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OPERATIONS DIVISION

MEMORANDUM

May 18, 2007

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**VIA EMAIL**

To: Regional Executive Directors  
District Managers  
Branch Directors

From: T.R. (Tim) Sheldan  
Assistant Deputy Minister  
Operations Division

Re: **FRPA General Bulletin (Number 13)**  
**FRPA – Transition Guidance for Licensees Making Cutting Permit and  
Road Permit Applications**



A new *Forest and Range Practices Act* (FRPA), General Bulletin (Number 13) "*Forest and Range Practices Act – Transition Guidance for Licensees Making Cutting Permit and Road Permit Applications*" has just been completed. This bulletin provides guidance under various operational situations as to the application of FRPA and regulations when applying for a cutting permit or a road permit. This bulletin supplements the advice contained in FRPA General Bulletin Number 7 (Interpreting Section 196 of the FRPA for Major Licensees and BC Timber Sales).

Electronic copies will be available soon from the Provincial FRPA Implementation Team's website at the following address:

<http://www.for.gov.bc.ca/rco/pfit/index.htm>

Regional Executive Directors  
District Managers  
Branch Directors

If you have any questions about this bulletin, please contact Charlie Western,  
Provincial Implementation Team Chair, Operations Division, at (250) 387-8306, or by email  
at [charlie.western@gov.bc.ca](mailto:charlie.western@gov.bc.ca).



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## **FRPA GENERAL BULLETIN**

**Number 13**

**May 14, 2007**

### **Forest and Range Practices Act (FRPA) Transition Guidance for Licensees Making Cutting Permit and Road Permit Applications**

*The information contained in this bulletin does not constitute legal advice. Practitioners within government should seek legal advice from the Ministry of Attorney General, while practitioners outside government should seek independent legal advice.*

#### **Introduction:**

The transition language in the *Forest and Range Practices Act* (FRPA) is a complex area of legislation. In order to work through the transitional period, this bulletin provides interim guidance on how the FRPA or the *Forest Practices Code Act* (FPC) is applied to Cutting Permit (CP) and Road Permit (RP) applications for various operational situations. This bulletin will be updated as new legal opinions emerge and change this guidance.

This bulletin builds on the advice contained in the revised General Bulletin Number 7 [*Interpreting Section 196 of the Forest and Range Practices Act (FRPA) for Major Licensees and BC Timber Sales BCTS*] which is important background for this bulletin.

Finally, as previously outlined in General Bulletin No. 7, this guidance on the use of the FRPA, Section 196 is for those licensees choosing to exercise this option by specifying Section 196 areas in their Forest Stewardship Plan (FSP) submissions.

#### **Terminology**

For purposes of this bulletin, the term “Section 196 (1) cut blocks and roads”, Section 196(2) cut blocks and roads”, “Section 196 areas” all refer to Section 196 under the FRPA.

## **Legislation**

- Sections 3, 10, 187, 195, 196 and 197 of the FRPA.
- Part 4 and Sections 14 and 34 of the Forest Planning and Practices Regulation (FPPR).
- Sections 21.1 and 60 of the FPC.
- Section 5 and 5.1 of the Forest Road Regulation under the FPC.

## **Background:**

In this bulletin, there a number of key concepts provided from a series of legal interpretations provided by the Ministry of Attorney General Branch. General Bulletin No. 7 develops most of these concepts; however, the following additional concepts are important to understanding this guidance:

1. For Section 196 areas, only the FRPA practice requirements found in Part 4 of the FPPR and not the full FSP content applies to the primary forest activities conducted within them.
2. It is possible to specify a future effective date for a FSP when it is approved.
3. Cutting permits can continue to be issued in the time gap between the expiry of a Forest Development Plan (FDP) and the approval of a transitional or full content FSP.

The following sections provide specific FRPA transition guidance for licensees making CP and RP applications:

## **Cutting Permits**

1. **For cutting permit applications that are intended to be issued under the FPC legislation:**
  - In order for the FPC to apply, the CP must be issued prior to the FDP expiry [refer to Sections 187 and 195(2) of the FRPA].
  - Cut blocks which have been specified (under Section 14(1) of the FPPR) in a submitted FSP as Section 196 cut blocks are deemed approved as soon as the FSP is submitted for determination. Even though a FDP may still have been in effect, a CP issued over an area specified as a Section 196 cut block in a submitted FSP is subject to the FRPA legislation.
  - CPs that were applied for with the intent of issuance under the FPC, but which were not issued prior to the FDP expiry, are subject to the FRPA legislation.

- Site plans for CPs issued under the FPC are prepared as per Section 21.1 of the FPC.

**2. For cutting permit applications that are intended to be issued under the FRPA either when a transition FSP containing Section 196 cut blocks is deemed approved or when a Section 196 cut block forms part of a full content FSP submission:**

- CP applications may have been made prior to or after the expiry of the FDP. CPs issued after the expiry of a FDP are subject to the FRPA legislation.
- In order to afford the planning protection under Section 196, the CP application must be fully contained within a Section 196 area in the FSP.
- Once the CP is issued, harvesting activities are subject to the FRPA practice requirements.
- If a portion of a CP application is outside the deemed approved Section 196 cut block, this portion of the CP is not protected by Section 196, and therefore, subject to full FSP content from an approved FSP prior to CP issuance.
- If the CP is issued after the effective date of the full content FSP, refer to point #3 for the application of full FSP content to the harvesting activities associated with the Section 196 cut block.
- Site plans are guided by figure 1. (See end of this section.)

**3. For cutting permit applications that are intended to be issued under the FRPA after a full content FSP has been approved and is in effect:**

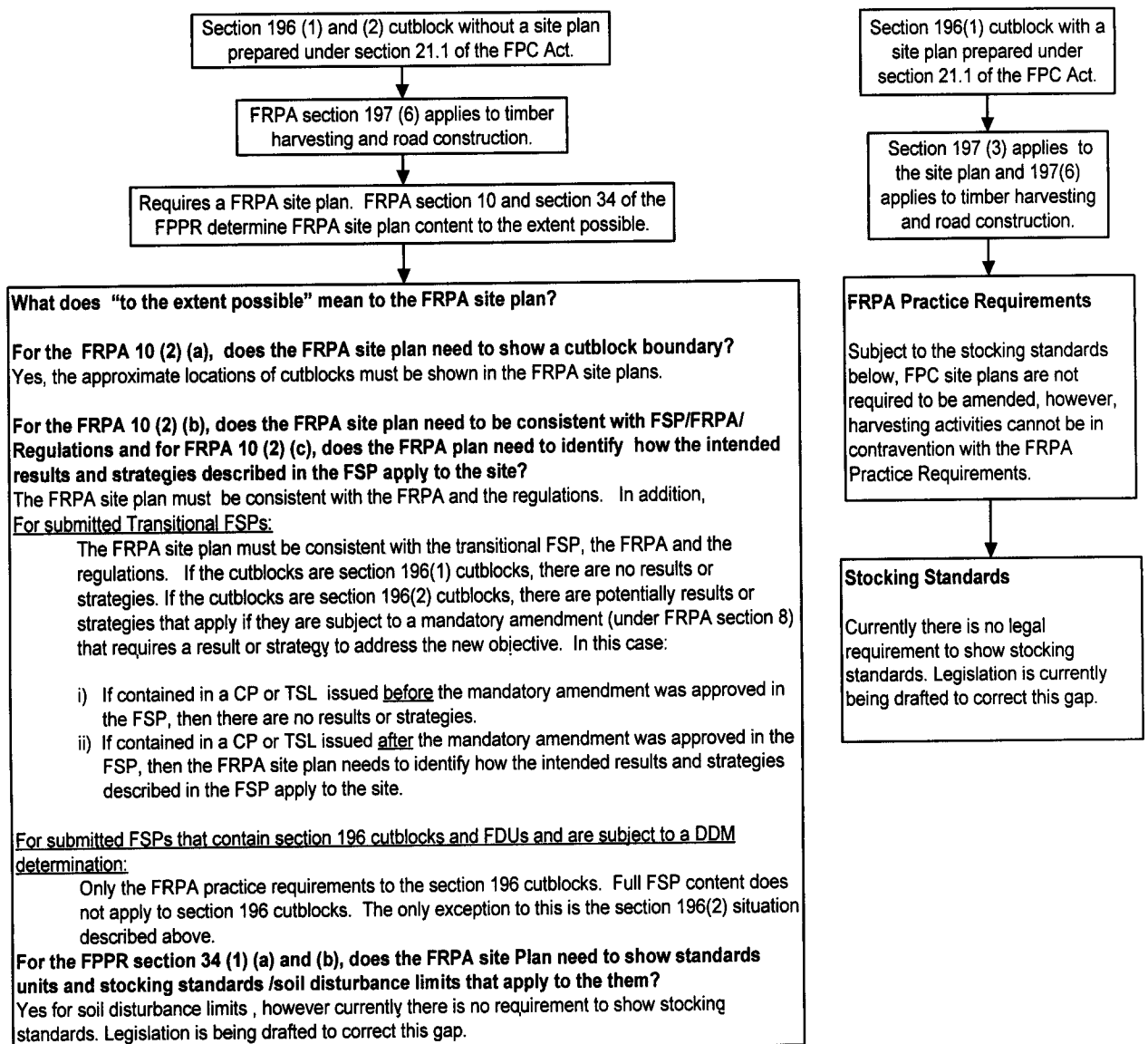
- CPs issued after the expiry of an FDP are subject to the FRPA legislation even though CP applications may have been made prior to or after the expiry the FDP.
- A CP application must be fully contained within a deemed approved Section 196 cut block or forest development unit in an approved full content FSP prior to harvest initiation .
- The following bullets identify the implications for CP applications containing Section 196 areas in an approved full content FSP:
  - If the CP application is not over areas specified as Section 196 areas in an approved FSP, the full approved FSP content applies to the CP area.
    - Site plans are prepared as per the FRPA, Section 10 and the FPPR, Section 34.

- If the CP application is over areas specified as Section 196 areas in an approved full content FSP, the full FSP content will not apply to the Section 196 areas. Only the FRPA practice requirements apply to the Section 196 areas once the CP is issued.
  - Site plans are guided by figure 1. (See next page.)

Figure 1: Site Plans for Section 196 Cut blocks

**At the time that section 196 cutblocks are deemed approved in a submitted FSP,**

- The section 196 cutblocks that do not have an issued cutting permit (CP) or timber sale licence (TSL) are subject to FRPA rules (FRPA section 197 (6) and (7)).
- The FRPA section 197(3) applies to any section 196 cutblock that has a site plan previously prepared under section 21.1 of the FPC (Forest Practices Code) Act.
- The flow chart below assists with determining site plan requirements for section 196 blocks. For the purposes of this flow chart, the term "Transitional FSP" refers to section 196 cutblocks that were deemed approved and were submitted solely or as part of a FSP with section 196 cutblocks and Forest Development Units (FDUs).
- Only FRPA practice requirements apply to section 196 cutblocks.



## **Road Permits**

- 1. For road permit applications that are intended to be issued or amended under the FPC:**
  - In order for the FPC to apply, the RP must be issued or amended prior to the FDP expiry [refer to Sections 187 and 195(2) of the FRPA].
  - Roads which have been specified [under Section 14(1) of the FPPR] in a submitted FSP as Section 196 roads are deemed approved as soon as the FSP is submitted for determination. Even though a FDP may still have been in effect, the FRPA legislation immediately applies to the deemed approved Section 196 roads contained in new road permit applications or amendments if the deemed approval occurred prior to the RP issuance or amendment.
  - RPs or amendments that were applied for with the intent of issuance under the FPC, but which were not issued or amended prior to the FDP expiry, are subject to the FRPA legislation.
  - Amendments made to area or drainage based “blanket” RPs prior to the FDP expiry, remain under the FPC. New sections of road amended into blanket RPs after the deemed approval of a transitional FSP or the approval of a full content FSP are subject to the FRPA legislation.
  - Road layout and designs for road construction or modification for a RP to which the FPC applies are guided by Section 60 of the FPC and Sections 5 and 5.1 of the Forest Road Regulation (FRR) under the FPC.
  
- 2. For road permit applications that are intended to be issued or amended under the FRPA either when a transition FSP containing Section 196 roads is deemed approved or when a Section 196 road forms part of a full content FSP submission:**
  - RP applications may have been made prior to or after the expiry of the FDP. RPs issued or amended after the expiry of a FDP are subject to the FRPA legislation.
  - In order to afford the planning protection under s 196, the RP application must be fully contained within a Section 196 area in the FSP
  - Once the RP is issued or amended, harvesting activities are subject to the FRPA practice requirements.
  - If a portion of a RP application is outside the deemed approved Section 196 cut block, this portion of the RP is not protected by s 196 and therefore subject to full FSP content from an approved FSP prior to RP issuance.



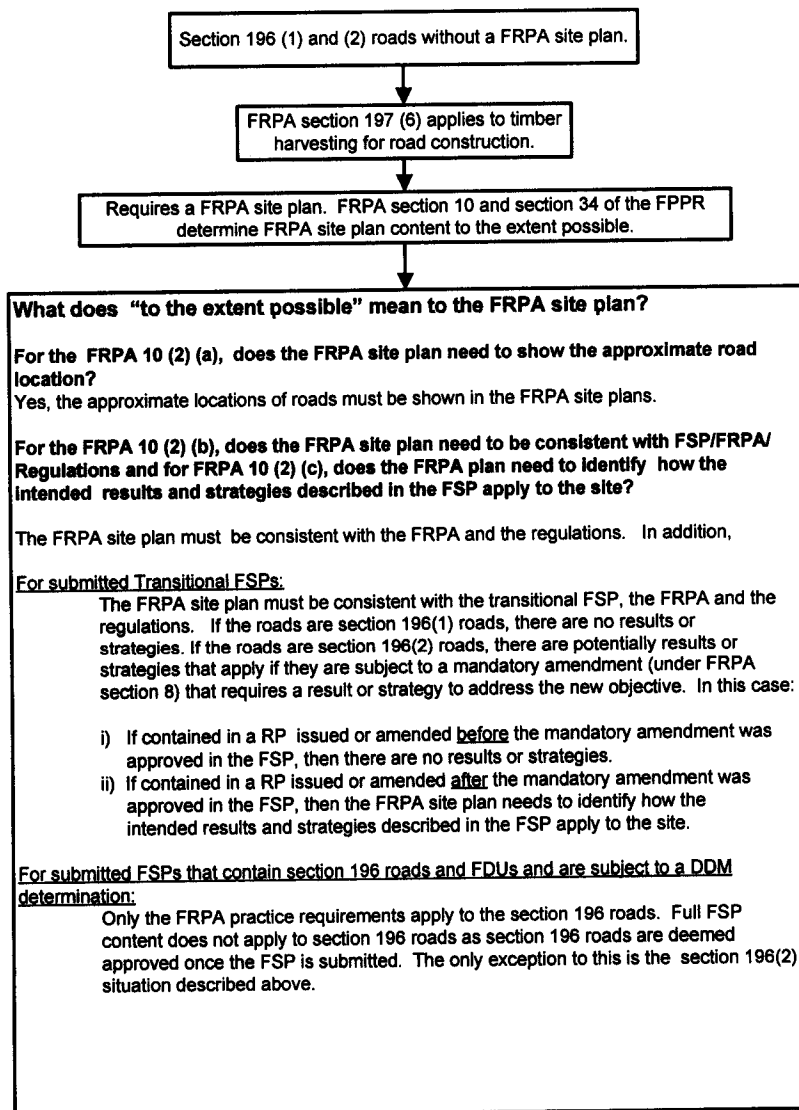
Site plans are guided by figure 2. (See end of this section.)

- 3. For road permit applications that are intended to be issued or amended under the FRPA after a full content FSP has been approved and is in effect:**
- RPs issued or amended after the expiry of an FDP are subject to the FRPA legislation even though the RP applications may have been made prior to or after the expiry the FDP.
  - Prior to harvest initiation, a RP application must be fully contained within a deemed approved Section 196 road or within a forest development unit in an approved full content FSP .
  - The following bullets identify the implications for RP applications containing Section 196 areas in an approved full content FSP:
    - If the RP application is not over areas specified as Section 196 areas in an approved FSP, the full approved FSP content applies to the RP area.
      - Site plans are prepared as per the FRPA, Section 10 and the FPPR, Section 34.
      - If the RP application is over areas specified as Section 196 areas in an approved full content FSP, the full FSP content will not apply to the Section 196 areas. Only, the FRPA practice requirements apply to the Section 196 areas once the RP is issued or amended.
        - Site plans are guided by figure 2. (See next page.)

Figure 2: Site plans for Section 196 Roads

**At the time that section 196 roads are deemed approved in a submitted FSP,**

- The section 196 roads that do not have an issued road permit (RP) are subject to FRPA rules (FRPA section 197 (6)).
- The FRPA section 197(3) does not apply to Road Layout and Designs prepared or approved under the (Forest Practices Code) Act.
- The flow chart below assists with determining site plan requirements for section 196 roads. For the purposes of this flow chart, the term "Transitional FSP" refers to section 196 roads that were deemed approved and were submitted solely or as part of a Forest Stewardship Plan (FSP) with section 196 roads and Forest Development Units (FDUs).
- Only FRPA practice requirements apply to section 196 roads.



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