



FOREST TENURES BRANCH

Special Use Permit Administration Guide

Version 2.0

January 2012



**BRITISH
COLUMBIA**

**Ministry of Forests, Lands
and Natural Resource Operations**

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0.0 Introduction

0.1 This Guide

This **Special Use Permit Administration Guide** (this Guide) provides information and recommended administrative procedures for implementing the **Special Use Permit Administration Policy 8.27** ('the Policy'), which was made effective **August 16, 2010**.

The information in this Guide is presented in the same order as the information in the Policy.

This Guide is intended to be used by Ministry of Forests, Lands and Natural Resource Operations (FLNR) staff involved in the issuance and performance monitoring of special use permits (SUPs). It can also be used by anyone who wants to know more about the administration of SUPs.

Additional information about the administration of SUPs can be found in the [Provincial Guidebook for Resource Clerks, version 2.0 \(August 18, 2011\)](#). That guidebook assists resource clerks with administrative procedures for different types of forest use agreements, including SUPs.

Please be aware that this Guide does not contain all possible information necessary to administer all aspects of SUPs. In particular, the following topics are not addressed in this Guide:

- First Nations consultation - it is recommended that you consult with appropriate First Nations staff to determine the recommended consultation process associated with any decision relating to SUPs.
- Annual Rent - Annual rent is collected on areas under SUPs. Some information regarding annual rent can be found in [the Provincial Guidebook for Resource Clerks](#).
- Taxation of SUPs – [The Provincial Guidebook for Resource Clerks](#) contains some reference to providing information to the BC Assessment Authority for taxation purposes (i.e., a copy of SUP issuance letter and Exhibit A).
- Roads SUPs – this Guide pertains to non-roads SUPs only. Please contact your regional tenures specialist or Forest Tenures Branch staff for questions about roads SUPs.

Updated versions of this Guide may periodically be released to include additional information.

This Guide contains the following sections:

Part 0.0 Introduction – this Part provides an overview of this Guide and an overview of the legislation and policies that affect the administration of SUPs.

Part 1.0 Replacements, Extensions and Terms – this Part provides information about extending or replacing an SUP, and about the length of the term for which to issue an SUP.

Part 2.0 Deposits – this Part provides information about SUP deposits and linking a deposit for an SUP to that of a major licence.

Part 3.0 Clean up and Restoration – this Part provides information about clean up and restoration requirements for SUPs. This Part is further divided into three sections (with subsections):

Section 3.1 – this Section describes clean up and restoration provisions for SUPs and their replacements issued prior to the policy effective date, as well as for SUPs issued after that date on Crown land with a history of similar industrial use;

Section 3.2 – this Section describes clean up and restoration provisions for SUPs and their replacements issued after the policy effective date for sites that were not contaminated when the SUP was issued;

Section 3.3 – this Section provides guidance on what to do if serious site contamination is suspected on an area under an SUP, regardless of when the SUP was issued.

Part 4.0 Additional SUP Administration Information – this Part contains additional guidance about a few other aspects of SUPs, such as amalgamation, signatures, and assignment.

Part 5.0 Appendices – the Appendices include a copy of Policy 8.27, terminology related to clean up and restoration, sample letters, a plan template, other policy and regulation references, and resources/references to look to for further information.

Any special terminology, such as that related to site contamination, is written in italics and defined in Part 5.1.1. Forestry terms are not defined in this Guide. If needed, a glossary of common forestry terms and a list of forestry acronyms and initialisms are available at: <http://www.for.gov.bc.ca/hfd/library/documents/glossary>.

0.2 Legislation that enables SUPs

The Provincial Forest Use Regulation (PFUR) (reproduced in Part 5.3 of this Guide) of the *Forest Practices Code of British Columbia Act* enables the district manager to issue an SUP if the planned use “*would not impair the proper management and conservation of forest resources*”. The regulation establishes when and how a person can apply for an SUP.

The regulation does not directly impose obligations on the holders of SUPs, but describes the types of conditions that may be included in the SUP, for example: “*...any conditions the district manager determines necessary to conserve forest resources and the natural environment, including ... clean up and restoration ... to the satisfaction of the district manager.*”

The PFUR also allows a district manager to require the holder of an SUP to provide a deposit to ensure conditions of the permit are met.

0.3 Legislation for contaminated sites

The *Environmental Management Act* (EMA), the Contaminated Sites Regulation and the Hazardous Waste Regulation (HWR) establish the legal framework for identification, assessment, and cleanup of *contamination*.

This legislation applies to Crown land and private land. The legislation establishes *environmental quality standards* regarding *contamination* of soils, water and sediments by toxic substances.

This legislation applies to any area under an SUP, regardless of when the SUP was issued. If an area covered by an SUP becomes contaminated, the party responsible maintains the liability for the contamination and, if instructed to do so by the Ministry of Environment, is required to remediate the contamination.

The legislation has a screening process that allows land owners and operators to identify and remediate most *contamination* with little involvement from the regulating body, the Ministry of Environment (MOE). Section 5.1 of this Guide contains information about the screening, standards and remediation requirements of contaminated sites legislation as they relate to SUPs.

0.4 Policy guidance for contaminated sites

The *Management of Provincial Contaminated Sites Policy*, approved by Cabinet in September 2004, establishes a framework for identifying, prioritizing, reporting and managing contaminated sites that are the responsibility of the Province.

Under the provincial policy, each ministry is responsible for *the management of* Crown lands which have become contaminated as a result of activities permitted, tenured, or otherwise authorized by that ministry.

Section 5.1.9 in the Appendices provides additional information about the *Management of Provincial Contaminated Sites Policy*.

0.5 Policy for Special Use Permit administration

Policy 8.27 - Special Use Permit Administration Policy ('the Policy') was put into effect to give guidance to natural resource managers on the issuance and replacement of non-roads SUPs.

The Policy includes direction on replacements, extensions, terms, deposits, and clean up and restoration for SUPs. The clean up and restoration direction is intended to give guidance on how to manage risks related to site contamination, encourage provincial consistency in SUP administration and prevent unnecessary costs for government and industry.

A copy of the Policy is included in Section 5.2 of the Appendices. The Policy and its cover memo can also be accessed from this link on the Forest Tenures Branch page:

<http://www.for.gov.bc.ca/tasb/manuals/policy/resmngmt/rm8-27.pdf>

0.5.1 Policy Effective Date

The effective date of the Policy is **August 16, 2010**.

This date is significant in deciding whether an SUP should be administered according to Section 1 or Section 2 of Part Three of the Policy.

SUPs issued on or before August 16, 2010 and their replacements are administered according to the guidance in Section 1 of Part Three of the Policy.

SUPs issued after August 16, 2010 and their replacements are administered according to the guidance in Section 2 of Part Three of the Policy.

Section 3 of Part Three of the Policy applies regardless of when the SUP was issued.

1.0 Replacements, Extensions and Terms

This part of the Guide provides information to supplement ‘Part One: SUP Replacements, Extensions and Terms’ of the **Special Use Permit Administration Policy 8.27**. Part One of the Policy is intended to establish a recommended approach for replacing or extending an SUP, and for deciding on an appropriate length of term for issuing, replacing or extending an SUP.

1.1 Extensions and Replacements

When an SUP is nearing the end of its term and the holder has indicated that they wish to continue using the site, the SUP can be either extended or replaced.

It is good practice to check if an SUP holder is in good standing (such as in terms of financial obligations such as rent) before issuing a replacement or extension to an SUP. District resource clerks can access this information from the Client Management System (CLIENT) and/or the Accounts Receivable Management (ARM) System (as outlined in the [Provincial Guidebook for Resource Clerks](#)).

1.1.1 Extensions

It is recommended that issuing an extension to an SUP be limited to situations where the changes to the SUP do not materially change the authorizations granted or obligations imposed on the permit holder. For example, an extension could be used where the term of the SUP is changing or the deposit amount is changing¹.

In cases where the original SUP document does not contain wording for a deposit (i.e., the wording found in sections 4.01 to 4.09 of the existing pre-policy SUP template, or similar wording), it is recommended that you consider replacing the SUP rather than extending it.

If the material use of the site or obligations of the permit are changing, it is recommended that the SUP be replaced rather than extended.

Extending an SUP is recommended if the permit holder is intending to no longer use the site, and yet requires time to complete their clean up and restoration obligations. It is important to remember that once the SUP expires, a contract no longer exists between the ministry and the SUP holder, and correspondingly no legal basis to instruct the licensee to comply with the conditions of the SUP or to take action against the holder in the event that they fail to comply. See Section 1.1.3 below for suggested timeframes to use for extending an SUP to allow the holder to complete clean up and restoration obligations.

SUPs can be extended through a letter to the SUP holder notifying them of the extension. A sample letter is included in Section 5.5.4 of the Appendices.

¹ Changes to the deposit amount could include increasing the amount of the deposit from \$0 (no deposit) to a larger amount.

1.1.2 Replacements

The SUP should be replaced if the authorizations under the SUP or the obligations are materially changing. For example, if the construction of a new building is being authorized or new or different clean up requirements are being included, a replacement would normally be called for. In addition, where appropriate, SUP replacements should include an amendment to the SUP Plan, or a request for an SUP Plan if one is not included in the existing SUP.

The district manager gives the same consideration to a replacement SUP as a new SUP (i.e., as described in the PFUR, the district manager puts his/her mind to ensuring the issuance of the SUP does not impair the proper management and conservation of forest resources on Crown land).

An SUP cannot be replaced without the consent of the SUP holder.

1.1.3 Expiry Timelines

It is recommended that during the final year of the SUP term, the activity on the SUP site be restricted to clean up and restoration activities. It is further recommended that the SUP holder be required to **have completed** the clean up and restoration activities at least six months prior to the expiry of the SUP. This allows sufficient time over the final six months of the SUP term for staff to confirm that the site has been adequately cleaned up and restored, or for additional actions to be undertaken by the SUP holder or staff, if required, prior to the expiry of the SUP.

If an SUP is nearing expiry (i.e., less than one year remaining), the permit holder has indicated that the SUP is no longer required, and the permit holder has not yet begun clean up and restoration activities, it is recommended that you advise the SUP holder to request an extension. Note that an SUP cannot be extended without the consent of the SUP holder.

If an SUP is no longer required and an extension is being provided only to allow sufficient time for clean up and restoration activities, only the term of the SUP should be altered.

If the permit holder wishes to continue to use the site, it is recommended that the SUP be extended or replaced (as appropriate) at least one year prior to the expiry of the SUP.

A sample letter to notify an SUP holder of a pending SUP expiry, and to request notification of intent is included in Section 5.5.1 of the Appendices.

1.2 SUP Terms

The PFUR does not specify a maximum term for an SUP. Historically, most SUPs have been issued for terms of five years or less.

In some cases, the use of the site under the SUP is expected to be long term. To increase the administrative efficiency for both government and industry, it may be appropriate to issue, replace or extend an SUP for longer than a five year term. Determining the appropriate term for a particular SUP should include an assessment of whether there are any risks associated with a longer term.

Several factors can be considered in choosing whether a longer term is appropriate in a particular situation, such as:

- The intended use of the site;
- The plan for the site. A plan that provides a satisfactory and appropriate level of information. Longer terms may be appropriate for those plans that provide greater detail;
- The level of investment in the site (either existing, or planned). A higher level of investment may suggest a longer term is appropriate;
- The associated tenures. For SUPs located in or associated with long-term tenures, and for SUPs that appear to be critical to the forestry operations of the SUP holder, corresponding longer terms for the SUP may be appropriate;
- The level of risk to the Crown. Less risk would support a longer term for the permit.

In some cases, it may be appropriate to match the SUP term to the term of a dependent form of land tenure (e.g., match the term of an SUP for a log dump to that of the associated foreshore lease).

In the absence of a rationale that suggests otherwise, it is recommended that SUPs needed for long-term uses be issued for terms of up to **10 years**.

2.0 Deposits

This Part of the Guide provides information to supplement ‘Part Two: Linking of SUPs to Deposits of Major Licences’ of the **Special Use Permit Administration Policy 8.27**, as well as other relevant information about deposits. Part Two of the Policy is intended to establish a recommended approach for linking of a deposit for an SUP to that of a major licence, as well as determining the appropriate size of deposits.

2.1 Size of deposits

The amount of deposit required for an SUP should be based on the expected cost of cleaning up and restoring the site as well as the risk of the permit holder not meeting its obligations.

It is recommended that when SUPs are being considered for replacements or extensions, you consider the size of the deposit held for the current SUP to ensure it is still appropriate. The size of the deposit should be commensurate with the obligations of the SUP, including the expected cost of cleaning up and restoring the site should the permit holder not meet its obligations in this regard.

The appropriate size of deposit for an SUP can depend on the risk associated with a number of factors including:

- The purpose intended for the site;
- The size of the operations, including the number of buildings, structures or equipment that may need to be demolished or disposed of, and the potential cost of cleanup and restoration if operations cease and the SUP holder does not satisfy its obligations;
- The location of the site and the associated costs of transportation and removing chattels² and equipment;
- The risk to the resource as a result of the planned activities (e.g., risk associated with *Schedule 2 activities* vs. other activities);
- The clean up and restoration obligations in the SUP, including any special requirements.

For some SUPs, the risk associated with the site use may be almost negligible (e.g., SUPs issued for weather stations or communication sites). In such cases, the district manager may consider it appropriate to not require a deposit.

The following Sections outline the considerations for determining the size of a deposit for SUPs issued under either Section 1 or Section 2 of Part Three of the Policy.

² Items of personal property that can be picked up and moved from place to place.

2.1.1 Size of deposits for active SUPs issued prior to Policy 8.27, their replacements, and SUPs issued subsequent to Policy 8.27 on sites with prior industrial use

For those SUPs that were originally issued prior to the Policy, their replacements or extensions, and any new SUPs on land with previous similar use, the deposit should reflect the obligations for clean up and restoration as described in Section 3.1 of this Guide.

Should the SUP holder not meet its obligations for clean up and restoration, the SUP deposit may be used by FLNR staff to complete the requirements outlined in the SUP document.

Note that these SUPs typically do not contain provisions for requiring the SUP holder to meet the *Environmental Management Act* requirements within the permit itself. The deposit cannot be used by FLNR staff for the completion of activities that are not part of the obligations under the SUP.

The final decision regarding the deposit amount for an SUP rests with the district manager, and should be based on his or her estimate of the cost of clean up. It is suggested in the absence of information to suggest otherwise, that deposits for these SUPs could be in the range of \$10,000.

2.1.2 Size of deposits for SUPs issued after Policy 8.27 became effective on undeveloped/uncontaminated sites

For new SUPs issued after Policy 8.27 came into effect on ground that is uncontaminated and their replacements, the deposit should reflect the obligations for clean up and restoration as described in Section 3.1 of this Guide.

The template document for these SUPs makes completion of the requirements of the *Environmental Management Act* (*site profiles* and *site investigations*) also a requirement of the permit³. Consequently, in the case of non-compliance with an MOE requirement to conduct a site investigation, FLNR staff can use the deposit to have the site investigation completed.

It is suggested that deposits for these SUPs where there are ***Schedule 2 activities*** would normally be in the range of up to \$50,000 with \$40,000 being available to commission a *site investigation* if required by MOE and not done by the SUP holder, and \$10,000 being available for general clean up and restoration of the SUP site if those obligations are not completed by the SUP holder.

However, the final decision regarding the amount of deposit to require for an SUP rests with the district manager, and should be based on his or her estimate of the cost of a site investigation and general clean up of the site.

2.2 Forms of deposits

The form of deposit can be cash or an equivalent form of security. There are several different forms in which deposits can be provided. The most common forms are listed below. This is

³ Including the completion of the requirements of the EMA as part of the permit does not affect the implementation or provisions of the EMA. However, it does allow FLNR staff to use the SUP deposit to meet the conditions of the permit, which might include the requirement to conduct a *site investigation*.

provided for general information and was adapted from land tenure procedures
http://www.agf.gov.bc.ca/clad/leg_policies/procedures/ta_general.pdf.

The letter of credit, the first form of deposit described below, is the form most often used for SUPs and other forest tenures.

2.2.1 Letter of Credit

An irrevocable letter of credit can be issued by a financial institution and accepted by the Authorizing Agency provided that:

- The expiry of the term of the Letter of Credit is at least 120 days after the expiry of the term of any tenure being secured;

OR

- The financial institution indicates in the Letter of Credit that it will automatically renew the Letter of Credit for a period of one or more years from the present or any future expiration date unless it notifies the Authorizing Agency in writing at least 90 days before the expiry date of the Letter of Credit.

Letters of Credit are bank documents and their wording may vary depending on the financial institution.

The format of the Letter of Credit must clearly and correctly identify:

1. The beneficiary, stated (verbatim) as “Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister responsible for the *Forest Act*”;
2. The evergreen clause (verbatim), as follows: “This Letter of Credit shall be deemed to be automatically extended (for one year from the present or any future expiry date) without any formal amendment unless thirty days prior to the present expiry or any such future expiry date as automatically extended we shall notify you in writing that we elect not to extend the Letter of Credit for any further period and at the same time forward to you together with such written notice of election a bank draft payable to the Minister of Finance in the amount of \$(amount of security deposit) less any amount previously paid under this Letter of Credit.”;
3. The gross amount that may be claimed;
4. The description of the tenure(s) being secured, including the permit number;
5. In the case where the SUP applicant is a third party, that it is on behalf of the permit holder;
6. The Duty to Inquire clause, for example: “The bank will not inquire as to whether or not you have a right to draw under this credit.”;
7. That a claim must be paid by the financial institution at any time and from time to time upon written demand from the Minister;
8. That partial drawings are permitted. Example wording: “the amount of this credit may be reduced from time to time only by the amount drawn upon you or by formal notice in writing received by us from you that you desire such reduction.”;
9. Some reference to the following statement: “Demands may be made in writing, not at site.”;

Note: Letters of credit that contain the following wording should **not** be accepted as they contravene point 5 above: “*Request for any amendment except reduction in amount must be made directly to our customer who will then instruct us accordingly.*”

2.2.2 Cash

Cash is held in trust by the Provincial Treasury. No interest is paid on cash security deposits.

2.2.3 Safekeeping Agreement

Safekeeping Agreements are standard template documents (Form 346) that can be given to the SUP holder for it and the bank to complete.

The form can be found at the following links:

http://gww.fin.gov.bc.ca/menu/forms_alpha.stm or
<http://www.fin.gov.bc.ca/PT/rmb/forms/0346FILL.pdf>

A Safekeeping Agreement must be complete and signed by the SUP holder, financial institution and an authorized representative of the Minister of Finance. The term deposit or bond identified in the Safekeeping Agreement is held in safekeeping by the financial institute.

Notes regarding completion of a Safekeeping Agreement:

- Guaranteed Investment Certificates (GICs) are not acceptable, as they are not redeemable at par value before maturity.
- Canada Savings Bonds are not acceptable, as they cannot be assigned.
- Bonds must not exceed three years to maturity.
- The complete and signed original Safekeeping Agreement will be retained by the Authorizing Agency and copies are to be provided to the financial institute and tenure holder.

2.2.4 Insurance Bond

The SUP holder can provide an Insurance Bond that states that the insurer guarantees to pay costs or expenses incurred by the Province to perform any of the obligations of the SUP that were not performed by the SUP holder in accordance with the SUP and/or to pay any overdue Fees associated with the SUP.

2.2.5 Other

Certified cheques are an acceptable form of deposit.

Note: It is not acceptable to link an SUP deposit to a security obtained under the *Mines Act*. Deposits under the *Mines Act* can only be collected and used for purposes under that Act, and cannot be used for the purposes of SUPs.

2.3 Options for Deposits

There are two possible options for securing deposits for SUPs.

2.3.1 Deposits under the PFUR

Section 9(2)(c) of the PFUR authorizes the collection of a deposit for an SUP.

Section 9(3) of the PFUR states that the district manager may use all or a portion of an SUP deposit to cover costs that result from failure of the SUP holder to meet the permit conditions. It also states that the deposit can be used as security in cases where personal property owned by persons other than the SUP holder or the province is situated on land under the permit.

2.3.2 Linking to deposits of major licences

If requested by an SUP holder, it is possible to have the deposit for an SUP linked to the deposit for a major licence. The deposits for one or more SUPs can be linked to the deposit held for a major licence, if all three of the following conditions are met:

- 1) both the SUP and major licence are held by the same entity;
- 2) the SUP is related to all or part of the licence or to operations carried out under the licence; and
- 3) the SUP holder is in agreement with (e.g., has requested) the linking of the deposits.

If an SUP deposit is to be linked to a major licence, appropriate wording must be included in both the SUP document and in the major licence document. The current (2010) [SUP templates](#) include wording for this option.

There is no upper limit to the number of SUPs that can be linked to a single major licence deposit. It is acceptable for the total liability associated with the deposits for multiple SUPs to exceed the total amount of the major licence deposit, as long as the size of the major licence deposit is greater than what is required for each individual SUP deposit. That is, each individual SUP deposit does not act as a 'hold' on the deposit funds for the major licence. For example, six SUPs, each with a deposit of \$10,000, could be linked to a single major licence deposit of \$50,000.

Amending the major licence

Tree Farm Licence (TFL) documents already contain wording that enables the linking of an SUP deposit to the TFL deposit. As a result, no amendments to TFLs are required to allow for SUPs to be linked to TFL deposits.

If the SUP deposit is to be linked to the deposit of a Forest Licence (FL) or Forestry Licence to Cut (FLTC), wording must be amended into the deposits section of the major licence document using an FS 3 amendment form.

Policy 8.27 contains some suggested wording as follows:

9.13 The Licensee agrees that the deposit held under paragraph 9.03 may be realized in the event of a failure to meet the conditions of a special use permit that pertains to an area covered by this Licence or in the event that the Licensee damages personal property owned by a person other than the Licensee or the government that is on the area covered

by the special use permit in accordance with the procedures set out in paragraph 9.04 to 9.12 and the applicable special use permit.

Note: The section numbering in the suggested clause above corresponds to a typical FL document. You may need to change section numbering and the cross reference to other sections depending on the particular agreement.

Amending the SUP

The SUP must contain wording that provides for linking of a major licence deposit to an SUP. As mentioned above, the current SUP templates include that wording as an option. If an existing SUP is to be linked to a major licence deposit, the wording from the current templates that support deposit linking must be amended into the SUP.

Documenting the amount of deposit available

If an SUP is linked to the deposit for a major licence, the amount of the major licence deposit available to meet the conditions of the SUP should be documented in the SUP.

For example, if the major licence deposit is \$100,000 and the deposit for the SUP is stated as \$10,000, then only \$10,000 of the major licence deposit would be available for obligations under the SUP. This should be documented in the SUP.

2.3.3 Requiring more than one deposit

If the SUP holder wishes to link to a major licence deposit but the size of the major licence deposit is smaller than what is required for the SUP, the SUP holder could provide both a link to a major licence deposit and an SUP deposit for the remaining amount.

As an example: the district manager determines that an SUP requires a deposit of \$8,000. The SUP holder also holds a Forest Licence with a deposit of \$5,000. The SUP deposit could be linked to the deposit for the Forest Licence, and the SUP holder would be asked to provide an additional deposit for the SUP of \$3,000.

2.3.4 Circumstances when a separate SUP deposit is required

A separate SUP deposit would be required in any of the following cases:

- The SUP holder does not hold a major licence with a deposit.
- The SUP holder holds a major licence, but the SUP does not relate to all or part of the licence or operations carried out under the licence.
- The SUP holder holds a major licence and the SUP relates to all or part of the licence or operations carried out under the licence, but the holder does not agree to link the major licence deposit to the SUP deposit.
- The SUP holder holds an eligible major licence with a deposit to which the SUP deposit could be linked; however, the size of the major licence deposit is insufficient. A separate SUP deposit is required for the balance.

3.0 Clean up and Restoration

This Part of the Guide contains information to supplement ‘Part Three: Clean Up and Restoration’ of the **Special Use Permit Administration Policy 8.27**. Part Three of the Policy is intended to establish a recommended approach to support clean up and restoration of Crown land authorized for use by SUPs.

Part Three of the Policy is divided into three sections. The following sections of this Guide provide supplemental information to support Part Three of the Policy.

Sections of Part Three of the Policy	Corresponding Sections of Part 3.0 of this Guide
Section 1	Section 3.1 and its subsections
Section 2	Section 3.2 and its subsections
Section 3	Section 3.3 and its subsections

Note that Section 3 of Part Three of the Policy applies to all SUPs regardless of when they were issued.

An SUP falls under either Section 1 or Section 2 of Part Three of the Policy, depending on when the SUP was originally issued or the pre-existing condition of the site over which the SUP was issued.

3.1 Active SUPs issued prior to Policy 8.27, their replacements, and SUPs issued subsequent to Policy 8.27 on sites with prior industrial use

This Section of this Guide gives additional information about clean up and restoration for the following SUPs that fit into **Section 1 of Part Three of Policy 8.27**:

- *the original SUP was issued prior to the effective date of the policy,*
- *any subsequent replacement to the original SUP where its original issuance was prior to the effective date of the policy, and*
- *new SUPs issued after the date of the policy for Crown land where there has been a history of similar industrial use⁴.*

⁴ As per the Policy, similar industrial use under an SUP refers to uses such as a logging camp, log dump, dryland sort, equipment repair facility, etc. It would not be applicable if the area had a history of logging only; in such cases a new SUP would be issued and section 2 of Part Three of the Policy would be applicable.

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3.1.1 SUP issuance

There are two different SUP template documents, accessible [here](#). The appropriate document to choose depends on whether the SUP fits under Section 1 or Section 2 of Part Three of the Policy. You should ensure that you use the appropriate SUP template document for the SUP. For SUPs that fit under this Section, the appropriate template to choose is 'SUP-Pre-...', referring to 'Pre-Policy 8.27'.

3.1.2 Notification of clean up expectations

If an SUP in this category is expected to expire and the SUP holder has indicated that the SUP is no longer needed, the district manager should clarify, in writing to the SUP holder, any clean up and restoration obligations in accordance with the expiring SUP document.

Note that where a provision in the permit requires an action “upon expiry” or “when the permit expires”, the work must actually be done prior to expiry so that the site conforms to the clean up provisions upon expiry of the permit. The SUP holder must complete clean up prior to expiry of the permit, because the authority of the permit holder to occupy the site is required in order to carry out the clean up of the site, and this authority ends when the SUP expires.

Ideally, the notification of clean up expectations should occur well in advance of the expiry of the permit. One year in advance is recommended. This will allow the permit holder sufficient time to plan and complete the decommissioning and any required remediation of the site prior to expiry of the SUP.

If circumstances make it unlikely that conditions will be met before the expiry of the permit, the SUP should be extended to allow sufficient time for the SUP holder to complete the conditions.

When the district manager provides notification of clean up expectations, he/she should also advise the permit holder of potential obligations under *contaminated sites legislation*, as discussed in section 3.1.3.

Sample Letter #2 in section 5.5.2 of the Appendices provides suggested wording for this notification letter.

3.1.3 *Site profiles/Site investigations*

There are certain provisions under the *contaminated sites legislation* that apply to all SUPs, regardless of the issue date of the original SUP.

Site profiles are only required when a Contaminated Sites Regulation **Schedule 2** activity has been decommissioned, is under foreclosure or is the subject of a local government permit specified in section 40 of the *Environmental Management Act*.

If the site under the SUP has not been used for any of the activities listed in **Schedule 2** of the Contaminated Sites Regulation, a *site profile* does not need to be completed. In fact, a *site*

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profile submitted to MOE for reasons other than the legal trigger (i.e., a Schedule 2 activity has been decommissioned) are not legally considered to be *site profiles* and not subject to the usual *site profile* processing requirements.

If the site under the SUP has been used for activities listed in **Schedule 2** of the Contaminated Sites Regulation, decommissioning of the site will trigger the requirement for a “*site profile*” (refer to section 5.1.8 *Site profile* Triggers and Submission in the Appendix for more information about *Schedule 2 activities*). The holder of the SUP is required to submit this *site profile* at least 10 days before starting to decommission the site. As included in the sample letter wording, it is preferable if the holder of the SUP could provide the district manager with a copy of the submitted *site profile*.

If the holder of the SUP does not complete a *site profile* when one is required, you can remind them that they may be in contravention of the *Environmental Management Act*.

MOE is the regulating agency of the contaminated sites legislation. MOE staff are not able to complete *site profiles* on behalf of the SUP holder, and are also not able to interpret results of professional reports in order to fill in missing information on a *site profile*. In cases where the *site profile* indicates that additional information is required to determine if contamination is present on the SUP site, the MOE Director of Waste Management has the discretion to indicate whether or not a *site investigation* is required.

3.1.4 Clean up and restoration

Clean up and restoration of an SUP site should accomplish several objectives:

- Removal of personal property (‘chattels’) and dispose of refuse;
- Restore the land sufficiently for the next land use, according to the conditions and obligations in the permit, after the SUP expires;
- Satisfy any SUP or legislative requirements that relate to the SUP or the use of the land authorized under the SUP.

Clean up and restoration typically involves the steps below.

Clean up

The holder of an SUP that is expiring or otherwise terminating should decommission the site, consistent with the obligations outlined in the permit, including:

- Remove all buildings, storage tanks and other infrastructure, including foundations, subject to the following:
 - In some circumstances, infrastructure may be left in place in a safe and sanitary condition, only if the district manager agrees in writing to a request from the holder of the SUP. Such a request may be on the basis that the improvements do not pose a contamination or safety concern and that they may benefit future users of the site.

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- storage tanks pose a high risk of site *contamination* and must be decommissioned and removed unless a new user is imminent and it has been confirmed that the tank(s) are not a high risk for safety or potential site *contamination*.
- Remove all equipment, scrap metal, wire rope, tires and similar materials. Burying of these materials is not permitted⁵.
- Decommission sewage lagoons and waste disposal sites in accordance with applicable permits and legislation.

Note that burning of materials is regulated by the Waste Discharge Regulation under the *Environmental Management Act*. FLNR staff do not have authority to allow the burning of waste, as that is regulated by MOE under the *Environmental Management Act* Part 2 Section 6. You should direct an SUP holder to work with and obtain appropriate authorization from MOE if any burning is intended as part of the site clean up.

Restoration

Restoration of the site must meet any standards specified by the district manager as part of the obligations outlined in the permit, or subsequently agreed to with the holder of the SUP.

Depending on site-specific circumstances, the requirements for restoration may include de-compacting, re-contouring, or re-vegetating the site.

Non-conformance with clean up and restoration requirements

If the holder of the SUP does not conform with the requirements of the SUP regarding general cleanup and restoration of the site, the district manager may serve appropriate notice and then remedy the non-conformance by using the funds from the SUP deposit. The remedy would include conducting the clean up and restoration of the site as outlined in the conditions of the permit, subject to the available funds.

3.1.5 Site Contamination

You might suspect that a site associated with an expiring SUP under this category of being contaminated, in particular if the site was used for *Schedule 2 activities*. However, the expiring SUP document may lack specific provisions to compel the remediation of site contamination. Despite this, as noted in Section 3.1.3 above, certain provisions under the *contaminated sites legislation* apply to all SUPs, regardless of the issue date of the original SUP on the site.

You should cooperatively share information with the holders of SUPs to encourage the identification and remediation of any site contamination. It is expected that SUP holders will willingly identify and remediate contamination, as doing so can minimize uncertainty in terms of the SUP holder's ongoing future liability under the *contaminated sites legislation*.

⁵ Except in the unlikely event written permission has been granted by the district manager.

If an SUP with suspected contamination (i.e., where Schedule 2 activities were conducted on the site) expires without identification and/or remediation of contamination despite reasonable efforts by FLNR staff to require the SUP holder to remediate, the following is recommended:

- Notify the SUP holder of the concern and/or unresolved identification and remediation of contamination and the potential for liability under the EMA;
- Inform any future users of the land of the outstanding contamination concerns;
- Work to ensure that MOE has received a *site profile* from the permit holder for the site. This will ensure that MOE is aware of the exact location of the site, all previous uses of the site, past occupiers of the site and suspected contaminants on the site.

3.2 SUPs issued after Policy 8.27 became effective on undeveloped/uncontaminated sites

This section of this Guide gives additional information about the following SUPs that fit into **Section 2 of Part Three of Policy 8.27**:

- *original SUP was issued after the effective date of the policy,*
- *any subsequent replacement to the original SUP where its original issuance was after the effective date of the policy, and*
- *the SUP was issued over Crown land where there was no prior history of industrial use⁶.*

3.2.1 SUP issuance

There are two different SUP template documents, accessible [here](#) from the Forest Tenures Branch site. The appropriate document to choose for a particular SUP depends on whether the SUP fits under Section 1 or Section 2 of Part Three of the Policy. You should ensure that you use the appropriate SUP template document for the SUP. For SUPs that fit under this Section, the appropriate template to choose is 'SUP-Post-...', referring to 'Post-Policy 8.27'.

SUP Plan

Section 9 of the PFUR requires that an applicant for an SUP submit a plan that sets out how the land will be used.

The regulation provides for the district manager to form an opinion of whether issuance of the SUP will impair the proper management and conservation of forest resources. It also provides for the district manager to include conditions in the SUP to conserve the forest resources and the natural environment.

⁶‘similar industrial use’ referred to in Section 1 of Part Three of the Policy refers to uses such as a logging camp, log dump, dryland sort, equipment repair facility, etc. In a case where the area had a history of logging only it would be considered to be ‘no prior history of industrial use’, a new SUP would be issued, and Section 2 of Part Three of the Policy would be applicable.

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The district manager has discretion under the legislation about what to consider in forming such an opinion and determining which conditions to include.

The district manager should consider requiring that the following be included with the SUP application:

- A declaration of the applicant's planned use of the site with identification of any industrial and commercial purposes and activities listed in Schedule 2 of the *EMA's Contaminated Sites Regulation*.
- Actions the applicant will take to ensure the site does not become contaminated, including preventing, containing and remediating spills of fuel and other liquids permanently or temporarily stored on the site.

Section 5.4 in the Appendix provides an example of a request for an SUP Plan from a permit holder.

SUP content

The SUP template for SUPs under this category includes provisions that require the holder of the SUP to:

1. be responsible for any obligations under *contaminated sites legislation* relating to the holder's use of the site, e.g. *site profiles* and *site investigations*. Also, be responsible for carrying out any orders issued under *contaminated sites legislation* relating to the holder's use of the site.
2. stop using the site for any purpose other than activities required for decommissioning, clean up/remediation and restoration of the site in the twelve months prior to the expiry of the SUP⁷. Note that this provision will not apply if the SUP is replaced or extended at least one year before expiry.
3. decommission the site by removing buildings, fuel tanks and other infrastructure, and clean up and restore the site, at least six months prior to the expiry of the SUP.
4. if a *site investigation* has been required under provisions of the *EMA*, provide the district manager, at least six months prior to expiry of the SUP, with a *Determination of Contaminated Site* or *Certificate of Compliance*, MOE instrument, or other documentation acceptable to the district manager⁸, confirming that the site is not contaminated or that it has been adequately remediated.
5. maintain a deposit (or provide access to an existing deposit) that, in the opinion of the district manager, is sufficient given the risk of non-conformance with the SUP conditions.

⁷ The need for cleanup within the period 12 to 6 months prior to expiry is to allow inspection, mitigation and conformance actions to occur while the SUP is still in effect.

⁸ At the risk of transferring somewhat more risk to the Crown as well as the permittee, other documentation may be acceptable to the district manager. FLNR staff are not expected determine themselves if a site is not contaminated or has been adequately remediated.

Site profiles are only required when a Contaminated Sites Regulation **Schedule 2** activity has been decommissioned, is under foreclosure or is the subject of a local government permit specified in section 40 of the *Environmental Management Act*.

If none of the activities listed in **Schedule 2** of the Contaminated Sites Regulation has occurred, a *site profile* does not need to be completed. *Site profiles* submitted to MOE for reasons other than the legal trigger (i.e., Schedule 2 activities) are not legally considered to be *site profiles* and not subject to the usual *site profile* processing requirements.

If an SUP operation had **Schedule 2** activities and is going to be decommissioned, you should request that the SUP holder supply documentation that confirms a *site profile* has been completed and submitted to MOE. If the SUP holder does not provide documentation to indicate a *site profile* was done, you should make sure that the appropriate MOE staff are aware by sending a message to siteprofiles@gov.bc.ca.

3.2.2 Site Contamination

If an SUP is expiring and, following appropriate notification, the SUP holder does not supply documentation that the site is not contaminated, you should:

- a) Ensure that a *site profile* has been completed for the site. Ideally the SUP holder completes a *site profile* for the site.
- b) If the *site profile* triggers a *site investigation*, the SUP holder should be informed of that obligation; if the SUP holder will not do the *site investigation*, staff should identify that concern with government enforcement staff.
- c) If a *site investigation* indicates contamination, the SUP holder should be informed of the outstanding obligation to remediate the contamination.
- d) If the SUP holder will not remediate contamination, depending on the severity, you could consider requesting that MOE order the contamination be remediated under the contaminated sites legislation. The MOE may choose to issue a remediation order only for high risk sites. Note that Policy 8.27 indicates that for this category SUP, deposits can be used to cover the cost of *site investigations*, but not remediation of contamination.

3.3 Responding to serious site contamination

As per Section 3 of Part Three of Policy 8.27, regardless of when an SUP was issued or its current status, if you become aware of site conditions that appear to threaten the health or safety of humans, aquatic life or wildlife, it is recommended that you immediately report the information to MOE staff and work with them to assess and manage the risks.

3.4 Previously Expired SUPs

If at all possible, SUPs should not be allowed to expire before the SUP holder has completed clean up and restoration activities on the site to the satisfaction of the district manager.

The following points should be considered for previously expired SUPs:

- An SUP cannot be extended or replaced after it has expired.
- An SUP holder must have authority to enter and use Crown land for the purposes of completing clean up and restoration activities on an SUP site. It is recommended that, where necessary, you issue a new SUP for an appropriate term (e.g., one year) to allow the permit holder to complete clean up and restoration activities.
- If the district manager expects another SUP to be issued for the same site, he or she may choose to relieve the SUP holder from some or all of the clean up requirements.
- If the SUP holder was informed of specific cleanup requirements prior to expiry, then to the extent enabled by provisions of the SUP, you can request that the holder decommission the site and remediate any site contamination so that the site meets government's *environmental quality standards*.
- you can share information with MOE staff regarding suspected contamination, past history and present status to facilitate MOE orders and/or compliance and enforcement actions. Note that the MOE Land Remediation Section is responsible for compliance and enforcement of *contaminated sites legislation*.
- If Schedule 2 activities were conducted on the site, and a *site profile* was not completed by the former SUP holder, the SUP holder should be asked to complete one.
- In some cases, FLNR may choose to decommission a site that no longer has an active SUP. In this case, if the site had Schedule 2 activities on it, you must complete and submit a *site profile* to MOE at least 10 days prior to beginning work on decommissioning.
- If FLNR intends to have site contamination independently remediated, you must notify the appropriate MOE staff within three days of the start of any remediation activity, and again within 90 days of the completion of remediation. The appropriate forms as specified in Appendix 5.1.6 must be completed and returned to the MOE as specified in [Protocol 17, "Forms for Notifications of Independent Remediation and Offsite Migration"](#).

4.0 Additional SUP Administration Information

This Guide was developed specifically to provide additional guidance for the administration of SUPs according to the content of Policy 8.27 (i.e., extensions, replacements, terms, deposits, clean up and restoration).

The administration of SUPs can involve the need for additional information not specifically related to the policy direction. Some information is provided below in response to specific questions that arose from review of the first draft of this Guide, and that are not directly related to the content in the Policy.

4.1.1 Amalgamation of two or more SUPs

Upon request of the permit holder, amalgamation of SUPs is possible. This option might be considered desirable for administrative efficiency purposes.

If amalgamating two SUPs, the permit holder would need to surrender one SUP, and you would need to amend the second SUP to ensure the conditions and obligations from the surrendered SUP are incorporated into the amended SUP.

In order to ensure effective monitoring of the conditions and obligations of both original permits, all required items and conditions from both original SUPs should be included in the amended SUP. You should also ensure that the deposit amount for the amended SUP is sufficient to cover obligations for both sites.

This option may not be desirable for the SUP holder in some situations, such as:

- If one of the amalgamated sites had more complex activities and obligations than the other site;
- If one of the amalgamated sites had Schedule 2 activities, and the other did not;
- If one of the amalgamated sites had longer term obligations than the other.

The amended SUP would have one term.

It is recommended that you contact your regional tenures specialist to discuss specific situations.

4.1.2 SUP expiry and treaty areas

An SUP in an area that is part of a treaty negotiation becomes null upon the Effective Date of the treaty settlement.

The SUP will not expire, unless the expiry date of the SUP occurs prior to the Effective Date of the treaty. The SUP also cannot be cancelled prior to the Effective Date of the treaty because there are no grounds for cancellation of SUPs under the Act. Once the treaty is in effect, the land is no longer provincial Crown forest land and the province no longer has the authority to issue rights on the land.

If this situation is applicable to an SUP that you are administering, it is recommended that you send a letter to the SUP holder notifying them that as of the Effective Date of the treaty, the lands will be treaty settlement lands and no longer be Crown land, and that as a result the SUP will no longer be valid.

Note that as of the Effective Date of the treaty, the SUP holder would no longer have any obligations under the SUP, and you will not be able to enforce any of the provisions of the SUP. However, the responsibilities of the SUP holder under the contaminated sites legislation will likely remain, depending on the provisions in the treaty.

It is recommended that you consult with the your regional treaty forester for information regarding specific SUPs and treaties.

4.1.3 Assignment of SUPs

The district manager can decide to consent to the assignment of an SUP from one SUP holder to another.

In order to make a decision about whether or not to consent to an assignment, the district manager can request whatever documentation he or she feels is necessary in the circumstances. Information to request could include information to enable consideration of the following:

- Possible risk to government;
- Possible risks to the environment;
- Impacts to other tenure holders.

This could, for example, include requesting the current SUP holder to submit a *site profile* for sites that had Schedule 2 activities.

Once the district manager has chosen whether to consent to the assignment, a letter to that effect can be sent to the SUP holder. The district manager can also, at the time of assignment, choose to require any changes to the SUP document that he/she determines are reasonable in the circumstances.

A sample letter of assignment can be found in the appendix in section 5.5.5.

4.1.4 Signatures on SUP document

The SUP template document for both pre- and post-policy SUPs contains a signing page for both the district manager and the permit holder to sign.

This signing page was added in 2010 to verify that the SUP holder has acknowledged the conditions of the permit. It does not alter the nature of the SUP from that of a permit.

4.1.5 SUP templates

There are two separate SUP template documents available for use.

One is intended for SUPs that fall under Section 1 of Part Three of the Policy ('SUP-Pre' at the link below), and the other is intended for SUPs that fall under Section 2 of Part Three of the Policy ('SUP-Post' at the link below).

The current SUP templates can be accessed [here](#) from the Forest Tenures Branch website.

5.0 Appendices

5.1 Site Contamination Regulatory Framework

The following description of the requirements of contaminated sites legislation is intended for your general information.

It is recommended that you review the legislation and/or consult with Ministry of Environment (MOE) staff prior to making any administrative or business decision related to contaminated sites.

5.1.1 Contamination Terminology

Brownfield sites means abandoned, vacant, derelict or underutilized commercial and industrial properties where past actions have resulted in actual or perceived contamination and where there is an active potential for redevelopment.

Certificate of Compliance means a certificate, issued by MOE under the *Environmental Management Act*, stating that a site has been remediated in accordance with the standards prescribed for the purposes of the site and with any orders issued, any remediation plan approved, and any requirements imposed.

Contaminated site means an area of land in which the soil or underlying groundwater or sediment contains a hazardous waste or substance in an amount or concentration that exceeds provincial *environmental quality standards*.

Contaminated Sites Regulation is a regulation under the *Environmental Management Act*. Schedule 2 of this regulation lists industrial activities that are considered risks for causing contamination.

Contaminated sites approved professional (CSAP) is a specially qualified and experienced professional biologist, geoscientist, agrologist or engineer who is appointed by a Director of Waste Management to the Roster of Approved Professionals. Under the *Environmental Management Act*, MOE officials may issue, based on the recommendation of a CSAP, a contaminated sites legal instrument without review. See the CSAP website at: <http://www.csapsociety.bc.ca/index.htm>

Contaminated sites legislation means Part 4 of the *Environmental Management Act*, the *Contaminated Sites Regulation* and the Hazardous Waste Regulation.

Contamination means the presence in soil, sediment, water or groundwater of a hazardous waste or another substance listed in the *Contaminated Sites Regulation* in quantities or concentrations that exceed risk based on numerical criteria, standards or conditions of the *Contaminated Sites Regulation*.

Determination of Contaminated Site means a determination by Ministry of Environment under the *Environmental Management Act*, stating whether a site is contaminated or not according to the standards prescribed for the purposes of the site.

EMA means the *Environmental Management Act*.

Environmental quality standards means the numerical and risk-based standards provided for in Parts 5, 6 and 8 of the *Contaminated Sites Regulation* and other standards in legislation, including the Hazardous Waste Regulation and the *Water Act*. See “Technical Guidance on Contaminated Sites – Environmental Quality Standards” at <http://www.env.gov.bc.ca/epd/remediation/guidance/technical/pdf/tg03.pdf>

Schedule 2 activity is an industrial activity listed in Schedule 2 of the *contaminated sites regulation* and is considered a risk for causing *contamination*.

Site profile is a questionnaire that must be completed in accordance with the *Environmental Management Act* when industrial sites are decommissioned.

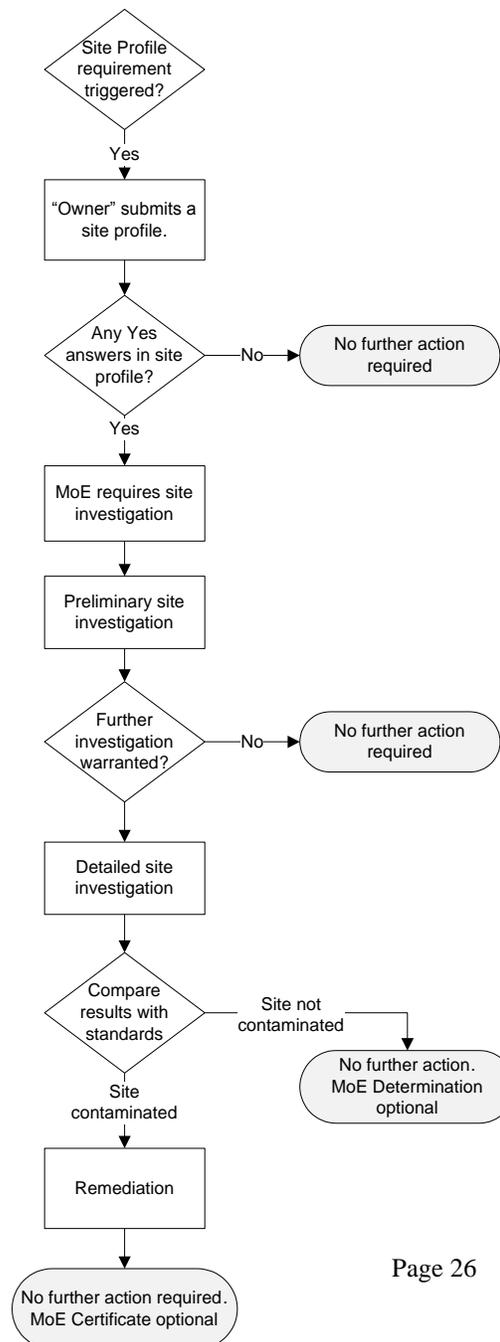
Site investigation is an assessment to determine if a site is a *contaminated site*. *Site investigations* are typically triggered where *site profiles* indicate that a *Schedule 2* activity was conducted on the site.

5.1.2 Screening Process

Contaminated sites legislation establishes a screening process that focuses on sites with a risk of *contamination* and identifies whether the sites require investigation and remediation (see Figure on right).

The screening process starts with a *site profile* if triggered by circumstances specified in the legislation. For areas authorized for use by an SUP, the trigger is typically the decommissioning of a site that has been used for purposes and activities listed in Schedule 2 of the EMA’s *Contaminated Sites Regulation*. Some of the *Schedule 2 activities* common to forestry SUPs include fuel storage and dispensing, welding and repair shops, industrial wood waste disposal and sewage lagoons.

The six-page *site profile* form has a number of questions about past and current activities on the site. If there is a “yes” answer to any of the questions, the MOE will issue a letter stating that a *site investigation* is required. The requirement is recorded in a Site Registry. The “responsible person” (see section 4.1.3) compares the results of the *site investigation* with the *environmental quality standards* (see [Contaminated Sites Fact](#)



[Sheet 13](#)) to determine if the site is contaminated. A *contaminated site* can be remediated to remove the *contamination*, treated on site, or contained and managed.

5.1.3 Responsible Persons and Liability

Contaminated sites legislation casts a wide net of responsibility. Current and past owners and operators are absolutely, retroactively, jointly and separately responsible for remediation of a *contaminated site*. The wide net of responsibility allows MOE to issue remediation orders to any of the responsible persons without having to conclusively determine who caused the *contamination*. In theory, allocation of incurred costs can be sorted out by the responsible persons through court action following liability principles in the *contaminated sites legislation*. In practice, the wide net of responsibility and uncertain liability creates an incentive for all parties to prevent contamination.

5.1.4 Site Registry

The publicly accessible Site Registry serves a valuable role by disclosing known information about a site and possibly motivating responsible persons to remediate known *contamination*.

The Site Registry records information on potentially *contaminated sites*, starting with a *site profile* accepted by MOE. *Site profiles* will not be accepted and therefore no record will be in the Site Registry unless there was a legal trigger for the *site profile* (e.g. decommissioning of a site that had *Schedule 2 activities*.) The Site Registry will record whether a *site investigation* was required. The Site Registry can also include results of a *site investigation*, any MOE order, notice of independent remediation or MOE instrument. Additional information may be added to the Site Registry such as a *site investigation* report.

5.1.5 MOE Instruments

One of the methods of demonstrating satisfactory remediation is an MOE instrument called a *Certificate of Compliance*. Another MOE instrument is a **determination whether a site is contaminated or not**. For many sites, an MOE instrument can be obtained by paying a fee to MOE and providing the recommendation and a summary of site condition from a *Contaminated Sites Approved Professional (CSAP)*. CSAP is a designation established by *contaminated sites legislation*. The CSAP would need a *site investigation* and if that investigation showed *contamination* that exceeded EMA standards, the CSAP would require remediation and further reports as pre-requisites to getting the MOE instrument.

The *contaminated sites legislation* views MOE instruments as “services” that are offered on a user-pay basis. (See [Contaminated Sites Fact Sheet 25](#), [Fact Sheet 28](#) and [Schedule 3 of the Contaminated Sites Regulation](#))

5.1.6 Independent Remediation

If a land owner or site operator intends to clean up *contamination* without being ordered by MOE or without obtaining a MOE instrument, the work is considered to be “independent remediation”. The Contaminated Sites Regulation requires that a person provide written notice to the Director of Waste Management (MOE, Environmental Protection Division, Land Remediation Section, Attention: Site Information Advisor) within three days of the start of any remediation activity that involves handling, managing, or treating *contamination*. A second notification must occur

within 90 days of the completion of remediation. [Contaminated Sites Fact Sheet 21](#), [Administrative Guidance 9](#) and [Protocol 17](#) should be followed when providing notices of commencement and completion of independent remediation.

5.1.7 Enforcement

The MOE Land Remediation Section is responsible for compliance and enforcement of *contaminated sites legislation*.

In general, *site investigation* requirements imposed following the receipt of a *site profile* do not have pre-set timelines. In the absence of an MOE order, it is not an offence to leave such requirements outstanding. MOE orders are normally used only on high-risk sites which are defined under [Protocol 12, “Site Risk Classification, Reclassification and Reporting”](#).

5.1.8 Site profile Triggers and Submission Requirements

Site profile triggers

The EMA has many triggers and exemptions for *site profiles*. Some of the provisions that could be applicable to SUP sites are presented below:

An owner of real property must provide a site profile to the director if the owner ...dismantles a building or structure, or otherwise decommissions a type of site, specified in the regulations [EMA sec 40(2)(b)]

The “type of site specified in the regulations” refers to [Contaminated Sites Regulation Schedule 2: Industrial and Commercial Purposes and Activities](#). The following activities commonly occur on forest use SUP sites:

Schedule 2 Purpose or Activity	Ministry of Environment advice - January 2012 (<i>Site profile</i> related questions should be directed to siteprofiles@gov.bc.ca)
A12: pesticide manufacturing and bulk storage	Unless quantities of 200 litre drums are stored on site, the quantities typical of a forestry operation would not be considered bulk storage.
C6: welding or machine shops (repair or fabrication) E1: appliance, equipment or engine repair, reconditioning, cleaning or salvage G2: automotive, truck, bus, subway or other motor vehicle repair, salvage or wrecking	The maintenance and occasional repair of equipment or vehicles on the scale of a private resident would not warrant registering the site for Contaminated Sites Regulation Schedule 2 activity. However, if equipment and/or commercial vehicles are regularly maintained and repaired at a stationary/permanent facility C6, E2 and G2 would apply.

<p>F5: petroleum product dispensing facilities, including service stations and cardlocks F7: petroleum or natural gas product or produced water storage in above ground or underground tanks F9: petroleum refining wholesale bulk storage or shipping</p>	<p>With respect to fuel dispensing, the intent of this category was to capture stationary facilities which were operational for more than one year. For example, if a fuel tank is mounted on a truck or trailer and moved regularly, it would not be captured. A typical 200 litre drum would constitute a fuelling facility if stationary and refilled regularly. (In section VII of the <i>site profile</i>, a tank would be anything larger than standard 200 litre drums).</p>
<p>H12: industrial waste storage, recycling or landfilling H13: industrial woodwaste (log yard waste, hogfuel) disposal H15: municipal waste storage, recycling or landfilling</p>	<p>This would apply where an authorization to landfill would be required today. This would generally capture currently authorized landfilling operations and historic facilities where waste was not diverted to offsite recycling and/or permitted disposal facilities.</p>
<p>H19: sewage lagoons or impoundments</p>	<p>Any lagoon or impoundment should apply. If, however, a storage tank where all effluent is pumped and transported for off-site treatment and disposal or where a septic field is used, H19 would not apply.</p>
<p>I9: Wood, pulp and paper products and related industries and activities, including sawmills.</p>	
	<p>It is also important to note that the <i>site profile</i> is only required if triggered by an action in legislation or regulations. Also, the MOE will normally only require <i>site investigation</i> if a yes answer is checked off in sections IV through IX of the <i>site profile</i>. Please refer to Administrative Guidance Document #1 at the following address for more information: http://www.env.gov.bc.ca/epd/remediation/site_profiles/index.htm</p>

Note that “decommissioning” is not just stopping operations or terminating the SUP:

"decommission a site" means the removal, destruction or treatment of soil, process equipment or buildings, including the removal of storage tanks, in a manner designed to stop or reduce a significant portion of the operations at a site or to significantly change the use of the site [Contaminated Sites Regulation s1]

A *site profile* has a defined timeline:

An owner of real property described in section 40 (2) (b) of the Act must provide a site profile not less than 10 days before the time the owner dismantles a building or structure, or otherwise decommissions a site which was used for an industrial or commercial purpose or activity listed in Schedule 2. [Contaminated Sites Regulation s2(3)]

The *site profile* is a 6 page questionnaire about the current and past use of the site. MOE Land Remediation Section has a web page with *site profile* fact sheets, guidance and the form itself: http://www.env.gov.bc.ca/epd/remediation/site_profiles/index.htm

Submission Requirements

MOE requires completed *site profiles* to be sent to one of the following addresses, depending on the circumstances:

- If the *site profile* has all ‘no’ answers in sections IV through IX, then it should be forwarded to:

Land Remediation Section
Ministry of Environment
PO Box 9342 Stn Prov Govt
Victoria BC V8W 9M1
Attention: Site Registrar

- If the *site profile* has any ‘yes’ answers in sections IV through IX, then the *site profile* should be forwarded to the Director of Waste Management via the Surrey office:

Land Remediation Section
Ministry of Environment
Environmental Protection Division
10470 152 Street,
Surrey, BC V3R 0Y3
Attention: *Site profiles*

5.1.9 Provincial Contaminated Sites Policy

The **Management of Provincial Contaminated Sites Policy**, approved by Cabinet September 2004, established a framework for identifying, prioritizing, financial reporting and managing *contaminated sites* that are fully the responsibility of the province. Under the policy, not all Crown *contaminated sites* will be funded for remediation. The provincial policy requires such sites to be prioritized for remediation based on risk related to potential impacts to human health and the environment.

The policy requires ministries to remain responsible for the management of Crown lands which have become contaminated as a result of activities permitted, tenured, or otherwise authorized by that ministry. The provincial policy recognizes that individual ministries may choose to use their own funding to remediate a site outside of the Crown Contaminated Sites Program (CCSP, see below), if doing so would support the goals of the ministry or the Province. If a ministry does not remediate a contaminated site that it is responsible for managing, it must record the estimated

cost of investigation and remediation as a liability in its financial reports. More info is available here: http://www.al.gov.bc.ca/clad/ccs/cabinet/mgmt_of_prov_contam_sites_policy.pdf

5.1.10 Provincial Contaminated Sites Committee

The **Provincial Contaminated Sites Committee** (PCSC) was established to help identify candidate *contaminated sites* and determine priorities based on risks to human health and the environment. The PCSC provides a forum for identifying program issues, developing policy, setting priorities, ensuring a coordinated approach, contributing to development of the Crown Contaminated Sites Database and ensuring a consistent approach to reporting of financial liabilities. More info: <http://www.agf.gov.bc.ca/clad/ccs/committee.html>

5.1.11 Crown Contaminated Sites Program

The **Crown Land Opportunities and Restoration Branch, Ministry of Forests, Lands and Natural Resource Operations** oversees the Crown Contaminated Sites Program (CCSP) and manages priority *contaminated sites* using a risk-based approach to ensure protection of human health and the environment. They provide policy for the management of *contaminated sites* for which the Province is responsible. They also provide information on *contaminated sites*, and institute a provincial framework to establish accountabilities for liabilities and progress. This role differs from that of the Ministry of Environment, which is charged with the regulatory role related to all *contaminated sites* under the *Environmental Management Act* and Contaminated Sites Regulation.

More information is available here: <http://www.agf.gov.bc.ca/clad/ccs/index.html>

5.2 Policy 8.27 - Special Use Permit Administration

Note: Section 5.2 is the approved Policy, and Section 5.3 is the Provincial Forest Use Regulation, verbatim, and provided here for your convenience. As such, these two sections are not to be edited.

Effective August 16, 2010

Volume 1 – Resource Management Chapter 8 – Tenure Administration

Responsible Branch: Resource Tenures Branch

Scope

This policy establishes the Ministry of Forests and Range (MFR) approach to administration of special use permits (SUPs) issued pursuant to the Provincial Forest Use Regulation under the *Forest Practices Code of British Columbia Act*, with the exception of SUPs issued for roads.

It establishes the recommended approach to non-road SUPs for the following:

- replacements, extensions, and terms of SUPs;
- linking of an SUP to the deposit of a major licence; and
- clean up and restoration on Crown land authorized for use by SUPs.

Background

The Provincial Forest Use Regulation (‘the regulation’) of the *Forest Practices Code of British Columbia Act* enables the district manager (DM) to issue an SUP that authorizes a person to use Crown land for specified purposes, e.g. log dumps, log sorts and shops.

The regulation also:

- allows for replacement of SUPs at the end of the term
- does not establish a set term or maximum term for an SUP
- enables the DM to require a deposit to ensure conditions of the permit are met and to protect personal property
- provides the DM authority to include conditions in an SUP that are necessary to conserve forest resources, including clean up and restoration of the site under the permit.

Operations on areas authorized by SUPs are subject to the requirements, standards and risk-based screening processes established under the *Environmental Management Act* (EMA) and administered by the Land Remediation Section in the Ministry of Environment (MOE).

Policy

PART ONE: SUP Replacements, Extensions and Terms

Extensions and Replacements

When an SUP term is nearing its end, and the holder indicates that they wish to continue to occupy the site, the DM has the option of extending the SUP by amending the expiry date rather than replacing the SUP.

Extensions, should be accomplished through a letter to the SUP holder acknowledging and approving a request for an extension to the term of the SUP from the holder i.e. the holder must agree to having the SUP extended.

The SUP should be replaced if the use of the site or obligations under the SUP are changing, or any other content, other than the term of the permit, is changing.

Terms

Where the use of the site under the SUP is expected to be long-term, it may be appropriate to issue, replace or extend the SUP for a timeframe that is commensurate with the intended use of the site.

In determining the level of risk associated with issuing a longer term SUP, the following should be considered:

- Whether the SUP holder has an established history that would indicate an acceptable risk with a longer term SUP.
- Whether the plan for the site is sufficiently detailed and supports a long-term use.
- Whether the SUP holder has made a large investment in permanent or semi permanent structures (higher level of investment would suggest a longer term is appropriate).
- Whether the SUP appears to be critical to the long-term operations of the SUP holder's forestry operations in the area.

PART TWO: Linking of SUPs to Deposits of Major Licences

Section 9(2)(c) of the regulation authorizes the collection of a deposit for an SUP. As per Section 9(3) of the regulation, the district manager may use all or a portion of the deposit to cover costs resulting from failure of the SUP holder to meet the permit conditions, and as security in cases where personal property owned by persons other than the SUP holder or government is situated on land under the permit.

It is acceptable for one or more SUPs to be linked to the deposit held for a major licence if the SUP holder agrees, the SUP pertains to an area covered by the major licence and both the SUP and the major licence contain wording that enables the linking of the deposit. The SUP templates have been updated to include this option. All Tree Farm Licences currently contain the necessary wording. However, if the major licence is a Forest Licence, it may need to have wording amended into the deposits section, as follows:

9.13 The Licensee agrees that the deposit held under paragraph 9.03 may be realized in the event of a failure to meet the conditions of a special use permit that pertains to an area covered by this Licence or in the event that the Licensee damages personal property owned by a person other than the Licensee or the government that is on the area covered by the special use permit in accordance with the procedures set out in paragraph 9.04 to 9.12 and the applicable special use permit.

Note that the above clauses are numbered to correspond to the Deposits part in the typical licence of each type. It may be necessary to adjust the numbering if the particular document you are working with has unique numbering.

Where SUPs are linked to a major licence deposit, the amount of the deposit available to the SUP should be documented in the SUP.

Where a major licence deposit is not sufficient for an SUP, it is acceptable to have both an SUP deposit and a link to a major licence deposit, if the permit holder agrees. For example, if a deposit of \$10,000 for the SUP is required, and the client holds a major licence with a \$5,000 deposit, the SUP holder could request to have the SUP linked to the major licence and then post a \$5,000 SUP deposit.

In instances where the SUP holder does not hold a major licence tenure, a separate SUP deposit would generally be required.

PART THREE: Clean up and Restoration

This Part is divided into three sections. SUPs will fall under either section 1 or section 2 depending on when they were originally issued, or the pre-existing condition of the site over which it was issued. Section 3 applies to all SUPs.

It should be noted that, subject to variations that the DM deems appropriate, references to “clean up” in this Part would typically include the following:

- removal of all structures including buildings and storage tanks,
- removal of all equipment, scrap metal, wire rope, tires and similar materials.

References to “restoration” of the site may include:

- closing down sewage lagoons and waste disposal sites
- re-contouring and re-vegetating the area, and

- addressing site contamination.

Section 1-- applies to the following SUPs:

- original SUP was issued prior to the effective date of this policy,*
- any subsequent replacement to the original SUP where its original issuance was prior to the effective date of this policy, and*
- new SUPs issued after the date of this policy for Crown land where there has been a history of similar industrial use⁹.*

-
- SUPs that fall under this section should primarily be administered according to the provisions of the most recent SUP that was in place prior to the approval of this policy.
- However, it is suggested that:
 - to facilitate clean up and restoration, DMs consider adding an additional year to the term of any replacements or extensions to the SUP term and restrict the use of the SUP site in that final year to activities related to clean up and restoration
 - between 18 months and one year prior to the expiry date of the SUP, the DM write to the SUP holder requesting a response within 30 days which indicates if they wish to continue to occupy the SUP site
 - where an SUP will be extended or replaced, the DM should review the amount of the deposit to ensure it is sufficient to enable clean up of the site
 - where an SUP holder indicates that they do not want to continue to occupy the SUP site, or fails to respond within 30 days, the DM should review the SUP and clarify, in writing to the SUP holder:
 - the clean up and restoration expectations of the DM, as per section 9(2)b(ii) of the Provincial Forest Use Regulation
 - that clean up and restoration of the SUP may trigger the requirement to complete and submit a *site profile* under the EMA; and
 - the clean up and restoration of the SUP site should be completed by the SUP holder prior to the expiry date of the SUP (within six months of the expiry, if the SUP was issued with the additional one year term).
- In the case of c) above:
- The prospective SUP holder should be encouraged to conduct an assessment as per Schedule 2 of the EMA *Contaminated Sites Regulation*, prior to issuance of the SUP or occupation of the site, which will provide them with baseline knowledge of the site condition before occupation.

⁹ Similar industrial use under an SUPs refers to uses such as a logging camp, log dump, dryland sort, equipment repair facility, etc. It would not be applicable if the area had a history of logging only; in such cases a new SUP would be issued and Section 2 of Part Three of this Policy would be applicable.

Section 2-- *applies to SUPs, and to any subsequent replacements of those SUPs, originally issued after the effective date of this policy on land where the Crown has no prior knowledge of the site being contaminated at the time of the original SUP issuance.*

- SUPs under this section should be administered according to revised provisions, which require verification that the site is within contamination limits when vacated. These SUPs should include provisions to address the following provisions:
 - authorize only the uses and activities proposed in a plan¹⁰ accompanying the SUP application and accepted by the DM
 - specify the intended future land use for the site after the SUP expires, and establish the clean up requirements and contamination limits applicable for the future use of the land
 - enable replacement or extension of the SUP 18 months to one year prior to the expiry date
 - restrict the use of the SUP site for the last year of the SUP's term to only those activities related to clean up, restoration and any EMA requirements
 - require the holder to fulfill all EMA requirements related to the holder's use of the site, including a triggered *site profile* and any *site investigations* required by MoE and to provide MFR with a copy of any related submissions
 - require clean up to be completed at least six months prior to expiry¹¹
 - Require a separate SUP deposit or a link to a major licence deposit to allow for a remedy for non-conformance with SUP requirements. Where there is a link to a major licence deposit, the amount available to the SUP should be documented
 - The deposit amount should be an amount that is determined according to the specifics of the site. Suggested amounts (to be used as a guideline if no site-specific estimate is available) based on the estimated cost of clean up and potential risk:
 - ▲ \$50,000 in cases where the SUP authorizes activities that are listed in Schedule 2 of the *EMA Contaminated Sites Regulation*¹², or
 - ▲ \$10,000 in cases where no *Schedule 2 activities* are authorized.
 - Require the holder to provide an acceptable MoE instrument¹³, or provide other documentation that is acceptable to the DM, six months prior to the expiry of the SUP,

¹⁰ The Provincial Forest Use Regulation requires applicants to submit “a plan that sets out how the land will be used”. The regulation also relies on the DM’s opinion that the issuance “will not impair proper management and conservation of forest resources...” Depending on circumstances, it may be reasonable for the DM to require that the plan include available information about past activities on the site, any actual or perceived site contamination, and whether any of the applicant’s proposed uses and activities are listed in Schedule 2 of the *EMA Contaminated Sites Regulation*.

¹¹ This will allow time for MFR to monitor and address any non-conformance while the SUP is still in effect.

¹² Default amounts for deposits are based on nominal costs of \$10,000 for clean up and restoration and \$40,000 for detailed *site investigation*.

¹³ An acceptable MoE instrument issued under the EMA is either a Determination of Contaminated Site indicating that the site is not contaminated or a Certificate of Compliance indicating that the site has been remediated and meets the environmental quality standards under the *Contaminated Sites Regulation*.

that establishes that the site is below the MoE contamination limits set for the intended future use of the site.

Section 3-- *regardless of when an SUP was issued or its current status, if MFR staff become aware of site conditions that appear to threaten the health or safety of humans, aquatic life or wildlife, they should immediately report the information to MOE and work with them to assess and manage the risks.*

References

- *Forest Practices Code of British Columbia Act* s. 205
http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96159_01#section_205
- FPCBC – Provincial Forest Use Regulation BC Reg 175/95
http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/11_176_95
- *Environmental Management Act* – Part 4 – Contaminated Site Remediation
http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/03053_00
- EMA – *Contaminated Sites Regulation*, BC Reg. 375/96
http://www.qp.gov.bc.ca/statreg/reg/E/EnvMgmt/EnvMgmt375_96/375_96_00.htm
- Fact sheets and guidance from Ministry of Environment, Land Remediation Section
<http://www.env.gov.bc.ca/epd/remediation/index.htm>
- Management of Provincial Contaminated Sites Policy (2004)
<http://www.al.gov.bc.ca/clad/ccs/policy.html>
- *Site profile* fact sheet
http://www.env.gov.bc.ca/epd/remediation/fact_sheets/pdf/fs19.pdf

5.3 Provincial Forest Use Regulation (PFUR)

The provincial forest use regulation covers special use permits. An unofficial version of this regulation has been reproduced below for easy reference.

PROVINCIAL FOREST USE REGULATION

[includes amendments up to B.C. Reg. 281/2009, November 27, 2009]

Part 1 — Definitions

Definitions

1 In this regulation:

"Act" means the *Forest Practices Code of British Columbia Act*;

"special use permit" means a permit issued under section 9.

Part 2 — Permitted Uses of Crown Land in a Provincial Forest, *Range Act* Agreement or Woodlot Licence

Grandparented authorization under the *Land Act* or other enactments

2 (1) In addition to the purposes set out in section 2 of the Act or under this regulation, Crown land in a Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence may be managed or used for any purpose authorized in an instrument granted or issued under the *Land Act* or any other enactment before the date this section comes into force.

(2) Without limiting subsection (1), Crown land in a Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence may be managed or used for any purpose authorized in an instrument referred to in that subsection that is renewed or replaced before or after the date this section comes into force.

[am. B.C. Reg. 347/97, s. 2.]

Primary uses authorized under the *Land Act*

3 Crown land in a Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence may be managed or used for any of the following purposes if carried out by the government or authorized in an instrument granted or issued under the *Land Act*:

- (a) agriculture;
- (b) if access to existing residences is not practicable, temporary residences for workers, including
 - (i) camps, and
 - (ii) individual residences;
- (c) sand pits, gravel pits, rock quarries and other quarries that provide materials for industrial, commercial or domestic use;
- (d) commercial recreation uses and facilities and ancillary improvements, including
 - (i) ski facilities,
 - (ii) hunting lodges,
 - (iii) fishing lodges, and
 - (iv) trails;
- (e) commercial film production;
- (f) navigational aids;
- (g) construction and maintenance of a road, including construction and maintenance of bridges and other drainage structures;
- (h) a utilities right-of-way, including
 - (i) a highway,
 - (ii) a railway,
 - (iii) a transmission line, or
 - (iv) a pipeline;
- (i) a weather station site;
- (j) a communications site;
- (k) educational or research purposes;
- (l) sequestration of carbon;
- (m) electricity generating facilities.

[am. B.C. Regs. 347/97, s. 2; 281/2009, s. (a).]

Ancillary uses authorized under the *Land Act*

4 Crown land in a Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence may be managed or used for any of the following ancillary purposes if carried out by the government or authorized in an instrument granted or issued under the *Land Act*:

- (a) a garbage dump that is ancillary to a use permitted under section 2 of the Act or this regulation;
- (b) an airstrip, helipad or other air transportation landing site, including facilities and other improvements, that is ancillary to a use permitted under section 2 of the Act or this regulation;
- (c) a drill site, well site, processing site, hydrocarbon collection system, core sampling site or other purpose including facilities and other improvements, that is ancillary to a use or occupation referred to in section 2 (4) of the Act;
- (d) any use of adjoining upland that is ancillary to the use of land covered by water authorized under the *Land Act*, including
 - (i) an aquaculture operation,
 - (ii) a wharf,
 - (iii) a ferry or barge terminal, or
 - (iv) a marina;
- (e) utilities, waste and sewage facilities that are ancillary to the temporary residences referred to in section 3 (b).

[am. B.C. Reg. 347/97, s. 2.]

Uses authorized under the *Wildlife Act*

5 Crown land in a Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence may be managed or used for a purpose authorized under the *Wildlife Act* and any ancillary purpose, including a trapline cabin, if carried out by the government or authorized in an instrument granted or issued under the *Wildlife Act*

[am. B.C. Reg. 347/97, s. 2.]

Uses authorized under other enactments

6 The following Crown land may be managed or used for the purposes provided for in the *Coal Act*, the *Geothermal Resources Act*, the *Mineral Tenure Act* and the *Petroleum and Natural Gas Act*:

- (a) subject to section 7 (2), Crown land in a Provincial forest or wilderness area;
- (b) Crown land described in an agreement under the *Range Act* or described in a woodlot licence.

[en. B.C. Reg. 347/97, s. 3.]

Uses of a Provincial forest authorized by a special use permit

7 (1) In addition to the purposes set out in section 2 of the Act or under this regulation, Crown land in a Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence may be managed or used for any of the following ancillary purposes if carried out by the government or authorized in a special use permit:

- (a) construction and maintenance of a road, including construction and maintenance of bridges and other drainage structures;
- (b) sand pits, gravel pits, rock quarries and other quarries that provide materials for road construction, modification or maintenance authorized under the *Forest Act*;
- (c) a communications site;
- (d) a logging camp and associated facilities, including a waste disposal site;
- (e) a log dump or dry land sort;
- (f) a temporary timber processing site;
- (g) a lookout;
- (h) a weather station;
- (i) an airstrip, helipad or other air transportation landing site;
- (j) educational or research purposes;
- (k) weigh scales;

(1) sequestration of carbon.

(2) Without limiting subsection (1), Crown land in a Provincial forest or wilderness area that is located outside the boundaries of a claim, lease, permit or other authorization granted or issued under the *Coal Act*, the *Geothermal Resources Act* or the *Mineral Tenure Act* may only be used or managed for the purposes of constructing, modifying, maintaining or using an access road, including bridges and other drainage structures, if the use is authorized in a special use permit.

(3) Despite subsection (1), a holder of a woodlot licence is not required to have a special use permit to locate a temporary timber processing facility on Crown land described in a woodlot licence, if the use of the temporary processing facility is permitted under the woodlot licence.

[am. B.C. Regs. 250/95; 347/97, s. 2; 190/99, Sch. B; 281/2009, s. (b).]

Part 3 — Special Use Permit

Application for special use permit

8 If a person wishes to

(a) use or manage, in a manner referred to in section 7 (1), a portion of Crown land described in an agreement under the *Range Act* or described in a woodlot licence, or

(b) use or manage, in a manner referred to in section 7, a portion of Crown land in a Provincial forest or wilderness area

and has not been authorized under another enactment to use or manage the portion of Crown land in that manner, the person may apply in writing to the district manager for a special use permit.

[en. B.C. Reg. 347/97, s. 4.]

Issuance of special use permit

9 (1) Subject to subsection (2), the district manager may issue a special use permit if

(a) the applicant

(i) has applied in accordance with section 8, and

(ii) submitted a plan that sets out how the land will be used, and

- (b) the district manager is of the opinion that
 - (i) the issuance of the special use permit would not impair the proper management and conservation of forest resources on Crown land in the Provincial forest, described in an agreement under the *Range Act* or described in a woodlot licence, and
 - (ii) any activity under the special use permit will not impair the ability of any affected holder of an agreement under the *Forest Act* or *Range Act* to exercise its rights or fulfill its obligations under the agreement.
- (2) The district manager may issue the special use permit subject to
 - (a) a condition that the holder of the permit carry out the activity in accordance with the plan submitted under subsection (1),
 - (b) any conditions the district manager determines necessary to conserve forest resources and the natural environment, including a condition
 - (i) restricting, regulating and prohibiting the building of or disposal of any chattel or fixture, and
 - (ii) requiring the clean up and restoration of the land under the permit to the satisfaction of the district manager on the expiry of the special use permit, and
 - (c) a condition that the holder provide, in an amount specified in the permit, a deposit in the form of money or other securities acceptable to the district manager
 - (i) to ensure the conditions of the permit are met, or
 - (ii) if personal property owned by a person other than the holder or the government is situated on the land under the permit.
- (3) The district manager may use any or all of the deposit referred to in subsection (2) (c)
 - (a) to satisfy a claim made by the owner of the personal property referred to in subsection (2) (c) (ii), or
 - (b) to cover the costs resulting from a failure of the holder to meet the conditions of the permit.
- (4) On expiry or cancellation of the special use permit, the remainder of the deposit must be returned to the holder of the permit.

[am. B.C. Reg. 347/97, s. 5.]

Assignment prohibited

10 A holder of a special use permit must not assign the special use permit to another person without the consent of the district manager.

No exclusive rights to the use of the land

11 Rights granted under a special use permit are not exclusive and do not prevent the government from using the land or authorizing others to use the land in accordance with the Act or this regulation.

Replacement

12 On the expiry of a special use permit, the district manager may issue a replacement permit if the district manager is satisfied

- (a) with the holder's performance of the conditions of the permit, and
- (b) that the conditions set out in section 9 (1) (b) will still be met.

Cancellation and suspension

13 (1) Subject to subsection (2), sections 76 and 77 of the *Forest Act*, except section 77 (5), apply to the cancellation or suspension of a special use permit.

(2) The district manager may cancel a special use permit without notice and without suspending the permit prior to cancellation if the holder contravenes section 10.

[am. B.C. Reg. 347/97, s. 6.]

Note: this regulation repeals B.C. Reg. 562/78, the Provincial Forest Regulation.

[Provisions of the *Forest Practices Code of British Columbia Act*, R.S.B.C. 1996, c. 159, relevant to the enactment of this regulation: sections 198, 205 and 218]

5.4 Request for SUP Plan

File: 19570-20/Special Use Permit [S#####]

[Date]

Dear Permit Holder:

The Provincial Forest Use Regulation requires that holders of Special Use Permits (SUPs) submit a plan that indicates how the land will be used. I am writing to advise you of my expectations regarding the content of your plan for Special Use Permit (SUP) [S#####], covering a [describe category or use] located in the vicinity of [_____].

I also want to inform you of Policy 8.27 – Special Use Permit Administration, which was approved in August 2010 (copy attached). This policy provides guidance on a number of topics relating to the administration of SUPs including security deposits and clean up requirements for expiring SUPs.

The SUP Plan should contain the following:

- the area under the permit,
- when the operations will be occurring (e.g. continuous versus seasonal),
- A description of planned activities for the site, including *Schedule 2 activities* planned for the site if any;
- A list of equipment expected to be on the site;
- A description of infrastructure planned for the site including buildings, tanks and storage areas including dimensions and capacities as appropriate;
- Actions that will be taken to prevent the site from becoming contaminated and actions to be taken to respond to spills of fuel or other potential contaminants that may be stored permanently or temporarily on site.

The Plan should also include a diagram or map that shows the location of all infrastructure and activities.

Please note that I expect you to inform us should your use of the site changes over the term of the site permit (e.g., increased equipment or changes to infrastructure or a change in activities).

I look forward to receiving your plan for SUP [S#####]. If you have any questions regarding this letter, please contact [_____] at [(____)____ - ____].

Yours truly,

[_____]

District Manager, [_____] District

5.5 Sample Letters

5.5.1 Sample Letter #1 – Notice to holder of SUP of upcoming expiry, and request for notification of intention

Note: You should forward this letter to an SUP holder approximately 15-18 months prior to the expiry of the SUP. This will allow for sufficient time for the SUP holder to respond, and clean up and restoration activities to commence one year prior to the expiry of the SUP.

File: 19570-20/Special Use Permit [S#####]

[Date]

Dear Permit Holder:

I am writing to advise you that Special Use Permit (SUP) [S#####], covering a [describe category or use] located in the vicinity of [_____], will expire on [_____, 20__].

I also want to inform you of Policy 8.27 – Special Use Permit Administration, which was approved in August 2010 (copy attached). This policy provides guidance on a number of topics relating to the administration of SUPs including security deposits and clean up requirements for expiring SUPs.

After considering Policy 8.27, I have determined that, if the SUP is replaced or extended, a deposit of [\$____,000] is required for SUP [S#####].

As per the policy, this deposit could be a separate SUP deposit or a link to the existing deposit held for one or more major licences that relate to this SUP. Please note that before major licence deposits can be linked to an SUP, the major licence may need to be amended to include wording that makes it clear that the deposit is available to the SUP. Tree Farm Licences do not require amendment as they already contain appropriate wording.

I am requesting that, within 30 days from the date of this letter, you provide a written response indicating your intentions for SUP [S#####]. The following table provides a list of actions required, depending on the intentions indicated:

Your Intention (submitted in writing to District Manager)	Actions required
SUP will no longer be needed, and therefore, no extension or replacement of SUP requested.	<ul style="list-style-type: none"> • Upon receipt of your intention, the District Manager will forward you a letter indicating clean up requirements for the SUP site. • You should commence clean up and restoration activities at least one year prior to the expiry of your SUP.

Your Intention (submitted in writing to District Manager)	Actions required
	<ul style="list-style-type: none"> • During the last 12 months of the SUP term, your activities on site should be limited to clean up and restoration activities. • You must ensure that the site is cleaned up prior to expiry of the SUP, and preferably 6 months before the expiry of your SUP. • As per the <i>Environmental Management Act</i>, a <i>site profile</i> must be completed by you upon decommissioning of the site if Schedule 2 activities were conducted.
<p>Extension or replacement of SUP requested, and separate SUP deposit elected.</p>	<ul style="list-style-type: none"> • You must submit a security deposit acceptable to the District Manager in the amount of \$[____,000]. • Upon receipt of your security deposit, the District will forward an SUP extension or replacement letter to you.
<p>Extension or replacement of SUP requested, and linking to a major licence(s) deposit is requested.</p>	<ul style="list-style-type: none"> • Upon receipt of your intention, the Region will (if required) forward you an amendment(s) to the major licence(s) authorizing linking of SUP to licence deposit(s). • Once major licence(s) amended, the District forwards an SUP extension or replacement letter to you.

I look forward to receiving your indication regarding intentions for SUP [S#####]. If you have any questions regarding this letter, please contact [_____] at [(____) ____ - ____].

Yours truly,

[_____] District Manager, [_____] District

Attachments: Policy 8.27

5.5.2 Sample Letter #2 – Cleanup Expectations and EMA Obligations

Note: You can modify this letter to suit the particular provisions of each SUP. You should submit this letter to the SUP holder at least one year prior to the expiry of the SUP. Ideally this letter would be sent subsequent to a response from the SUP holder to Sample Letter #1.

For new SUPs on previously uncontaminated sites, there should be specific provisions in the SUP that would replace much of this letter, other than the site profile reminder.

This sample letter presumes an older SUP that has a general provision reflecting Provincial Forest Use Regulation section 9(2)(b)(ii) “requiring the clean up and restoration of the land under the permit to the satisfaction of the district manager on the expiry of the special use permit”, and possibly provisions about Chattels and Equipment.

File: 19570-20/Special Use Permit [S#####]

[Date]

Dear Permit Holder:

This letter is in reference to Special Use Permit (SUP) [S#####] that authorizes the use of Crown land in the vicinity of [] as described in the SUP for the purposes of [describe category or use].

SUP [S#####] was issued on [(date)] and will expire on [(date)] unless it is replaced. If you wish to apply for a replacement or extension of this SUP, please contact [] at least 12 months before the expiry date. If you choose to let the SUP expire, please note the following.

Requirements Before Expiry

SUP [S#####] must be decommissioned and cleaned up prior to expiry in accordance with the following provisions of the SUP and instructions from the district manager <if any>:

- Schedule A, paragraph [], Chattels and fixtures
- Schedule A, paragraph [], Clean up and restoration
- Schedule A, paragraph [], Equipment removal
- Letter dated [] regarding [] <if any>

Please note that where a provision requires an action “upon expiry” or “when the permit expires”, the work must be done prior to expiry because the occupation authority of the SUP is still required to carry out the work. Ideally, the work is to be completed at least 6 months prior to the expiry of the SUP.

If circumstances will prevent completion before expiry, you need to request an extension to the SUP. If cleanup is not complete on the date of expiry, you will be in non-conformance with the requirements of the SUP.

Decommissioning

Consistent with the above SUP provisions, you as the holder of the SUP must decommission the SUP site prior to expiry by:

- Removing all buildings, storage tanks and other infrastructure, subject to the following:
 - Infrastructure may be left in place in a safe and sanitary condition if the district manager agrees in writing to a request from the holder of the SUP on the basis that the improvements do not pose a site contamination or safety risk and that they may benefit future users of the site.
 - Storage tank(s) pose a high risk of site contamination and must therefore be decommissioned and removed unless it has been confirmed that the tank(s) is not a high risk for potential site contamination or safety risk.
- <Add site-specific instructions for disposal of building debris, foundations, etc.>
- Remove all equipment, scrap metal, wire rope, tires and similar materials. Burying of these materials is not permitted.
- Decommission sewage lagoons and waste disposal sites in accordance with applicable environmental legislation.

Site profile and other obligations under the Environmental Management Act

Site profile requirements are specified by the *Environmental Management Act* and *Contaminated Sites Regulation*. You as an SUP holder are obliged to complete a *site profile* at least 10 days prior to decommissioning any site that has been used for any of the activities or purposes listed in Schedule 2 of the *Contaminated Sites Regulation* (e.g. welding or machine shop, vehicle repair, fuel dispensing). A *site profile* is a 6 page questionnaire about the current and past use of the site. Fact sheets and guidance and the *site profile* form are available from the Ministry of Environment (MOE), Land Remediation Section website:

<http://www.env.gov.bc.ca/epd/remediation/index.htm>

If, after reviewing this information, you determine that you need to submit a *site profile*, be advised that the Ministry of Environment requires completed *site profiles* to be sent to one of the following addresses, depending on the circumstances (see below).

Please also send myself a copy addressed to the District Manager, [REDACTED] District, Ministry of Forests, Lands and Natural Resource Operations.

- If the *site profile* has all ‘no’ answers in sections IV through IX, then it should be forwarded to:

Land Remediation Section
Ministry of Environment
PO Box 9342 Stn Prov Govt
Victoria BC V8W 9M1
Attention: Site Registrar

- If the *site profile* has any ‘yes’ answers in sections IV through IX, then it should be forwarded to the Director of Waste Management via the Surrey office:

SUP Administration

Land Remediation Section
Ministry of Environment
10470 152 Street
Surrey, BC V3R 0Y3
Attention: *Site profiles*.

After receiving the *site profile*, the Director of Waste Management (MOE) may require you to carry out a *site investigation* to assess the site for contamination. MOE will record information about the site in a publicly accessible Site Registry.

If a *site investigation* is requested by the Director of Waste Management, and it indicates contamination may be present, we will encourage you to remediate site contamination and may work with MOE in this regard.

If you have any questions regarding this letter, please contact [REDACTED].

Yours truly,

[REDACTED]
District Manager, [REDACTED] District

5.5.3 Sample Letter #3 – Notice to holder of SUP acknowledging completion of SUP cleanup requirements and release of deposit

File: 19570-20/Special Use Permit [S#####]

[Date]

Dear Permit Holder:

This letter is in reference to Special Use Permit (SUP) [S#####] that authorized the use of Crown land in the vicinity of [] as described in the SUP for the purposes of [describe category or use]. This SUP [S#####] expired on [(date)].

This letter acknowledges that the site has been adequately decommissioned and cleaned up in accordance with the following provisions of the SUP and instructions from the district manager <if any>:

Schedule A, paragraph [], Chattels and fixtures

Schedule A, paragraph [], Clean up and restoration

Schedule A, paragraph [], Equipment removal

Letter dated [] regarding [] <if any>

The deposit held for SUP [S#####] will be returned subject to provisions in the SUP and applicable government policies.

Please be advised that satisfactory conformance with the SUP requirements and return of deposit does not imply that the site is free of contamination nor relieve you of any obligations or liabilities that may apply under the *Environmental Management Act*.

Yours truly,

[]
District Manager, [] District

Note: If a site profile was submitted regarding this SUP, there will be a record in the MOE's Site Registry and MOE would appreciate knowing that SUP cleanup is complete. For those sites, send a copy of this letter, along with the NAD 83 Latitude and Longitude (degrees, minutes and seconds) to:

*Land Remediation Section
Ministry of Environment
PO Box 9342 Stn Prov Govt
Victoria BC V8W 9M1
Attention: Site Registrar*

5.5.4 Sample Letter #4 – Notice to holder advising of SUP extension

File: 19570-20/Special Use Permit [S#####]

[Date]

Dear Permit Holder:

I am writing to advise you that, in accordance with your request, Special Use Permit (SUP) [S#####], covering a [describe category or use] located in the vicinity of [____], has been extended. This SUP will now expire on [____, 20__].

I also want to inform you of Policy 8.27 – Special Use Permit Administration, which was approved in August 2010 (copy attached). This policy provides guidance on a number of topics relating to the administration of SUPs including security deposits and clean up requirements for expiring SUPs. You will likely want to familiarize yourself with this policy.

If you have any questions regarding this letter, please contact [____] at [(____) ____ - ____].

Yours truly,

[____]
District Manager, [____] District

Attachments: Policy 8.27

SUP Administration

5.5.5 Sample Letter #5 – Assignment of SUP

File: 19570-20/Special Use Permit [S#####]

[Date]

Dear Permit Holder:

This letter is in response to your request to reassign Special Use Permit (SUP) [S#####] dated [Date].

In accordance with Section 10 of the Provincial Forest Use Regulation, Special Use Permit(s) [#’s], located in the [location] District, are hereby transferred from [name] to [name], effective the date of this letter.

[‘No other conditions are changed’, or describe any additional changes]

This letter forms an integral part of the original Special Use Permit(s) and should be attached thereto.

If you have any questions, please contact [] at [() -] .

Yours truly,

[]
District Manager, [] District

pc: