Forest Tenure Reform in BC

The history of forestry and forest products in British Columbia is as old as the history of British Columbia itself. While the gold rush fueled early settlement of BC, logging rights to Crown land have been granted since the early 1800s. Apart from the economic importance of forestry and forest products – historically accounting over forty percent of the province's exports – the various forest-related industries have themselves become an integral part of BC culture and BC life.

BC is naturally well-suited for forestry-related industries. Almost two-thirds of BC is forested land (60 million hectares). Ninety-five percent of this forest land base is provincially-owned, one percent is federally-owned, and four percent is privately owned. While BC's forested land is almost completely in public ownership, the capital needed to exploit it – to log and process the trees – must come from the private sector. The 1865 Land Ordinance Act was BC’s first tenure system statute. It provided for logging rights without, as was previously done, complete alienation of the land from the Crown. This act and the subsequent governmental contractual arrangements for private companies to log and process lumber harvested from Crown land define the forest tenure system. A tenure is simply a lease, license, or other agreement for some party to harvest and process timber from Crown land.

Regulation of forest land is generally accomplished by provincial legislation and regulation. Section §92(13) of the Constitution Act, vests authority over matters of "property and civil rights" in the province. In BC, the primary statutes governing the timber industry are The Forest Act, and The Forest and Range Practices Act. The Forest Act is the statute that sets out the tenure system, while The Forest and Range Practices Act sets out the restrictions imposed upon tenures to protect environmental and other values. Both statutes have a variety of regulations. Where logging activity may affect the health of fish species, however, the federal government may regulate under §91(12) to protect the Sea Coast and Inland Fisheries.

The tenure system is over 140 years old and demonstrates an evolving relationship between the Crown and its licensees. Stumpage fees, the payment to the Crown for the logging rights, were introduced under the 1884 Timber Act. The early 1900s introduced the concept of "sustained yield," the idea of harvesting in such a way as to only take from the forest that which can be regenerated. Amendments to the Forest Act in 1947 provided for the establishment of "Public Sustained Yield Units," tracts of forest land that are assigned long-term tenures to allow for

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1 DESMOND MORTON, A SHORT HISTORY OF CANADA 83 (2001).
4 TIMBER TENURES, supra, note 2, at 2.
7 S.B.C. 2002, ch. 69.

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management of the land to ensure a long-term sustained yield of timber. The areas eventually were relabeled as "Timber Supply Areas," and "Tree Farm License Areas."

Under BC law, tenures are generally categorized as either area-based tenures or volume-based tenures. As the name suggests, an area-based tenure is attached to a specific area. The first-area-based tenures were the “Tree Farm Licenses” issued for terms of 25 years. Another form of tenure, the "Forest License," is a volume-based license, authorizing a logging company to remove a specified volume of wood from a designated area.

In all forms of tenures, there is an "Allowable Annual Cut," which is a determination that the Chief Forester of BC makes at least once every five years, setting out the maximum amount of timber that can be harvested annually. 8

Before the 1990s, it is fair to say that provincial forest policy was concerned only with timber supply. 9 Increasing concerns in the 1990s about the environmental impacts of logging led to the passage of the Forest Practices Code Act in 1994, which set out a number of requirements that attached to forest tenures. These included certain silvicultural practices, limits on the size of a clearcut, the maintenance of riparian buffer zones to reduce siltation of streams and rivers and protect water quality, and requirements that soil be disturbed in no more than ten percent of a logged area. The nature of these requirements were very specific, setting numerical standards that had to be met by all those carrying out logging operations on Crown land.

While environmental organizations continued to criticize forest practices, 10 the forest-related industries complained that the Forest Practices Code Act was too prescriptive and cumbersome, added to the cost of industrial wood and made the BC forest industry less competitive. 11 For example, the Code had numerical tables that set forth restrictions on the number of trees that could be cut within different riparian buffer zones: there were "Riparian Management Areas," "Riparian Reserve Zones," and "Riparian Management Zones," which differed in width depending which of eight classifications the stream fell into. For each type of buffer and each type of stream, a certain percentage of trees had to be maintained, and other restrictions were applied, such as on road building. 12 A separate set of tables existed for five classes of wetlands and five classes of lakes. 13 The Code also required that soil disturbance be generally limited to 10% of a logged area, or 5% for "sensitive soils." 14 Such hard and fast numbers, while susceptible of enforcement, were burdensome to keep track of and to administer. Also, the inflexibility of this "command-and-control" style of regulation failed to allow for locational variations and quashed innovation in forest practices.

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10 CASHORE, et al, supra, note 9, at 76-78.
11 HALEY & NELSON, supra, note 5, at 16; CASHORE, et al, supra, note 9, at 78.
12 Forest Planning and Practices Regulation, B.C. Reg. 14/2004, §§ 47, 50-52. The old Code provisions and regulations were incorporated into "default practices" under the new Forest and Range Practices Act regulations.
An accounting firm was retained to study the costs in BC of logging, and found that delivered wood costs had increased from $50 per cubic metre in 1992 to $87 in 1995. The largest part of this cost increase was attributable to increased stumpage fees, but $12 of that increase was attributable to the forest industries adoption of the Code in 1994. And to be sure, the forestry industry in BC has been struggling. Government revenues from the forestry sector declined from $1.8 billion in 1997 to $1.2 billion in 2002, a 33% drop. In that same time period, 27 mills closed and 13,000 jobs have disappeared. Counterintuitively, it has been suggested that as the BC forest products industry becomes weaker, its political influence has grown; the decline of its competitiveness has strengthened the forest products industry's hand in provincial government.

In an effort to reduce the regulatory burden on a forest industry that was struggling in the face of international competition, and suffering from the economic effects of a softwood lumber dispute with the United States, BC revamped its regulatory scheme, replacing the Forest Practices Code with the Forest and Range Practices Act of 2002, or "FRPA." FRPA was gradually phased in and the Code gradually phased out, from 2004 to 2006. The idea was to get forest regulation away from technical, inflexible numerical measures that really only serve as rough proxies for environmental stewardship, and move towards what the province calls "results-based" planning. FRPA thus eliminates most of the prescriptive, specific requirements and instead provides that the provincial government will "set objectives for sustaining forest values – biodiversity, cultural heritage, forage, fish, recreation, resource features, soils, timber, visual quality, water and wildlife…. [and] new objectives for localized values including visual quality, lake and stream sides, and recreation values." Major timber licensees are required by FRPA to submit for approval a "Forest Stewardship Plan," which states how the licensees will address the provincial environmental and non-timber objectives. Flexibility has become the central theme of forest planning. But FRPA does not set forth any requirements on what the objectives should be, how the objectives are to be met, the kinds of practices that can be implemented to meet those objectives, or even any guidance on exactly what indices licensees can use as their benchmarks, to determine compliance.

Consider the regulations under FRPA that govern the preparation of Forest Stewardship Plans,. The process must begin with the government setting "objectives" for a variety of non-timber values, such as soil protection and water quality. Section 5 of the Forest Planning and Practice Regulation, Objectives set by government for soils, provides as follows:

The objective set by government for soils is, without unduly reducing the supply of timber from British Columbia's forests, to conserve the productivity and the hydrologic function of soils.

Similarly, section 8, Objectives set by government for water, fish, wildlife and biodiversity within riparian areas, provides:

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16 Cashore, et al, supra, note 9, at 83.
17 Timber Tenures, supra, note 2, at 11.
The objective set by government for water, fish, wildlife and biodiversity within riparian areas is, without unduly reducing the supply of timber from British Columbia's forests, to conserve, at the landscape level, the water quality, fish habitat, wildlife habitat and biodiversity associated with those riparian areas.

The requirements are slightly more specific for regulating other aspects, such as maintaining visual quality and maintaining water quality in community watersheds. There are also specific and mandatory requirements to avoid practices that cause landslides, disruptions of natural surface drainage, block fish passage, and damage stream banks. But the new FRPA provisions on governmental objectives are generally very vague. And all of the sections on objective-setting contain the qualifying language "without unduly reducing the supply of timber from British Columbia's forests.

Once provincial government sets objectives, whatever they may be, Forest Stewardship Plans are to "specify results or strategies," for the achievement of these objectives. But here, the FRPA and its regulations also do not set forth any specific requirements. One Forest Stewardship Plan stated the following "strategy":

The holders of this FSP will make reasonable efforts to communicate development plans to affected First Nations bands.

Forest Stewardship Plans are required to identify one or more "Forest Development Units," areas in which some specified forestry activities will occur, such as logging and road-building. However, the Forest Stewardship Plan need not specify exactly where within the Forest Development Unit the planned activities will occur. In other words, licensees no longer need to indicate where their cutblocks will be. Since some forest development units are as large as one million hectares (100 kilometres by 100 kilometres), the inability to pinpoint the location of logging and road-building would seem to be important information about the planned logging.

The Forest Practices Board, an independent auditing arm created by statute by the Forest Practices Code Act, survives this code transformation, though with budgetary cuts. In fact, the Board was asked to undertake an audit of some of the early Forest Stewardship Plans, to ascertain whether FRPA was working as planned. Its examination of fifteen of the earliest Plans was inconclusive. The Board noted what had already been noted by West Coast Environmental Law's criticism of FRPA: that the lack of measurable results, the lack of specificity, and the lack of any tangible criteria for success was troubling. Ironically, the Board also found the

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21 FOREST PRACTICES BOARD, supra, note 20, at 10.
22 FOREST PRACTICES BOARD, supra, note 20, at 9.
23 Personal communication with Mark Haddock, member, Forest Practices Board, November 8, 2007.
24 West Coast Environmental Law, Deregulation Backgro under (Feb 2004), online at http://www.wcel.org/deregulation/Timber_Rules.pdf.
25 FOREST PRACTICES BOARD, supra, note 20, at 11-12.
early Plans overly legalistic, filled with clues that they were drafted by lawyers, such as the amorphous "reasonable efforts" strategy on consulting First Nations set out above. The Plans' "legal and intricate" language made them particularly inaccessible for public review, which is required by FRPA.27

The one way in which outcomes are measurable and enforceable under the FSPA is where the Forest Stewardship Plans adopt one or more "default practices," practices that were requirements under the Forest Practices Code Act, and have been inserted into FRPA as safe harbours. In other words, a licensee submitting a Forest Stewardship Plan can be assured that where it adopts one of these default practices, the Ministry will consider the Plan, at least in this regard, in compliance with FRPA. The Board found that licensees made ample use of default practices, using 77 default practices, 46 "results," and 193 "strategies." At least when default practices appeared in Forest Stewardship Plans, the outcomes were measurable, and compliance was good. But remember that this reform was all about addressing a burdensome and inflexible regime, so this does not really represent progress.

During its audit of the fifteen earliest Forest Stewardship Plans, the Board also conducted on-site inspections of the plan areas. Despite the lack of specificity in FRPA and the regulations, the Board stated that it was not "implying that sound forest practices already established are about to decline, or that forest licensees will not continue to devise and implement continuously improved practices." The Board added that it "regularly [saw] thoughtful and innovative professional management." The Board's overall assessment of forest management practices was quite positive, but there remained concern about how to monitor and even measure the environmental impacts of forestry activities.

This flip-flop from the Forest Practices Code Act to FRPA is the symptom of two powerful and broad and sometimes countervailing forces: (i) the increasing emphasis on non-timber forest values such as water quality, wildlife, and recreation, and (ii) the maintenance of employment in the forest sector. A global environmental movement brought environmentalism and civil disobedience to Clayoquot Sound, and raised awareness throughout BC of these non-timber values. Global competition from countries with lower environmental standards is bringing economic pressure to bear on BC's forest industries. While the flip from clearcutting to the Forest Practices Code Act was an attempt to recognize the former, the flop back to FRPA is an attempt to deal with the latter.

The province is not just "deregulating" forestry by removing all measurable and enforceable environmental criteria or standards. The province has also undertaken a number of other measures to make the forestry industry more competitive. Under the province's 2002 "Forestry Revitalization Plan" the largest licensees – those holding licenses of 10,000 cubic metres or more – were required to return (for compensation) about twenty percent of their tenures to the Crown.

29 Forest Practices Board, supra, note 20, at 11.
The Crown allocated about eight percent to First Nations, two percent for community forest agreements and woodlot licenses, and auctioned off the last ten percent and used the price to determine stumpage fees for some licenses. The idea was to diversify the logging industry, and forcibly move some licenses into more and smaller entities holding community forest agreements and woodlot licenses. Restraints on transfer and division of licenses were removed, as were "cut controls" requiring a minimum volume of logging. BC also removed "mill appurtenancy" requirements, conditions that attached to licenses requiring licensees to also operate mills to process the wood. And BC weakened raw log export controls that were designed to funnel raw logs to manufacturers in BC that process logs into finished products. This value-added sector is a lucrative one, but one that had been losing out to foreign competitors.

To complicate matter further, the mountain pine beetle infestation has already devastated many BC forests, and is projected to kill eighty percent of merchantable lodgepole pine throughout the province. The Forest Act provides for the designation of "Mountain pine beetle salvage areas," areas in which the province may authorize an increase in cut to salvage logs that have already been or will be damaged anyway to pine beetle infestation. Some communities might have experienced or will experience a quick infusion of cash, but will have to make it last, as the sharp drop-off in future harvests due to infestation will test the ability of these communities to survive.

Apart from the environmental restrictions, environmental organizations have sometimes had a lot to say about these economic reforms as well. For example, some organizations have been fighting to tighten raw log export restrictions. The stated reason is the protection of BC "communities" and "jobs," which have indeed suffered in the face of foreign competition. The province says it is trying to address this job loss through its Forestry Revitalization Plan, but continues to suffer political damage. Going back, however, to tighter restrictions would undoubtedly infuriate the logging industry.

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31 BRITISH COLUMBIA MINISTRY OF FORESTS, supra, note 15, at 10-11.
32 Id.
33 Id.
34 HALEY & NELSON, supra, note 5, at 13.
35 Id.
38 McGarrity & Hoberg, supra, note 36, at 1.
40 B.C. Coalition for Sustainable Forest Solutions, Stop the Sell-out of British Columbia’s Forests, online at http://www.forestolutions.ca/PDF/CSFSleafletSept03.pdf.
41 BRITISH COLUMBIA MINISTRY OF FORESTS, supra, note 15, at 12.
Discussion

In class, you will be charged with formulating a discussion question, and with leading discussion on one of three general topics. You will be broken up into groups, and will be given about 20 minutes to meet as a group. When you come back, you should have drafted a discussion question that you will pose to the class, and you will lead discussion for that general topic. When you meet to discuss the questions, I would like you to give some thought as to what you think is important about your topic, and some idea of where you want discussion to go. Please think about the kinds of conclusions that you would like to your classmates to draw from the discussion that you will lead. Broadly speaking, you can choose from these topics:

1. Protecting non-timber values on BC forest land.

2. Making forest-related industries more competitive.

3. The environmental and economic effects of the raw log export restrictions.

4. Simplifying or reforming the tenure system.

5. Should ownership of forest land be public or private?
Appendix A – Forest Act
RSBC 1996, ch. 157

Part 1 — Definitions and Interpretation

Definitions and interpretation

1 (1) In this Act:

"allowable annual cut" means
(a) in respect of a tree farm licence area, community forest agreement area, woodlot licence area or timber supply area, the rate of timber harvesting determined for the area under section 8, as increased or reduced under this Act, and
(b) in respect of an agreement entered into under this Act specifying an allowable annual cut, the rate of timber harvesting specified in the agreement, as increased or reduced under this Act;

"chief forester" means the chief forester appointed under the Ministry of Forests Act;
"community forest agreement" means
(a) a community forest pilot agreement,
(b) a long-term community forest agreement, and
(c) a probationary community forest agreement as defined in section 43.1;
"community forest agreement area" means the area of land subject to a community forest agreement;
"Crown land" has the same meaning as in the Land Act, but does not include land owned by an agent of the government;
"Crown timber" means timber on Crown land, or timber reserved to the government;
"cultural heritage resource" means an object, a site or the location of a traditional societal practice that is of historical, cultural or archaeological significance to British Columbia, a community or an aboriginal people;
"cutting permit" means a cutting permit issued under an agreement entered into under this Act;
"district manager" means a district manager appointed for a forest district under the Ministry of Forests Act;
"Forest Appeals Commission" or "commission" means the Forest Appeals Commission continued under the Forest Practices Code of British Columbia Act;
"government" means the government of British Columbia;
"licence to cut" means
(a) an occupant licence to cut as defined in section 47.4,
(b) a master licence to cut as defined in section 47.4, and
(c) a forestry licence to cut as defined in section 47.6;
"major licence" means
(a) a timber sale licence that was
   (i) issued under section 23 (1) (a), before its repeal, or
   (ii) entered under section 47.3 (1) (a),
(b) a forest licence,
(c) a timber licence,
(d) a tree farm licence, and
(e) a forestry licence to cut that
   (i) specifies that it is a major licence,
   (ii) is issued to satisfy the obligations of the government under a pulpwood agreement, or
   (iii) is entered into under section 47.3 (1) (a);
"management plan" means a management plan or management and working plan approved under
   (a) a tree farm licence,
   (b) a woodlot licence,
   (c) a pulpwood agreement, or
   (d) a forest licence;
* * *
"objectives set by government" means objectives set by government as defined in section 1 (1) of the *Forest and Range Practices Act*;
* * *
"pulpwood agreement" means a pulpwood agreement entered into before April 1, 2003 under Part 3, Division 7;
"pulpwood area" means an area designated under section 40 before its repeal;
* * *
"timber" means trees, whether standing, fallen, living, dead, limbed, bucked or peeled;
"timber processing facility" means a facility that processes timber or wood residue or both;
* * *
"timber supply area" means land designated as a timber supply area under section 7;
"tree farm licence area" means the area of land subject to a tree farm licence;
"wood residue" means wood chips, slabs, edgings, sawdust, shavings and hog fuel;
"woodlot licence area" means the area of land subject to a woodlot licence.

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**Wilderness areas**

6 The Lieutenant Governor in Council may designate any Crown land in a Provincial forest as a wilderness area, cancel such designation or amend the boundaries of a wilderness area.

**Timber supply areas**

7 The minister may
   (a) designate land as a timber supply area, and
   (b) order the consolidation, division or abolition of timber supply areas or order their boundaries changed.

**Allowable annual cut**
8 (1) The chief forester must determine an allowable annual cut at least once every 5 years after the date of the last determination, for
(a) the Crown land in each timber supply area, excluding tree farm licence areas, community forest agreement areas and woodlot licence areas, and
(b) each tree farm licence area.
(2) If the minister
(a) makes an order under section 7 (b) respecting a timber supply area, or
(b) amends or enters into a tree farm licence to accomplish a result set out under section 39 (2) or (3),
the chief forester must make an allowable annual cut determination under subsection (1) for the timber supply area or tree farm licence area
(c) within 5 years after the order under paragraph (a) or the amendment or entering into under paragraph (b), and
(d) after the determination under paragraph (c), at least once every 5 years after the date of the last determination.
(3) If
(a) the allowable annual cut for the tree farm licence area is reduced under section 9 (3), and
(b) the chief forester subsequently determines, under subsection (1) of this section, the allowable annual cut for the tree farm licence area,
the chief forester must determine an allowable annual cut at least once every 5 years from the date the allowable annual cut under subsection (1) of this section is effective under section 9 (6).
(3.1) If, in respect of the allowable annual cut for a timber supply area or tree farm licence area, the chief forester considers that the allowable annual cut that was determined under subsection (1) is not likely to be changed significantly with a new determination, then, despite subsections (1) to (3), the chief forester
(a) by written order may postpone the next determination under subsection (1) to a date that is up to 10 years after the date of the relevant last determination, and
(b) must give written reasons for the postponement.
(3.2) If the chief forester, having made an order under subsection (3.1), considers that because of changed circumstances the allowable annual cut that was determined under subsection (1) for a timber supply area or tree farm licence area is likely to be changed significantly with a new determination, he or she
(a) by written order may rescind the order made under subsection (3.1) and set an earlier date for the next determination under subsection (1), and
(b) must give written reasons for setting the earlier date.
(4) If the allowable annual cut for the tree farm licence area is reduced under section 9 (3), the chief forester is not required to make the determination under subsection (1) of this section at the times set out in subsection (1) or (2) (c) or (d), but must make that determination within one year after the chief forester determines that the holder is in compliance with section 9 (2).
(5) In determining an allowable annual cut under subsection (1) the chief forester may specify portions of the allowable annual cut attributable to
(a) different types of timber and terrain in different parts of Crown land within a timber supply area or tree farm licence area, and
(b) different types of timber and terrain in different parts of private land within a tree farm licence area.
(c) [Repealed 1999-10-1.]

(6) The regional manager or district manager must determine an allowable annual cut for each woodlot licence area, according to the licence.

(7) The regional manager or the regional manager’s designate must determine an allowable annual cut for each community forest agreement area, in accordance with
   (a) the community forest agreement, and
   (b) any directions of the chief forester.

(8) In determining an allowable annual cut under subsection (1) the chief forester, despite anything to the contrary in an agreement listed in section 12, must consider
   (a) the rate of timber production that may be sustained on the area, taking into account
      (i) the composition of the forest and its expected rate of growth on the area,
      (ii) the expected time that it will take the forest to become re-established on the area following denudation,
      (iii) silviculture treatments to be applied to the area,
      (iv) the standard of timber utilization and the allowance for decay, waste and breakage expected to be applied with respect to timber harvesting on the area,
      (v) the constraints on the amount of timber produced from the area that reasonably can be expected by use of the area for purposes other than timber production, and
      (vi) any other information that, in the chief forester’s opinion, relates to the capability of the area to produce timber,
   (b) the short and long term implications to British Columbia of alternative rates of timber harvesting from the area,
   (c) [Repealed 2003-31-2.]
   (d) the economic and social objectives of the government, as expressed by the minister, for the area, for the general region and for British Columbia, and
   (e) abnormal infestations in and devastations of, and major salvage programs planned for, timber on the area.

Part 3 — Disposition of Timber by the Government
Division 1 — Forms of Rights to Crown Timber

Rights to Crown timber
11 Subject to the Land Act and the Park Act, rights to harvest Crown timber must not be granted by or on behalf of the government except in accordance with this Act and the regulations.

Form of agreements
12 (1) A district manager, a regional manager or the minister may enter on behalf of the government into an agreement granting rights to harvest Crown timber in the form of a
   (a) forest licence,
(b) [Repealed 2004-36-4.]
(c) timber licence,
(d) tree farm licence,
(e) community forest agreement,
(f) community salvage licence,
(g) woodlot licence,
(h) licence to cut,
(i) free use permit,
(j) Christmas tree permit, or
(k) road permit.

(2) A timber sales manager may enter on behalf of the government into an agreement granting rights to harvest Crown timber in the form of a
(a) timber sale licence,
(b) forestry licence to cut, or
(c) road permit.

**Division 2 — Forest Licences**

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**Content of forest licence**

**14** A forest licence

(a) must be for a term not exceeding 20 years, subject to sections 15, 16 and 58,
(b) must specify a timber supply area or tree farm licence area in which the holder of the licence may harvest Crown timber,
(c) must specify an allowable annual cut that may be harvested under the licence, subject to sections 15 and 16,
(c.1) if it provides that a replacement for it must not be offered, must specify the maximum volume of timber that may be harvested under the licence,
(d) must require its holder to pay to the government, in addition to other amounts payable under this Act and the regulations,
   (i) stumpage under Part 7,
   (ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the forest licence, but, at its holder’s discretion, is not cut and removed, and
   (iii) a bonus bid or bonus offer, whichever is required under section 13, in the amount tendered under that section,
(e) must provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the forest licence and subject to this Act and the Forest and Range Practices Act, to authorize its holder to harvest the allowable annual cut, from specified areas of land within the timber supply area or tree farm licence area specified in the forest licence,
(f) [Repealed 2003-30-2.]
(g) may make provision for timber to be harvested by persons under contract with its holder,
(g.1) if the licence provides that it is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, the licence must state that it is a condition of the licence that the first nation comply with the agreement, and
(h) may include other terms and conditions, consistent with this Act and the regulations, the *Forest and Range Practices Act* and the regulations and the standards made under that Act, determined by the regional manager.

**Mountain pine beetle salvage area**

14.1 (1) The Lieutenant Governor in Council, by regulation, may
(a) designate Crown land infested by mountain pine beetles as a mountain pine beetle salvage area for a prescribed period, and
(b) repeal or amend a regulation under paragraph (a).

(2) A forest licence that includes all or part of a mountain pine beetle salvage area, in addition to setting out the matters described in section 14, may
(a) require any type of security, including but not limited to money, to be provided and maintained by the holder of the forest licence to ensure
(i) within a specified period or according to a required schedule of construction, or both, the construction or expansion of a timber processing facility that conforms to specified requirements, and
(ii) the reforestation of areas described in the licence by reference to one or more of geographic location, type of timber and type of terrain,
(A) at a rate of reforestation, and
(B) over a period specified in the licence,
(b) specify one or more of the following:
(i) the type of security that is acceptable or unacceptable;
(ii) the form and content of the security;
(iii) the circumstances under which the security may be realized;
(iv) respecting the distribution of the realized security,
(c) provide that its holder may not harvest under the licence until the timber processing facility has been substantially completed to the satisfaction of the minister,
(d) require timber harvesting under the licence to be restricted to only a portion of a timber supply area, and
(e) include other terms and conditions that the minister considers are necessary or desirable in relation to mountain pine beetle infestation in the mountain pine beetle salvage area.

(3) If a forest licence referred to in subsection (2)
(a) requires security to be provided and maintained, as described in paragraph (a) of that subsection, and
(b) the holder of the licence has provided the security,
the minister by notice served on the holder may cancel the licence in the circumstances specified under paragraph (b) (iii) of that subsection.

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Content of timber sale licence

22 A timber sale licence
   (a) must be for a term not exceeding 4 years,
   (b) must describe
      (i) one or more areas of land within which its holder may harvest Crown timber,
      or
      (ii) the location of logs that are being sold,
   (c) may specify a volume or an estimate of the volume of timber that may be harvested
      from an area of land described in the timber sale licence,
   (d) [Repealed 2004-36-9.]
   (e) may include provisions specifying one or more standard making bodies and
      requiring the holder of the licence to conduct its operations under the licence in
      accordance with principles, standards and criteria established by the standard making
      body or bodies,
   (f) must require its holder to pay to the government, in addition to other amounts
      payable under this Act and the regulations,
      (i) stumpage under Part 7,
      (ii) if the timber sale licence describes one or more areas of land within which its
           holder may harvest Crown timber, waste assessments for merchantable Crown
           timber, whether standing or felled, that could have been cut and removed under
           the timber sale licence, but, at its holder's discretion, is not cut and removed, and
      (iii) a bonus bid or bonus offer, whichever is required under section 20, in the
           amount tendered under that section, and
   (g) may include other terms and conditions, consistent with this Act and the
      regulations, determined by the timber sales manager.

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Content of timber licence

30 A timber licence must
   (a) describe an area of Crown land over which it is to apply,
   (b) be for a term determined under this Division,
   (c) grant to its holder the exclusive right during its term to harvest all merchantable
      timber in the area of Crown land described in it,
   (d) if the timber licence is in a tree farm licence area, require its holder to harvest
      timber in accordance with the tree farm licence and the management plan approved
      under it,
   (e) provide for cutting permits with terms that do not exceed 4 years to be issued by the
      district manager, or a forest officer authorized by the district manager, within the limits
      provided in the timber licence and subject to this Act and the Forest and Range
      Practices Act, to authorize the holder of the timber licence to harvest Crown timber
      from specified areas of land within the area of Crown land described in the timber
      licence,
   (f) require its holder to pay the government, in addition to other amounts payable under
      this Act and the regulations,
(i) stumpage under Part 7, and
(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the timber licence, but at its holder's discretion, is not cut and removed, and
(g) include other terms and conditions, consistent with this Act and the regulations, the *Forest and Range Practices Act* and the regulations and the standards made under that Act, determined by the regional manager.

* * *

Non-timber use

32 (1) Unless a timber licence is in a tree farm licence area, if the minister determines that all or any part of the area of land that is subject to the licence is needed for a purpose other than timber production, the minister, in a notice served on the holder of the licence, may require that the merchantable timber on that area or that part be harvested within the time specified in the notice.

(2) On the expiry of the specified time, or of an extension of that time granted by the minister, the minister may delete from the licence the area of land described in the notice.

* * *

Content of tree farm licence

35 (1) A tree farm licence must
(a) subject to section 36 (3) (a), be for a term of 25 years,
(b) subject to sections 33 and 39, describe a tree farm licence area, determined by the minister or a person authorized by the minister, comprising Crown land, the timber on which is unencumbered except by the licence, and if the area includes
(i) private land, or
(ii) Crown land subject to a timber licence
also comprising that land,
(c) require its holder to pay to the government, in addition to other amounts payable under this Act and the regulations,
(i) stumpage under Part 7 for timber harvested under the tree farm licence on Crown land or under a timber licence on Crown land in the tree farm licence area,
(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the tree farm licence or timber licence, but, at the licensee's discretion, is not cut and removed, and
(iii) a bonus bid or bonus offer, whichever is required under section 33, in the amount tendered under that section,
(d) require its holder to submit for the approval of the chief forester, once every 5 years, or more often if the chief forester considers that special circumstances require, a management plan that meets all the following requirements:
(i) it is prepared by a professional forester in accordance with the requirements of the tree farm licence,
(ii) it includes inventories, prepared in the manner, presented in the format and meeting the specifications required under the tree farm licence, of the forest,
recreation, fisheries, wildlife, range and cultural heritage resources in the tree farm licence area,
(iii) it is consistent with
   (A) the tree farm licence,
   (B) this Act and the regulations, the *Forest and Range Practices Act* and the regulations and the standards made under that Act, and
   (C) any applicable objectives set by government under the *Forest and Range Practices Act*,
(iv) it proposes management objectives regarding
   (A) management and utilization of the timber resources in the tree farm licence area, including harvesting methods and utilization specifications suitable to the types of timber and terrain specified in the tree farm licence,
   (B) protection and conservation of the non-timber values and resources in the tree farm licence area, including visual quality, biological diversity, soils, water, recreation resources, cultural heritage resources, range land and wildlife and fish habitats,
   (C) integration of harvesting activities in the tree farm licence area with use of the area for purposes other than timber production,
   (D) forest fire prevention and suppression,
   (E) forest health, including pest management,
   (F) silviculture, and
   (G) road construction, maintenance and deactivation,
(v) it includes proposals for meeting the proposed management objectives under subparagraph (iv), including measures to be taken, and specifications to be followed by the holder of the tree farm licence,
(vi) it specifies measures to be taken by the holder of the tree farm licence to identify and consult with persons using the tree farm licence area for purposes other than timber production,
(vii) it includes a timber supply analysis, prepared in the manner, presented in the format and meeting the specifications required under the tree farm licence, that analyzes the short term and long term availability of timber for harvesting in the tree farm licence area, including the impact of management practices on the availability of timber,
(viii) it includes an operational timber supply projection for the tree farm licence area that, in support of the timber supply analysis, indicates the availability of timber by
   (A) identifying
      (I) the net operable land base,
      (II) harvested areas,
      (III) existing and proposed road access within the net operable land base, and
      (IV) areas subject to special management constraints, such as use of the tree farm licence areas for purposes other than timber production,
   (B) categorizing areas within the net operable land base by
      (I) the type and quality of timber, and
(II) the harvesting method suitable to the terrain, and
(C) setting out a hypothetical sequence of harvesting over a period of at least
20 years, consistent with the proposed management objectives under
subparagraph (iv), and the proposals under subparagraph (v), and
(ix) it includes any other information on the development, management and use
of the tree farm licence area that the chief forester requires,

(e) subject to the provisions of this Act, grant to its holder the exclusive right to harvest
from the tree farm licence area during the term of the tree farm licence one or both of
the following:

(i) Crown timber of one or more types specified in the tree farm licence,
(ii) Crown timber from one or more types of terrain specified in the tree farm
licence,

(f) provide for cutting permits with terms that do not exceed 4 years to be issued by the
district manager, or a forest officer authorized by the district manager, within the limits
provided in the tree farm licence and subject to this Act and the Forest and Range
Practices Act to authorize its holder to harvest the portion of the allowable annual cut
available to its holder from specified areas of land within the tree farm licence area,

(g) require its holder to implement management plans approved under this section,

(h) require that timber on the tree farm licence area, in an amount directed by the
minister, having regard to reservations made by the minister for

(i) BC timber sales enterprises,
(ii) pulpwood agreements, or
(iii) woodlot licences,

is to be available for disposition under

(iv) forest licences, timber sale licences or forestry licences to cut, or
(v) Division 7 or 8 of this Part
to persons other than the holder of the tree farm licence,

(i) make provision for its holder to use the services of one or more professional
foresters to manage the tree farm licence area,

(j) require that each year during its term a volume of timber not less than

(i) 50% of the volume of timber harvested by or for its holder from the tree farm
licence area during the year, multiplied by
(ii) the result obtained by the division of

(A) the portion of the allowable annual cut available to its holder during that
year that the chief forester determines is attributable to Crown land referred
to in paragraph (b) (i) and sections 37 (1) and 38, by

(B) the allowable annual cut available to its holder during that year

are to be harvested by persons under contract with its holder,

(k) allow its holder to contract for the harvesting of more than the volume calculated
under paragraph (j),

(l) provide that the minister, under the regulations, may relieve the holder, in whole or
in part, from the requirement under paragraph (j),

(m) [Repealed 2003-30-2.]

(n) reserve to the government the right to enter into a free use permit on the tree farm
licence area with a person other than the holder of the tree farm licence, and
(o) contain other terms and conditions, consistent with this Act and the regulations, the *Forest and Range Practices Act* and the regulations and the standards made under that Act, determined by the minister.

(2) A disposition of timber under Division 3 or 7 of this Part pursuant to this section, or pursuant to a requirement referred to in subsection (1) (h), does not give rise to any right to or eligibility for compensation under this Act or otherwise.

**Inventories**

35.1 (1) In this section, "recreation resources" has the same meaning as it has in the *Forest and Range Practices Act*.

(2) If, having regard to the factors listed in subsection (5), the chief forester determines that a management plan for a tree farm licence does not satisfactorily provide for an inventory of the forest, recreation and cultural heritage resources of the tree farm licence area, the chief forester may give a notice to the holder of the licence requiring the holder of the licence to compile and submit the inventories set out in the notice.

(3) The notice given under subsection (2) may specify the following requirements:
   
   (a) the manner in which the inventories are prepared;
   
   (b) the format in which the inventories are presented;
   
   (c) the specifications the inventories must meet;
   
   (d) the date the inventories must be submitted to the chief forester.

(4) In addition to compiling any inventories required under the management plan, the holder of the tree farm licence must compile and submit the inventories required in the notice given under subsection (2) and comply with any requirements referred to in subsection (3) that are set out in the notice.

(5) The chief forester may determine that a management plan for a tree farm licence does not satisfactorily provide for an inventory of the forest, recreation and cultural heritage resources of the tree farm licence area if, in the opinion of the chief forester, inventories prepared in accordance with the management plan would not provide sufficient information to adequately
   
   (a) establish and carry out objectives set by government,
   
   (b) prepare and carry out operational plans,
   
   (c) manage and conserve the forest, recreation and cultural heritage resources of the tree farm licence area, and
   
   (d) assess the impact that managing the resources referred to in paragraph (c) would have on the timber supply for the tree farm licence area.

* * *

**Content of community forest agreement**

43.3 A community forest agreement

(a) must be for a term

   (i) of 5 years if it is a probationary community forest agreement, or

   (ii) of not less than 25 years and not more than 99 years if it is a long-term community forest agreement,
(b) must describe a community forest agreement area, determined by the minister or a person authorized by the minister, comprising Crown land and, if the area so determined includes land that is
   (i) in a reserve as defined in the *Indian Act* (Canada), or
   (ii) private land
also comprising that land,
(c) subject to this Act and the agreement,
   (i) must give to its holder the exclusive right to harvest timber on the Crown land referred to in paragraph (b), for the term of the agreement, and
   (ii) may give to its holder the right to harvest, manage and charge fees for botanical forest products and other prescribed products,
(d) must require its holder to pay to the government, in addition to other amounts payable under this Act and the regulations,
   (i) stumpage under Part 7 in respect of Crown timber, and
   (ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the community forest agreement, but, at the holder's discretion, is not cut and removed,
(e) must provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the community forest agreement and subject to this Act and the *Forest and Range Practices Act*, to authorize the holder of the community forest agreement to harvest timber from specified areas of land within the community forest agreement area,
(f) must require its holder to
   (i) submit for the approval of the regional manager or the regional manager's designate, at the times specified in the agreement, a management plan that meets the requirements of the community forest agreement, and
   (ii) implement management plans approved by the regional manager or the regional manager's designate,
(f.1) may include one or more provisions of Division 3.1 of Part 4 with any variations necessary or desirable to adapt the provision or provisions for the purposes of the agreement,
(g) must require its holder, in accordance with the community forest agreement, to
   (i) carry out audits and make and submit reports concerning the holder's performance under the agreement, and
   (ii) make information available to the public and carry out consultation activities with the public concerning matters relating to the community forest agreement,
(g.1) if the community forest agreement provides that it is entered into with a first nation or its representative to implement or further an agreement, the "other agreement", between the first nation and the government respecting treaty-related measures, interim measures or economic measures, the community forest agreement must state that it is a condition of the community forest agreement that the first nation comply with the other agreement, and
(h) may include other terms and conditions that the regional manager or regional manager's designate determines are consistent with any proposal made in the
application for the community forest agreement, this Act and the regulations, the *Forest and Range Practices Act* and the regulations and standards under that Act.

* * *

**Content of woodlot licence**

45  (1) A woodlot licence must
(a) be for a term not exceeding 20 years,
(b) describe a woodlot licence area determined by the regional manager or district manager to be composed of
   (i) private land, if any, owned or held under lease by its holder or a reserve as defined in the *Indian Act* (Canada), and
   (ii) Crown land, the timber on which is not otherwise encumbered, of not more than
      (A) 800 ha if the Crown land is located in the Coast Forest Region, or
      (B) 1 200 ha if the Crown land is not located in the Coast Forest Region,
(c) subject to the provisions of this Act, give to its holder the exclusive right to harvest timber on the Crown land referred to in paragraph (b), for its term,
(d) must require its holder to pay to the government, in addition to other amounts payable under this Act and the regulations,
   (i) stumpage under Part 7 in respect of Crown timber,
   (ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the woodlot licence, but, at the holder's discretion, is not cut and removed, and
   (iii) a bonus, if any, in the amount tendered,
(e) provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the woodlot licence and subject to this Act and the *Forest and Range Practices Act*, to authorize its holder to harvest timber from specified areas of land within the woodlot licence area,
(f) require its holder to submit for the approval of the district manager, at the times specified by the district manager, a management plan that meets all the following requirements:
   (i) it is prepared in accordance with the requirements of the woodlot licence;
   (ii) it includes inventories, prepared in the manner, presented in the format and meeting the specifications required under the woodlot licence, of the timber resources within the woodlot licence area;
   (iii) it is consistent with
      (A) the woodlot licence,
      (B) this Act and the regulations, the *Forest and Range Practices Act* and the regulations and the standards made under that Act, and
      (C) any applicable objectives set by government;
   (iv) it proposes management objectives, in accordance with the woodlot licence, regarding
      (A) utilization of the timber resources in the woodlot licence area,
(B) protection and conservation of the non-timber values and resources in the woodlot licence area,
(C) forest fire prevention and suppression,
(D) forest health, including pest management,
(E) silviculture, and
(F) road construction, maintenance and deactivation;
(v) it includes proposals, in accordance with the woodlot licence, for meeting the proposed management objectives under subparagraph (iv), including measures to be taken and specifications to be followed by the holder of the woodlot licence;
(vi) it proposes an allowable annual cut for the woodlot licence area, and
(vii) it includes any other inventories and information regarding the development, management and use of the woodlot licence area that the district manager, in accordance with the woodlot licence, requires,
(f.1) if the licence provides that it is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, the licence must state that it is a condition of the licence that the first nation comply with the agreement, and
(g) include other terms and conditions, consistent with this Act and the regulations, the Forest and Range Practices Act and the regulations and the standards made under that Act, determined by the regional manager or district manager.
(2) Despite subsection (1), the Crown land portion of a woodlot licence may exceed the limits specified in subsection (1) (b) (ii) (A) or (B) if
(a) the woodlot licence was entered into before January 1, 2003, and
(b) the excess Crown land was included in the woodlot licence as a result of mapping inaccuracies.

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Part 8 — Roads and Rights of Way

Definition

114 In this Part:
"district manager" includes a person authorized by the district manager to carry out a power, duty or function conferred on the district manager under this Part;
"forest development plan" has the same meaning as it has in the Forest and Range Practices Act;
"forest stewardship plan" has the same meaning as it has in the Forest and Range Practices Act.

Road permits and road use permits for timber harvesting

115 (1) A person who has the right to harvest timber under a forest licence, timber sale licence, timber licence, tree farm licence, community salvage licence, community forest agreement, woodlot licence, Christmas tree permit or forestry licence to cut may apply under this section to
(a) the district manager or timber sales manager for a road permit to
(i) construct a road on Crown land, or
(ii) maintain an existing road on Crown land, other than a forest service road, or
(b) the district manager for a road use permit to use a forest service road.

(2) Subject to section 81, the district manager or timber sales manager must grant to an applicant under subsection (1) a road permit to construct a road on Crown land, if satisfied that the location of the proposed road is identified in a prescribed manner.

(3) Subject to section 81, the district manager or timber sales manager must grant to an applicant under subsection (1) a road permit to maintain an existing road on Crown land, other than a forest service road, if

(a) at the time of the application there is no active road permit for the road, and
(b) the district manager or timber sales manager is satisfied that use and maintenance of the road by that person will not compromise a forest stewardship plan or forest development plan.

(4) Subject to section 81, the district manager must grant to an applicant under subsection (1) a road use permit to use a forest service road if the district manager is satisfied that use of the road by that person will not adversely affect authorized users of the road, or compromise a forest stewardship plan or forest development plan.

(5) The minister may declare a road constructed under a road permit to be a forest service road.

(6) If the road is subject to an active road permit at the time of the declaration, the district manager must grant a road use permit to the holder of the road permit.

* * *

Road permit content

118 A road permit must

(a) describe the location of the road to be constructed or maintained under the road permit,

(b) authorize its holder to

(i) use the road, and

(ii) if applicable,

(A) construct the road, or

(B) on Crown land that is in a Provincial forest and is in the area covered by the road permit, manage and use that land for sand pits, gravel pits, rock quarries or other quarries that are adjacent to the road covered by the road permit and provide materials for the construction or maintenance of the road, in accordance with the road permit, this Act and the regulations and the Forest and Range Practices Act and the regulations and the standards made under that Act,

(c) if the road permit grants the right to harvest Crown timber, require its holder to pay to the government, in addition to other amounts payable under this Act and the regulations,

(i) stumpage under Part 7, and

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the road permit, but, at its holder's discretion, is not cut and removed, and

(d) include other terms and conditions determined by the district manager or timber sales manager that are consistent with this Act and the regulations and the Forest and Range Practices Act and the regulations and the standards made under that Act.
Part 10 — Manufacture in British Columbia

Crown timber to be used in British Columbia

127 Unless exempted under this Part, timber that is harvested from Crown land, from land granted by the government after March 12, 1906 or from land granted by the government before March 12, 1906 in a tree farm licence area, and wood residue produced from the timber, must be

(a) used in British Columbia, or
(b) manufactured in British Columbia into wood products to the extent of manufacture specified by regulation.

Exemptions

128 (1) The Lieutenant Governor in Council may exempt from section 127

(a) a species of timber or kind of wood residue and may limit the volume of a species of timber or kind of wood residue to which the exemption applies for a period or for successive periods of time, and
(b) a volume of timber, whether or not harvested, or a volume of a wood residue, on
receiving an application in a form required by the minister.

(2) On receiving an application in the form required by the minister, he or she may exempt from section 127 a volume of timber that has been harvested, not exceeding 15 000 m$^3$ for each application.

(3) An exemption must not be given under this section unless the Lieutenant Governor in Council or the minister, as the case may be, is satisfied that

(a) the timber or wood residue will be surplus to requirements of timber processing facilities in British Columbia,

(b) the timber or wood residue cannot be processed economically in the vicinity of the land from which it is cut or produced, and cannot be transported economically to a processing facility located elsewhere in British Columbia, or

(c) the exemption would prevent the waste of or improve the utilization of timber cut from Crown land.

* * *

Part 13 — Designated Areas

Definition

168 In this Part:

"agreement" means an agreement in the form of a licence, permit or agreement referred to in section 12;

"designated area" means an area of Crown land specified under section 169 (1).

Specifying Crown land as a designated area

169 (1) The Lieutenant Governor in Council, by regulation, may

(a) specify Crown land as a designated area, for a period set out in the regulation, if the Lieutenant Governor in Council believes it is in the public interest to specify the Crown land as a designated area, and

(b) repeal or amend a regulation under paragraph (a).
(2) The maximum period during which Crown land may continue as a designated area under regulations made under this section is 10 years, beginning on the day the Crown land first becomes a designated area.

What is the effect of specifying a designated area?

170 (1) In this section, "issue" means issue, grant, enter into or approve.
(2) If a permit, licence or plan referred to in subsection (3) relates to all or part of a designated area, the minister, by written order, may
   (a) suspend in whole or in part or vary the permit, licence or plan, or
   (b) direct a person who, under this Act or the Forest and Range Practices Act, has a discretion to issue the permit, licence or plan
      (i) to not issue the permit, licence or plan, or
      (ii) in whole or in part, to issue the permit, licence or plan with terms and conditions, if any, that the person considers appropriate to take into account the relationship of the permit, licence or plan to the designated area.
(3) The following are the permits, licences or plans to which subsection (2) applies:
   (a) a cutting permit;
   (b) a road permit;
   (c) a timber sale licence;
   (d) a free use permit;
   (e) a licence to cut;
   (f) a special use permit;
   (g) an operational plan;
   (h) a management plan;
   (i) a plan required under an agreement;
   (j) a plan relating to an agreement for the management, development or use of Crown land.
(4) A suspension or variation under subsection (2) (a) expires, and the permit, licence or plan that was suspended or varied is restored to its original form, when the Crown land to which the suspension or variation relates ceases to be a designated area or on an earlier expiry date, if any, ordered in writing by the minister.
(5) If a person who, under this Act or the Forest and Range Practices Act, has a discretion to issue a permit, licence or plan, in this subsection called the "issuing authority",
   (a) receives an application for the permit or licence or receives a plan submitted for approval, whether before, on or after the date of an order of the minister making a direction referred to in subsection (2) (b), and
   (b) by reason only of the direction,
      (i) does not issue the permit, licence or plan, or
      (ii) in whole or in part, issues the permit, licence or plan as permitted under subsection (2) (b) (ii),
then, subject to subsection (6), after the Crown land to which the direction pertains ceases to be a designated area, or after an earlier date, if any, ordered in writing by the minister, the issuing authority must issue the permit, licence or plan, or, in the case of one previously issued as authorized under subsection (2) (b) (ii), must amend the permit, licence or plan to give effect as nearly as practicable to the original application or submission.
The requirement in subsection (5) that a permit, licence or plan be issued, or amended to give effect as nearly as practicable to the original application or submission, is subject to the issuing authority:

(a) continuing to have the discretion to carry out that requirement, and
(b) receiving confirmation from the applicant or from the person that submitted the plan that the applicant or person wishes to proceed.

In issuing or amending a permit, licence or plan under subsection (5) the person who has the discretion may include terms and conditions that the person with the discretion considers necessary or desirable in the circumstances.

The minister, by written order, may vary a variance, suspension or direction made under subsection (2).

The minister must serve a copy of an order made under subsection (2), (4), (5) or (8) on the holder of:

(a) an agreement, and
(b) a special use permit
to which the order relates, but the order is not invalid only because it is not served.

A suspension referred to in this section is not a suspension for the purposes of section 76 or 77.

Conditions

171 (1) The minister, by written order, may attach conditions to an agreement or to a special use permit if the agreement or special use permit relates to all or part of a designated area.

(2) A condition under subsection (1) expires when the Crown land it relates to ceases to be a designated area or on an earlier expiry date, if any, ordered in writing by the minister.

(3) The minister, by written order, may vary a condition made under this section.

(4) The minister must serve a copy of an order made under this section on the holder of the agreement or special use permit affected by the order, but the order is not invalid only because it is not served.

Suspension and cancellation

172 (1) If a permit, licence or plan is varied under section 170, the failure of the holder of, or party to, the permit, licence or plan to comply with the variance is grounds for a suspension under section 76, in whole or in part, of the agreement to which the permit, licence or plan relates.

(2) If under section 171 a condition is attached to an agreement, the failure of the holder of the agreement to comply with the condition is grounds for a suspension under section 76, in whole or in part, of the agreement.

(3) If a special use permit is varied under section 170 or has a condition attached to it under section 171, the failure of the holder of the permit to comply with the variance or condition is grounds for the suspension or cancellation of the permit and sections 76 to 77, other than section 77 (5), apply to the suspension or cancellation.

Allowable annual cut and allowable harvest in a designated area

173 (1) In subsections (3) to (5):
"base level allowable annual cut" means the allowable annual cut that is prescribed for the purposes of this section;

"exempt licence" means a licence described in subsection (4);

"licence" means a forest licence.

(2) The chief forester, by written order, may reduce the allowable annual cut of
(a) a timber supply area, or
(b) a tree farm licence area,
if all or part of the area is a designated area.

(2.1) An allowable annual cut reduction under subsection (2)
(a) for the designated area to which it relates, may be made effective on or after the date the designated area is specified under section 169 (1), and
(b) may specify that portions of the reduction are attributable to different types of timber and terrain in different parts of Crown land within the designated area.

(3) If the chief forester reduces the allowable annual cut of a timber supply area under subsection (2), the minister, by written order, may do either or both of the following:
(a) proportionately reduce, by the method set out in subsection (5), the allowable annual cut authorized in all of the licences that are not exempt licences in the timber supply area;
(b) reduce the allowable annual cut authorized in a licence if all or part of the area from which timber may be harvested under the licence is a designated area.

(3.1) An allowable annual cut reduction under subsection (3) may be made effective on or after the date on which the chief forester's order to which it relates is made or is made effective.

(4) An exempt licence is a licence that
(a) specifies an allowable annual cut that is less than the base level allowable annual cut, or
(b) is for a term that is less than the prescribed term.

(5) A reduction in allowable annual cut imposed under subsection (3) (a) in a timber supply area must be apportioned among all the licences in that area, except exempt licences, in accordance with the following method:
(a) first, calculate a reduction in allowable annual cut for each licence by distributing the part of the reduction under subsection (2) that the minister may assign to the licences proportionately among them according to the relative sizes of the allowable annual cut specified in each licence;
(b) second, calculate for each licence the annual volume of timber, if any, by which the calculations under this subsection reduce the allowable annual cut for that licence to less than the base level allowable annual cut;
(c) third, calculate the aggregate of the annual volumes of timber calculated under paragraph (b);
(d) fourth, for each licence for which the calculation under paragraph (b) does not reduce the allowable annual cut to less than the base level allowable annual cut, calculate a further reduction in allowable annual cut by distributing the amount determined under paragraph (c) proportionately among those licences according to the relative sizes of the allowable annual cut specified in each of them;
(e) fifth, repeat the calculations under paragraphs (b) to (d) until the end result of all the calculations is that the allowable annual cut for any of the licences is not reduced to a level that is less than the base level allowable annual cut.

(6) The regional manager or district manager, by written order, may reduce the allowable annual cut authorized for a community forest agreement area or woodlot licence area if all or part of the area is a designated area.

(6.1) An allowable annual cut reduction under subsection (6), for the designated area to which it relates, may be made effective on or after the date the designated area is specified under section 169 (1).

(7) If the chief forester, minister, regional manager or district manager makes an order under subsection (2), (3) or (6) that affects a timber supply area, tree farm licence area, forest licence, community forest agreement area or woodlot licence area and, after the order is made, a determination or reduction is made under section 8 or 63 that establishes a new allowable annual cut for the timber supply area, tree farm licence area, forest licence, community forest agreement area or woodlot licence area, the chief forester, minister, regional manager or district manager, as the case may be, may issue a new order under subsection (2), (3) or (6) that affects the area or licence.

(8) The minister, chief forester, regional manager or district manager, as the case may be, must serve a copy of an order made under this section on the holder of an agreement to which the order relates, but the order is not invalid only because it is not served.

(9) An order under subsection (2), (3), (6) or (7) expires when the Crown land it relates to ceases to be a designated area.

(10) After an order expires under subsection (9), the allowable annual cut for the timber supply area, tree farm licence area, community forest agreement area, woodlot licence area, or forest licence that was affected by the order is the allowable annual cut that was in effect immediately before the last order made under this section less any reductions made under this Act or the licence, other than reductions made under this section, during the period that the order was in effect.

(11) [Repealed 2000-6-19.]

**Effect of reduction on annual allowable cut determination**

**173.1** (1) Neither a reduction in allowable annual cut under section 173 (2), nor a restoration of an allowable annual cut under section 173 (10), constitutes a determination of an allowable annual cut for the purposes of the time limits set out in section 8 (1) and (2).

(2) Section 8 does not apply to a reduction of an allowable annual cut under section 173.

(3) If an allowable annual cut of a timber supply area or tree farm licence area is reduced under section 173, the chief forester is not required to make an allowable annual cut determination under section 8 (1) in respect of those areas at the times set out in section 8 (1) or (2) (c) or (d), but must make that determination within 2 years after the designated area to which the reduction applies ceases to be a designated area.

**Order prevails**

**174** If an order made in accordance with this Part conflicts or is inconsistent with

(a) this Act, the *Forest and Range Practices Act* or a regulation under this Act or that Act,
(b) an agreement, or
(c) a permit, licence or plan listed in section 170 (3),

the order prevails.

**Hearing not required**

175 An order may be made under this Part without a hearing.

**No compensation during first 4 years of designation**

175.1 During and in respect of the first 4 year period in which Crown land continues as a designated area, no compensation or damages is payable by the government to the holder of any agreement because of or arising out of the designated land status of all or any part of the Crown land to which the agreement relates.

**Compensation for 5th and subsequent years of designation**

175.2 (1) If Crown land specified under section 169 as a designated area continues as a designated area for more than 4 years, each holder of an agreement on whom the designated land status, of all or any part of the Crown land to which the agreement relates, has an adverse economic effect is entitled to compensation from the government in an amount determined in accordance with subsection (2).

(2) The compensation to which the holder of an agreement is entitled under subsection (1) is an amount equal to the value of the harvesting rights under the agreement that

(a) pertain to that part of the period, during which the Crown land specified under section 169 continues as a designated area, that exceeds 4 years, and

(b) are not exercisable because of the effect on the agreement of

(i) the designated land status, of all or any part of the Crown land to which the agreement relates, and

(ii) this Part or actions that, in accordance with this Part, are taken or not taken.

**Set-off for benefits previously received**

175.3 The amount of compensation payable under section 175.2 to the holder of an agreement affected by the specification of a designated area must be reduced by any financial benefit or other benefit received by that holder from the government arising out of the specification.

**Limit on compensation**

175.4 (1) In this section, "compensation" includes damages.

(2) The compensation payable to the holder of an agreement because of or arising out of

(a) the specification of a designated area,

(b) an order made under this Part, or

(c) either of the things specified in paragraphs (a) or (b) in combination with the other

is limited to the amount of compensation determined in relation to that agreement under sections 175.2 and 175.3.

(3) No action lies and an action or other proceeding must not be brought or continued against the government for compensation in an amount that exceeds the amount limited under this section.
Appendix B – Forest and Range Practices Act
S.B.C. 2002, ch. 69

Part 1 – Definitions and Interpretation

Definitions

(1) In this Act: "agreement under the Forest Act" means an agreement in the form of a licence, a permit or an agreement referred to in section 12 of the Forest Act or a pulpwood agreement;

"forest practice" means a prescribed activity that is carried out by (a) the government; (b) a holder of an agreement under the Forest Act, or (c) a person in a prescribed category of persons on private land, subject to a tree farm licence, a community forest agreement or a woodlot licence, or on Crown forest land;

"objectives set by government" means (a) objectives prescribed under section 149 (1), or (b) objectives established under section 93.4 of the Land Act by the minister responsible for the administration of the Land Act;

"recreation feature" means a biological, physical, cultural or historic feature that has recreational significance or value;

"recreation resource" means (a) a recreation feature, (b) a scenic or wilderness feature or setting that has recreational significance or value, or (c) a recreation facility;

"recreation site" means a recreation site established under section 56 of this Act or section 6 of the Forest Practices Code of British Columbia Act or designated under the Forest Act;

"recreation trail" means a recreation trail established under section 56 of this Act, section 6 of the Forest Practices Code of British Columbia Act or designated under the Forest Act;

"special use permit" means a special use permit under the Forest Practices Code of British Columbia Act;

"standard" means a standard established by the chief forester under section 169;

"wildlife" means

(a) vertebrates that are mammals, birds, reptiles or amphibians and are prescribed as wildlife under the Wildlife Act,

(b) fish from or in the non-tidal waters of British Columbia, including (i) vertebrates of the order Petromyzoniformes (lampreys) or class Osteichthyes (bony fishes), or (ii) invertebrates of the subphylum Crustacea (crustaceans) or phylum Mollusca (mollusks), and

(c) invertebrates or plants listed by the Minister of Water, Land and Air Protection as endangered, threatened or vulnerable species, and includes the eggs and juvenile stages of these vertebrates, invertebrates and plants.
(2) Words and expressions not defined in this Act have the meaning given to them in the Forest Act and the Range Act unless the context indicates otherwise.

***

Part 2 – Forest Stewardship Plan, Site Plan and Woodlot Licence Plan

Division 1 – Forest Stewardship Plan

Forest stewardship plan required

3 (1) Before the holder of
   (a) a major licence,
   (b) a timber sale licence that requires its holder to prepare a forest stewardship plan,
   (c) a community forest agreement,
   (c.1) a community salvage licence, or
   (d) a pulpwood agreement harvests timber or constructs a road on land to which the agreement or licence applies,
then, subject to section 4 (2), the holder must prepare, and obtain the minister's approval of, a forest stewardship plan that includes a forest development unit that entirely contains the area on which (e) the timber is to be harvested, and (f) the roads are to be constructed.

(2) Before the timber sales manager
   (a) invites applications for, or enters into, a timber sale licence to which subsection (1) does not apply,
   (b) grants a road permit to the holder of a timber sale licence referred to in paragraph (a), or
   (c) constructs an access road to an area to be harvested under a timber sale licence referred to in paragraph (a),
then, subject to section 4 (2), the timber sales manager must prepare and obtain the minister's approval of a forest stewardship plan that includes a forest development unit that entirely contains the area
   (d) that will be the subject of the activities described in paragraphs (a), (b) and (c) of this subsection, and
   (e) on which timber is to be harvested and roads are to be constructed.

***

Content of forest stewardship plan

5 (1) A forest stewardship plan must
   (a) include a map that (i) uses a scale and format satisfactory to the minister, and (ii) shows the boundaries of all forest development units,
(b) specify intended results or strategies, each in relation to (i) objectives set by government, and (ii) other objectives that are established under this Act or the regulations and that pertain to all or part of the area subject to the plan, and
(c) conform to prescribed requirements.

(1.1) The results and strategies referred to in subsection (1) (b) must be consistent to the prescribed extent with objectives set by government and with the other objectives referred to in section 5 (1) (b).

(2) A forest stewardship plan must be consistent with timber harvesting rights granted by the government for any of the following to which the plan applies: (a) the timber supply area; (b) the community forest agreement area; (c) the tree farm licence area; (d) the pulpwood area.

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

**Term of forest stewardship plan**

6 (1) The term of a forest stewardship plan (a) is the period, not exceeding 5 years, that the person submitting the plan for approval specifies at the time of submission, and (b) begins on the date specified in writing by the minister in approving the plan.

(2) The minister by written notice given to the holder may extend the term of a forest stewardship plan, before or after it expires for an additional period not exceeding 5 years in the circumstances specified by regulation.

(3) The extended forest stewardship plan may include changes to the extent authorized by regulation.

**Division 2 – Site Plans**

**Site plans for cutblocks and roads**

10 (1) Except in prescribed circumstances, the holder of a forest stewardship plan must prepare a site plan in accordance with prescribed requirements for any (a) cutblock before the start of timber harvesting on the cutblock, and (b) road before the start of timber harvesting related to the road's construction.

(2) A site plan must (a) identify the approximate locations of cutblocks and roads, (b) be consistent with the forest stewardship plan, this Act and the regulations, and (c) identify how the intended results or strategies described in the forest stewardship plan apply to the site.

(3) A site plan may apply to one or more cutblocks and roads whether within the area of one or more forest stewardship plans.

**Site plan available to public**

11 A holder of a site plan must make it publicly available on request at any reasonable time at the holder's place of business nearest to the area under the site plan.
Division 3 – Woodlot Licence Plan

Woodlot licence plan required

12 (1) Before the holder of a woodlot licence harvests timber or constructs a road on land to which the licence applies, the holder must prepare, and obtain the minister's approval of, a woodlot licence plan that includes the area on which the timber is to be harvested and the roads are to be constructed.

(2) The holder of a woodlot licence may obtain a cutting permit or road permit only if it is consistent with a woodlot licence plan.

(3) Despite subsections (1) and (2), the minister, in the circumstances and on the conditions, if any, that are prescribed may authorize the holder of a woodlot licence to obtain a cutting permit or road permit (a) to deal with a forest health emergency, or (b) to harvest timber that has been damaged and is in danger of being significantly reduced in value, lost or destroyed.

Content of woodlot licence plan

13 (1) A woodlot licence plan must

(a) include a map that (i) uses a scale and format satisfactory to the minister, (ii) provides prescribed information about forest resources, and (iii) shows the boundaries of areas for which the woodlot licence plan specifies intended results or strategies,

(b) except in prescribed circumstances, specify intended results or strategies, each in relation to (i) objectives set by government, and (ii) other objectives that are established under this Act or the regulations and that pertain to all or part of the area subject to the plan, and (c) conform to prescribed requirements.

(2) A woodlot licence plan must be consistent with the objectives referred to in subsection (1)(b).

(3) A woodlot licence plan need not be consistent with objectives set by government to the extent that those objectives pertain to (a) retention of old forest, (b) seral stage distribution, (c) landscape connectivity, or (d) temporal and spatial distribution of cutblocks.

(4) A woodlot licence plan or an amendment to a woodlot licence plan must be signed by the person required to prepare the plan, if an individual or, if a corporation or band as defined in the Indian Act (Canada), by an individual or the individuals authorized to sign on behalf of the corporation Error! Bookmark not defined.or band.

***

Division 4 – General

Approval of forest stewardship plan, woodlot licence plan or amendment

16 (1) The minister must approve a forest stewardship plan or an amendment to a forest stewardship plan if it conforms to section 5.

(1.01) A forest stewardship plan or an amendment to a forest stewardship plan conforms to section 5 if (a) a person with prescribed qualifications certifies that it conforms to section 5 in
relation to prescribed subject matter, and (b) the minister is satisfied that it conforms to section 5 in relation to subject matter not prescribed for the purpose of paragraph (a).

(1.1) The minister must approve a woodlot licence plan or an amendment to a woodlot licence plan if it conforms to section 13.

(1.2) A woodlot licence plan or an amendment to a woodlot licence plan conforms to section 13 if (a) a person with prescribed qualifications, certifies that it conforms to section 13 in relation to prescribed subject matter, and (b) the minister is satisfied that it conforms to section 13 in relation to subject matter not prescribed for the purpose of paragraph (a).

(2) A forest stewardship plan, a woodlot licence plan or an amendment to either that is submitted to the minister for approval must be considered to have conformed to this Act, the regulations, the standards and the objectives set by government if the plan or amendment conforms to the relevant provisions of this Act, the regulations, the standards and the objectives as they were 4 months before the date of the submission of the plan or amendment to the minister.

(2.01) The Lieutenant Governor in Council, by order, may declare that a forest stewardship plan, a woodlot licence plan or an amendment to either that is submitted to the minister for approval, despite subsection (2), must immediately conform to some or all of this Act, the regulations, the standards and the objectives set by government as set out in the order.

(2.1) Except in prescribed circumstances, before approving a plan or amendment, the minister may require the holder of a proposed plan or amendment to submit information that the minister reasonably requires in order to determine if the proposed plan or amendment conforms to subsection (1) or (1.1), whichever is applicable.

(3) The minister must give written reasons for refusing to approve a forest stewardship plan, a woodlot licence plan or an amendment to either.

(4) If the minister receives information that gives the minister reason to believe that a forest stewardship plan, woodlot licence plan, or an amendment to either, did not, at the time of its approval under this section, conform, in relation to

(a) the prescribed subject matter referred to in subsection (1.01) (a) to section 5, or

(b) the prescribed subject matter referred to in subsection (1.2) (a) to section 13

the minister, after giving the holder of the plan an opportunity to be heard,

(c) may determine whether the plan conformed, at the time of its approval, with, (i) section 5 in relation to the subject matter mentioned in paragraph (a), or (ii) section 13 in relation to the subject matter mentioned in paragraph (b), and

(d) in the case of a plan determined under paragraph (c) to be non-conforming, may order the holder to amend the plan to so conform, by a date specified in the order.

(5) The holder of a forest stewardship plan or woodlot licence plan who receives notice of an order made under subsection (4) must comply with the order. ***

Review and comment

18 A person responsible for preparing a forest stewardship plan, a woodlot licence plan, or an amendment to either, if required by the regulations and then in accordance with the regulations,
must make the plan or amendment publicly available for (a) review, and (b) comment before submitting the plan or amendment to the minister for approval. ***

**Division 3 – Recreation**  
**Interpretive forest sites, recreation sites and recreation trails**

**56 (1)** The minister may order

(a) the establishment of Crown land as an interpretive forest site, a recreation site or a recreation trail except Crown land that is subject to another enactment and is being administered by another minister, branch or agency of government, (i) is in a timber supply area, or (ii) is subject to a tree farm licence, a woodlot licence, a community forest agreement or a timber licence,

(b) the variance of the boundaries of an interpretive forest site, a recreation site or a recreation trail, and

(c) the disestablishment of an interpretive forest site, a recreation site or a recreation trail.

(2) Repealed. [2003-55-31]

(3) The minister may establish an objective for an interpretive forest site, recreation site or recreation trail established under subsection (1).

(4) An objective established under subsection (1) must be consistent with objectives set by government that pertain to the area.

***

**Protection of recreation and range resources on Crown land**

**58 (1)** If the minister determines that it is necessary to protect a recreation or range resource or to manage public recreation use on Crown land, he or she by order may restrict or prohibit

(a) a non-recreational use of

(i) any of the following established under the *Forest Practices Code of British Columbia Act* for recreation:

(A) a resource management zone;

(B) a landscape unit;

(C) a sensitive area, or

(ii) any of the following that is on Crown land:

(A) an interpretive forest site;

(B) a recreation site or recreation trail, except any non-recreational use permitted under the *Coal Act*, the *Mineral Tenure Act*, the *Petroleum and Natural Gas Act* or the *Pipeline Act*, or

(b) a recreational use anywhere on Crown land, except a use that is specifically permitted by or under another enactment.
(2) The minister may make different orders under subsection (1) for different uses and locations.

(3) The minister must post a notice of an order under subsection (1) in the area to which the order applies.

(4) Without lawful authority, a person must not remove, alter, destroy or deface a notice posted under subsection (3).

Appendix C – Forest Planning and Practices Regulation
B.C. Reg. 14/2004

PART 2 - FOREST STEWARDSHIP PLANS Division 1 - Content (Objectives)

Application of this Division to forest stewardship plans
4.1 The objectives prescribed under sections 5 to 10 of this regulation are objectives set by government referred to in section 5 (1) (b) (i) of the Act and are applicable only to forest stewardship plans.

Objectives set by government for soils
5 The objective set by government for soils is, without unduly reducing the supply of timber from British Columbia's forests, to conserve the productivity and the hydrologic function of soils.

Objectives set by government for timber
6 The objectives set by government for timber are to (a) maintain or enhance an economically valuable supply of commercial timber from British Columbia's forests, (b) ensure that delivered wood costs, generally, after taking into account the effect on them of the relevant provisions of this regulation and of the Act, are competitive in relation to equivalent costs in relation to regulated primary forest activities in other jurisdictions, and (c) ensure that the provisions of this regulation and of the Act that pertain to primary forest activities do not unduly constrain the ability of a holder of an agreement under the Forest Act to exercise the holder's rights under the agreement.

Objectives set by government for wildlife
7 (1) The objective set by government for wildlife is, without unduly reducing the supply of timber from British Columbia's forests, to conserve sufficient wildlife habitat in terms of amount of area, distribution of areas and attributes of those areas, for (a) the survival of species at risk,
(b) the survival of regionally important wildlife, and (c) the winter survival of specified ungulate species.

(2) A person required to prepare a forest stewardship plan must specify a result or strategy in respect of the objective stated under subsection (1) only if the minister responsible for the *Wildlife Act* gives notice to the person of the applicable (a) species referred to in subsection (1), and (b) indicators of the amount, distribution and attributes of wildlife habitat described in subsection (1).

(3) If satisfied that the objective set out in subsection (1) is addressed, in whole or in part, by an objective in relation to a wildlife habitat area or an ungulate winter range, a general wildlife measure, or a wildlife habitat feature, the minister responsible for the *Wildlife Act* must exempt a person from the obligation to specify a result or strategy in relation to the objective set out in subsection (1) to the extent that the objective is already addressed.

(4) On or after December 31, 2004, a notice described in subsection (2) must be given at least 4 months before the forest stewardship plan is submitted for approval.

**Objectives set by government for water, fish, wildlife and biodiversity within riparian areas**

8 The objective set by government for water, fish, wildlife and biodiversity within riparian areas is, without unduly reducing the supply of timber from British Columbia’s forests, to conserve, at the landscape level, the water quality, fish habitat, wildlife habitat and biodiversity associated with those riparian areas.

**Objectives set by government for fish habitat in fisheries sensitive watersheds**

8.1 (1) In this section "*fisheries sensitive watershed*" means an area identified in Schedule 2 of this regulation

   (a) with significant downstream fisheries values continued under section 180 (f) of the Act and significant watershed sensitivity continued under section 180 (g) of the Act, and

   (b) for which there is no fisheries sensitive watershed objective.

(2) Until December 31, 2005 the objective set by government for fish habitat in fisheries sensitive watersheds is to prevent to the extent described in subsection (3) the cumulative hydrological effects of primary forest activities in the fisheries sensitive watershed from resulting in a material adverse impact on the habitat of the fish species for which the fisheries sensitive watershed was established.

(3) The objective set by government under subsection (2) applies only to the extent that it does not unduly reduce the supply of timber from British Columbia's forests.

(4) If satisfied that the objective set out in subsection (2) is not required to provide special management, the minister responsible for the *Wildlife Act* must exempt a person from the requirement to specify a result or strategy in relation to the objective.

(5) If satisfied that the objective set out in subsection (2) is addressed, in whole or in part, by an enactment, the minister responsible for the *Wildlife Act* must exempt a person from the
requirement to specify a result or strategy in relation to the objective set out in subsection (2) to the extent that the objective is already addressed.

Objectives set by government for water in community watersheds

8.2 (1) In this section "community watershed" means a community watershed (a) that is continued under section 180 (e) of the Act, and (b) for which a water quality objective has not been (i) continued under section 181 of the Act, or (ii) established under the Government Actions Regulation.

(2) The objective set by government for water being diverted for human consumption through a licensed waterworks in a community watershed is to prevent to the extent described in subsection (3) the cumulative hydrological effects of primary forest activities within the community watershed from resulting in

(a) a material adverse impact on the quantity of water or the timing of the flow of the water from the waterworks, or

(b) the water from the waterworks having a material adverse impact on human health that cannot be addressed by water treatment required under (i) an enactment, or (ii) the licence pertaining to the waterworks.

(3) The objective set by government under subsection (2) applies only to the extent that it does not unduly reduce the supply of timber from British Columbia's forests.

(4) If satisfied that the objective set out in subsection (2) is not required to provide special management the minister responsible for the Wildlife Act must exempt a person from the requirement to specify a result or strategy in relation to the objective.

(5) If satisfied that the objective set out in subsection (2) is addressed, in whole or in part, by an enactment, the minister responsible for the Wildlife Act must exempt a person from the requirement to specify a result or strategy in relation to the objective set out in subsection (2) to the extent that the objective is already addressed.

Objectives set by government for wildlife and biodiversity - landscape level

9 The objective set by government for wildlife and biodiversity at the landscape level is, without unduly reducing the supply of timber from British Columbia's forests and to the extent practicable, to design areas on which timber harvesting is to be carried out that resemble, both spatially and temporally, the patterns of natural disturbance that occur within the landscape.

Objectives set by government for wildlife and biodiversity - stand level

9.1 The objective set by government for wildlife and biodiversity at the stand level is, without unduly reducing the supply of timber from British Columbia's forests, to retain wildlife trees.
Objectives set by government for visual quality

9.2 (1) In this section: "scenic area" means an area of land established as a scenic area under the Forest Practices Code of British Columbia Act on or before October 24, 2002 and continued as a scenic area under section 180 (c) of the Act; "visual sensitivity class" means a visual sensitivity class established on or before October 24, 2002, particulars of which are publicly available in the Land and Resource Data Warehouse maintained by the minister responsible for the Land Act. (2) The objective set by government in relation to visual quality for a scenic area, that

(a) was established on or before October 24, 2002, and
(b) for which there is no visual quality objective is to ensure that the altered forest landscape for the scenic area
(c) in visual sensitivity class 1 is in either the preservation or retention category,
(d) in visual sensitivity class 2 is in either the retention or partial retention category,
(e) in visual sensitivity class 3 is in either the partial retention or modification category,
(f) in visual sensitivity class 4 is in either the partial retention or modification category, and
(g) in visual sensitivity class 5 is in either the modification or maximum modification category.

Objectives set by government for cultural heritage resources

10 The objective set by government for cultural heritage resources is to conserve, or, if necessary, protect cultural heritage resources that are (a) the focus of a traditional use by an aboriginal people that is of continuing importance to that people, and (b) not regulated under the Heritage Conservation Act. * * *

Specifying results or strategies

12 (1) A person who prepares a forest stewardship plan under section 5 (1) (b) of the Act, may consider the factors set out in Schedule 1 when specifying results or strategies for established objectives.

(2) After December 31, 2004, for a forest stewardship plan or amendment to one, it is sufficient compliance with the objectives referred to in section 5 (1) (b) (ii) of the Act if the plan or amendment when submitted to the minister for approval conforms to those objectives as they were in effect 4 months before the date of the submission.

(3) Despite section 12.1 (2) and (6), a person who prepares a forest stewardship plan must specify in it, for the objective set out in section 8, a result or strategy that addresses retention of trees in a riparian management zone.

(4) If a land use objective conflicts with an objective described in this Division, a person who prepares a forest stewardship plan is exempt from specifying a result or strategy in relation to the objective described in this Division, to the extent that doing so would conflict with the land use objective.
(5) If 2 or more established objectives are applicable to (a) a common area, and (b) the same or a similar subject matter, the minister may exempt a person who is required to prepare a forest stewardship plan from the requirement to specify a result or strategy for all but one of the established objectives.

(6) In making an exemption under subsection (5), the minister must do so in accordance with the following descending order of priority: (a) an objective established under the Government Actions Regulation; (b) an objective described in Division 1 of this Part; (c) a land use objective.

(7) If the minister determines that it is not practicable, given the circumstances or conditions applicable to a particular area, for the person otherwise required to do so, to specify a result or strategy consistent with an established objective for that area, the minister must exempt the person from that requirement in relation to that area.

(8) A person who is required to prepare a forest stewardship plan is exempt from the requirement to prepare results or strategies for an objective set by government for timber.

Division 2 - Content (General)

Identifying forest development units

14 (1) A person required to prepare a forest stewardship plan may specify in the plan or an amendment to it,

(a) a new forest development unit,
(b) a forest development unit that is in effect on the date of the submission of the forest stewardship plan to the minister,
(c) an area to which section 196 (1) or (2) of the Act is applicable that is in a forest development unit referred to in paragraph (a) or (b) of this subsection,
(d) an area to which section 197 (4) or (7) of the Act is applicable that is in a forest development unit referred to in paragraph (a) or (b) of this subsection, or
(e) cutblocks to which section 197 (5) of the Act is applicable that is in a forest development unit referred to in paragraph (a) or (b) of this subsection.

(2) A person required to prepare a forest stewardship plan must ensure that the plan identifies for the forest development units specified under subsection (1) those things described in subsection (3) that

(a) are in the forest development unit, and
(b) are in effect (i) on the date the plan or amendment to it is submitted for approval, if the plan is submitted on or before December 31, 2005, or (ii) 4 months before the date the plan or amendment to it, as the case may be, is submitted for approval, if the plan or amendment to it is submitted after December 31, 2005.

(3) The things that under subsection (2) are to be identified in a forest stewardship plan referred to in that subsection are each

(a) ungulate winter range,
(b) wildlife habitat area,
(c) fisheries sensitive watershed,
(d) lakeshore management zone, including specifying the width of the zone, if the zone is identified on a map accompanying the establishment of the lakeshore management zone,
(e) scenic area,
(f) lake identified as an L1 lake under section 49 (1) (b) (ii) if the lake has been identified on a map accompanying the identification,
(g) community watershed,
(h) old growth management area,
(i) area where commercial timber harvesting is prohibited by another enactment,
(j) cutting permit and road permit held by the agreement holder if that is the person required to prepare the plan, and
(k) road permit or timber sales licence granted or entered into by the timber sales manager if he or she is the person required to prepare the plan.

(4) A person who prepares a forest stewardship plan may identify an area as a declared area if, on the date that the area is identified,

(a) the area is in a forest development unit in effect, and

(b) all activities and evaluations that are necessary in relation to inclusion of cutblocks and roads in the area have been completed.

PART 4 - PRACTICE REQUIREMENTS
Division 1 -- Soils

Soil disturbance limits

35 (1) In this section: "roadside work area" means the area adjacent to a road where one or both of the following are carried out:

(a) decking, processing or loading timber;

(b) piling or disposing of logging debris;

"sensitive soils" means soils that, because of their slope gradient, texture class, moisture regime, or organic matter content have the following risk of displacement, surface erosion or compaction:

(a) for the Interior, a very high hazard;

(b) for the Coast, a high or very high hazard.

(2) Repealed [B.C. Reg. 580/04]

(3) An agreement holder other than a holder of a minor tenure who is carrying out timber harvesting must not cause the amount of soil disturbance on the net area to be reforested to exceed the following limits:
(a) if the standards unit is predominantly comprised of sensitive soils, 5% of the area covered by the standards unit, excluding any area covered by a roadside work area;

(b) if the standards unit is not predominantly comprised of sensitive soils, 10% of the area covered by the standards unit, excluding any area covered by a roadside work area;

(c) 25% of the area covered by a roadside work area.

(4) An agreement holder may cause soil disturbance that exceeds the limits specified in subsection (3) if the holder

(a) is removing infected stumps or salvaging windthrow and the additional disturbance is the minimum necessary, or

(b) is constructing a temporary access structure and both of the following apply:

   (i) the limit set out in subsection (3) (a) or (b), as applicable, is not exceeded by more than 5% of the area covered by the standards unit, excluding the area covered by a roadside work area;

   (ii) before the regeneration date, a sufficient amount of the area within the standards unit is rehabilitated such that the agreement holder is in compliance with the limits set out in subsection (3).

(5) The minister may require an agreement holder to rehabilitate an area of compacted soil if all of the following apply:

(a) the area of compacted soil (i) was created by activities of the holder, (ii) is within the net area to be reforested, and (iii) is a minimum of 1 ha in size;

(b) the holder has not exceeded the limits described in subsection (3);

(c) rehabilitation would, in the opinion of the minister, (i) materially improve the productivity and the hydrologic function of the soil within the area, and (ii) not create an unacceptable risk of further damage or harm to, or impairment of, forest resource values related to one or more of the subjects listed in section 149 (1) of the Act.

(6) An agreement holder who rehabilitates an area under subsection (4) or (5) must

(a) remove or redistribute woody materials that are exposed on the surface of the area and are concentrating subsurface moisture, to the extent necessary to limit the concentration of subsurface moisture on the area,

(b) de-compact compacted soils, and

(c) return displaced surface soils, retrievable side-cast and berm materials.

(7) If an agreement holder rehabilitates an area under subsection (4) or (5) and erosion of exposed soil from the area would cause sediment to enter a stream, wetland or lake, or a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act, the agreement holder, unless placing debris or revegetation would not materially reduce the likelihood of erosion, must (a) place woody debris on the exposed soils, or (b) revegetate the exposed mineral soils.
Division 3 - Riparian Areas Stream riparian classes

47 (1) In this section, "active flood plain" means the level area with alluvial soils, adjacent to streams, that is flooded by stream water on a periodic basis and is at the same elevation as areas showing evidence of

(a) flood channels free of terrestrial vegetation,
(b) rafted debris or fluvial sediments, recently deposited on the surface of the forest floor or suspended on trees or vegetation, or
(c) recent scarring of trees by material moved by flood waters.

(2) A stream that is a fish stream or is located in a community watershed has the following riparian class:

(a) S1A, if the stream averages, over a one km length, either a stream width or an active flood plain width of 100 m or greater;
(b) S1B, if the stream width is greater than 20 m but the stream does not have a riparian class of S1A;
(c) S2, if the stream width is not less than 5 m but not more than 20 m;
(d) S3, if the stream width is not less than 1.5 m but is less than 5 m;
(e) S4, if the stream width is less than 1.5 m.

(3) A stream that is not a fish stream and is located outside of a community watershed has the following riparian class:

(a) S5, if the stream width is greater than 3 m;
(b) S6, if the stream width is 3 m or less.

(4) Subject to subsections (5) or (6), for each riparian class of stream, the minimum riparian management area width, riparian reserve zone width and riparian management zone width, on each side of the stream, are as follows:
<table>
<thead>
<tr>
<th>Riparian Class</th>
<th>Riparian Management Area (metres)</th>
<th>Riparian Reserve Zone (metres)</th>
<th>Riparian Management Zone (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1-A</td>
<td>100</td>
<td>0</td>
<td>100</td>
</tr>
<tr>
<td>S1-B</td>
<td>70</td>
<td>50</td>
<td>20</td>
</tr>
<tr>
<td>S2</td>
<td>50</td>
<td>30</td>
<td>20</td>
</tr>
<tr>
<td>S3</td>
<td>40</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>S4</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>S5</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>S6</td>
<td>20</td>
<td>0</td>
<td>20</td>
</tr>
</tbody>
</table>

(5) If the width of the active flood plain of a stream exceeds the specified width for the riparian management zone, the width of the riparian management zone is the outer edge of the active flood plain.

(6) The minister may specify a riparian reserve zone for a stream with a riparian class of S1-A if the minister considers that a riparian reserve zone is required.

(7) The riparian reserve zone for a stream begins at the edge of the stream channel bank and extends to the width described in subsection (4) or (6).

(8) The riparian management zone for a stream begins at (a) the outer edge of the riparian reserve zone, or (b) if there is no riparian reserve zone, the edge of the stream channel bank, and extends to the width described in subsection (4) or (5).
Wetland riparian classes

(1) Wetlands have the following riparian classes:

(a) W1, if the wetland is greater than 5 ha in size;
(b) W2, if the wetland is not less than 1 ha and not more than 5 ha in size and is in one of the following biogeoclimatic zones or subzones:
   (i) Ponderosa Pine;
   (ii) Bunch Grass;
   (iii) Interior Douglas-fir, very dry hot, very dry warm or very dry mild;
   (iv) Coastal Douglas-fir;
   (v) Coastal Western Hemlock, very dry maritime, dry maritime or dry submaritime;
(c) W3, if the wetland is not less than 1 ha and not more than 5 ha in size and is in a biogeoclimatic zone or subzone other than one referred to in paragraph (b);
(d) W4, if the wetland is (i) not less than 0.25 ha and less than 1 ha in size and is in a biogeoclimatic zone or subzone referred to in paragraph (b) (i), (ii) or (iii), or (ii) not less than 0.5 ha and less than 1 ha in size and is in a biogeoclimatic zone or subzone referred to in paragraph (b) (iv) or (v).

(2) Despite subsection (1), an area is to be treated as a single wetland with a riparian class of W5 if

(a) the area contains (i) two or more W1 wetlands located within 100 m of each other, (ii) a W1 wetland and one or more non-W1 wetlands, all of which are within 80 m of each other, or (iii) two or more non-W1 wetlands located within 60 m of each other, and
(b) the combined size of the wetlands, excluding the upland areas, is 5 ha or larger.

(3) Subject to subsections (4) and (5), for each riparian class of wetland, the minimum riparian management area width, riparian reserve zone width and riparian management zone width for the wetland are as follows:

<table>
<thead>
<tr>
<th>Riparian Class</th>
<th>Riparian Management Area (metres)</th>
<th>Riparian Reserve Zone (metres)</th>
<th>Riparian Management Zone (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>W1</td>
<td>50</td>
<td>10</td>
<td>40</td>
</tr>
<tr>
<td>W2</td>
<td>30</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>W3</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>W4</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>W5</td>
<td>50</td>
<td>10</td>
<td>40</td>
</tr>
</tbody>
</table>
(4) No riparian reserve zone or riparian management zone extends onto any enclosed upland areas in a W1 wetland if the wetland is
   (a) located in a boreal, subboreal or hyper-maritime climate, and
   (b) greater than 1 000 ha in size.

(5) If the minister considers it necessary for a riparian reserve zone or riparian management zone to extend onto an enclosed upland area, the minister may require either or both of the following:
   (a) a riparian reserve zone of a width of 10 m or less;
   (b) a riparian management zone of a width of 40 m or less.

(6) The riparian reserve zone for a wetland begins at the edge of the wetland and extends to the width described in subsection (3) or (5). (7) The riparian management zone for a wetland begins at (a) the outer edge of the riparian reserve zone, or (b) if there is no riparian reserve zone, the edge of the wetland, and extends to the width described in subsection (3) or (5).

Lake riparian classes

49 (1) Lakes have the following riparian classes:
   (a) L1-A, if the lake is 1 000 ha or greater in size;
   (b) L1-B, if (i) the lake is greater than 5 ha but less than 1 000 ha in size, or (ii) the minister designates the lake as L1-B;
   (c) L2, if the lake is not less than 1 ha and not more than 5 ha in size and is located in a biogeoclimatic zones or subzone that is (i) Ponderosa Pine, (ii) Bunch Grass, (iii) Interior Douglas-fir, very dry hot, very dry warm or very dry mild, (iv) Coastal Douglas-fir, or (v) Coastal Western Hemlock, very dry maritime, dry maritime or dry submaritime;
   (d) L3, if the lake is not less than 1 ha and not more than 5 ha in size and is in a biogeoclimatic zone or subzone other than one referred to in paragraph (c);
   (e) L4, if the lake is (i) not less than 0.25 ha and not more than 1 ha in size and is in a biogeoclimatic zone or subzone referred to in paragraph (c) (i), (ii) or (iii), or (ii) not less than 0.5 ha and not more than 1 ha in size and is in a biogeoclimatic zone or subzone referred to in paragraph (c) (iv) or (v).

(2) Subject to subsection (3), for each riparian class of lake, the minimum riparian management area width, riparian reserve zone width and riparian management zone width are as follows:
### Riparian Management Area

<table>
<thead>
<tr>
<th>Riparian Class</th>
<th>Riparian Management Area (metres)</th>
<th>Riparian Reserve Zone (metres)</th>
<th>Riparian Management Zone (metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>L1-A</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>L1-B</td>
<td>10</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>L2</td>
<td>30</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>L3</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>L4</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
</tbody>
</table>

(3) If the minister considers it necessary, the minister may specify a riparian management area and a riparian reserve zone for a lake with a riparian class of L1-A.

(4) The riparian reserve zone for a lake begins at the edge of the lake and extends to the width described in subsection (2) or (3).

(5) The riparian management zone for a lake begins at (a) the outer edge of the riparian reserve zone, or (b) if there is no riparian reserve zone, the edge of the lake, and extends to the width described in subsection (2) or (3).

### Restrictions in a riparian management area

50 (1) A person must not construct a road in a riparian management area, unless one of the following applies:

(a) locating the road outside the riparian management area would create a higher risk of sediment delivery to the stream, wetland or lake to which the riparian management area applies;

(b) there is no other practicable option for locating the road;

(c) the road is required as part of a stream crossing. (2) If a road is constructed within a riparian management area, a person must not carry out road maintenance activities beyond the clearing width of the road, except as necessary to maintain a stream crossing.

(3) A person who is authorized in respect of a road must not remove gravel or other fill from within a riparian management area in the process of constructing, maintaining or deactivating a road, unless (a) the gravel or fill is within a road prism, (b) the gravel or fill is at a stream crossing, or (c) there is no other practicable option.
Restrictions in a riparian reserve zone

51 (1) An agreement holder must not cut, modify or remove trees in a riparian reserve zone, except for the following purposes:

(a) felling or modifying a tree that is a safety hazard, if there is no other practicable option for addressing the safety hazard;
(b) topping or pruning a tree that is not wind firm;
(c) constructing a stream crossing;
(d) creating a corridor for full suspension yarding;
(e) creating guyline tiebacks;
(f) carrying out a sanitation treatment;
(g) felling or modifying a tree that has been windthrown or has been damaged by fire, insects, disease or other causes, if the felling or modifying will not have a material adverse impact on the riparian reserve zone;
(h) felling or modifying a tree under an occupant licence to cut, master licence to cut or free use permit issued in respect of an area that is subject to a licence, permit, or other form of tenure issued under the Land Act, Coal Act, Geothermal Resources Act, Mines Act, Mineral Tenure Act, Mining Right of Way Act, Ministry of Lands, Parks and Housing Act, Petroleum and Natural Gas Act or Pipeline Act, if the felling or modification is for a purpose expressly authorized under that licence, permit or tenure;
(i) felling or modifying a tree for the purpose of establishing or maintaining an interpretive forest site, recreation site, recreation facility or recreation trail.

(2) An agreement holder who fells, tops, prunes or modifies a tree under subsection (1) may remove the tree only if the removal will not have a material adverse effect on the riparian reserve zone.

(3) An agreement holder must not carry out the following silviculture treatments in a riparian reserve zone:

(a) grazing or broadcast herbicide applications for the purpose of brushing;
(b) mechanized site preparation or broadcast burning for the purpose of site preparation;
(c) spacing or thinning.

Restrictions in a riparian management zone

52 (1) A holder of a minor tenure who fells trees in a cutblock within a riparian management zone of a class described in Column 1 must ensure that (a) the percentage of the total basal area within the riparian management zone specified in Column 2 is left as standing trees, and (b) the standing trees are reasonably representative of the physical structure of the riparian management zone, as it was before harvesting:
<table>
<thead>
<tr>
<th>Column 1 Riparian Class</th>
<th>Column 2 Basal Area to be Retained Within Riparian Management Zone (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>S1-A or S1-B stream</td>
<td>≥ 20</td>
</tr>
<tr>
<td>S2 stream</td>
<td>≥ 20</td>
</tr>
<tr>
<td>S3 stream</td>
<td>≥ 20</td>
</tr>
<tr>
<td>S4 stream</td>
<td>≥ 10</td>
</tr>
<tr>
<td>S5 stream</td>
<td>≥ 10</td>
</tr>
<tr>
<td>S6 stream</td>
<td>Not applicable</td>
</tr>
<tr>
<td>All classes of wetlands or lakes</td>
<td>≥ 10</td>
</tr>
</tbody>
</table>

(2) An authorized person who cuts, modifies or removes trees in a riparian management zone for an S4, S5 or S6 stream that has trees that contribute significantly to the maintenance of stream bank or channel stability must retain enough trees adjacent to the stream to maintain the stream bank or channel stability, if the stream

(a) is a direct tributary to an S1, S2 or S3 stream,

(b) flows directly into the ocean, at a point near to or where one or more of the following is located: (i) a herring spawning area; (ii) a shellfish bed; (iii) a saltwater marsh area; (iv) an aquaculture site; (v) a juvenile salmonid rearing area or an adult salmon holding area, or

(c) flows directly into the ocean at a point near to the location of an area referred to in paragraph (b) and failure to maintain stream bank or channel stability will have a material adverse impact on that area.

**Temperature sensitive streams**

53 An authorized person who fells, modifies or removes trees in a riparian management area adjacent to a temperature sensitive stream, or a stream that is a direct tributary to a temperature sensitive stream, must retain either or both of the following in an amount sufficient to prevent the temperature of the temperature sensitive stream from increasing to an extent that would have a material adverse impact on fish: (a) streamside trees whose crowns provide shade to the stream; (b) understory vegetation that provides shade to the stream.

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Stream crossings

55 (1) An authorized person who builds a stream crossing as part of a road, a temporary access structure or permanent access structure must locate, build and use the crossing in a manner that

(a) protects the stream channel and stream bank immediately above and below the stream crossing, and

(b) mitigates disturbance to the stream channel and stream bank at the crossing.

(2) An authorized person who builds a stream crossing as part of a temporary access structure must remove the crossing when it is no longer required by the person.

Fish passage

56 (1) An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not have a material adverse effect on fish passage in a fish stream.

(2) An authorized person who maintains a fish stream crossing built after June 15, 1995, must ensure that the crossing does not have a material adverse effect on fish passage.

(3) Despite subsections (1) and (2), an authorized person may temporarily allow a material adverse effect on fish passage to construct, maintain or deactivate a road, including a stream crossing, if (a) fish are not migrating or spawning, and (b) the source of the material adverse effect is removed immediately on completion of the construction, maintenance or deactivation.

Protection of fish and fish habitat

57 An authorized person who carries out a primary forest activity must conduct the primary forest activity at a time and in a manner that is unlikely to harm fish or destroy, damage or harmfully alter fish habitat.

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