternate results and strategies under sections 5, 8 and 9, the onus will be on the agreement-holder if they deem it appropriate, or are requested by the DDM, to supply information to the DDM that supports the FSP proposal and does not “unduly” – or “excessively,” (as defined in a standard dictionary) reduce the supply of timber. While this likely won’t be something an agreement-holder proposes, DDMs must be aware that the cumulative effects of all proposed FSPs in a particular area could, in fact, unduly reduce the timber supply. If this is a concern, an agreement-holder might ask the DDM to exercise his or her decision-making authority under section 19 of the FPPR to establish targets.

“Unduly reduce” is also meant to be a balancing measure, to prevent highly restrictive results or strategies from being proposed in an FSP (e.g., a 100-metre riparian zone on all streams).

If the question is one of balance between timber and another value, the DDM must ask if the additional protection to the value that would be provided by an agreement-holder’s proposed result or strategy would offset the loss to timber supply. The DDM will need information to help him or her assess the additional protection offered to the resource versus the “cost” to the timber supply associated with the result or strategy. The agreement-holder’s submission should provide that information, if they are proposing a result or strategy.



“Unduly reduce” may also provide some guidance to agreement-holders when they are assessing public comments about proposed results or strategies, which may tend to ‘protect’ rather than ‘conserve’.

### 5.3.6.1 Tying timber objective to results/strategies for other objectives

Plan preparers are encouraged to avoid placing statements in a result/strategy that limit the impact on timber supply. Several government objectives do not have an “unduly reduce the timber supply” statement in the objective and some plan preparers may be tempted to include this concept into their result/strategy. For example, “we will protect/conservate the [value/objective] via \_\_\_\_\_ providing it does not unduly reduce the timber supply”. This is discouraged for two reasons—it is hard to enforce and secondly, may not meet the second part of the consistency test where the result/strategy must be consistent with all objectives:

- **Enforceability**—C&E personnel could face significant enforcement challenges trying to measure/validate a result and/or strategy with the concept “without unduly reducing” in it. To measure/verify this, C&E personnel will have to take into account all the relevant variables, including operational factors and commercial factors, in coming to terms with the meaning of “without unduly reducing”. It is suggested that district staff contact C&E Branch staff for assistance on this matter; and
- **Meeting the consistency test**—not only must the result/strategy be consistent with its corresponding objective, it must also be consistent with all the other objectives. The result/strategy may be consistent with its corresponding objective but may be inconsistent with the other objectives. For example, if the result/strategy provides the plan holder the ability to have unduly restricted harvesting or road building rights then the plan holder might be able to avoid conserving or protecting another value/objective in order to follow this result/strategy. This result/strategy could not be approved because it was not consistent with all the objectives.

## 5.4 What are considerations for reviewing stocking standards?

### 5.4.1 Introduction

There are specific legislated requirements associated with reviewing and approving stocking standards submitted with a proposed FSP. Stocking standards are expected to be consistent with the Timber Supply Review assumption for the plan area, unless they are approved under section 26(5) of the *FRPA*.

A reference guide to assist MFR staff in reviewing and approving stocking standards under *FRPA* is available internally at F:\HFP\external\publish\FSP stocking standards\FSPstkstdsGuide.pdf or on the MFR FTP server at:



[FTP://ftp.for.gov.bc.ca/HFP/external/!publish/FSP stocking standards/FSPstkstdsGuide.pdf](http://ftp.for.gov.bc.ca/HFP/external/!publish/FSP_stocking_standards/FSPstkstdsGuide.pdf).

The reference guide will also be useful for agreement-holder staff and/or consultants who are preparing an FSP and associated stocking standards. Most, but not necessarily all, approaches previously widely accepted under the FPC, will continue to be acceptable under *FRPA*. All FSP stocking standards must meet the requirements of the key approval tests contained in the applicable legislation. FSP stocking requirements containing new innovative approaches may require an associated rationale that is thorough enough to facilitate this evaluation.

The overarching purpose of the reference guide is to help ensure that the proposed standards are evaluated against the applicable legislative requirements both in a fair and consistent manner and in accordance with the intent of the evaluation requirements in the legislation. Nevertheless, flexibility is provided under *FRPA* for approval of new innovative standards.

#### ***5.4.2 Including survey methodology information in the FSP***

If the plan preparer includes a survey methodology in the FSP (e.g., strategy for a timber objective, stocking standards), then the survey methodology must pass the tests for the definition of a strategy (e.g., measurable/verifiable, describe situations or circumstances). The test should review the methodology against the Accepted Mathematical Statistical Methods Norms as presented in textbooks and scientific journals. There is more than one possible way to conduct surveys. The MFR has one method described in the *Silviculture Survey Procedures Manual*. This manual can be found on the MFR website: <http://www.for.gov.bc.ca/hfp/publications/00099/Surveys/Silviculture%20Survey%20Procedures%20Manual-April%201%202009.pdf>

### **5.5 What are considerations for using the supporting documentation?**

#### ***5.5.1 Risk-based definition of supporting documentation in an FSP***

The amount and level of detail of supporting documentation, based on the relative risk of negative outcome and degree of departure from proven results and strategies:

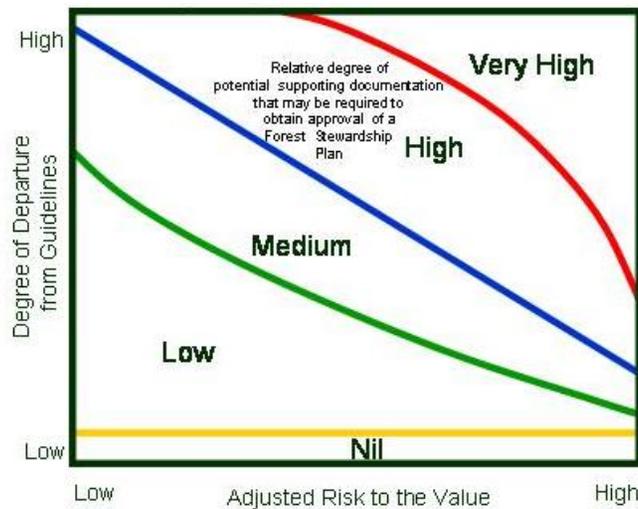
- DDMs may require stronger evidence, if the risks of a negative outcome are sufficiently high to warrant concern.
- The evidence burden also increases as a proposed result/strategy departs from a practice requirement (default results and strategies).



The amount and level of detail does not have to be the same for all objectives. The DDM may accept a different level of supporting documentation for each result or strategy depending on its degree of departure from generally accepted practices.

Figure 8, below, is a visual expression of the relative amount and detail for supporting documentation, based on the degree of departure from generally accepted practices.

**Figure 8: Risk-based amount of support documentation required for approval of an FSP**



## 5.6 What are other considerations for reviewing the FSP?

### 5.6.1 Maintaining copies of the “Review and Comment” FSP

There is no requirement for the MFR to maintain a “review and comment” version of the FSP in their files nor is there a requirement for the agreement-holder to submit a “review and comment” version to the MFR.

A “review and comment” version of the FSP may be helpful to the DDM to satisfy themselves that the review and comment was “appropriate” – for example by reviewing the changes that were made to the advertised plan.

From a records management perspective, requests to have the “review and comment” FSP returned to the agreement-holder should be in writing along with a response from the MFR noting that the copy has been returned and any copies destroyed.



### **5.6.2 Effective date after the approval date**

*FRPA* allows for the effective date of a FSP to be later than the date the FSP is approved by the DDM. If an agreement-holder would like to have a later effective date to enable them to implement systems, etc to support the FSP, they may propose an effective date to the DDM. The DDM will review the proposed date to ensure that no other parts of the legislation are offended by delaying the effective date and then determine if the later effective date is approved or not.

Once the approval determination is made, the DDM cannot revisit the determination even though the effective date may be some time in the future. If a change in the effective date needs to be made, the agreement-holder will need to prepare an amendment.

In proposing a later effective date, agreement-holders should consider the impact on operations if the FSP is replacing any FDP. Under section 197(1), an approved FSP replaces any FDP that, on the date the FSP is approved, was in effect and covers an area under the FSP. If an FSP covers the same area as an existing FDP, the FDP ceases to exist as of the FSP approval date. If the FSP effective date is sometime in the future, the agreement-holder will not be able to do any harvesting in the area until the effective date of the FSP occurs, unless they are operating under an active cutting permit or road permit.

### **5.6.3 Requests for additional information by the MFR**

Section 16(2.1) of the *FRPA* states that, except in prescribed circumstances, before approving a plan or amendment, the DDM may require the holder of a proposed plan or amendment to submit information that the DDM reasonably requires to determine if the proposed plan or amendment conforms to subsection 16(1). This power is limited by the “prescribed circumstances” set out in section 24(2) of the *FPPR* and by the administrative law requirement of reasonableness.

Section 24(2) of the *FPPR* is limited to information requests concerning results and strategies. The section states that a DDM can only request information about results and strategies if the information is:

- relevant to the factors addressed by the agreement-holder in the FSP, and
- available to the agreement-holder or in their control or possession (which means that the DDM cannot ask an agreement-holder to embark on a study, for example, because that information is not currently available to the agreement-holder).

Section 24(1) also deals only with results and strategies. The subsection states that if all of the Schedule factors have been addressed (with respect to a particular objective), the DDM cannot require the agreement-holder to address other (non-Schedule) factors. This implies that if one or more of the Schedule factors have *not* been addressed, the DDM can require the agreement-holder to address those factors. Reasonableness would demand a



sound rationale focussed on the consistency test, before requiring an agreement-holder to address Schedule factors that were not included in the FSP.

Other considerations for ministry staff if more information is being requested from an agreement-holder:

- Information should not be requested from an agreement-holder if the ministry already has the information in the form it needs.
- Information requests should not be made to satisfy a system need; only needs for the business requirements are to be considered.
- Efficient processes should be developed to move information within the MFR, among other government agencies, and with agreement-holders.

A sample letter for requesting additional information is contained in Appendix 6.

#### ***5.6.4 Cumulative effects of multiple FSPs***

Agreement-holders can raise a cumulative effect concern under Section 19(c) of the FPPR and request proportional targets to be established under Section 9 of the *FRPA*. The DDM can approve or reject this request based on the evidence presented by the agreement-holder and any other available information (e.g., from MAL/MoE, etc.).

Approving or rejecting a request for proportional targets will mean analysing the cumulative effect of the multiple FSPs in the area--including summarizing specific data within a defined unit for which a threshold has been set in either a landscape unit plan or by regulation. MAL is responsible for setting or indicating any thresholds. MAL is also the primary agent for storing and analyzing data related to threshold values. MoE is responsible for thresholds values in wildlife habitat areas. The MFR is responsible for communicating any results of this work to the agreement-holder (e.g., threshold values) and for implementing compliance and enforcement activities.

Compliance will be based on the FSP and the various results and strategies relating to the objectives, not on the value itself. For example, imagine that a legal objective for a watershed is an equivalent-to-clear-cut area maximum of 25 per cent. In the FSP, the agreement-holder would have to satisfy the DDM that their proposed operations were consistent with that objective. Based on the existing condition of the watershed, the agreement-holder would need to determine the maximum area they could harvest in that watershed, for the term of the FSP, which would keep them below the legal threshold. It is the area specified in the FSP – and ultimately harvested under some sort of harvest authority – that becomes the enforceable item.

Before considering a request for proportional targets, the DDM should encourage agreement-holders to resolve the issue amongst themselves (e.g., coordinated development, joint FSPs, voluntary targets) and highlight the potential resource savings to



both the industry and government by pursuing one of these options. The *FRPA* General Bulletin # 16 (Promoting Co-operative Planning under *FRPA*) contains information that may assist agreement-holders in addressing the cumulative impacts amongst themselves. The bulletin lists some of the opportunities and options for agreement-holders to work together in their planning efforts to assist in realizing increased efficiencies, flexibility and environmental stewardship. The bulletin can be found on the PFIT website at: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).

In summary:

- the agreement-holder has to make efforts to resolve problems with other agreement-holders before requesting an action,
- failing resolution, the agreement-holder has to request an action, and
- the DDM has to be satisfied that he or she can make a decision that will be fair and equitable.

The *FRPA* Administrative Bulletin # 7, available on the PFIT website: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm) contains advice and considerations for FSP preparers and DDMs when requesting and setting proportional targets.

## **5.7 What are considerations for reviewing multi-district FSPs?**

The MFR have developed organization charts, business process maps, process checklists and communication plans for handling the submission of multi-district FSPs, including amendments requiring approval. This documentation is described below.

### ***5.7.1 Selecting the DDM for a multi-district FSP***

Deciding who the DDM should be may vary, depending on the number of districts: if there are more than two districts, the DDMs can make a decision on who is going to approve the plan, or, with the regional executive director, may delegate who will be the appropriate DDM. If the submission involves just two districts, the two DDMs may decide who will approve and issue subsequent harvest authorities.

Considerations and guidance in the selection of a DDM for a multi-district FSP include the following:

- Assess which district has either the largest AAC or proposed harvest volume within the FSP;
- Assess the extent and placement of FDU boundaries across district boundaries;
- Assess the extent of operating areas and FDU boundaries of different companies if the FSP is both a joint district and joint agreement-holder submission;



- Assess District Manager availability along with their staffing resources, expertise and workload;
- Assess the complexity of issues within the FSP (e.g., First Nation issues, higher level plans, level of public involvement); and
- Balance opportunities for districts to be involved in the FSP approval process.

Any decision on who the DDM will be and the division of tasks associated with the review and approval of the plan will need to be formalized with a signed administrative agreement between the affected DDMs. (It is recommended that any agreements be submitted for information only (no approval is normally required) to the regional executive director. The proponent of the plan would then deal with just the one DDM about the approval of the plan.

Issuing harvest authority will be the responsibility of the originating district.

### ***5.7.2 Roles and Responsibilities of MFR Personnel once FSP Submitted***

A checklist to assist in the review of a multi-district FSP can be found in Appendix 11 of this Guide. Appendix 12 contains an example of an implementation plan for the review and approval process on a multi-district FSP. A sample communications plan for a multi-district FSP can be found in Appendix 13.

#### ***Delegated Decision Maker***

- Assign District (Lead) Co-ordinator;
- Provide review and approval direction to District (Lead) Co-ordinator and district managers as required;
- Set review timelines;
- Communicate with agreement-holder(s) (provide direction as required and respond to questions);
- Review submission binder and determination recommendations from District (Lead) Co-ordinator;
- Request additional information on results or strategies or stocking standards from agreement-holder(s) as required;
- Render decision on public review and comment, plan content and conformity;
- Determine if First Nations consultation requirements have been met;
- Notify other district managers of determination decision prior to notifying agreement-holder(s); and
- Sign off determination letter.



***District (Lead) Coordinator***

- Assign review tasks to district managers and Regional Coordinator (if assigned)
- Coordinate administration of FSP submission (e.g., date stamping, ledger entry, correspondence to agreement-holder(s));
- Draft requests for additional information;
- Roll-up district recommendations into a single review binder;
- Present review binder and determination recommendation to DDM;
- Draft Opportunity to be Heard (OTBH) letter as required based on direction from DDM;
- Draft determination letter and associated rationale as required based on direction of DDM;
- Flag inconsistencies in subject area(s);
- Communicate status of review process with DDM, district managers and lead agreement-holder; and
- Track progress of review with District FSP Review Process Checklist.

***District Managers (not the Delegated Decision Maker)***

- Provide local district FSP review direction to district (support) staff and District (Lead) Coordinator;
- Assign review tasks to district (support) staff;
- Communicate with district (support) staff to stay current with status of review process;
- Ensure resources are assigned to collate staff review comments and recommendations regarding content, timber harvesting rights, public review and comment requirements, results or strategies, stocking standards and measures;
- Ensure resources are assigned to draft FSP review binder and forward to District (Lead) Coordinator; and
- Communicate local conditions or circumstances and issues to the DDM for consideration.

***District (Support) Staff***

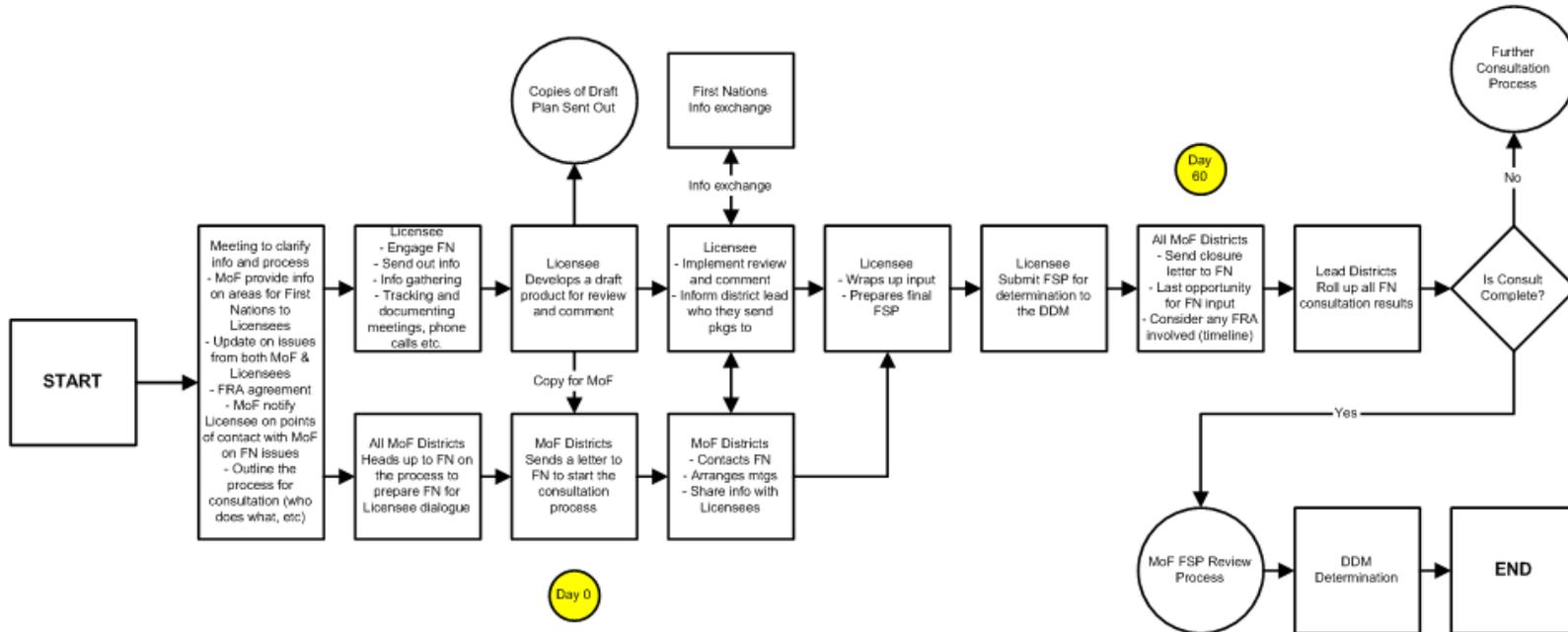
- Provide District Manager with review comments and recommendations regarding content, timber harvesting rights, public review and comment requirements, results or strategies, stocking standards and measures.

***Regional Coordinator (if assigned)***

- Support District (Lead) Coordinator; and
- Direct MFR regional and HQ support and other agency support personnel.



First Nations Consultation Process: Multi-District FSP



**Notes / Assumptions:**

1. If Licensee has sent info to FN, then MoF followup with a consultation letter
2. Legitimizing Licensee actions in writing
3. ALOs only consult on info re: their districts, lead district roll up results for joint FSP

5.7.3

\* Source: MFR Northern Interior Region’s plan for review of a multi-district FSP.



## 5.8 What are considerations for approving the FSP?

### 5.8.1 Approval letter

A sample approval letter is contained in the Appendix 3 of this Guide. A sample letter for approving a transition FSP is also included in Appendix 3.

In the approval letter, the DDM can clarify the understanding of terminology (e.g., agreement-holder undertakes to comply with practice requirements in FPPR sections 47-51, 52(2) and 53). The letter can also add conditions to the approval. It is recommended you keep the approval letter clear and simple (i.e., only speak to the FSP approval decision). Document the items you considered in a separate rationale that is kept on file. NOTE: if the DDM does not approve the FSP, a written rationale must be delivered to the agreement-holder.

### 5.8.2 FSP approval subject to conditions

Section 112(1) of the *FRPA* allows for an approval to be made with conditions attached. In other words, the DDM can approve an FSP and attach one or more conditions with which the owner of the FSP must comply. Conditions set under section 112 should relate to relatively minor matters.

Section 112(2) deems a condition to be part and parcel of the approval. A person who fails to comply with a condition may be found in contravention of section 112(3) and face a penalty of up to \$500,000 (under the legislated authority of section 12 of the Administrative Orders and Remedies Regulation). It should be recognized that an approval with conditions is a full and final approval regardless of whether or not the condition is complied with. The approval cannot be rescinded if the condition is not met. Rather, the plan continues to stand but the person can be found to have contravened section 112(3) and be subject to a penalty.

An approval with conditions stands in contrast to a conditional approval, the latter of which is not an approval until the stated conditions are complied with. Section 112(1) does *not* allow for conditional approvals.

Appendix 3 of this Guide contains an approval letter template containing a section for describing the conditions attached to the FSP approval.

### 5.8.3 Emergency approval of an FSP

Section 17 of the *FRPA* prescribes circumstances under which the minister may approve an FSP even if it does not comply with section 16 of the *Act*. These circumstances are



when the timber subject to the plan is in danger of being damaged, significantly reduced in value, or lost or destroyed.

This provision affects the content of the FSP. The agreement-holder is still required to publish a notice and make the plan available for public review and comment under Section 20(2) (d) of the FPPR. The review period could be 10 days if the timber is in danger of being damaged, destroyed, etc. unless there is an order for an exemption made under Section 20(3) of the FPPR. The DDM will still need to consult with First Nations on the plan.

Considerations for the DDM putting constraints on the FSP when approving/rejecting an FSP under Section 17 of the *FRPA* includes the following:

- Limit the size of area to covering the problem/area at risk; and
- Keep the term of the FSP short and consistent with the nature of the emergency. For example, timeframes for insect infestations are usually fairly short.

#### ***5.8.4 Correction or clarification of a determination***

Under section 79 of the *FRPA*, within 15 days after a determination on a plan has been made, the DDM may correct typographical, arithmetical or other similar errors and obvious errors or omissions in the determination. The DDM must notify the agreement-holder of the corrections before they take effect. Such changes may be made on the initiative of the DDM or at the request of the agreement-holder. The DDM may choose to hold a hearing on the proposed changes, but need not do so. Note that normally, this section would apply to determinations for plans that have been approved, rather than refused approval. However, there is nothing to prevent a DDM from applying it to a refusal determination, if it makes sense to do so.

## **5.9 What happens if the FSP is not approved?**

### ***5.9.1 FSP refusal to approve***

Based on information provided in the review package for an FSP submission, and the FSP itself, the DDM may choose to not approve the plan. Under section 16(3) of the *FRPA*, the DDM must give written reasons for refusing to approve an FSP. The FSP should be returned to the agreement-holder with the written rationale explaining why it was not approved. The agreement-holder may re-work and re-submit the FSP at any time.

Figure 9 lists the reasons to refuse to approve an FSP under section of the *FRPA*. The DDM should refer to the appropriate sections in its correspondence to the agreement-holder explaining the refusal to approve the FSP. Principles of administrative law must be observed when refusing to approve an FSP (see comments below and Appendix 5 for details on administrative law). Appendix 3A is a template of an Opportunity to be Heard (OTBH) invitation letter, and Appendix 3B is a template rejection letter.



The rejection letter itself should clearly state the plan's deficiencies in a concise manner. The supporting rationale, clearly explaining the reasons for the plan refusal, may be included in an attachment to the letter.

Plan content deficiencies may be simply stated, with the legislative reference, indicating why the FSP is deficient. Any problems with the consistency of proposed results and/or strategies with *FRPA* objectives should have a well thought-out rationale explaining why the proposed result or strategy is not consistent, to the extent practicable, with an objective. There is also an "appropriateness" or "adequacy" test (which is different from consistency) that the DDM may need to apply with respect to natural range barriers (section 17 of the FPPR) and invasive plants (section 18 of the FPPR). For more information on natural range barriers and invasive plant measures, see the *FRPA* Administrative Bulletin # 3 at:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm). Further, there is a "reasonableness" test that the DDM may need to consider, under section 26(5) of the FPPR. The DDM needs to clearly identify the legal tests in the rejection rationale and explain why they were not met.



Figure 9: Reasons to refuse to approve an FSP under section 16 of the *FRPA*

	<b>FRPA references</b>	<b>Test</b>	<b>Letter to Agreement-holder</b> (Express what specific aspect of the plan has convinced you to not approve the plan.)
1	s.16	Does the plan conform to section 5?	
2	Content s.5(1)(a) and s.5(3)	<ul style="list-style-type: none"> <li>▪ Is there a satisfactory map that shows the boundaries of all forest development units (FDUs)?</li> <li>▪ Is the plan appropriately signed?</li> </ul>	In letter to agreement-holder, specify the reasons why the plan does not conform to sections (____).
3	Results and Strategies s.5(1)(b) and s.5(1.1)	<ul style="list-style-type: none"> <li>▪ Does the result or strategy meet the definition of <i>result</i> or <i>strategy</i>:                             <ul style="list-style-type: none"> <li>▪ Is it verifiable or measurable?</li> <li>▪ Is there a description of where in the FDU the outcome, steps, or practices will be applied?</li> <li>▪ Is there a result or strategy for every objective referred to in s.5(1)(b)?</li> </ul> </li> <li>▪ Is each result or strategy consistent, to the extent practicable, with the objective to which it relates?</li> <li>▪ Is each result or strategy consistent to the extent practicable with all other objectives?</li> <li>▪ Is it <b>not</b> practicable to specify a result or strategy for an objective? If Yes, then the DDM must exempt the agreement-holder from the requirement as per s.12(7) of the FPPR.</li> <li>▪ Is an <b>objective</b> itself comprised of measurable or verifiable steps, processes or outcomes? Does the FSP restate them and describe the circumstances in which they are to occur? If Yes, then the result or strategy meets the consistency test as per s.25.1(2) of the FPPR.</li> </ul>	<p><i>For a specific deficiency:</i></p> <ul style="list-style-type: none"> <li>▪ State section reference.</li> <li>▪ Specify deficiency.</li> <li>▪ Why?</li> <li>▪ Attach any supporting documents.</li> </ul> <p><i>For a specific inconsistency:</i></p> <ul style="list-style-type: none"> <li>▪ State section reference.</li> <li>▪ Explain why the result or strategy is not consistent, to the extent practicable, with the primary objective to which it relates or to other objectives.</li> <li>▪ Attach any supporting documents.</li> <li>▪ <u>Do not reject on this basis.</u></li> <li>▪ <u>Do not reject on this basis.</u></li> </ul>



	<b>FRPA references</b>	<b>Test</b>	<b>Letter to Agreement-holder</b> (Express what specific aspect of the plan has convinced you to not approve the plan.)
4	Prescribed Requirements s.5(1)(c) of the FRPA	<ul style="list-style-type: none"> <li>▪ If an FDU, area or cut block is specified as per s.14(1) of the FPPR, are the things referred to in s.14 (2) and (3) identified?</li> <li>▪ Does the FSP specify, pursuant to s.16(1) of the FPPR, the situations or circumstances that determine when s.44(1) or s.45 of the FPPR apply to the area?</li> <li>▪ For each of the situations or circumstances specified under s.16(1), does the FSP specify, pursuant to s.16(3) and (4) of the FPPR, the required regen dates, stocking standards, and free-growing heights?</li> <li>▪ For regen dates, stocking standards, and free-growing heights specified pursuant to s.16(3), does the FSP meet the tests in either s.26(3) or (5)?</li> <li>▪ For stocking standards specified pursuant to s.16(4), does the FSP meet the tests in either s.26(4) or (5)?</li> <li>▪ Pursuant to s.17, does the plan indicate whether the introduction or spread of invasive plants is likely to result from the proposed forest practices, and if so, are measures specified that would prevent the introduction or spread?</li> <li>▪ Pursuant to s.18, does the plan specify measures to mitigate the effect of removing or rendering ineffective natural range barriers?</li> </ul>	<ul style="list-style-type: none"> <li>▪ Indicate what is missing.</li> <li>▪ Indicate what is missing.</li> <li>▪ Indicate what is missing.</li> <li>▪ Explain why the tests are not met.</li> <li>▪ Explain why the tests are not met.</li> <li>▪ Explain why measures should be specified if they are not, or explain why specified measures are inadequate.</li> <li>▪ Explain why measures should be specified if they are not, or explain why specified measures are inadequate.</li> </ul>
5	Consistent with timber harvesting rights referred to in s.5(2)	<ul style="list-style-type: none"> <li>▪ Is the FSP consistent with other timber harvesting rights in the areas specified in s.5(2) (a) to (d) to which the plan applies?</li> </ul>	<ul style="list-style-type: none"> <li>▪ Specify inconsistency with rights granted.</li> </ul>



### ***5.9.2 Opportunity to be Heard (OTBH)***

Before refusing to approve a plan, principles of administrative fairness require that the DDM must give the agreement-holder an Opportunity to be Heard (OTBH), so that the agreement-holder may respond to the DDM's concerns about the plan's apparent shortcomings. The form and extent of the OTBH will depend on the circumstances. If, for example, the agreement-holder has been made aware of and has already had ample opportunity to respond to the DDM's concerns through the approval process, then the OTBH would probably need to be less extensive than one provided to an agreement-holder who had not had the same opportunity. The DDM must make the agreement-holder aware of the DDM's concerns well in advance of the scheduled OTBH so the holder has adequate time to prepare for it. (See Appendix 3A for a template of an OTBH invitation letter.)

**Source:** Basic Principles of Administrative Law (see Appendix 5).

### ***5.9.3 Review of a rejected FSP submission***

Section 80 of the *FRPA* provides agreement-holders with an opportunity to seek a review of a DDM's determination to not approve an FSP. The agreement-holder must request the review within three weeks of receiving the determination, although extensions to that time period may be made before or after it expires. The DDM, or another person employed in the ministry and designated in writing by the minister, must review the determination, but only if he or she is satisfied that there is evidence that was not available at the time of the original determination.

Reviews done under section 80 of the *FRPA* are subject to the principles of administrative law. More information can be found in the section above on the Opportunity to be Heard (OTBH) and in the Basic Principles of Administrative Law document contained in Appendix 5.

If the person who will conduct the review is satisfied that the evidence was not available at the time of the original determination, the agreement-holder must be given the opportunity to demonstrate how the new evidence would alter the original determination.

“New evidence” is evidence that was not available at the time of the determination and which became available to the agreement-holder after the DDM's determination was made. This might be, for example, information received from a stakeholder or First Nation which has a bearing on the reasons why the original plan was rejected, and was not available to the agreement-holder at the time of the determination. Or it could be new evidence that the agreement-holder itself has acquired since the original determination was made. This would generally not cover missed plan content items, as they would normally be available at the time of determination.



#### ***5.9.4 Appealing a determination to approve or refuse approval of an FSP***

Under section 81 of the *FRPA*, the Forest Practices Board can require a review of an approval determination, but only if it first receives the consent of the agreement-holder that was subject to the determination. There is no threshold requirement for new evidence for reviews required by the Forest Practices Board.

Under section 82 of the *FRPA*, an agreement-holder may appeal to the Forest Appeals Commission (FAC) the determination made under section 16 (to refuse approval or to approve the FSP), or appeal the decision made after a review of the determination under section 16. The agreement-holder cannot appeal both the original determination and the review decision to the Forest Appeals Commission.

Section 83, of the *FRPA* gives the Forest Practices Board the right to appeal, to the FAC, FSP approval determinations, or review decisions of those determinations, but not both.

The Forest Appeals Commission may consider the findings of the person who made the determination or decision, and either:

- (a) confirm, vary or rescind the determination or decision, or
- (b) with or without directions, refer the matter back to the person who made the determination or decision, for reconsideration.



## Appendix 1: Exemptions: General

March 1 2009

### *Exemptions (including forestry licences to cut that are not major licences)*

This form is for persons who are applying for exemptions under the provisions of section 91 of the Forest Planning and Practices Regulation (FPPR) to specified section of the *FRPA* and FPPR.

#### Tenure identifier and area description

Forest District:	Licence number:
Licence type:	Timber mark:
FTA reference number:	Volume:
Area:	Geographic location:
Map attached:	

Exemption granted (check if applicable)	Section number	Notes
<b>S. 91(1) – If the minister is satisfied that it is not practicable, given the circumstances or conditions applicable to a particular area, the minister may exempt a person from:</b>		
<b>Forest and Range Practices Act</b>		
	s.10	
	s.29	
	s.29.1	
<b>Forest Planning and Practices Regulation</b>		
	s.41 - modification of insect behaviour	
	s.42 - use of livestock	
	s.46 - free growing stand - forestry license to cut	
	s.46.1 - free growing stands - community salvage license	
	s.46.2(5)- free growing stands – proposals to establish	
	s.50(2) or (3) - restrictions within a riparian management area	
	s.51 - restrictions on riparian reserve zone	
	s.55 - stream crossings	
	s.56 - fish passage	
	s.57 - protection of fish and fish habitat	
	s.58 - use of livestock in riparian areas	
	s.59 - protecting water quality	
	s.60 - licensed waterworks	
	s.61 - excavated or bladed trails	
	s.62 - roads in a community watershed	
	s.63 - use of fertilizers	
	s.68 - coarse woody debris	
	s.70(1) - resource features and wildlife features	
	s.72 - roads and associated structures	
	s.73 - design of bridges	



Exemption granted <small>(check if applicable)</small>	Section number	Notes
	s.75 - structural defects	
	s.76 - culvert fabrication	
	s.78 - clearing widths	
	s.79 - road maintenance	
	s.83 - hazard warning	
	s.84 - notice – road in community watershed	
	s.85(1) - notification of timber harvesting or road construction	
	s.111(4) - transitional consolidated site plans - establish FTG stand	
	Part 11 of <i>FRPA</i> – establish a free growing stand	
	<b>s.91(1)(b) - The minister may exempt a holder of any form of minor tenure from specified provisions of the FPPR</b> NOTE: If exemption is restricted per sub 91(1) (b) below, explain in Notes section or attach an applicable map to this document.	
	<b>s.91(1)(b) (continued) - ... and may restrict the exemption geographically</b> NOTE: If exemption is restricted, explain in Notes section or attach an applicable map to this document.	
<b>Section 91(1)(c) – The minister may exempt the holder of a forestry license to cut that is not a major licence or a minor tenure, from the following sections:</b>		
	s. 35 - soil disturbance limits	
	s. 36 - permanent access structure limits	
	s. 47 - riparian stream classes	
	s. 48 - wetland riparian classes	
	s. 49 - lake riparian classes	
	s. 50 - restrictions in a riparian management area	
	s. 51 - restrictions in a riparian reserve zone	
	s. 52 - restrictions in a riparian management area	
	s. 64 - maximum cut block size	
	s. 65 - harvesting adjacent to another cut block	
	s. 66 - wildlife tree retention	
	s. 67 - restriction on harvesting)	
	<b>s.91(2) - The minister may exempt an agreement-holder from the requirements of s.67</b> if the minister is satisfied that the holder has specified one or more wildlife tree retention areas that provide an area, number of trees or habitat that is equivalent to the portion of the wildlife tree retention area from which the timber is being harvested.	
	<b>s.91(3) - The minister may exempt an agreement holder from section 43.1(1) or the conditions set out in section 43.1(2) (a) to (d)</b> if the minister is satisfied that, given the circumstances or conditions applicable to a particular area, granting the exemption is in the public interest	





Updated November, 2006

## **Appendix 2: FSP plan checklist**

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The FSP requirements are, for the most part, non-prescriptive. Therefore, they do not lend themselves to the development of a template in the same way that a Forest Development Plan (FDP) did under the Forest Practices Code. However, developing a series of checklists may help agreement-holders prepare an FSP, or an amendment to an FSP that requires approval. Checklists may also promote consistency and save resources by creating a framework of critical information and procedural or supporting documentation.

An example of a legal content/conformity/results and strategy review checklist is included below.

**Note:** To help promote proper formatting of the checklist and make it easy to use, the ministry has also made it available for downloading, as a Microsoft® Word document, at: [www.for.gov.bc.ca/hth/timten/AGFSP/index.htm](http://www.for.gov.bc.ca/hth/timten/AGFSP/index.htm).



**Forest Stewardship Plan Content Review Checklist**

(Version dated April 15, 2005)

The checklist includes three parts: **Part A** covers the FSP content and conformity requirements; **Part B** covers the timber harvesting rights conformity testing; and **Part C** covers checking the consistency of results and strategies with objectives.

This checklist applies to both the submission of an FSP and the submission of an amendment to an FSP (that requires approval).

Licensee/Company: \_\_\_\_\_

FSP Area/Name: \_\_\_\_\_

Date FSP submitted: \_\_\_\_\_

**Disclaimer:** This “content” checklist has been prepared based on the Ministry of Forests and Range December 13, 2004 unofficial consolidation of the *Forest and Range Practices Act (FRPA)* and on the Forest Planning and Practices Regulation (FPPR) effective March 18, 2005. This is current to the version date above. Ensure that any checklist you use is consistent with the applicable and currently approved legislation and regulations.

**Part A: FSP content requirements**

Part A	General	Legislation/Section	Legislation requirement	Accept Y, N, N/A	Comments
1	Minister's direction	FRPA s.2(2)(b)	Minister may give binding directions to DDM with respect to exercising his or her discretion.		Check delegation matrix for any applicable directions.
2	Limited Content requirements for an FSP	FPPR s.19.1	If a community salvage licence, then provisions of s.19.1 may apply. Check for any exemptions granted from Division 1 or 2 of the FPPR.		Check for any prior approved exemptions (e.g., 25(2), 91, 92, etc.).
3	Exemption from s.4(1) and 4(1)(e) of the Act	FRPA s.4(1) and FPPR s.32.3	Check to ensure that the proposed harvesting is not exempt from the requirements for an FSP under these two sections.		<b>Note:</b> s.32.2 of the FPPR are the prescribed purposes for 4(1) (e) of the FRPA.
4	Appropriateness of agreement-holder's response to public comments received	FPPR s.22(2)	Agreement-holder is required to submit copies of written comments received and their response to the comments. See Part A Conformity Requirements, item 13 for complete wording of legislative requirements.		<b>NOTE:</b> See 4.2.7 of the <i>Guide</i> for more information on the application of this test.



Part A	Content criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
1	Map of specified scale and format showing forest development unit (FDU) boundaries	FRPA s.5(1)(a)	A forest stewardship plan must include a map that <ul style="list-style-type: none"> <li>i) uses a scale and format satisfactory to the minister, and</li> <li>ii) shows the boundaries of all FDUs.</li> </ul> <b>Note:</b> Check for map scale and format direction from the minister. See General section, above.		<b>Note:</b> Part ii ( <i>identification of FDU boundaries</i> ) may be a certified content item: check for any certification declarations. See checklist Part A, Content criteria, item 15 for a list of prescribed subject matter.
2	Specifies results or strategies in relation to objectives set by government (OSBG) and other objectives	FRPA s.5(1)(b)	An FSP must specify intended results or strategies, each in relation to: <ul style="list-style-type: none"> <li>i) OSBG, and</li> <li>ii) other objectives that are established under this <i>FRPA</i> or the regulations and which pertain to all or part of the area subject to the plan.</li> </ul> <b>Note:</b> Check for any grandparented objectives per s.181 of the <i>FRPA</i> and list per s.180 of the <i>FRPA</i> . <b>Note:</b> Also check exemption under s.12 and 91 of the FPPR. Check against Objectives Matrix for plan area.		<b>Note:</b> This is may be a certified content item: check for any certification declarations – specifically, that results or strategies specified for VQOs or an objective set for visual quality under s.9.2, grandparented under section 180, carried forward under section 181 of the FPPR, or established under the Government Actions Regulation (GAR) are consistent with that objective. See checklist Part A, Content criteria, item 15 for a complete list of subject matter.
3	Exemption from requirements for a result or strategy for timber in an FSP	FPPR s.12(8)	A person who is required to prepare an FSP is exempt from the requirements to prepare results or strategies for an OSBG for timber.		
4	Includes signature	FRPA s.5(3)	An FSP or an amendment to an FSP must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual(s) authorized to sign on behalf of the corporation.		
5	Includes results or strategies to address retention of trees in a riparian management zone	FPPR s.12(3)	A person who prepares an FSP must ensure that a result or strategy for the objective set out in section 8 addresses retention of trees in a riparian management zone.		Content check only. Full review of result or strategy carried out in Part C of the CHECKLIST.  See <i>FRPA</i> Bulletin # 4: Administration of Sections 12(3) and 52 of the FPPR: Considerations regarding content requirements for Forest Stewardship Plans on the website: <a href="http://www.for.gov.bc.ca/h">http://www.for.gov.bc.ca/h</a>



Part A	Content criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
					<a href="http://timten/FRPA_implementation/Bulletins.htm">th/timten/FRPA_implementation/Bulletins.htm</a>
6	Identifies specified features	FPPR s.14(3)	A person who prepares an FSP must ensure that the plan identifies, for each FDU, each of the following that are located within the FDU and are in effect on the date the plan or amendment is submitted for approval, if the plan or amendment is submitted on or before Dec 31, 2005 or in effect four months before the date the plan or amendment is submitted to the minister for approval, if after Dec 31, 2005: a) an ungulate winter range, b) a wildlife habitat area, c) a fisheries-sensitive watershed, d) a lakeshore management zone, including specifying the width of the zone if the zone is identified on a map accompanying the establishment of the lakeshore management zone e) a scenic area, f) a lake identified as an L1 lake under s.49 (1)(b)(ii), if the lake has been identified on a map accompanying the identification, g) a community watershed, h) an Old Growth Management Area, i) an area where commercial timber harvesting is prohibited by another enactment, j) cutting permits or road permits held by the agreement-holder, and k) road permits or timber sale licences granted by or entered into by the timber sale licence manager.		<b>NOTE: the description of any or all of these features may be certified content items, check for any certification declarations. See checklist Part A, Content Criteria, item 15 for a list of subject matter.</b>
7	FSP may identify declared areas	FPPR s.14(4)	FSP may identify declared areas. If declared areas are shown on maps, then conformity to legislated requirements must be checked per s.14(4) of the FPPR.		<b>Note:</b> This will not be applicable for initial FSPs, just replacement FSPs and amendments to either.
8	Specifies how stocking standards will apply	FPPR s.16(1)	A person required to prepare an FSP must ensure that the plan specifies the situations or circumstances that determine when s.44 (1) or s.45 will apply to an area.		
9	Specifies regeneration data, free-growing height and stocking standards	FPPR s.16(3)	A person required to prepare an FSP must ensure that the plan specifies, for each of the situations or circumstances specified under subsection (1), where a) s. 44(1) (a) will apply, the regeneration date and stocking standards, b) s. 44(1)(b) will apply, the free-growing height and stocking standards, c) s. 45(1) will apply, the regeneration date		<b>Note:</b> For s.44(1)(b) this may be a certified content item: check for any certification declarations. The certification should mention that the free-growing height complies with the requirements of s.22.1(2)(h).



Part A	Content criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
			and the stocking standards, and d) s. 45(2) will apply, the free-growing date and the stocking standards, as approved by the chief forester.		
10	Specifies stocking standards for intermediate cutting and special forest product harvesting	FPPR s.16(4)	A person required to prepare an FSP must ensure that the plan specifies stocking standards for areas referred to in s.44 (4), and the situations or circumstances that determine when the stocking standards will be applied.		
11	Specifies measures to prevent introduction of invasive plants	FPPR s.17	For the purpose of s.47 of the <i>FRPA</i> , a person who prepares an FSP must specify measures in the plan to prevent the introduction or spread of species of plants that are invasive plants under the Invasive Plants Regulation if the introduction or spread is likely to be the result of the person's forest practices.		<b>Note:</b> This is may be a certified content item,: check for any certification declarations. See checklist Part A, Content criteria, item 15 for a list of subject matter.
12	Specifies measures to mitigate the effect of removing natural range barriers	FPPR s.18	For the purpose of s.48 of the <i>FRPA</i> , a person who prepares an FSP must specify measures to mitigate the effect of removing or rendering ineffective natural range barriers.		<b>Note:</b> This is may be a certified content item: check for any certification declarations. See checklist Part A, Content criteria, item 15 for a list of subject matter.
13	Provide results of and describe changes as a result of Public Review and Comment	FPPR s.22(2)	A person who submits an FSP to the minister for approval must submit with the proposed plan: <ul style="list-style-type: none"> <li>a) a copy of the notice published under s.20,</li> <li>b) a copy of each written comment received under s.21,</li> <li>c) a description of any changes made to the plan as a result of the comments received under s.21, and</li> <li>d) a description of the efforts made to comply with the requirements of s.21(1)(c) (must provide a person whose rights may be affected by the plan with an opportunity to review the plan in a manner that is commensurate with the nature and extent to which the person's rights may be affected).</li> </ul>		<b>Note:</b> The DDM has to review the submitted material for completeness and appropriateness of the agreement-holder's action with respect to responding to comments received during the public review and comment process. The appropriateness test is completed first (see section 5.1.2.3 of the <i>Guide</i> and checklist Part A, General item 4 for more details on applying the appropriateness test to the "prescribed requirement" (Sec 5(1)(c) of the <i>Act</i> )).
14	Certification of content	FPPR s.22.1	A person qualified per s.22.1(1) is authorized to certify prescribed subject matter as conforming to the requirements of s.5 of the <i>FRPA</i> regarding the		



Part A	Content criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
			requirements necessary for the approval of an FSP under s.16(1.01) of the <i>FRPA</i> .		
15	Certification of content (continued)	FPPR s.22.1(2)	<p>For the purpose of s.16(1.01)(a) of the <i>FRPA</i> (which provides for certification by a person with the prescribed qualifications referred to in subsection (1) that an FSP conforms to s.5 of the <i>FRPA</i> in relation to prescribed subject matter), the following subject matter is prescribed:</p> <ul style="list-style-type: none"> <li>a) that the map referred to in s.5(1)(a)(ii) of the <i>FRPA</i> shows the boundaries of all applicable forest development units,</li> <li>b) that the intended results or strategies, specified in the plan, in relation to the OSBG for visual quality under s.9.2 of this FPPR are consistent with that objective,</li> <li>c) that the plan accurately specifies the FDUs, the areas, and the cut blocks, in accordance with s.14(1) of this FPPR,</li> <li>d) that, in accordance with s.14(2) of this FPPR, the plan accurately identifies for those FDUs, the things set out in s.14 (3) of this FPPR;</li> <li>e) that, in accordance with s.14(4) of this FPPR, the plan accurately describes each area that is identified in it as a declared area,</li> <li>f) that the measures specified in accordance with s.17 of this FPPR for the plan, to prevent the introduction or spread of species of plants prescribed in the Invasive Plants Regulation, will be effective,</li> <li>g) that the measures specified in accordance with s.18 of this FPPR for the plan, to mitigate the effect of removing or rendering ineffective natural range barriers, will be effective,</li> <li>h) that the free-growing height referred to in s.44(1)(b) of this FPPR: <ul style="list-style-type: none"> <li>i) is appropriate, and</li> <li>ii) is of sufficient height to</li> </ul> </li> </ul>		If the FSP contains certified content, is there a certificate of certification included, signed by the appropriate qualified professional for the items being certified?



Part A	Content criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
			demonstrate that the tree is adapted to the site, is growing well and can reasonably be expected to continue to do so,  i) that the intended results of strategies, specified in the plan, in relation to an OSBG for visual quality, are consistent with that objective, and  j) that the intended results of strategies specified in the plan in relation to a visual quality objective are consistent with that objective.		

**Additional information required to complete review (Y/N)?** \_\_\_\_\_

**If Yes, explain:**

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**Review of FSP content requirement completed (date):** \_\_\_\_\_



Part A: FSP conformity requirements

Part A	Conformity Criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
1	Term of plan included in plan and must not exceed five years	FRPA s.6(1)(a)	The term of an FSP is the period, not exceeding five years, that the person submitting the plan for approval specifies at the time of submission.		
2	FSP conforms to prescribed requirements	FRPA s.16(1)	<b>For Legislative Reference Only</b> The minister must approve an FSP or an amendment to an FSP that requires approval if he or she determines that the plan or amendment conforms to s.5. <b>Note:</b> Subject to s.7 of the FRPA.		
3	Certified content of FSP	FRPA s.16(1.01)	An FSP or amendment conforms to s.5 if <ul style="list-style-type: none"> <li>a) a person with prescribed qualifications certifies that it conforms to s.5 in relation to prescribed subject matter, and</li> <li>b) the minister is satisfied that it conforms to s.5 in relation to subject matter not prescribed for the purpose of paragraph (a).</li> </ul>		Prescribed qualifications are per s.22.1(1) of the FPPR.
3	FSP conforms to the FRPA, regulations, standards and objectives within specified timeframe. (four-month rule)	FRPA s.16(2) and FPPR s.12(2)	Unless an enactment, whenever enacted, or an OSBG, whenever established, includes a statement that it applies despite this subsection, an FSP, a woodlot licence plan or an amendment to either submitted to the minister for approval must be considered to have conformed to this FRPA, the regulations, the standards and the OSBG if the plan or amendment conforms to the relevant provisions of this FRPA, the regulations, the standards and the objectives as they were <b>four months before the date of the submission of the plan or amendment requiring approval to the minister.</b>		
4	FSP made publicly available for review and comment	FRPA s.18	A person responsible for preparing an FSP, a woodlot licence plan, or an amendment to either, if required by the regulations and then in accordance with the regulations, must make the plan or amendment publicly available for review and comment before submitting the plan or amendment to the minister for approval. <i>Check requirements under s.22(2) FPPR.</i>		
5	Declared areas must meet specified requirements	FPPR s.14(5)	A person who prepares an FSP may identify an area as a declared area if, on the date the area is identified, both of the following apply: <ul style="list-style-type: none"> <li>a) the area is located in an FDU that is in effect on the date of the submission of the plan to the minister, and</li> <li>b) all of the activities and evaluations needed to locate the approximate boundaries of a cut block or road,</li> </ul>		<b>Note:</b> The description of declared areas may be a certified content item: check for any certification declarations. See checklist Part A, Content criteria, item 15 for a list of subject



Part A	Conformity Criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
			having regard to the results or strategies that relate to the area, have been completed.		matter.
6	Must publish notice of review and comment.	FPPR s.20(1)	<p>Before a person submits an FSP to the minister for approval, the person must publish a notice in a newspaper, stating:</p> <ul style="list-style-type: none"> <li>a) that the plan or amendment is publicly available for review and written comment, at the person's place of business or other specified venue,</li> <li>b) persons may attend at that place during business hours to review the plan or amendment, and</li> <li>c) the address of the person proposing the plan or amendment, to which address persons may submit written comments by mail or in person.</li> </ul> <p><i>Check requirements under s.22(2) FPPR.</i></p>		
7	Must provide review and comment for specified period	FPPR s.20(2)	<p>For the purposes of subsection (1), the period during which persons have the opportunity to review an FSP or an amendment to one begins on the date the notice is first published and ends:</p> <ul style="list-style-type: none"> <li>a) 60 days after that date, if no greater or lesser number of days is determined under paragraph (b) or (c), and paragraph (d) is inapplicable,</li> <li>b) a greater number of days after that date that the minister may determine if paragraph (d) is inapplicable and he or she considers that the greater number of days is necessary to provide an adequate opportunity for review and comment under s.21,</li> <li>c) a lesser number of days that the minister may determine if paragraph (d) is inapplicable and he or she considers that the lesser number of days will provide an adequate opportunity for review and comment under s.21, or</li> <li>d) 10 days after that date if all or a substantial part of the timber to which the plan pertains: <ul style="list-style-type: none"> <li>i) is dead, infested with pests or otherwise damaged, or is required to be harvested to facilitate the removal of dead, infested or damaged timber, and</li> <li>ii) must be harvested expeditiously to prevent: <ul style="list-style-type: none"> <li>A) the spread of pests, or</li> </ul> </li> </ul> </li> </ul>		



Part A	Conformity Criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
			B) a significant reduction in the economic value of the timber due to deterioration in the quality of the timber.		
8	Must publish notice of review and comment exemption	FPPR s.20(4)	If the minister waives the review period under subsection (2)(b) and the plan is approved, the person who is the subject of the order must publish in a newspaper a notice specifying: <ul style="list-style-type: none"> <li>a) that the FSP has been approved without having been made available for review and comment, and</li> <li>b) the date on which operations under the plan have been authorized to begin.</li> </ul>		Check for compliance if exemption been granted.
9	Must refer FSP, provide opportunity to review FSP and make effort to meet with First Nations	FPPR s.21(1)	A person who publishes a notice under s.20(1) must, during the period specified in the notice: <ul style="list-style-type: none"> <li>a) if required by the minister, refer a copy of the FSP, or a portion of the plan, to any agency of government or agency of the Government of Canada,</li> <li>b) must provide a person who is interested in the plan with an opportunity to review the plan during business hours at the place of business of the person who published the notice, or other venue specified in the notice under s.20(1),</li> <li>c) must provide a person whose rights may be affected by the plan with an opportunity to review the plan in a manner that is commensurate with the nature and extent to which the person's rights may be affected, and</li> <li>d) make reasonable efforts to meet with First Nations groups affected by the plan, to discuss the plan.</li> </ul>		
10	Must consider written comments	FPPR s.22(1)	A person who publishes a notice under s.20 (1): <ul style="list-style-type: none"> <li>a) must consider any written comments received under s.21 that are relevant to the plan or relevant to the amendment, and</li> <li>b) is not required to consider comments in respect of:                             <ul style="list-style-type: none"> <li>i) areas described in s.14 (1)(b), (c) or (d), (3)(j) or (k), or (4), or</li> <li>ii) results and strategies that relate to the areas referred to in (i).</li> </ul> </li> </ul>		
11	Must submit copy of notice and written comments, description of changes to the plan and efforts to meet with	FPPR s.22(2)	A person who submits an FSP to the minister for approval must submit with the proposed plan: <ul style="list-style-type: none"> <li>a) a copy of the notice published under s.20,</li> <li>b) a copy of each written comment received under s.21,</li> <li>c) a description of any changes made to</li> </ul>		



Part A	Conformity Criteria	Legislation/ Section	Legislation requirement	Accept Y, N, N/A	Comments
	First Nations		the plan as a result of the comments received under s.21, and d) a description of the efforts made to comply with the requirements of s.21(1) (c).		
12	Regeneration date, free-growing height and stocking standards must conform to prescribed requirements	FPPR s.26(3)	The minister must approve the regeneration date, free-growing height and stocking standards referred to in s.16(3), if the minister is satisfied that a) the regeneration date and the standards will result in the area being stocked with ecologically suitable species that address immediate and long-term forest health issues on the area, to a density or to a basal area that, in either case, i. is consistent with maintaining or enhancing an economically valuable supply of commercial timber from B.C.'s forests, and ii. is consistent with the timber supply analysis and forest management assumptions that apply to the area covered by the plan on the date the plan was submitted for approval, and b) the free growing height is of sufficient height to demonstrate that the tree is adapted to the site, and is growing well and can reasonably be expected to continue to do so.		
13	Stocking standards will result in the area being stocked with ecologically suitable species that address long-term forest health issues on the area, to a density or to a basal area consistent with maintaining supply over time, etc.	FPPR s.26(4)	The minister must approve the stocking standards referred to in s.16(4) if he or she is satisfied that the standards will result in the area being stocked with ecologically suitable species that address immediate and long-term forest health issues on the area, to a density or to a basal area that, in either case, is consistent with: (a) maintaining or enhancing an economically valuable supply of commercial timber from B.C.'s forests, and (b) the timber supply analysis and forest management assumptions that apply to the area covered by the plan on the date that the plan is submitted for approval.		Or approved via s.26(5)

Additional information required to complete review (Y/N)? \_\_\_\_\_

If Yes, explain:



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Review of FSP conformity requirement completed (date): \_\_\_\_\_



**Part B: FSP Timber harvesting rights consistency test**

Part B	Consistency Criteria	Legislation	Legislation Requirement	Accept Y, N, N/A	Comments
1	FSP must be consistent with timber harvesting rights.	FRPA s.5(2)	An FSP must be consistent with timber harvesting rights granted by the government for any of the following to which the plan applies: i. the timber supply area; ii. the community forest agreement area; iii. the tree farm licence area; iv. the pulpwood area.		

**Additional information required to complete review (Y/N)?** \_\_\_\_\_

**If Yes, explain:**

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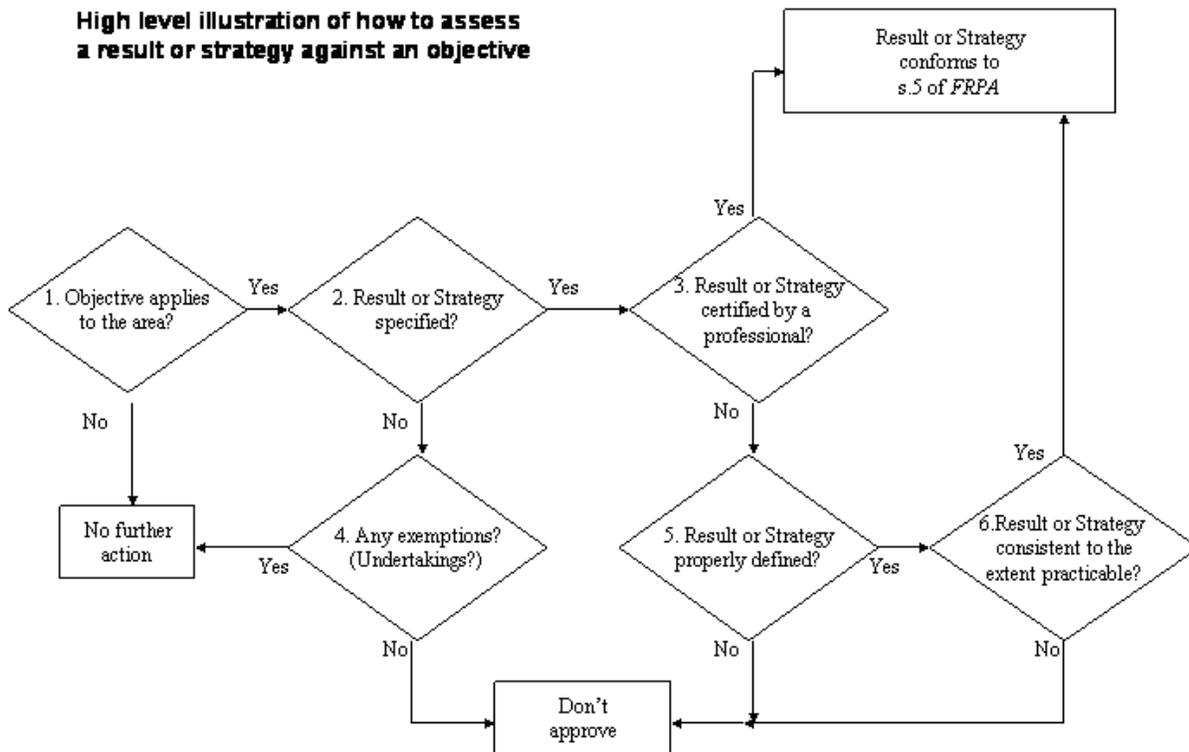
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**Review of FSP timber harvesting rights consistency test completed (date):** \_\_\_\_\_



Part C: Results or strategies consistent with objectives

Recommended approach for reviewing a result and/or strategy.





**Part C Notes:**

- Complete Part C for each objective (may have multiple copies if result or strategy is broken up within FDUs).
- Check the Objectives Matrix or other district reference documentation for the complete list of objectives that are applicable to the plan area.
- Ensure that all applicable objectives are reviewed.

**Objective:** \_\_\_\_\_

**Applicable plan area:** \_\_\_\_\_

Part C	Review criteria	Accept Y, N, N/A	Comments	Request more info?
<b>Sec 1</b>	<b>Primary review</b>			
<b>1</b>	If the result or strategy relates to an objective outlined in s.22.1(2) (b), (i) or (j) per certified content items, then there is no requirement for it to be reviewed.			
<b>2</b>	Has the DDM made an exemption from requiring a result or strategy under s.12(7) of the FPPR?			
<b>3</b>	Have there been any notices or orders issued under s.7 of the FPPR? Has the <b>notice</b> made any exemption to the obligation to specify a result or strategy for an objective for wildlife under s.7(3) of the FPPR? When was notice made? If before Dec. 31, 2004, then it applies immediately; if after Dec. 31, 2004, then the four-month rule applies.		Whenever the DDM approves an <b>order</b> for ungulate winter range or wildlife habitat areas, the order itself may have a clause that sets out the exemption for the purposes of s.7(3), and, where needed, describes the extent to which the exemption applies.	
<b>4</b>	Does the result/strategy for wildlife tree retention (WTR) conform to guidance given in <i>FRPA</i> Bulletin # 4: Administration of Sections 12(3) and 52 of the FPPR: Considerations regarding content requirements for Forest Stewardship Plans		<i>FRPA</i> Bulletin # 4 available on the PFIT website: <a href="http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm">http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm</a>	
<b>5</b>	Have there been any exemptions granted under s.25(2) or 92.1 of the FPPR?			
<b>6</b>	Is a higher-level plan in place? Is it clear what objective(s) apply to the area for which a result or strategy must be prepared? Check the Objectives Matrix for clarity as to what objective applies.			
<b>7</b>	Has the objective or have the objectives to which the result or strategy applies been identified?		Applies to objectives under s.5, 8, 9 and 9.1 of the FPPR.	
<b>8</b>	Is a default practice requirement available? If No, then go to Sec 2.			
<b>9</b>	If the FPPR practice requirement has not been used, has a result or strategy been proposed? If Yes, then proceed to Sec 2		If a result/strategy is proposed, proceed to Section 2.	
<b>10</b>	If the FPPR practice requirement has been used, has the result or strategy been referenced to a FDU in an acceptable manner? Has this been done within the text or shown on a map?		If yes, then the result is deemed to be consistent with the objective but only with the area of the plan it applies to.	
<b>11</b>	Does the default practice requirement apply to all of the FDUs? If No, then the rest of plan area must have a result or strategy included and must be assessed			



Part C	Review criteria	Accept Y, N, N/A	Comments	Request more info?
	for consistency using Sec 2 of this Checklist.			
<b>Sec 2</b>	<b>Non-Default Result and Strategy review</b>			
<b>1</b>	Is the objective to which the result or strategy applies been identified?			
<b>2</b>	If the result or strategy deals with an s.7 objective set for wildlife, have any exemptions or partial exemptions been granted under s.7(3) of the FPPR?		These apply to objectives set for a wildlife habitat area, an ungulate winter range, a general wildlife measure or a wildlife habitat feature. The MoE order itself will have a clause that sets out the exemption for the purposes of s.7(3), and, where needed, describes the extent to which the exemption applies.	
<b>3</b>	Has the result or strategy been referenced to an FDU in an acceptable manner? Has this been done within the text or shown on a map?			
<b>4</b>	Does the proposed result or strategy meet the definition of measurable or verifiable? Suggested that you use the guidance provided in C&E Bulletin # 12 to assist in answering this question. (hot link below)		See new definitions for “result” and “strategy” dated Dec. 13, 2004.	
<b>5</b>	Have there been any guidelines or other expert information used, or should have been used to develop the result or strategy, and have they been referenced in the plan or supporting documentation?		This is not a “legal” requirement but may be helpful in review of the result and/or strategy.	
<b>6</b>	Have any milestones been added that will make this verifiable or measurable?		This is not a “legal” requirement but may be helpful in review of the result and/or strategy.	
<b>7</b>	Have any factors from the Schedule or other factors been used?			
<b>8</b>	Does the result or strategy address the four W’s: What will be done? Who will do it? Where it will be done or apply to? When it will be done?			
<b>9</b>	Ask the question: Can you visualize a Compliance and Enforcement staff member being able to use this result or strategy during a field inspection to measure/assess the result or strategy on the ground? (This relates to the four W’s, above.)			
<b>10</b>	Has the consistency test been met in terms of the requirements of s.5(1)(b) of the <i>FRPA</i> (one-to-one test)? Section 25(1) of the FPPR also applies to the consistency test.			
<b>11</b>	Has the consistency test been met in terms of the result or strategy being consistent with the referenced objective, but also with all other objectives per section 5(1.1) of the <i>FRPA</i> (one-to-many test) and section 25.1 of the FPPR?			

**Part C Summary**



Is the reviewed result or strategy acceptable? (Y/N): \_\_\_\_\_

Rationale:

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Additional information required to complete review?(Y/N) \_\_\_\_\_

If Yes, explain:

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Review of results or strategy test completed (date): \_\_\_\_\_

**Notes:**

- C&E (CEPS) Bulletin # 12 can be found on the *FRPA* Bulletins page of the PFIT website under General bulletins: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm)
- Check to see if all of applicable objectives have been addressed in the FSP from those identified in the Objectives Matrix.
- There are two additional items to check on the FSP submission:
  - FPPR 26(a)(ii) – unless exempted under s.91, regeneration dates and standards must be consistent with the timber supply analysis and forest management assumptions that apply to the area of the plan on the date it is submitted, and
  - FPPR 91(3) – if an exemption has been granted, then if there are standards that are outside of the Timber Supply Review assumptions, is a rationale provided? Is it acceptable?



Updated May, 2006

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## Appendix 3: Example an FSP approval letter (if needed)

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Date: [date]

File: [xxx]

To: [Agreement-holder – legal name]

Your forest stewardship plan [FSP] submission dated [date] for the years [XXXX to XXXX] inclusive for the [area-based tenure or volume-based tenure in the xxxx timber supply area] has now been fully reviewed.

### Determination

I am satisfied that the proposed plan has been prepared and submitted in accordance with section [XXX] of the *Forest and Range Practices Act (FRPA)* (the *Act*) and regulations.

Accordingly, as the statutory decision-maker under section [XX] of the *Act*, I hereby am approving your FSP.

The term of the plan is [up to five years from the date of approval].

Further development taking place under [tenure] must be done in accordance with the issued FSP. Conditions regarding this development are attached or will be communicated under separate cover.

### Conditions

Conditions under which this approval is made include the following [list conditions].

If you need clarification on any aspect of this determination or conditions, please contact [contact name].

Yours truly,

[Delegated decision-maker name]  
District Manager or Regional Executive Director  
[XXX] Forest District/Region



Updated June, 2007

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## Appendix 3A: Sample FSP Opportunity to be Heard invitation letter

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Date: [date]

File: [xxx]

To: [Agreement-holder – legal name]

I have completed my review of your forest stewardship plan [FSP] submission dated [date] for the years [XXXX to XXXX] inclusive for [area-based tenure or volume-based tenure in the xxxx timber supply area].

Based on my review, I am unable to determine whether or not your FSP conforms to section 5 of the *Forest and Range Practices Act (FRPA)*, which is required under section 16 of *FRPA* before I can approve your FSP. Specifically, your FSP may not conform to [reference specific subsections of section 5 to which the FSP may not conform]. In addition, the interpretation section of your FSP contains a number of clauses that either create uncertainty, appear to create new rules that are not found in the legislation, or contain statements concerning the law that applies to the FSP. Some of these clauses appear to circumvent legislative provisions concerning liability, the statutory defences, and the need for FSP amendments. Approval of clauses that interpret or re-state the law, or that create new rules, is outside the scope of my authority and thus their inclusion in the FSP may very well pose a barrier to my approval of the plan. The attached document more specifically details my concerns about these clauses.

My uncertainty is based on the following: [explain the apparent deficiencies providing enough detail to ensure that the agreement-holder clearly understands your concerns about why the legal tests may not have been met. If you are relying on information that is external to the plan, specify what that information is. Clearly explain your reasoning and considerations so that the agreement-holder knows the case it has to meet and can properly prepare for the OTBH.]

As the minister's delegate, I am authorized to make a determination about the approval of your FSP under section 16 of the *FRPA*. Before I make my determination, I am offering you an Opportunity to be Heard.

If you would like to use this opportunity to provide written submissions, please provide those submissions by [deadline for written submissions]. If you would prefer an oral hearing, I would be happy to accommodate you, as long as this hearing occurs no later than [latest possible date for hearing].



Updated June, 2007

*[Note to ministry staff, to be removed from any outgoing letter: The dates set for the above must be reasonable, with regard to administrative law principles of fairness.]*

If your choice is to proceed by way of an oral hearing, please contact [*contact for hearing date*] at [*area code and phone number*] by [*deadline for setting hearing date*] to arrange a suitable date and time for the hearing.

I am also willing to consider other options, such as a conference call or an informal meeting, if that is your preference. If so, please contact me at [*area code and phone number*] by [*date*] to discuss other options.

Finally, if you have any questions about the Opportunity to be Heard, such as how best to prepare for or make use of the opportunity, please feel free to contact [*contact for questions*] at [*area code and phone number*].

Please note that if you do not respond to this offer of an Opportunity to be Heard, I will assume that you have declined the opportunity. I will then proceed with my determination.

Yours truly,

[*Delegated decision-maker name*]  
District Manager or Regional Executive Director  
[*XXX*] Forest District/Region



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## Appendix 3B: Sample FSP rejection letter

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Date: [date]

File: [xxx]

To: [Agreement-holder – legal name]

*[Note to ministry staff, to be removed from any outgoing letter: In your rejection letter, you should clearly specify to which subsection of section 5 of the FRPA you believe the FSP does not conform. The letter can be brief, with the rationale set out as an attachment more fully explaining the reasons for the plan refusal. Written reasons are a legal requirement under section 16[3] of the FRPA when refusing to approve a plan.]*

I write, further to your Opportunity to be Heard held on [date] regarding your forest stewardship plan [FSP] submission dated [date] for the years [XXXX to XXXX] inclusive for [area-based tenure or volume-based tenure in the xxx timber supply area]. I have carefully reviewed your FSP and considered all of the available evidence, including that presented to me at your Opportunity to be Heard, and I have made my determination.

### Authority

The Minister of Forests and Range has delegated his authority to me under section 2(2) of the *Forest and Range Practices Act (FRPA)* (the *Act*) to approve your FSP, pursuant to section 16 of the *FRPA*, if it conforms to section 5 of the *Act*.

### Determination

I regret to inform you that, in its present form, your FSP does not conform to section 5. Specifically, your FSP does not conform to [reference the subsection numbers of the legislation to which the plan does not conform – outlined in **Error! Reference source not found.**].

Accordingly, as the delegated decision-maker under section 16 of the *FRPA*, I have determined that I cannot approve your FSP.

The attached rationale sets out the reasons for my determination.

### Opportunity for correcting this determination

I am authorized under section 79 of the *FRPA* to correct certain types of obvious errors or omissions, within 15 days of making this determination. I may do this on my own initiative or at your request. If you think that there are valid reasons to correct the



determination, you may contact me at [area code and phone number] within this 15-day period.

### **Opportunities for review and appeal**

#### ***If you have new information***

If you have new information that was not available at the time I made this determination, you may request a review of my determination on the basis of this new information. A request for review must be in writing, must be signed by you, or on your behalf, and must contain:

- a) your name and address, and the name of the person, if any, making the request on your behalf,
- b) the address for serving a document to you or to the person acting on your behalf,
- c) the new evidence that was not available at the time this determination was made, and
- d) a statement of the relief requested.

This request should be directed to me, at [your address] and I must receive it ***no later than three weeks*** after the date this notice of determination is given or delivered to you.

The provisions governing reviews are set out in section 80 of the *FRPA* and in the Administrative Review and Appeal Procedure Regulation. Section 80 (1) of the *FRPA* states that the review will be conducted by the person who made the determination, or another person employed in the ministry and designated in writing by the minister.

Please note the **three-week time limit** for requesting a review.

#### ***If you disagree with this determination***

If you disagree with my determination, as expressed in this letter, you may appeal directly to the Forest Appeals Commission.

The appeal request must be signed by you, or on your behalf, and must contain:

- a) your name and address; and the name of the person, if any, making the request on your behalf;
- b) the address for serving a document to you or the person acting on your behalf;
- c) the grounds for appeal; and
- d) a statement of the relief requested.

The Forest Appeals Commission must receive the appeal ***no later than three weeks*** after the date this notice of determination is given or delivered to you.

The provisions governing appeals are set out in sections 82 through 84 of the *FRPA* and in the Administrative Review and Appeal Procedure Regulation. To initiate an appeal, you must deliver a notice of appeal, together with the requisite supporting documents, to the Forest Appeals Commission at the following address:



The Registrar, Forest Appeals Commission  
PO Box 9425, Stn Prov Govt  
Victoria, BC V8W 9V1

Please note the **three-week time limit** for delivering a notice of appeal.

***If you disagree with a review of a determination***

If you request a review, and you do not agree with the decision we make after the completion of the review, you may appeal that decision to the Forest Appeals Commission (see above).

If you need clarification on any aspect of this determination, please contact [*contact name*] at [*area code and phone number*].

Yours truly,

[*Delegated decision-maker*]  
District Manager or Regional Executive Director  
[*XXX*] Forest District/Region

cc: Forest Practices Board



## **Appendix 3C: Sample exemption letter (with conditions)**

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Date: [date]

File: [xxx]

To: [Agreement-holder – legal name]

Thank you for your letter dated [insert date of letter], requesting exemptions from *Forest Planning and Practices Regulation* (FPPR) sections [insert section numbers] in relation to the Forest Stewardship Plan (FSP) submitted by [name of person/organization required to prepare the plan] to the [insert name of MFR Forest District] on [insert date].

Pursuant to the authority delegated to me under s.2(2) of the *Forest and Range Practices Act* (FRPA), I hereby grant the [name of person/organization required to prepare the plan] the following exemption on the following terms:

1. I exempt the [name of person/organization required to prepare the plan] under s.91(1)(a) of the *FPPR* from the requirement in section [insert section number(s)] of the *FPPR* to [insert condition(s)]

Under the authority of section 112 of the FPPR, this exemption is subject to the following conditions:

- [insert conditions here].

The exemptions contained herein are based on the [insert reasons for exemptions and conditions—examples include basing on the rationale provided in the agreement-holder's letter, the tenure terms and conditions, the situations and circumstances to which their proposed FSP applies, and consideration of the nature and extent of the proposed timber harvesting]. This exemption comes into effect [insert date]. If any of these situations change I may revoke or vary the conditions contained in this letter.

Yours truly,

[Delegated decision-maker]  
District Manager or Regional Executive Director  
[XXX] Forest District/Region



Updated June, 2007

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## **Appendix 3D: Sample letter to add agreement-holder**

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Date: *[date]*

From: *[agreement-holder name and address – letterhead]*

To: *[DDM for FSP]*

**Re: Inclusion of *[agreement-holder]* of Forest Tenure *[licence]* into *[name of FSP]***

Please accept this letter as authority from *[agreement-holder]* to have Forest Tenure *[licence]* included in the *[name of FSP]*.

*[Agreement-holder]* is listed as an agreement-holder in the FSP. When approved in writing by yourself, we will be subject to the *Forest and Range Practices Act (FRPA)* and commitments of the Forest Stewardship Plan.

Thank you for your attention on this matter. Please contact me if you have any questions or require additional information.

Yours truly,

*[signature of person required to prepare a plan]*

*[Name and Title]*



Updated June, 2007

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## **Appendix 3E: Sample transition FSP acceptance letter**

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Date: [date]

File: [xxx]

To: [Agreement-holder – legal name]

The forest stewardship plan (FSP) submitted by [agreement-holder] on [submission date] in respect of [licence] is hereby acknowledged to have been received by [name of district office] on [date received].

By operation of Section 196(1) of the *Forest and Range Practices Act (FRPA)*, an FSP must be considered to have received the minister's approval under Section 16(1) of *FRPA* for the parts of the FSP that are:

- a. a cut block, if the cut block has been included in a forest development plan, with the assessments required in sections 16, 17, 36.1 and 37 of the Operational and Site Planning Regulation shown as completed, and
- b. a road, if the road has been included in a forest development plan, with the assessments required in section 5 of the Forest Road Regulation shown as completed.

By operation of Section 196(2) of *FRPA*, an FSP must be considered to have received the minister's approval under Section 16(1) for the parts, if any, of the plan that pertain to a cut block or road that has been included as part of a forest development plan that is in effect on the date of the submission of the forest stewardship plan to the minister, unless:

- a. one or more of the following events have occurred during the period beginning 4 months before the date the existing forest development plan was submitted for approval and ending 4 months before the date the proposed forest stewardship plan was submitted for approval:
  - i. an enactment applicable to the forest development unit has been made or amended;
  - ii. an objective set by government has been established or varied;
  - iii. an area of land has been designated by regulation as a community watershed;
  - iv. an area of land that was a community watershed has been varied by regulation and the watershed as varied is applicable to the forest development unit;
  - v. timber in the vicinity of the forest development unit has suffered catastrophic damage, and
- b. the minister considers that the forest development unit is inconsistent with the events described in paragraph (a) that have occurred.



Updated June, 2007

As the forest development units in this transition FSP consist entirely of approved cut blocks and approved roads in the *[name of approved forest development plan]* in effect at the date of this FSP submission, the areas covered by the FSP's FDUs meet the requirements of Section 196(1) or Section 196(2). Those parts of the FSP must, therefore, be considered to have received the minister's approval under Section 16(1) of *FRPA*.

The term of the FSP is *[number of years/months]*, as specified in your FSP submission. The term of the FSP begins on *[date term starts]* and ends on *[date term ends]*.

I have considered the First Nations consultation that was undertaken on the *[name of approved forest development plan]* in relation to the approved Category "A" cut blocks and approved roads forming the FDUs in this FSP, and the consultation undertaken by the Ministry of Forests and Range prior to entering into the licence agreement *[licence]*. I am satisfied that no further consultation was required for the purposes of this transition FSP. However, at the road permit and/or cutting permit application stage of authorizing operations under *[licence]*, I may determine that further consultation with First Nations concerning aboriginal interests may be necessary prior to issuing any cutting permit or road permit.

If you need clarification on any aspect of this letter, please contact *[name of district contact person]* at *[contact phone number and/or address]*.

Yours truly,

*[signature of DDM]*  
*[name and title]*



## Appendix 4: Example rationale to support an FSP approval or rejection

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### RATIONALE

Having reviewed the supporting documentation material submitted to me, which included [*list material*], the comments from the public and other resource agencies, my reasons for [*approving/rejecting*] your plan are as follows:

#### Notes to ministry staff, to be removed from any outgoing communication:

Statements in the rationale should be along the lines of “I am aware of [*the issue*] and [*have/have not*] resolved it [*describe how it was resolved in order to grant approval*]”.

#### Points for decision-makers to consider:

- 1) This letter is a **determination** of the issuing of this plan. It should be clear that you are making the decision, you are not being fettered, and you are being fair and reasonable. To achieve this, you should include all of the information that you considered relevant to the making of your determination.

*Observation:* The effectiveness of the plan preparation, review and approval process can be dealt with outside of this approval letter, but should not be addressed in the letter or rationale.

- 2) The approval/rejection is for the whole plan. There are requirements that the approval must pass, and we recommend that the rationale deal separately with issues that relate to them.

With respect to the requirements of section [XXX], identify any aspects that do not satisfy you and indicate why this is grounds for rejection.

- 3) Section 16(3) of the *FRPA* expressly requires the DDM to give written reasons for refusing to approve an FSP or amendment. The reasons need to be ample enough to demonstrate that you fully considered the FSP and supporting documentation, and understood and properly applied the legislative tests. Your reasons for refusal (not just your conclusions, but your reasoning) should be clearly stated so that the agreement-holder and a reviewing body can understand your thought process.

While the legislation does not require written reasons when an FSP is *approved*, administrative law generally requires written reasons when statutory decisions are made. Though it stands to reason that an approval determination will not be as



comprehensive in its reasons as an FSP refusal, an approval decision should set out more than simply conclusions, especially in respect of any areas that may have posed some difficulty for the DDM, where clarity as to what was approved needs to be set out, or where conditions have been attached to the approval. It should also be kept in mind that even plan approval determinations can be reviewed and appealed.

Generally speaking, for both approval and refusals, the DDM should address the issues that were considered during the review and approval/refusal process.

The approval/refusal cover letter could be written to include the rationale within the body of the letter, but since approvals/refusals are usually complex, it may be more appropriate to attach it as a separate document.

The rationale should provide a window into the reasoning behind your decision and be complete enough so that, if it is challenged, it will have enough substance to be defensible. The length of a rationale will depend on the circumstances and issues raised in each case. If you have specific concerns about how to best express your determination, you can contact your regional solicitor before sending the letter to the agreement-holder.

- 4) There is no requirement under the *FRPA* that a DDM notify the Board of a determination under section [XXX] of the *FRPA*. While the Board has the power to obtain information, under Part 8 of the *FRPA*, unless the Board uses this authority, there is no requirement for a district manager to provide a copy of a determination to the Board. In other words, unless the Board asks for a copy of a determination, the Ministry need not give the Board a copy.



Updated May, 2006

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## Appendix 5: Basic principles of administrative law

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### ***Introduction***

Administrative law concerns the actions of government officials; both the limits of their authority and the remedies available where those limits are exceeded.

It is strongly recommended that the decision-maker and support staff review this appendix regularly to ensure that their procedures, processes and policies adhere to the principles of administrative law outlined here.

### ***Discretion***

In every statute, a balance is struck between the desire for consistency and the need for flexibility.

*FRPA* provides much less discretion to government officials than was provided under the *Forest Practices Code of BC Act*. *FRPA* has shifted a considerable amount of discretion from government officials to agreement-holders. Nevertheless, *FRPA* does provide a certain amount of discretionary authority to DDMs to ensure that the legal tests in *FRPA* are met.

The issue is not whether discretion is desirable, but rather how best to guide its use.

The potential for abuse of discretion can be decreased by structuring how and when the discretion may be used. This structuring may be in the form of:

- legislative criteria,
- policy statements and guidelines, and
- decision records.

The government has used all three of these tools for structuring discretion under the *FRPA*. The Act itself often lists the circumstances within which the district manager may exempt an agreement-holder from carrying out a requirement of the *FRPA*. Section 2(2)(b) gives the Minister further power to regulate the criteria that a person must use in exercising discretionary powers.

The Ministry of Forests and Range continues to use policy statements and guidelines to help decision-makers in the exercise of their discretion. Policy statements are intended to provide guidance. Policies promote consistency in decision-making and, generally, should be followed unless the decision-maker has a sound reason for departing from them. Policies do not have the force of law and are therefore not binding on decision-makers:



they must be considered, and should normally be followed, but they must not be followed blindly. To do so would amount to unlawful fettering on the part of the decision-maker.

Information systems can also be used to promote consistency in the decisions reached by decision-makers.

Statutes that provide for discretion usually also provide a mechanism for seeking a review of that discretion. The nature and extent of the review process is usually commensurate with the nature of the discretion being exercised.

Not all forms of review are contained in the *FRPA*. Depending on the nature of the decision involved, the following avenues of review may be available to the person who is affected by the decision:

- administrative review,
- appeal to the Forest Appeals Commission,
- appeal to the courts,
- judicial review,
- complaint investigation by the Forest Practices Board, and
- political appeals.

### ***Principles of administrative law***

Administrative law addresses both the procedures by which a decision is made and the substance of the decision itself. Procedural matters concern the way in which a decision is made, and are as important as the substantive decision itself. Courts will not hesitate to overturn an administrative or statutory decision that was arrived at through an unfair process. The courts have developed rules of procedural fairness to guide statutory decision-makers in their decision-making processes.

The most important rules of procedural fairness are aimed at ensuring the person has adequate notice of the case he or she has to meet, is provided with an opportunity to respond fully and adequately to allegations and concerns held by the decision-maker, and has the case decided by an impartial decision-maker based on available evidence.

The more minor the consequences of a decision, the less fulsome the procedures by which the decision must be made. Conversely, decisions with serious consequences require the rules of procedural fairness be to be applied more rigorously. A determination to approve or refuse an FSP can have serious consequences for a licensee and so requires a rigorous application of the principles of procedural fairness.

### ***Jurisdiction***

Jurisdiction is the first requirement of a proper decision. There are two elements to jurisdiction:



- having the authorization to make the decision, and
- making it within the scope of your authority.

Having the authorization to make the decision means that the decision-maker is one of the persons contemplated by the statute to make the decision. While this is often self-evident, the issue can be complicated when matters of delegation are involved. For a person to have a valid delegated authority, all of the following must occur:

- the statute must clearly set out that the decision may be delegated from the named decision maker to another person or persons,
- the would-be decision-maker must be a member of the group to whom authority may be given, and
- authority must have been properly delegated.

Making a decision within the scope of your authority requires that you do not go beyond what is contemplated in the provision of the enabling statute under which you are operating. This is simply to say that even though you have the authority to make a particular decision, you must do so within certain boundaries. If you go beyond those boundaries, you are outside your jurisdiction. If you made a determination for a reason other than one contemplated by the statute, you would be acting for an improper purpose and would be beyond your jurisdiction. If it is challenged, your decision will be overturned.

### ***Decisions: mandatory versus discretionary***

A decision may be mandatory or discretionary. A mandatory decision is one that must be made if the stated criteria or conditions are met. Mandatory decisions are usually reflected in statutes as a “must” or “shall.” A discretionary decision provides a choice to the decision-maker. These types of statutory decisions usually contain the word “may.”

It is important not to confuse mandatory or discretionary decisions with the exercise of discretion. While a discretionary decision necessarily includes an element of discretion, a mandatory decision does not necessarily preclude it. For example, the Minister must approve a forest stewardship plan (FSP) under section 16 of *FRPA* if the plan conforms to Section 5. Determining whether or not the plan conforms to the requirements set out in Section 5, however, requires some exercise of discretion.

### ***Proper use of discretion***

Administrative law principles are concerned with the proper use of discretion. Within the general subject matter of proper use of discretion are the following distinct subject areas:

- proper delegation,
- avoidance of fettering,
- relevance,
- proper purposes,
- arbitrariness, and



- reasonableness.

### ***Proper delegation***

Unless the statute explicitly provides for delegation of decision-making, the decision-maker cannot delegate that authority. However, specific tasks, such as collecting background information, can be delegated without specific authority to do so. Where a statute permits delegation, the appropriateness of the person exercising delegated decision-making powers will depend on the specific circumstances. For example, it would usually be inappropriate to delegate a higher-level decision-making task to someone who had already been involved in the case when it was at a lower level in the administrative process. However, in the *FRPA*, it is expressly contemplated that reviews of determinations will be carried out by the person who made the determination, unless another person has been designated in writing by the Minister (see s.80).

Subsections 120.1, 120.2 and 120.3 of *FRPA* explicitly provide for delegation and sub-delegation of decision-making.

### ***Avoidance of fettering***

If a statute specifically contemplates that a person has decision-making authority, then that person must be permitted to exercise that authority freely. If constraints are placed on the decision-maker to such a degree that he or she no longer has any real ability to make a decision, then the decision-maker is said to be “fettered”. If challenged, the resulting decision will be rescinded. Following policy guidance blindly, as noted above, is an example of fettering.

### ***Relevance***

A decision-maker must consider all relevant factors and avoid all irrelevant factors. For example, when imposing a penalty under section 71 for unauthorized harvest, it would be:

- relevant to consider previous contraventions of a similar nature by that person, which resulted in statutory enforcement actions being taken, and
- irrelevant to consider the informal field resolution of past events. (The issue of relevance of previous determinations is important. Agreement-holders are very concerned about how even minor decisions may be used against them in the future. Therefore, some agreement-holders feel compelled to appeal the original minor determination in an effort to prevent it from appearing on their performance record.).

### ***Proper purposes***

When making a statutory decision, the decision-maker should consider the overall purpose of the Act, as well as any purpose or intent that may be specified within the relevant provision. Often government, in an attempt to clarify its intent about a particular section or its application, will publish a bulletin to provide guidance to the decision-maker. While these bulletins should be considered in the decision-making process,



decision-makers are cautioned to avoid following them blindly. You must exercise your own discretion in light of all the facts and circumstances. Further, decisions must not be made for a clearly improper purpose, such as acting in bad faith or for personal gain.

### ***Arbitrariness***

It is usually desirable that similar facts produce similar results. While this is desirable, it is important for the decision-maker to avoid being arbitrary. Arbitrariness refers to the *process* used in making the decision, as opposed to the actual decision. For example, let's say that an FSP that is being considered for approval is very similar to a previous plan for which approval was refused. The decision-maker concludes that, in the interests of consistency, this FSP must also be refused. While this may be an efficient way of making the decision, it is unfair. The original determination may have been severely flawed. The current decision-maker has failed to go through a proper and considered process to review the FSP.

### ***Reasonableness***

Unreasonable decisions can still occur even when the proper process is followed. This occurs when the final decision is simply unreasonable, given all of the circumstances. An example of this type of situation might be when the penalty levied goes far beyond what would be needed for deterrence, removal of economic benefit, and making the Crown whole. In the plan approval context, an unreasonable decision might be one, for example, that ignored or misconstrued relevant information submitted by the plan preparer, or applied the wrong legal test.

### ***Making procedurally fair decisions***

Decisions must be made in a procedurally fair manner. What procedure is actually required for fairness in any particular matter depends on the nature of the decision, the relationship between the decision-maker and the individual, and the effect of the decision on the individual's rights. *Procedural fairness* is closely related to *natural justice*, and sometimes the two terms are used interchangeably.

The principles of natural justice have three primary requirements:

- the decision-maker must not be biased,
- the affected person has the right to be heard, and
- the person must know the case he or she has to meet.

A decision-maker may be found to be biased if he or she has a personal interest in the decision, or if there is a reasonable apprehension or suspicion of bias. For example, a decision-maker can be held to be biased if he or she holds a minimal amount of stock in a large company that is the subject of the matter of the decision, or if a reasonable neutral observer were to conclude that the decision-maker might be biased.

Where a person's rights, privileges or interests will be affected by an impending decision, such as the refusal of an FSP, the person has the right, under administrative law, to an



impartial hearing before the decision is made. Conversely, a hearing is not required for the decision-making process to be procedurally fair when the nature of the decision involved is purely administrative. There is no clear line between the two situations. However, the practical solution is that, the more serious the potential effect of the decision might be on the person, the greater the need for providing a right to be heard.

Of course, wherever the legislation expressly provides for an OTBH, such as under section 16(4) of the *FRPA*, one must be given.

The principles of natural justice and procedural fairness require that the affected person should be given enough information to know the case that he or she has to meet. The information should be given sufficiently in advance of the hearing to allow the party to properly prepare its case. Information should include any argument, including agency policy, which will be considered. In short, there should be no surprises at the hearing. The party must also be given sufficient information to allow it to participate meaningfully. The hearing is a time for the agreement-holder to provide information and speak to the concerns of the DDM. If a party isn't properly prepared, or isn't fully aware of the DDM's concerns, it won't be able to provide necessary information to make its case. Further, as the decision-maker, you won't have enough information at your disposal to make an informed decision.

Finally, it is critical that the decision-maker listen impartially to the party and keep an open mind until all the evidence has been presented and all arguments have been made. A person cannot properly be said to have had an opportunity to be heard, if the decision-maker is not listening with an open mind.

### ***Remedies for improper decisions***

There is no inherent right to appeal the decision of a statutory decision-maker; it must be specifically provided for in the statute. The *FRPA* provides a mechanism of administrative review to a review (usually the DDM who made the original determination) and/or appeal to the Forest Appeals Commission for most decisions that substantially affect a person's rights. A further appeal is provided, to the courts, when the person feels that the Forest Appeals Commission erred on a question of law or jurisdiction.

The second major remedy available for a person who is not satisfied with a statutory decision is to seek judicial review under the *Judicial Review Procedure Act*. The court will not usually entertain a review unless:

- the legislation lacks an appeal mechanism for the particular decision, or the available appeal route has been exhausted, and,
- the application is made by the person directly affected by the decision, or a person can show that he or she should be given standing because it would be in the public's interest to do so.



Judicial review is a procedure by which the person asks the court to review whether or not a decision was properly made. This includes an examination of:

- whether the procedure followed was fair,
- the reasonableness of the decision,
- any interpretations of the law that were made, and
- whether or not the person acted within their jurisdiction.

The court does not specifically examine the facts behind the decision. The two most common remedies granted on judicial review are to either to quash an existing decision or to compel the decision-maker to make a decision that he or she has declined to make. The court will not vary the decision or impose a new decision.

### ***Administrative functions in the FRPA***

The *FRPA* contains many administrative and quasi-judicial decision functions in relation to operational plans, including:

- approvals and authorizations,
- exemptions,
- extensions,
- amendments,
- replacements, and
- completion declarations.

More information on administrative law is included in the course *Administrative Law for Managers* (E407), developed by the Compliance and Enforcement Branch. For a full listing of Compliance and Enforcement Branch courses, ministry staff can visit: [icw.for.gov.bc.ca/HEN/index.htm](http://icw.for.gov.bc.ca/HEN/index.htm)

### ***Further information***

The handbook from the *Resource Agreement Law* course prepared by Legal Services Branch is available to ministry staff at:  
[www.for.gov.bc.ca/ftp/Branches/Resource\\_Tenures\\_&\\_Engineering/mof\\_internal/!publish/Res\\_Law\\_Course](http://www.for.gov.bc.ca/ftp/Branches/Resource_Tenures_&_Engineering/mof_internal/!publish/Res_Law_Course)

The following courses and materials are available to ministry staff at the Compliance and Enforcement web site ([icw.for.gov.bc.ca/HEN/index.htm](http://icw.for.gov.bc.ca/HEN/index.htm)):

- *Risk Management and Statutory Decision Making Handbook*
- *Politics and the Rule of Law: Where Does the Forest Service's Duty Lie?*
- *Administrative Law For Managers: Resource Book*



## **Appendix 6: Example of a district request for additional information during an FSP review**

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**File:**

**Date:**

**To:**

Dear [*Name*],

Thank you for submitting your Forest Stewardship Plan (FSP) for forest licence [*# or #s*] in the [*XXX*] Forest District. We received this submission on [*date*] and district staff have been evaluating your plan for conformance with section 5 of the *Forest and Range Practices Act (FRPA)* (the *Act*).

As part of this internal district review, I am writing to request additional information from you, per section 16 (2.1) of the *FRPA*. I need this information to help make my decision under section 16 of the *Act*.

I require the following information for each objective:

- [*list objectives and information*]

If you need clarification on any aspect of this request, please contact [*contact name*] at [*area code and phone number*].

Yours truly,

[*Your name*]

District Manager

[*XXX*] Forest District/Region



Updated August 2009

## Appendix 7: Summary of Current Legislation on Forest Roads

### *Disclaimer*

*While this section presents important information on current legislation related to forest roads, it is not intended to be a summary of all relevant legislative requirements. Since a key aspect of competent practice is to use appropriate information, readers are encouraged to review the complete legislation to complement the information contained in this section.*

The *Forest and Range Practices Act (FRPA)* and regulations took effect on January 31, 2004. The transition to the planning requirements of the *FRPA* occurred over a two-year period, and for the most part, the *Forest Practices Code of British Columbia (FPC) Act* introduced in 1995 was replaced by the *FRPA* by December 31, 2005. During the period, there was 2 legal frameworks—FPC and *FRPA*.

Any activities already approved pre January 31, 2004 under the existing FPC were governed by the FPC and its regulations. After December 31, 2005 (1) forest agreement holders will need to be operating under *FRPA* to obtain new cutting and road permits, and (2) authorities issued under a valid Forest Development Plan (FDP) remain subject to the FPC until all obligations are completed (e.g., obligations in silviculture prescriptions, site plans and road layout and design plans approved under an FDP).

More specific and detailed information about the transition to the *FRPA* is provided in the “*FRPA Training Companion Guide – Forestry Modules*” available at the following website:

[http://www.for.gov.bc.ca/code/training/FRPA/forestry\\_modules\\_companion\\_guide\\_download.html](http://www.for.gov.bc.ca/code/training/FRPA/forestry_modules_companion_guide_download.html).

### **Current Government Legislation**

This section on current government legislation is divided into 6 topics:

**Forest Act** (consolidated to April 3, 2009) contains information on granting of road permits and road use permits, and authorizing road and trail construction;

**Forest Service Road Use Regulation** (consolidated to December 17, 2004) provides restrictions that govern the use of forest service roads;

**Forest and Range Practices Act** (consolidated to May 13, 2004) presents information on the required plans for harvesting and roads (Forest Stewardship Plan and Site Plans) and the linkage to cutting and road permits under the Forest Act;

**Forest Planning and Practices Regulation** (effective January 31, 2004) summarizes key requirements in Parts 4 to 7 for road construction, maintenance and deactivation;

**Forest Practices Code of BC Act** (pre-January 31, 2004) outlines specific tenure and permit requirements, approval processes and exemptions; and



**Forest Road Regulation** (pre-January 31, 2004 – last amendment December 12, 2003) presents recently streamlined and simplified requirements for road construction, maintenance and deactivation consistent with a more results based approach.

***Forest Act (consolidated to April 3, 2009)***

The *Forest Act* under “Roads and Rights of Way” (Part 8) allows government to grant road permits and road use permits for harvesting of Crown timber, and road use permits for other industrial use of forest service roads.

**Road Permits**

A road permit authorizes its holder to use the road, and if applicable, to construct a new road or maintain an existing road (other than a forest service road). Under the authority of the *Forest Act*, and subject to its provisions, the district manager or timber sales manager must grant:

- a road permit to an applicant who has the right to harvest Crown timber to construct a road on Crown land, and must also grant the right to harvest Crown timber under the road permit if the timber must be harvested to construct the road; and
- a road permit to an applicant who has the right to harvest Crown timber to maintain an existing road on Crown land (other than a forest service road).

The road location was identified in a Forest Development Plan under the FPC before a road permit could be issued. The Forest Stewardship Plan under *FRPA* is required to show the approximate location of forest development units (FDU) within which harvesting or road construction may occur. Consistent with the transition to a results-based regime under *FRPA*, the district manager or timber sales manager will not be involved in approving an applicant’s operational decisions before granting a road permit. Applicants will be accountable for their decisions and must exercise their own due diligence in the methodology they apply to achieve the necessary result.

The road permit also provides for use of Crown land for sand pits, gravel pits, rock quarries or other quarries that are adjacent to the road covered by the road permit for road construction or maintenance materials. The road permit can include other terms and conditions that are consistent with the *Forest Act* and regulations, and the *FRPA* and regulations.

Under the *Forest Act*, the minister may declare a road constructed under a road permit to be a forest service road or may discontinue and close a forest service road.



### **Road Use Permits**

Except as noted below, the district manager is the sole authority for granting road use permits for the industrial use of forest service roads. A road use permit must be granted to an applicant who has the right to harvest Crown timber and may be granted for other industrial purposes. The district manager must be satisfied the permit holder's use of the road will not adversely affect other authorized users of the road, cause inordinate disturbance to the natural environment, or compromise a Forest Stewardship Plan. *Note:* The Oil and Gas Commission is authorized under their legislation to issue road use permits to their clients.

### **Road and Trail Construction**

Under the *Forest Act*, the minister may authorize the following (and other activities) to provide access to timber or for any other purpose consistent with this Act or the *FRPA*:

- construct and maintain roads and trails;
- enter on and take possession of private land, and of roads and trails on private land; and
- enter on private land and take from it timber, stones, gravel, sand, clay or other materials for the purpose of constructing roads and trails.

### **Forest Service Road Use Regulation (consolidated to December 17, 2004)**

The Forest Service Road Use Regulation, is a regulation under the *FRPA*. It governs the use of forest service roads, and there have been no changes to its provisions since December 2002. Forest service roads are not considered a public highway as defined under the Motor Vehicle Act. However, some of the provisions of the Motor Vehicle Act do apply to forest service roads. The regulation requirements apply to both industrial and non-industrial users of the road.

Key provisions in the Forest Service Road Use Regulation include:

- restrictions for snowmobile use on snow ploughed Forest Service roads;
- setting the speed limit to 80 km/hr unless otherwise posted, or slower if road conditions so dictate;
- use of a two-way radio for roads posted with the radio frequency;
- provisions for the district manager to erect traffic control devices;
- requirement to have a proper vehicle identification number;
- limits on liability insurance; and
- requirements for a permit to undertake works within- the right-of-way.

### ***Forest and Range Practices Act* (consolidated to May 29, 2008)**

With some important modifications, this section has largely been adapted from section 8 (Harvesting & Roads) from the *FRPA* Training Companion Guide – Forestry Modules) available at

[http://www.for.gov.bc.ca/code/training/FRPA/forestry\\_modules\\_companion\\_guide\\_download.html](http://www.for.gov.bc.ca/code/training/FRPA/forestry_modules_companion_guide_download.html).



Road activities will deliver the results and strategies in approved operational plans. These results and strategies will be inspected and enforced by compliance and enforcement personnel. Additionally, road activities will address other requirements in the *FRPA* and Forest Planning and Practices Regulation (FPPR) such as practices requirements, notification and reporting requirements. Professionals will select appropriate practices that deliver the results, strategies and practice requirements set out in the FPPR.

### **Plans for Harvesting & Roads**

Plans that are required under *FRPA* to guide harvesting activities include the Forest Stewardship Plan (FSP) and Site Plan (*FRPA* s.5).

#### Forest stewardship plans

- shows the approximate location of forest development units (FDU) within which harvesting or road construction may occur; and
- identifies the results and strategies to be achieved during harvesting and road activities such as percentage soil disturbance for roadside work areas and conserving water quality in community watersheds.

#### Site plans (*FRPA* s.10 & FPPR s.33(2))

- must be prepared before the start of harvesting related to the road's construction. The *FRPA* and regulations contain some exemptions from having to prepare a site plan including harvesting to remove safety hazards or improving road safety (e.g., visibility, number or size of pullouts along the road);
- must be consistent with the FSP, *FRPA* and regulations;
- show how the results and strategies established in the FSP apply to the site; and
- identify the approximate location of cutblocks and roads.

### **Cutting and road permits**

- cutting and road permits are issued under the *Forest Act* and show the location of cutblocks and road permit area;
- a road permit authorizes the harvesting of timber from the permit area; and
- harvesting of blocks cannot start until a cutting permit has been issued.

### **Forest Planning and Practices Regulation (effective January 31, 2004)**

#### **FPPR (Part 4) – Practice Requirements (FPPR s.37-40, 44-52, 54-58, 59-62, 67-70)**

Part 4 of the FPPR contains practice requirements during harvesting and road activities to manage and protect the 11 *FRPA* values specified in s.149 of the *FRPA*. Sections from the Forest Road Regulation under the FPC have moved to practice requirements in Part 4 of FPPR, including:

- prevention of landslides, gully processes, and fan destabilization that can have a material adverse effect on the 11 *FRPA* values;
- maintain natural drainage patterns on an area both during and after road construction;
- revegetation requirements for roads;



stream crossings, or locating a road in a riparian management area;  
ensuring safe fish passage at crossings of streams, and protection of fish and fish habitat; and  
restrictions on roads in community watersheds.

**FPPR (Part 5) – Road Design & Construction (FPPR s.71-76)**

The majority of road requirements under *FRPA* are contained in Part 5 of the FPPR.:  
design and fabrication of bridges must be to CSA standards, and must meet standards in respect of engineering properties of soils as they apply to bridge piers and abutments, as established by the Canadian Foundation Engineering Manual;  
stream structures must be designed for the peak flow return period as listed in the FPPR;  
structural defects of bridges must be corrected or the bridge closed or traffic restricted and signs stating the maximum capacity of the bridge;  
clearing widths must be minimized and permanent culvert materials must be fabricated to CSA standards or to standards that ensure at least the same strength and durability as CSA standards; and  
roads must be structurally sound and safe.

**FPPR (Part 5) – Road Maintenance (FPPR s.79-81)**

Road maintenance requirements (including the maintenance requirements for industrial use and non-industrial use of a road) and include:  
licensee is responsible for road maintenance until either the road is deactivated or the DM notifies that the road should not be deactivated. Typically, in the latter situation, a permit would then be issued to another user;  
for industrial use of a road, protect the structural integrity of the road prism and clearing width, ensure the drainage systems of the road are functional, and ensure the road can be used safely by industrial users. Roads used for “industrial use” means roads used for timber harvesting, including the transportation of the timber or associated machinery, materials or personnel, or access for forest practices related to timber harvesting, or roads used for developing natural resources other than timber, including the transportation of those natural resources or associated machinery, materials or personnel;  
for non-industrial use of a road, protect the structural integrity of the road prism and clearing width and ensure the drainage systems of the road are functional, **only to the extent necessary there is no material adverse effect on a forest resource** (wilderness road level of maintenance). For non-industrial use of a road, the requirement to ensure that industrial users can safely use the road does not apply; and  
the DM can assign responsibility of maintenance of a forest service road to a road use permit holder (industrial user).



**FPPR (Part 5) – Road Deactivation (FPPR s.82, 83, 84)**

To be relieved of obligations, after deactivating a road a licensee may make a declaration (see *FRPA* s.107 (3)). On receiving the declaration, the district manager has up to 15 months to identify any obligations that have not been met (see FPPR s.97(5)).

Road deactivation requirements include barricading the road surface width in a clearly visible manner to prevent access by motor vehicles (other than all-terrain vehicles), removing bridges and stream culverts, and stabilizing the road prism. Warning signs must be erected during the period of road deactivation activities.

After a road is constructed or deactivated, a licensee must ensure that exposed soil is revegetated within 2 years if it will reduce the likelihood of erosion (see FPPR s.40).

Once the road is deactivated, it becomes non-status and responsibility for stability of the area shifts to the Crown except if the road is in a Tree Farm Licence.

**FPPR (Part 5 and Part 7) – Exemptions (FPPR s.72, 73, 75, 76, 78, 79, 82-84, 91, 92)**

The Minister of Forests and Range or Designated Official from MOE may grant exemptions to some practice requirements if it is in the public interest (e.g., clearing widths, road maintenance). The District Manager may grant an exemption from the requirement to barricade the road surface.

**FPPR (Part 5 and Part 6) – Notice of Harvesting & Road Activity (FPPR s.84, 85)**

Licensees and BCTS must notify the District Manager before:

- starting timber harvesting;
- starting road construction; or
- restarting harvesting or road construction if either has been inactive for a period of 3 or more months.

The notice must specify the location, projected start date and contact information. Affected water licensees must be notified at least 48 hours in advance of any road construction or deactivation in a community watershed.

**FPPR (Part 5) – Retaining information on bridges & major culverts (FPPR s.77)**

Construction reports, as-built drawings and inspection records relating to a bridges or major culverts must be prepared and retained for the duration of the life of the structure or until such time as responsibility passes to another party.

**FPPR (Part 6) – Annual Reports (FPPR s.86)**

Before June 1 of each year, licensees and BCTS must submit to the district manager, an annual report on harvesting activities for blocks where harvesting has been completed.



The annual report covers the period April 1 to March 31st and contains the following (this is not a complete list):

- harvesting information such as location of harvesting, area harvested and an update of the forest cover inventory and the associated wildlife tree retention areas;
- and
- the location of any resource features or wildlife habitat features located in or contiguous to a cutblock or road if the order establishing it as such requires this.

### **FPPR – Additional Information**

#### Planning aspect of Road Design

- the FSP showing approximate locations of FDUs within which road construction may occur. The site plan shows the approximate location of roads;
- proposing results and strategies to meet objectives established by government such as percentage soil disturbance for roads that are permanent access structures and conserving water quality in community watersheds;
- meeting applicable practice requirements for roads defined in Parts 4 and 5 of the FPPR;

#### Tools and Information

The non-legal realm contains a wide range of information to help select practices that deliver outcomes:

- for example, documents such as the Fish Stream Crossing Guidebook and the Forest Road Engineering Guidebook (available at <http://www.for.gov.bc.ca/tasb/legsregs/fpc/FPCGUIDE/Guidetoc.htm>) and the MFR Land Management Handbook 56 “Landslide Risk Case Studies in Forest Development Planning and Operations” (available at <http://www.for.gov.bc.ca/hfd/pubs/Docs/Lmh/Lmh56.htm>);
- experience and training of professionals;
- science; and
- databases and assessments.

#### Role of Licensee, or Government for Forest Service Roads

- achieve results and strategies in approved operational plan. Professionals must select and carry out harvesting and roads practices to meet these results and strategies;
- meet the practice requirements established in regulation;
- request exemptions to practice requirements or amendments to FSP if it is not possible to meet the requirements; and
- notify and report activities to government.

#### Roles of Government

- enforce requirements in *FRPA* through compliance & enforcement activities including inspections for delivery of results and strategies in approved FSPs and meeting practice requirements; and



approve or reject exemptions to specified practice requirements and amendments to FSPs.

**Forest Road Regulation (pre-January 31, 2004 – last amendment December 12, 2003)**

As per section 193 of FRPA, road permit roads for which maintenance began under the FPC, maintenance requirements of the Forest Road Regulation (FRR) continue to apply. Section 197 (7) of FRPA provides for such roads to be brought forward under FPRPA, by mentioning their inclusion in a FSP.

**FRR (Part 3) – Maintenance**

Road Maintenance

Roads must be maintained until deactivated and the level of maintenance required depends on the use of the road.

***Maintenance Requirements on Industrial Use Roads***

For industrial use roads, a person who modifies a road other than by relocating it, or maintains a road, must ensure that:

- the structural integrity of the road prism and clearing width are protected;
- the drainage systems of the road are functional;
- the transport of sediment from the road prism and its effects on other forest resources are minimized;
- road maintenance activities in a community watershed do not cause the quality of water to fail to meet the known water quality objectives established by the Minister of Environment;
- safe passage for fish is provided at fish stream crossings built after June 15, 1995; and
- the road can be safely used.

**Maintenance Requirements on Roads with no Industrial Users**

There may be periods when there is no industrial use of roads. During these periods of non-industrial use, at a minimum, a person must provide a wilderness road level of maintenance on these roads. A wilderness level of maintenance places emphasis on protection of the environment and forest resources. Where there is no industrial use, a person is not legally required to provide access related road surface and structure maintenance to accommodate safe use of the road. A wilderness road level of maintenance must ensure that for the road and included structures:

- the structural integrity of the road prism and clearing width are protected, to the extent necessary to ensure there is no material adverse effect on a forest resource;
- the drainage systems of the road are functional, to the extent necessary to ensure there is no material adverse effect on a forest resource;
- the transport of sediment from the road prism and its effects on other forest resources are minimized;



road maintenance activities in a community watershed do not cause the quality of water to fail to meet the known water quality objectives established by the Minister of Environment; and  
safe passage for fish is provided at fish stream crossings built after June 15, 1995.

### **Bridges and Major Culverts**

Bridges and major culverts must be inspected:

- at least once every 3 years after they are constructed, unless a longer period is specified by a professional engineer as part of the inspection record; and
- at least once every 2 years after construction if the stringers or any portion of the structural components of the bridge substructure are untreated wood.

A written inspection record must be kept for all structures. As a follow up to a bridge or major culvert inspection, structural deficiencies must be corrected, or the structure must be closed, removed or replaced, or traffic loads must be restricted to a safe level.

## **Constructing and maintaining roads**

### **Notification requirements**

Under section 85 of the FPPR, unless exempted under section 91(1), the licensee must notify the DM before beginning construction of a road that is a permanent structure, or re-starting road construction after an inactive period of three months or more. This notice must include the location of the road, a contact name and contact information, and the projected date on which the licensee plans to begin the road construction.

### **In-stream works – permanent access structures**

Section 85 of the FPPR requires a licensee to notify the district manager about the commencement of road construction activities:

*85 (1) Unless exempted under section 91 (1) [minister may grant exemptions], an agreement-holder must notify the district manager before (a) beginning timber harvesting or construction of a road that is a permanent access structure, and (b) re-starting the activities described in paragraph (a) after an inactive period of 3 months or more.*

*(2) A notice under subsection (1) must specify (a) the location of the timber harvesting or road, including any administrative identifier that relates to the location, (b) a contact name and contact information, and (c) the projected date for beginning timber harvesting or road construction.*

This section lightens the licensee's administrative burden by creating a single window through which to notify provincial government when they start or stop forest practices. Any information submitted through that window is available for the broad use of provincial government agencies, so the licensee does not need to notify each individual provincial agency.



The DDM and Ministry of Environment (MoE) Regional Manager (Environmental Stewardship Program) should discuss and agree on a preferred course of inter-agency information flow. The MoE will need to access information about when and where road construction activities are occurring which may involve stream crossings of risk. Based on this kind of information, the Ministry of Environment should be able to develop necessary inspection and monitoring programs.

***Practice requirements for roads associated with an FSP***

The definition of a “forest practice” in the *FRPA* includes, but is not limited to, activities associated with all parts of a road’s “life cycle” including construction, maintenance, road use, and deactivation.

This means that all references to forest practices in the *FRPA* and the requirements for an FSP must include and address the effects of these road-related forest activities on the identified resource values defined under section 149 of the *Act*.

All activities associated with road construction must be within a Forest Development Unit (FDU) under an approved FSP unless exempted.

There are a variety of publications available to help licensees undertake road construction, general access development, and deactivation of roads. The *Forest Road Engineering Guidebook* (June 2002) is an example. See also the *Guidelines for Terrain Stability Assessments in the Forest Sector* (October 2003), published by the Association of Professional Engineers and Geoscientists of BC, available on the publications website of the MFR’s Resource Tenures and Engineering Branch at:

[http://www.for.gov.bc.ca/hth/engineering/publications\\_guidebooks.htm](http://www.for.gov.bc.ca/hth/engineering/publications_guidebooks.htm).

A summary of legislative requirements for forest roads is contained in the Appendix 10 of this Guide. This document, developed in June 2004 by the MFR’s Resource Tenures and Engineering Branch, summarizes the road related requirements in both the Forest Practices Code and the *Forest and Range Practices Act* and regulations.

The legislative requirements for roads constructed and deactivated under *FRPA* are summarized in Figure 1.



Updated May, 2006

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## Appendix 8: FSP Information Sharing Meeting Guidance

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This Information Sharing Meeting Template is designed to help assist ministry and agreement-holder (i.e., licensee, BCTS) staff conduct an efficient and effective information sharing meeting. The template lists suggested information topics that can be used to guide the meeting. It remains the responsibility of the participants to determine the content, if any, for each topic. In providing information, the district should seek regional and/or branch guidance to ensure discussions do not fetter the DDM's FSP approval determination or provide grounds for officially induced error.

### Section 1 – Information Sharing Meeting Template

#### Part A – Pre-meeting Information Sharing Preparation

- To have an effective meeting, the district, agreement-holder(s) and other government agency staff attending the meeting will need to review the information sharing meeting template and prepare information in advance of the meeting;
- It is expected that all attendees will come to the meeting familiar with legislative requirements associated with FSPs; and
- It would be very helpful for district, agreement-holder and other government agency staff to exchange questions and concerns well before the meeting.

#### Part B - Introduction Information

##### 1) Identify and document meeting particulars

- Forest District
- Date:
- Agreement-holder(s)
- Tenures FSP will cover
- Attendees
- Chair/facilitator and recorder
- Meeting expectations of agreement-holder, ministry and other government agencies

##### 2) Goal and Context of Information Sharing Meeting

State goal and intended outcome of the meeting. e.g., the goal of the information sharing meeting is to streamline and make more effective the FSP approval process by:

1. informing the agreement-holder how the approval of the proposed FSP will be undertaken.



2. providing the agreement-holder with information relevant to the preparation of a FSP; and
3. responding to agreement-holder requests for information and/or questions.

## **Part C – Information Relevant to FSP Review and Approval Process**

### **1) FSP administrative business processes**

Identify the business process that will be used to administer the FSP once it has been submitted for approval, e.g. single district versus multi-district process—including:

- deciding on the flow of information from the agreement-holder to the DDM; and
- deciding on a process or method for storing information on different agreement holder's plans for forest development units (FDUs) and FSPs.

### **2) Identify Communication Contacts**

- Delegated Decision Maker
- Ministry Review and approval coordinator
- Ministry Forest Stewardship Plan Review Team by topic area
- Agreement-holder communication contact(s)
- Other government agency communication contacts
- others

### **3) Review and approval tools**

Identify review and approval tools that the ministry may use to assist with review and approval of the FSP, e.g. checklists, bulletins, policy, guidance, etc.

### **4) Plan Preparation**

The district may wish to discuss the nature and extent of MFR staff involvement with the agreement-holder during the plan preparation process, e.g. dialogue between professionals versus review comments.

### **5) Submission Standard**

- The MFR will not be reviewing draft plans. The plan preparer is responsible for preparing a plan suitable for approval when it is submitted to the DDM;
- Number of copies of FSP and who they would likely be distributed to during public review and comment period and at final submission;
- Format of submission, i.e. paper, electronic or both;
- multi-agreement-holder submissions;
- multi-district submissions;
- any costs for the information;
- any time lags between information requests and delivery; and
- District and agreement-holder should discuss nature of differences, if any, between what is presented to public during the review and comment period and what will be the final submission.



### **6) Submission Schedule**

Invite agreement-holder to provide intended timelines for review and comment period and final submission date, if possible.

### **7) Review and approval schedule**

- District should provide agreement-holder with its current understanding of anticipated FSP submissions and any issues that could potentially impact review and approval timeline goals, e.g. complexity of FSP, workload, lack of resources, holidays, etc.; and
- District and agreement-holder may wish to discuss “FSP status update process” at regular intervals during the review and approval process.

### **8) First Nations Information Sharing and Consultation**

- District should identify timeline and issues associated with FN consultation.
- Districts should identify which FN groups will be consulted about the FSP proposal
- District and agreement-holder may wish to discuss nature and extent of ministry involvement in agreement-holder meetings with FN groups.
- District should provide results of previous FN consultation efforts
- District and agreement-holder may wish to discuss meeting with FN group to clarify FSP roles and responsibilities, e.g. FPRA information meetings.

### **9) Determination Process**

District and agreement-holder may wish to discuss nature and extent of rationale that will be provided with determination.

## **Part D – Information Relevant to Preparation of the FSP**

### **1) Identify Objectives Related to the FSP Plan Area**

- District should identify where the district objective matrix can be found;
- District should advise agreement-holder of objective matrix disclaimer (see Section 2);
- District, agreement-holder and other government agency staff should review district(s) objective matrix and supporting information in detail to clarify which objectives will apply to the FSP plan area;
- District and agreement-holder identify objectives that cover the proposed plan area;
- District should advise agreement-holder of any new objectives, within the authority of MFR, that are being worked on and that may impact their plan proposal;
- Other government agency staff should advise agreement-holder of any new objectives, within the authority of their agency, that are being worked on and that may impact their plan proposal;



- District and agreement-holder identify differences in interpretation of what objectives cover the proposed plan area and develop action plan to resolve; and
- District should encourage the agreement-holder to contact agencies with authority to set objectives early in the FSP development process.

## **2) Public Review and Comment**

### **Providing Notice**

- a. Must make plan available for review and comment *FRPA 18*.  
The district should advise the agreement-holder to ensure that the newspaper used to publish, the venue for public viewing and the business hours available for public review and comment will reasonably meet the needs of persons or groups identified in Division 3 of the *Forest Planning and Practices Regulation (FPPR)*. (See definition of "newspaper" in FPPR)
- b. Period the plan is available for review and comment *FPPR 20(2)(b, c)*
  - District should advise agreement-holder of requirements concerning public review and comment period if authority under *FPPR sec. 20(2) (b) or (c)* will be exercised by the DDM. District should advise agreement-holder of reason for use of this authority.
  - If the district is unable to determine public review and comment period at the time of the meeting, district should state that the required period will be determined and communicated at a later date in accordance with the DDM's authority under the legislation.

**Optional:** the district and the agreement-holder may wish to discuss logistics regarding publishing notice, location plan is publicly available and time of availability.

- c) Exemption to publish notice *FPPR 20(3)*
  - District should encourage agreement-holder to advise the District Manager of any proposed exemption from the requirement to publish a notice as soon as possible in the plan preparation stage.
  - District and agreement-holder should agree on format and timing of application for exemption and the subsequent exemption order.

### **Review and Comment**

- a. Referral to agency of government *FPPR 21(a)*
  - The district should advise the agreement-holder of any requirement to refer a copy of the FSP (in whole or in part) to agency(s) of government or agency(s) of the Government of Canada.
  - If the district is unable to determine referral requirements at the time of the meeting, the district should advise the agreement-holder that referral requirements



will be determined and communicated at a later date in accordance with the DDM's authority under legislation.

- District and agreement-holder should discuss the nature and extent (if any) of MFR review and comment of FSP during the public review and comment period.

**Optional:** If no referral is required, District should request agreement-holder provide notice of FSP going to public review and comment to specified agency(s) of government.

- b. Persons who are interested, have rights and First Nations groups *FPPR 21(b, c, d)*. To promote a working relationship with the agreement-holder, the district, where possible, practical and within the limits of Freedom of Information provisions, should provide the agreement-holder with contacts. This includes contact names of persons or groups that the district is aware who are interested in, have rights or are FN groups who may be affected by the plan. However, the district must ensure that the agreement-holder understands that the list may not be exhaustive and that, ultimately, it is the agreement-holder's responsibility to identify these persons.
- c. Consultation "commensurate with rights" (*FPPR 21(1) (c)*)  
DDM's should discuss the issue of what constitutes adequate consultation "commensurate with rights" with the FSP proponent and make them aware that "commensurate with rights" includes direct notification, to tenured rights holders, of the FSP preparation, a request for written comments, and an expectation that any such comments will be provided to the DDM along with any changes made to the FSP as a result of the comments received. See section 4.2.9 of the AGFSP for additional information on consultation "commensurate with rights". The DDM may want to consider providing the agreement-holder with a list of tenure holders for the area that is being considered for the plan.

### 3) Review and Approval Process

#### Content Review

- a. Includes a map *FRPA 5(1)(a)(i)*
  - Recommended direction regarding scale has been provided by the Minister. District should advise agreement-holder of any direction regarding scale (consistent with Minister direction) and format; and
  - District should ask agreement-holder if he/she intends to certify this element of the FSP.
- b. Submitting information *FPRA 16(2.1)*



- The district should advise agreement-holder of any additional information in respect of results or strategies that the District Manager may reasonably require to approve the plan including outlining what is measurable and verifiable; and
  - If the district is unable to determine what, if any, additional information may be required at the time of the meeting, the district should indicate that the district manager may request additional information as provided for in legislation.
- c. Exemption from result or strategy where more than one objective exists *FPPR 12(5)*.
- The district and the agreement-holder should identify any circumstance where 2 or more objectives are applicable to a common area and the same or similar subject matter;
  - If this is the case, the district should advise the agreement-holder of need to apply for an exemption to specify result or strategy for all but one of the established objectives;
  - If this is the case, the district (in accordance with legislated direction) should advise the agreement-holder which one of the established objectives must have a proposed result or strategy in the FSP; and
  - The district should encourage agreement-holders to provide a copy of approved exemptions as part of FSP supporting information.
- d. Exemption from result or strategy where it is not practicable *FPPR 12(7)*.
- The district should encourage agreement-holder to advise if there are any circumstances where it is not practicable to specify a result or strategy in the proposed FSP;
  - If this is the case, the district should advise the agreement-holder of need to apply for an exemption to specify result or strategy and to provide reasons explaining why it is not practicable to specify a result or strategy given the circumstance or conditions applicable to a particular area; and
  - The district should encourage agreement-holder to provide a copy of approved exemptions as part of FSP supporting information.
- e. Proportional targets *FPPR 19*
- The district should advise the agreement-holder of any proportional targets that have been previously established that cover the agreement-holder's planning area; and
  - The district should encourage the agreement-holders to advise the District Manager of any request to set proportional targets as soon as possible in the plan preparation stage.
- f. Limited content FSP *FPPR 19.1*.
- The district should ask the agreement-holders to advise the District Manager of any request for exemption from one or more of the plan content requirements identified in Division 1 or 2 of the FPPR as early as possible in the process in the plan preparation stage.



- g. Requiring additional information for stocking standards *FPPR 26(2)*.  
The district should advise agreement-holder of any additional information in respect of stocking standards that the District Manager may request to make a determination of the plan.

**Results or Strategies and Stocking Standards Review**

- a. Exemption – when undertaking given for compliance with specified regulations.  
*FPPR 12.1*  
The district should remind the agreement-holder that invoking this exemption does not allow the agreement-holder to propose exemptions, modifications, variances or other changes to specified regulations to be proposed or approved in the FSP.
- b. Requiring additional information *FPPR 24(1)*  
The district should identify which factors, if any, may be required to be addressed if the agreement-holder does not intend to address all of the factors contained in Schedule 1 of the *FPPR* in specifying results or strategies.
- c. Consistency of results and strategies with established objectives *FPPR 25(3)*  
The district should encourage the agreement-holder to include a copy of any exemption granted under the authority of section 25(2) of the *FPPR* in the FSP supporting information.
- d. Consistency of intended result or strategy with objectives *FPPR 25.1(1) and (2)*  
The district should encourage the agreement-holder to open early dialogue between parties if and where intended results or strategies may not be fully consistent with a legal objective because of practicable limitations (see section 25.1(1) *FPPR*).
- e. The district and agreement-holder should identify which established objectives meet the conditions described in section 25.1(2) of the *FPPR*.
- f. Minister's consideration of stocking standards *FPPR 26(1)*  
The district should identify which factors, if any, may be required to be addressed if the agreement-holder does not intend to address all of the factors contained in section 6 of Schedule 1 of the *FPPR* in specifying stocking standards.

**FSP Determination**

- a. Certification of content *FRPA 16(1.01) and FPPR 22.1*
- The district should encourage the agreement-holder to provide early indication of what elements of the FSP will be certified as authorized in legislation; and
  - The district should encourage the agreement-holder to utilize the certificate format available on the ABCFP web site.
- b. Minister's consideration of stocking standards *FPPR 26(5)*.  
The district should encourage the agreement-holder to provide sufficient rationale



with the FSP submission to determine whether or not the stocking standards can be approved under condition listed in section 26(5) of the *FPPR*.

- c. Balancing objectives *FPPR* 27
- The district should encourage the agreement-holder to provide early indication of whether the FSP submission will include a request to balance objectives, results or strategies or other plan content as provided in section 27 of the *FPPR*; and
  - The district should encourage the agreement-holder to ensure any proposal to balance the FSP submission be sufficiently clear and contain sufficient information to assist the District Manager in understanding the nature of the balancing request.
- d. Experiences with previous FSP submissions
- The district may wish to share some of the more important issues related to previous FSP submissions in the district, region or province; and
  - The district may wish to identify what worked and what didn't work in previous submissions and what they wish they had changed now that they know what they do today.

### **Part E – Technical Discussions**

The district and the agreement-holder may wish to discuss specific technical issues related to proposed results or strategies, stocking standards and/or measures for invasive plants and natural range barriers. These discussions may need to be referred to smaller working groups for resolution at a later date.

The district should advise the agreement-holder of the potential advantage in terms of time saving and effort if, early on in the process, the agreement-holder:

- identifies any unusual, complex or untried results or strategies, stocking standards or measures that are being contemplated;
- identifies any new science that will be used to support proposed results or strategies, stocking standards or measures; and
- identifies any MOUs or other agreements between interested parties or other that may influence the DDM's determination.

### **Section 2 – Objective Matrix Disclaimer**

Disclaimer: Please note that government is under no obligation to develop or provide the objectives matrix to agreement-holders. The objective matrix was developed to help those preparing operational plans to identify objectives for which results and strategies must be developed within those plans. This document was developed as a catalogue of objectives set by government (OSBG) and other objectives established under *FRPA* and the associated regulations. The government-set objectives listed in this document have already been established, consistent with authorized legislated processes. It is the responsibility of the agreement-holder to be aware of the entire set of legal government-



set objectives relevant to the area. The Government of British Columbia does not warrant or make any guarantee with respect to the accuracy of the information contained within the objectives matrix. The information contained in this document is the best available, as far as the district is aware, at the time of issuance.

Note: The agreement-holder is reminded that final FSP determination will be made in relation to objectives made legal through legislation and will not be constrained by information contained in objective matrix or conveyed during information exchange meeting(s). The agreement-holder is responsible to ensure plan submission addresses all legal objectives consistent with the legislation.



Updated June, 2007

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## **Appendix 9: Towards Efficient, Effective Administration of Forest Stewardship Plans**

September, 2006

### **Introduction**

The administration of FSP's is one of the most important priorities for MFR staff and agreement-holders. The key to both an efficient and defensible approach will be in applying the legal approval requirements in a consistent and systematic manner so that efforts of MFR and agreement-holder staff are focussed only on questions that are both relevant and important to the approval of each FSP. In turn, irrelevant considerations need to be quickly screened out and little or no time should be spent on trivial, low risk items.

### **Communications**

The value of clear communications is an important emphasis throughout this process. It is focussed on communicating about the right things in the right way with the ultimate goal of approving the FSP. The earlier this communication occurs in the process, the earlier those significant questions can be identified and appropriately resolved. To that end, agreement-holders are strongly encouraged to engage with MFR review staff during FSP development. Respectful, structured communications between agreement-holder and government staff, at whatever stage engagement occurs, will be key to making efficient, defensible decisions on each FSP and ultimately, to facilitating the overall success of *FRPA*.

### **Need for Consistent Approach**

A consistent province-wide approach to FSP processing is highly desirable. The process should normally have three stages; one before / during FSP development, one linked to the Review and Comment period and one in the period following submission of the FSP for approval. The following pages outline structured process steps, responsibilities of participants, suggested timelines and a number of helpful tools, all designed to provide defensible FSP decisions in an efficient manner thus, reducing overall timelines and resources needed to process FSP's.

### **First Stage – FSP Development**

Engagement at this stage, though highly encouraged and recognised as very beneficial, is expected to be highly variable in its timing and the products reviewed. Therefore, communications may initially need to be less structured than subsequent stages but, should still be focussed on applying legal requirements in a clear, structured and efficient manner. Depending on the level of interaction and the completeness of products reviewed, this stage could significantly reduce the time and effort required for review in subsequent stages. However, it must be kept in mind that this stage, although strongly



encouraged, cannot be mandated, therefore, lack of engagement during FSP development, for whatever reason, cannot preclude engagement at subsequent stages. Ideally, the Plan development stage will be structured along the lines of the following:

- Pre-plan development meetings:
  - In accordance with the principles of administrative law, the MFR can use these meetings to provide information relevant to the development of the plan and expectations related to administering the review process; and
  - For agreement-holders to inform MFR on broad plan concepts (e.g., multi-licensee, multi-district, transition FSP) and what kinds of legislation options they may wish to pursue (e.g., exemptions, multi-block stocking standards). Agreement-holders should also provide some indication on the timing of review and comment and final submission to help MFR coordinate review resources.
- Ongoing information exchange with MFR (and possibly other agencies, stakeholders and FN groups) to gather information for and develop the FSP. Principles to consider include:
  - A higher level of engagement where proposed elements of the FSP deviate significantly from existing practice in relation to resource value at high risk (not routine content issues);
  - Engagement should concentrate on specific elements rather than reviewing the entire plan; and
  - Purpose is to focus on key considerations in applying the approval tests. Engagement is not about seeking or providing direction on FSP content – neither the proponent nor MFR staff should be taking positions on approvability of concepts discussed.

### **Second Stage – During Review & Comment:**

This will normally be the first stage where a largely complete product, designed to meet the FSP content requirements, is available for review by government staff. Given this, it represents a significant opportunity for the proponent and government staff to interact on key considerations potentially affecting the approval decision. The process should have three steps following commencement of review and comment:

1. **MFR Response:** First, the agreement-holder provides the complete FSP package including plan text, maps and any associated rationale or supporting information to the MFR review staff. The MFR staff review the plan and, depending on necessity, consider requesting the agreement-holder to present the plan and answer questions for clarity on its content. The MFR then prepares a coordinated, single, written and specific response from government, to the agreement-holder, prepared by a qualified professional, that identifies each question or uncertainty regarding FSP Content and Approval Tests and for each question or uncertainty, the following information:



Question or Uncertainty	Relevant Legislative Provision	Basis for Question / Uncertainty	Risk Assessment <sup>1</sup>
A description of the Question or Uncertainty Identified in Government Review.	Specific citation of the provision in the <i>FRPA</i> Act or its regulations that is relevant to the Question or Uncertainty.	The basis for the question or uncertainty relative to the cited provision in the legislation.	An assessment of the degree of risk to relevant approval tests arising from the question / uncertainty, including application of professional reliance; or Identification of key information gaps preventing an adequate assessment.

<sup>1</sup> Consult FSP, accompanying documents, other legislative requirements, the AGFSP, *FRPA* Bulletins, existing relevant data including agreement-holder performance, background & experience of prescribing professional(s), etc. Assessment results should greatly assist in focusing subsequent exchange of views on specific items. Those items identified as low risk should not normally be brought forward. The following document is a helpful reference for conducting a structured approach to risk assessments:

<http://www.for.gov.bc.ca/rsi/proreliance/kamproreliance/Risk%20Model.htm>

If the question or uncertainty is related to **content requirements**, a risk assessment will not normally apply although there may be questions of legal interpretation applicable to the requirement. If this is the case, consult relevant *FRPA* Bulletins. If not covered in a Bulletin, other documents such as Chapter 6 in the first document referenced above may help clarify the question. If still an outstanding question, legal advice should be sought.

2. **Exchange of Views:** Second, an exchange of views between the agreement-holder and government staff to determine what issues, identified in the MFR response, can be resolved and what issues remain outstanding. MFR staff make any initial requests for additional information, within legal requirements (will usually apply only to outstanding issues); and
3. **Engagement with DDM:** Third, to the extent there remain outstanding uncertainties or questions after the exchange of views, including questions about the appropriateness of requests for further information, then there should be an engagement with the DDM. This engagement is not for the purpose of making a decision. It should be viewed as an opportunity for the DDM to provide information or clarity on how they will approach making a decision on the matter including, the specific considerations that will affect the decision. (Also see *FRPA* Administration Bulletin #5 for suggestions on these “considerations” available on the PFIT website: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm).) It may also present an opportunity for the DDM to outline the “case to meet” relative to the question.

### Third Stage – Following Submission for Approval:

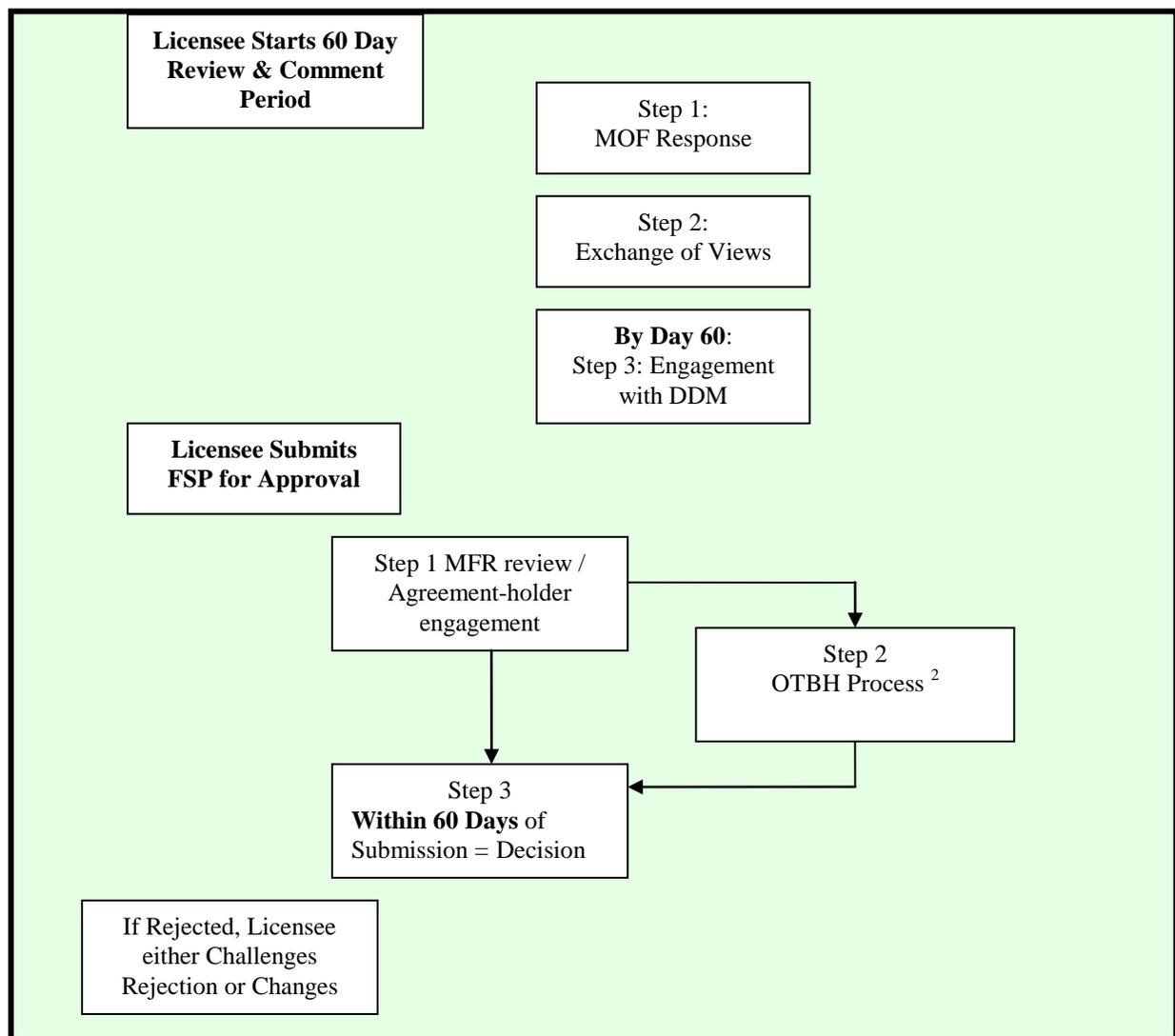
During the third stage, which commences when the agreement-holder submits the FSP for approval (note that submitting with changes marked allows efficient review at this stage) there should also be two, possibly three steps:



1. **MFR Review/Agreement-holder engagement:** first, the MFR should determine if it still has questions or uncertainties (these may be items from the public review and comment phase or new items arising from incorporation of review and comment requirements);
2. **OTBH Process:** If there are questions or uncertainties outstanding, the DDM should offer the agreement-holder an Opportunity To Be Heard (OTBH). (See below for comments on that process); and
3. **Decision:** after the OTBH, the DDM should render a decision on whether the FSP is approved or rejected.

### Timeline for Process

This process should attempt to fall within the following suggested provincial timelines recognizing that in some situations, such as where extensive First Nations Consultation<sup>1</sup> is required or there are complex OTBH's, the timelines may not always be feasible:





- <sup>1</sup>**First Nations Issues:** This process should be consistent, and integrated, with the process for First Nations Information Sharing as set out in the *FRPA* Administration Bulletin # 1.
- <sup>2</sup>**OTBH Process:** The opportunity to be heard should follow administrative law principles already widely acknowledged and applied by the MFR, including:
  - Right to know the case against the agreement-holder (following Second step noted above, MFR must confirm in writing what remaining Uncertainties / Questions exist in the context of *FRPA* legislation requirements for FSP content & approval tests).
  - Sufficient time for the agreement-holder to develop a written response.
  - Submission of the two written documents to the Delegated Decision Maker.
  - Oral hearing if requested by the agreement-holder.
  - Written decisions and rationale (required by *FRPA*).





Updated June, 2007

## Appendix 11: Multi-District FSP Review Process Checklist

NOTE: this checklist applies to both the submission of an FSP and the submission of an amendment to an FSP.

	Activity	District			Due Date	Done?	
		1	2	3		Y/N	Comments
1.	<b>Each District Leader:</b> Set up round table and intra-district team				Day 1		Start of Phase 1
2.	<b>Each District Leader:</b> complete review of FSP, or amendment to FSP**, using part 'A' of checklist						
3.	<b>Each District Leader:</b> Part 'B'						
4.	<b>Each District Leader:</b> Part 'C'						
5.	<b>Each District Leader:</b> Stocking Standards						
6.	<b>Each District Leader:</b> Roll-up of District Commitment Binder				Day 30		End of Phase 1
7.	<b>Lead District:</b> FSP consolidation meeting (face-to-face): <ul style="list-style-type: none"> <li>• Each district brings binder</li> <li>• Build a consolidated binder</li> <li>• Develop request for further info.</li> </ul>				Day 31		Start of Phase 2
8.	<b>Lead District &amp; DDM:</b> Any additional information requested by DDM						
9.	<b>Lead District:</b> Gather additional information and use in FSP or amendment** review and any other information provided by agreement-holder						



**Appendix 11:  
Multi-District FSP Review  
Process Checklist**

	Activity	District			Due Date	Done?	
		1	2	3		Y/N	Comments
10.	<b>Lead District:</b> Finalize consolidated FSP or amendment** evaluation						
11.	Summarize and make recommendations						
12.	Present FSP to DDM						
13.	DDM makes determination				Day 60		End of Phase 2
14.	Determination letter and rationale						

\* Source: MFR Northern Interior Region’s plan for review of a multi-district FSP.

\*\* For amendments requiring approval



Updated June, 2007

## Appendix 12: Implementation Plan for Reviewing a Multi-district FSP

An example of an implementation plan for the review and approval process on a multi-district FSP is shown below.

Milestones	Resp	Month 1	Month 2	Month 3	Month 4
Information sharing meeting	Lead Coordinator				
Select DDM	Regional Executive Director				
Assign review team	DDM				
Proportional target determination (optional)	DDM				
Complete efforts to meet with First Nations	Agreement-holder Lead				
Start Public review & comment period	Agreement-holder Lead				
End Public review and & comment period	Agreement-holder Lead				
Submit FSP to DDM	Agreement-holder Lead				
Start First Nations consultation period	District Lead				
End First Nations consultation period	District Lead				
Complete District Review Binder and forward to Lead Coordinator (30 days from submission)	District Lead				
Complete Roll-up Review Binder	Lead Coordinator				
Present Roll-up Review Binder and determination recommendations to DDM (i.e., assess approvability of the FSP)	Lead Coordinator				
Request additional information from Agreement-holder Lead (optional)	DDM				
Submit additional information to	Agreement-				



Milestones	Resp	Month	Month	Month	Month
		1	2	3	4
Lead Coordinator (optional)	holder Lead				
Present edited Roll-up Review Binder and determination recommendations to DDM (optional)	Lead Coordinator				
Opportunity to be heard meeting (optional)	DDM				
FSP determination	DDM				
First Nations consultation determination	DDM				
Determination letter signed (60 days from submission)	DDM				

Communications	Resp	Month	Month	Month	Month
		1	2	3	4
Direction to the DDM	Regional Executive Director				
Direction to the review team	DDM				
First Nations meeting to clarify information and process with Agreement-holder	Lead Coordinator				
Advise First Nations of FSP submission and consultation process	DDM				
FSP information sessions	Lead Agreement-holder / Lead Coordinator				
First Nations information sessions	Lead Agreement-holder / Lead Coordinator				
Provide Review Status Report to DDM, District Manager, Regional Executive Director, Agreement-holder Lead	Regional Coordinator				
Send closure letter to First Nations	DDM				
Provide determination comment to	District				



<b>Communications</b>	<b>Resp</b>	<b>Month 1</b>	<b>Month 2</b>	<b>Month 3</b>	<b>Month 4</b>
DDM	Manager				
Conduct post determination debriefing meeting	Regional Coordinator				

<b>Tools</b>	<b>Resp</b>	<b>Month 1</b>	<b>Month 2</b>	<b>Month 3</b>	<b>Month 4</b>
DDM selection process					
Proportional target determination process					
First Nation consultation process					
Review Status Report					
Request for additional information letter					
Review Binder format					
Opportunity to be heard process					
FSP amendment review process					
DDM Satisfaction Report					

\*\* Source: MFR Coastal Region's implementation plan.



Updated June, 2007

## Appendix 13: Multi-district FSP Communications Plan

An example of communication plan for a multi-district FSP\* is shown below.

Week Ending Dates	Dec	Jan	Feb	Mar	Apr
<b>Milestones</b>					
RMT Meeting briefing		~ 10th, 17th			
Final submission by Canfor, Sinclair, BCTS					
Regular information session		~ Jan 26th			
Inter-district information needs assessment					
Request Information from licensee					
Intra-district "round table" binder prep (District Lead)					
Feedback for District Leads for info on PLIT					
Inter-district "round table" binder prep					
Approval decisions made				~ Mar 10th	
<b>Communications</b>					
Determine if management level needs briefing (AWV)					
Prep regional presentation (AWV & team)					
Prep DM presentation (AWV & team)					
Prep roll-out package for one day workshop (AWV & team)		Mid Jan			
Prep roll-out package prov team presentation (AWV & team)					
<b>First Nations</b>					
Further comm. with FN bargaining engagement (John G)					
Need solution to consultation at CP stage (John G)					
<b>Tools</b>					
Review Admin Guide (Laury)					
Develop common, defensible format for requesting info from licensees (BQ)					
Provincial tracking tool of FSP submissions (BQ)					
Standards required for for rejection of plan (BQ)				~Mar 10	
Develop protocol for presentation to DDM by joint review team					
<b>BP Maps and Notes</b>					
Session Notes to AWV (JB)	10-Dec				
Tweak BP based on input (Andrew T)					
BP maps completed with workshop notes. Final versions complete (AWV)		15-Jan			
Process required to develop prop. Targets (BQ)				~Mar	
<b>Other</b>					
Share workshop notes with other agencies, programs (AWV)					
First Nations letter templates (District to JG to District)					
First Nations- Request MSRM help build tools (e.g. AIA database)					
First Nations information inventory (Districts)					
Determine if other agencies want to be involved in review					

\* Source: MFR Northern Interior Region's plan for review of a multi-district FSP.



Updated August, 2009

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## Appendix 14: More Information / Useful Websites

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Additional information on the FSP development and approval process can be obtained from the following locations/resources:

**Provincial *FRPA* Implementation Team (PFIT) Website** -- PFIT manages a website at: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/index.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/index.htm). The website contains:

*FRPA* bulletins at

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm). See below for more information on bulletins.

GAR Administrative Guide at

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/GAR%20Memo%20and%20Manual.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/GAR%20Memo%20and%20Manual.htm).

Helpful Hints for Government Staff in Providing Information in Support of *FRPA* Implementation at

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/FRPA%20General%20Guidance.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/FRPA%20General%20Guidance.htm).

Post FSP Approval Workshop information at

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Workshop%20Package.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Workshop%20Package.htm).

### Regional Implementation Team Members

Coast Forest Region – Chuck Rowan (Chuck.Rowan@gov.bc.ca).

Southern Interior Region – Larry Hanlon ([Larry.Hanlon@gov.bc.ca](mailto:Larry.Hanlon@gov.bc.ca))

Northern Interior Region – John McClary (John.McClary@gov.bc.ca)

### Administrative Guide for FSPs (AGFSP)

Brian Westgate (Brian.Westgate@gov.bc.ca)

Del Williams (Del.Williams@gov.bc.ca)

<http://www.for.gov.bc.ca/hth/timten/AGFSP/index.htm>.

### *FRPA* Training Website (including Q&A)

<http://www.for.gov.bc.ca/code/training/FRPA/>.

*FRPA* Companion Guide at:

[http://www.for.gov.bc.ca/code/training/FRPA/forestry\\_modules\\_companion\\_guide\\_download.html](http://www.for.gov.bc.ca/code/training/FRPA/forestry_modules_companion_guide_download.html).



### **FRPA Bulletins**

Two types of *FRPA* bulletins are available from the PFIT website—administration and general: [http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm)

#### **Administration Bulletins – description of a process**

- FRPA Administration Bulletin # 1 - [Forest Stewardship Planning: First Nations Information Sharing - June 10, 2005](#)
- FRPA Administration Bulletin # 2 - [Administration of Declared Areas under Section 14 of the Forest Planning and Practices Regulation](#)
- FRPA Administration Bulletin # 3 - [Interpretive Guidance Respecting Forest Stewardship Plan Questions - November 7, 2005](#)
- FRPA Administration Bulletin # 4 - [Administration of Sections 12\(3\) and 52 of the FPPR: Considerations regarding content requirements for Forest Stewardship Plans](#)
- FRPA Administration Bulletin # 5 - [First Nations Information Sharing Bulletin for Woodlot Licence Planning](#)
- FRPA Administration Bulletin # 6 - [Transfer of Obligations to Establish a Free Growing Stand under section 29.1 of the Forest and Range Practices Act](#)
- FRPA Administration Bulletin # 7 - [Considerations for Making Orders under Section 9 of the Forest and Range Practices Act and Section 19 of the Forest Planning and Practices Regulation: Cumulative Effect of multiple Forest Stewardship Plans: Proportional Targets](#)
- FRPA Administration Bulletin # 8 - [Guidance on Adminstrating a Transition Forest Stewardship Plan](#)
- FRPA Administration Bulletin # 9 - [Interpretive Guidance Respecting Woodlot License Plans - January 8, 2007](#)
- FRPA Admin bulletin # 10 - [Interpretative Guidance Respecting Forest Stewardship Plan Questions - March 14 2007 2 .pdf](#)
- FRPA Admin bulletin # 12 - [Amending Site Level Information - Ability to Amend Code Site Plans Under FRPA](#)

#### **General Bulletins – clarification of concepts, terms, etc.**

FRPA General Bulletin # 1 - [Collection, Registration, Processing and Distribution of Seed](#)

FRPA General Bulletin # 2 - [Managing Through Transition - FSP Opportunities](#)

FRPA General Bulletin # 3 - [Use of the Term "Practicable" under the Forest and Range Practices Act \(FRPA\) and Regulations](#)

FRPA General Bulletin # 4 - [Strategies to Assist Forest Stewardship Plan \(FSP\) Development and Administration in Areas with Established Land Use Objectives](#)



- FRPA General Bulletin # 5 - [The Role of Information and Considerations Influencing Statutory Decision-Makers \(SDM\) Determinations in the Plan Approval Process](#) 
- FRPA General Bulletin # 6 - [Wildlife Habitat Objectives: Considerations Respecting the Content of Forest Stewardship Plans](#) 
- FRPA General Bulletin # 7 - [Interpreting Section 196 of the Forest and Range Practices Act for major Licences and BC Timber Sales](#) 
- FRPA General Bulletin # 8 - [Wildlife Tree Retention \(WTR\): Interim Guidance for District and License staff](#) 
- FRPA General Bulletin # 9 - [Managing Visual Resources](#) 
- FRPA General Bulletin # 10 - [Beetle Wood Salvage and Visual Quality](#) 
- FRPA General Bulletin #11 - [Forest health bulletin Feb 28 2007](#) 
- FRPA General Bulletin #12 - [Use of Practicable in Results or Strategies March 30, 2007](#) 
- FRPA General Bulletin #13 - [Transition Guidance for Licensees Making Cutting Permit and Road Permit Applications](#) 
- FRPA General Bulletin #14 - [Management of Lakeshore Management Zones under the Forest and Range Practices Act](#) 
- FRPA General Bulletin #15 - [Managing and Tracking Wildlife Tree Retention Areas under FRPA](#)
- FRPA General Bulletin #16 - [Application of FRPA to Independent Power Producers, Mineral Interests and Other Occupiers of the Land](#)
- FRPA General Bulletin #17 - Effects of Orders Made Under the *Forest and Range Practices Act*, Government Actions Regulation on Forest Stewardship Plans.
- FRPA General Bulletin #18 - [Promoting Co-operative Planning under FRPA](#)
- FRPA General Bulletin #19 - [Options for Harvesting Dead and Dying Trees along Road Permit Roads](#)
- CEPS Bulletin #12 - [Guidance to C&E program staff on the assessment of measurable or verifiable results or strategies within a forest stewardship Plan \(FSP\)](#)

**Resource Tenures and Engineering Branch (Ministry of Forests and Range)**

<http://www.for.gov.bc.ca/hth/>.



### Additional Information from Ministry of Forests and Range (MFR)

GAR orders: <http://www.for.gov.bc.ca/tasb/legsregs/FRPA/FRPAregs/govact/GAR-ORDERS.htm>.

Karst training and related materials:

<http://www.for.gov.bc.ca/hfp/values/features/karst/index.htm>.

Chief Forester Standards on Seed Use: <http://www.for.gov.bc.ca/code/cfstandards/>.

A Quick Reference for The Evaluation of Stocking Standards Under *FRPA*: Forest Practices Branch ftp server at

<http://www.for.gov.bc.ca/ftp/HFP/external!/publish/FSP%20stocking%20standard/s/>.

Developing a framework for guidance documents:

<http://www.for.gov.bc.ca/hfp/legislation/index.htm>.

Working Together under *FRPA* Workshop Package:

available via the MFR's aboriginal affairs manager in each regional office.

FSP Tracking System: <http://www.for.gov.bc.ca/his/fsp/>

### Additional Information from Ministry of Environment (MOE)

General information: <http://www.env.gov.bc.ca/wld/>.

Notices for the Objectives Set by Government for Wildlife (section FPPR 7(2)):

[ftp://ribftp.env.gov.bc.ca/pub/outgoing/cdc\\_data/Approved\\_FRPR\\_sec7\\_WLPPR\\_sec9\\_Notices\\_and\\_Supporting\\_Info/](ftp://ribftp.env.gov.bc.ca/pub/outgoing/cdc_data/Approved_FRPR_sec7_WLPPR_sec9_Notices_and_Supporting_Info/).

Wildlife Habitat Areas: [http://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show\\_approved;uwr](http://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show_approved;uwr).

Ungulate Winter Ranges: <http://www.env.gov.bc.ca/wld/FRPA/uwr/index.html>.

Fisheries Sensitive Watersheds:

<http://www.env.gov.bc.ca/wld/FRPA/fsw/index.html>.

Regional links:

Kootenay: <http://www.kootenayspatial.ca/xsql/ksdpmenu01.xsql>.

Peace: [ftp://ftpprg.env.gov.bc.ca/pub/outgoing/Peace\\_Region\\_Wildlife\\_Values/](ftp://ftpprg.env.gov.bc.ca/pub/outgoing/Peace_Region_Wildlife_Values/).

Information pertaining to wildlife in the Cariboo Chilcotin Land Use Plan:

<http://srmwww.gov.bc.ca/car/planning/>.

### Additional Information from the Integrated Land Management Bureau (Ministry of Agriculture and Lands)

Sustainable Resource Management Plans (SRMPs) and legal orders:

<http://srmwww.gov.bc.ca/rmd/>.



### **Other Sources of Information**

Invasive Plant Council of BC-- <http://www.invasiveplantcouncilbc.ca/index.htm>.

### **Glossary of Forestry Terms**

A glossary of common forestry terms can be found on the following websites:

<http://www.for.gov.bc.ca/hfd/library/documents/glossary/>.

In addition, each of the various acts and regulations has definitions, for example: definitions in *Forest Act* can be found at:

<http://www.for.gov.bc.ca/tasb/legsregs/forest/foract/part1.htm>.

definitions in the *Forest and Range Practices Act* can be found at:

<http://www.for.gov.bc.ca/tasb/legsregs/FRPA/FRPA/part1.htm#section1>.

More information on the term “practicable” can be found in the following *FRPA* bulletins available on the PFIT website:

[http://www.for.gov.bc.ca/hth/timten/FRPA\\_implementation/Bulletins.htm](http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins.htm):

- *FRPA* Bulletin # 3: Use of the Term "Practicable" under the *Forest and Range Practices Act (FRPA)* and Regulations - June 10, 2005; and
- *FRPA* Bulletin #12 - [Use of Practicable in Results or Strategies March 30, 2007](#).



Updated August 2009

## **Appendix 15: How to Contact Us**

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We welcome your question and comments about this *Guide*.

Please contact us at the B.C. Ministry of Forests and Range, Resource Tenures and Engineering Branch (<http://www.for.gov.bc.ca/hth/>):

- **Brian Westgate**, A/Manager of policy implementation / PFIT Chair, 250 387-8620  
[Brian.Westgate@gov.bc.ca](mailto:Brian.Westgate@gov.bc.ca); or
- **Del Williams**, Timber tenures forester, 250-356-9361  
[Del.Williams@gov.bc.ca](mailto:Del.Williams@gov.bc.ca)