

Board Bulletin, Volume 6 - Guide to the *Forest and Range Practices Act*

This bulletin is the sixth in a series of Forest Practices Board bulletins describing new aspects of forest legislation, practices and trends, and their implications for forest stewardship. These bulletins are intended to foster discussion and to improve understanding of forest practices. This bulletin provides the general reader with an introduction to the Forest and Range Practices Act (FRPA) in a user-friendly format.

In 2004, the government of British Columbia brought in FRPA to replace the 1995 Forest Practices Code. This guide is intended as an introduction to FRPA for the general reader with an interest in forestry issues. Of course, it should not be used as a substitute for the legislation itself. The Forest Practices Board would like to acknowledge the contribution of several employees of the Ministry of Forests and Range and Ministry of Environment in reviewing and commenting on technical aspects of this guide.

Who does FRPA apply to?

FRPA applies to:

- companies and individuals who have licences under the *Forest Act*;
- managers of the BC Timber Sales Program, a government program that sells rights to harvest trees by auction;
- licence holders under the *Range Act*;
- government officials who make decisions or take enforcement action under FRPA;
- the Forest Practices Board, the Forest Appeals Commission and the Forest and Range Practices Advisory Council; and,
- in some situations, individuals; e.g. cutting trees without authorization.

What activities does FRPA apply to

FRPA sets the requirements for planning, road building, logging, reforestation, and cattle grazing. It applies on publicly owned (provincial Crown) land outside parks and other protected areas.

FRPA does not address the rate of logging in the province (the allowable annual cut). It does not apply to decisions about who gets licences, or to the price licensees must pay for timber or forage. These matters are addressed under the *Forest Act* and *Range Act*.

When does FRPA come into effect?

FRPA came into effect on January 31, 2004, but it allows forest companies to continue operating under Forest Practices Code rules until December 31, 2006, if they choose to do so.

What are forest stewardship plans?

FRPA requires licensees to prepare forest stewardship plans to show the general areas where the licensee intends to harvest trees or build roads--but not specific cutblock or road locations. An approved forest stewardship plan includes legal obligations under FRPA--such as the obligation to reforest a site after logging, as well as measures to protect the environment. Results and strategies contained in the plan must be consistent with government objectives for various forest resources. This is discussed further in the following section.

Licensees cannot proceed with their proposed activities until their forest stewardship plan is approved--usually by the local forest district manager. Private-sector forestry professionals are allowed to certify certain strategies and measures in a plan--indicating that these specific items meet the legislated approval tests. For example, a forestry professional may certify that measures, specified in the plan, to prevent the spread of invasive plants will be effective.

Proposed forest stewardship plans must be made available for public review and comment--generally at the licensee's business office. The review period is normally 60 days, but it can be shortened or lengthened by the Minister of Forests or another government official specified by the minister.

What is a government objective?

FRPA includes some broad objectives, which indicate what the government wants to achieve for some forest resources (or forest values). For example, the government objective 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."

Government has set general objectives for 11 forest resource values: soils, visual quality, timber, forage and associated plant communities, water, fish, wildlife, biodiversity, recreation resources, resource features, and cultural heritage resources.

Government may also set objectives that are more site-specific, such as objectives for designated areas of important wildlife habitat, fisheries-sensitive watersheds, and water quality in community watersheds.

FRPA allows licensees a certain amount of flexibility. They may choose to follow certain basic forest practice requirements set out in FRPA (some of these are described later in this guide). Or, for some of the basic rules, they may propose alternatives in their forest stewardship plans. Any alternatives they propose must be consistent with government objectives.

What is a site plan?

In addition to a forest stewardship plan, licensees are also required to prepare site plans for cutblocks and road construction before starting operations. Site plans must identify the approximate location of cutblocks and roads, the reforestation standards and soil disturbance limits, and how any alternatives described in the FSP apply to the site.

Site plans don't have to be approved by government and will not normally be filed in a government office. However, licensees must make site plans available to the public at the licensee's place of business.

What are some of the basic forestry rules in FRPA?

Most of FRPA's rules for logging and road-building are set out in a regulation called the *Forest Planning and Practices Regulation*. Some of the main practices requirements are described below (remember that licensees may vary some of these requirements by proposing something different in their forest stewardship plan, or through government-approved conditional exemptions).

- There are limits on the amount of soil disturbance caused by logging, including limits on the amount of permanent road that may be built at logging sites.
- Licensees must ensure that logging or road-related activities do not cause a landslide that has a "material adverse effect" on a forest resource.
- Licensees must reforest the areas they log to meet standards set out in their approved forest stewardship plan.

- Logging is generally not permitted in areas close to major streams. Even outside these areas, some trees must be left standing, except in the case of the smallest streams.
- Roads are generally not allowed close to streams, wetlands or lakes, except where a road crosses a stream on a bridge or culvert.
- Logging and road-building activities:
 - must be conducted in a way that is unlikely to harm fish or destroy, damage or harmfully alter fish habitat.
 - must not cause harmful material to get into drinking water in a licensed waterworks.
- Cutblock sizes are generally limited to 40 hectares on the coast and southern interior and 60 hectares in the northern interior, with provisions for exemptions.
- Trees must be left standing as wildlife trees on at least 3.5% of the area of each cutblock and at least 7% of the area of all cutblocks logged by the licensee each year.
- Practices must comply with general wildlife measures that protect wildlife habitat in designated “wildlife habitat areas” and “ungulate winter ranges”.
- Roads, bridges, culverts and fords must be structurally sound and safe for use by industrial users. Roads that are not being used by industrial users do not have to be maintained to the same standards.
- Unauthorized cutting, damaging or destroying trees on Crown land is prohibited.

How does FRPA address First Nations issues?

Before a forest stewardship plan can be approved, the licensee must make reasonable efforts to meet with affected First Nations groups to discuss the plan.

Although not specifically required by FRPA, the government has a constitutional obligation to consult with First Nations before making decisions that could have an impact on an aboriginal right or title. Section 77.1 of the *Forest and Range Practices Act* gives the minister a power to intervene in cases of “potential unjustifiable infringement of an aboriginal right or title.”

How does FRPA address woodlots?

Regulations for woodlots on Crown land are similar to regulations for other licences. Planning and practices are regulated by the *Woodlot Licence Planning and Practices Regulation*.

How does FRPA address range practices?

FRPA also regulates practices such as cattle grazing on Crown rangeland. The holders of range agreements must prepare either a range use plan or a range stewardship plan. Planning and practices are regulated by the *Range Planning and Practices Regulation*.

How is FRPA enforced?

Government compliance and enforcement officials (employees of the Ministry of Forests and Range and the Ministry of Environment) have authority to inspect, investigate and enforce FRPA. Some contraventions of FRPA are offences that can be prosecuted in court. As well, FRPA includes a system of administrative penalties for contraventions. This allows government officials to impose penalties, as an alternative to the courts. A tribunal known as the Forest Appeals Commission can hear appeals of administrative penalties as well as certain other matters.

What is the role of the Forest Practices Board?

The Forest Practices Board is an independent agency created under the Forest Practices Code, and continued under FRPA, to examine whether government and licensees are carrying out forest and range practices as required by FRPA, and whether government enforcement is appropriate. The Board conducts audits and special investigations, investigates public complaints, produces special reports and participates in administrative appeals. The Board works on behalf of the public and reports its findings directly to the public and to the responsible government ministers.

Where else can I get information?

Forest Practices Board website: <http://www.fpb.gov.bc.ca/>

Ministry of Forests and Range legislation website:

<http://www.for.gov.bc.ca/tasb/legsregs/comptoc.htm>

FRPA website: <http://www.for.gov.bc.ca/code>

APPENDIX: EXAMPLES OF GOVERNMENT OBJECTIVES

Resource	Government objective
Soils	Without unduly reducing the supply of timber from British Columbia's forests, to conserve the productivity and the hydrologic function of soils.
Timber	<p>(a) maintain or enhance an economically valuable supply of commercial timber from British Columbia's forests,</p> <p>(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</p> <p>(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.</p>
water, fish, wildlife and biodiversity in riparian areas	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.
wildlife and biodiversity - landscape level	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.
wildlife and biodiversity - stand level	Without unduly reducing the supply of timber from British Columbia's forests, to retain wildlife trees.
Cultural heritage resources	<p>Conserve, or, if necessary, protect cultural heritage resources that are:</p> <p>(a) the focus of a traditional use by an aboriginal people that is of continuing importance to that people, and</p> <p>(b) not regulated under the Heritage Conservation Act.</p>