

A Review of the Early Forest Stewardship Plans Under FRPA

Special Report



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Transmittal Letter



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May 1, 2006

Honourable Rich Coleman
Minister of Forests and Range
Parliament Buildings
Victoria, BC V8W 9E2

Dear Honourable Rich Coleman:

Re: Forest Practices Board Concerns with First Generation Forest Stewardship Plans

The regulatory regime initiated by the *Forest and Range Practices Act* (FRPA) has a number of key components. There are mandatory requirements, such as the prohibition against causing landslides, discretionary components such as the results and strategies to be chosen from defaults or proposed within forest stewardship plans, and a reliance on professionals to uphold principles of stewardship. Forest stewardship plans (FSP) are therefore only one part of the FRPA system. The Board believes, however, that FSPs are the principal vehicle by which publicly reviewed and enforceable commitments are made by licensees, to deliver on the government objectives for sustainable management of the forest values identified in the legislation.

The first practical test of FRPA arrives with the publication of FSPs by forest licensees. The FSP is the legal vehicle that materializes the intent of the legislation into concrete operational form, providing the first occasion for the Board to assess the activation of the new regulatory regime and to make public comment. The main concerns expressed by the Board on reviewing 15 of the early FSPs are the subject of the attached report. While the Board has found significant limitations in the first-generation forest stewardship plans, it is important to place these findings in context.

The Board's published work on forest practices is grounded in field examination of the results of licensee practices and the appropriateness of government enforcement of forest practices law. Our audit and investigation results are intensively discussed with forest licensees, government officials and the public prior to publication. The cumulative record of findings provides the Board with a long-term view of the progress of forest practices in reaching toward sustainable

management, and protection, of a wide range of timber productivity and ecosystem service values. As the Board develops this perspective, it is called upon not only to present the results of field work, but to comment on the regulatory context in which those practices are being undertaken. Where the regulatory regime appears to need occasional revision to enable or promote better practices, it is the Board's responsibility to make appropriate recommendations. Eventually, it will be the new results-based regulatory regime introduced in FRPA that will become the defining context for the field work the Board undertakes to assess outcomes on the ground.

Over the 11 years of its existence, the Forest Practices Board has conducted audits and investigations of the performance of both forest licensees and government agencies against the requirements of the Forest Practices Code. The long-term trend of Board audits shows that most licensee operations are in substantial compliance with the Code, and that government enforcement of Code provisions is being carried out diligently. While the Code imposed considerable planning and assessment burdens on both government and industry, which are now being reduced through the introduction of FRPA, there were many positive results that constitute a valuable legacy and launching platform for the new regulatory system.

In the last two years, the Board has also been conducting pilot effectiveness audits in preparation for results-based assessments that would support the FRPA model of regulation. The Board is working with licensees, agency staff and academic researchers to develop and adapt criteria and indicators of effective forest practices that can be objectively applied.

Six pilot audits have been conducted, focusing on FRPA resource values: soils, riparian (2), visuals, water quality and biodiversity. In each of these pilots, we have found that licensees are conducting practices that largely meet these prototype effectiveness measures. In other words, effectiveness assessment in the results-based world is finding the same thing as auditing in the Code world, that licensee practices are, for the most part, being thoughtfully and diligently carried out to the benefit of the resource values examined by essentially following Code-based practices. One of the significant benefits of the results orientation, however, is that post-audit discussions with licensees tend to emphasize how to improve results rather than how to counter findings of non-compliance with inflexible rules. An important observation by the Board, arising from the recent pilot audits, is that the sustainable forest management planning that certified licensees are conducting provides some of the most innovative forest management, including habitat conservation for threatened species, retention of old growth structural and biological features and creative public consultation, and that this is a source of justifiable professional pride.

In the FRPA regulatory regime, the Board will continue to conduct audits and investigations of the outcomes of practices. This is where the ultimate test of the new regime will take place—in the researched outcomes on the ground. Thus, in raising early concerns about some aspects of

the FRPA regime, the Board is 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. We regularly see thoughtful and innovative professional management, have published many positive examples and fully expect the positive trend established in the last ten years to continue. It is important for the public audience and the international marketplace to recognize that the application of a results-based model in British Columbia is a major innovation with, the potential to become a world leading system of forestry regulation.

Public concern with forest practices that continue to appear in complaints brought to the Board emphasize a number of ongoing issues—management of community watersheds, conservation of threatened species and their habitats, the balance of timber and non-timber values and the adequacy of public and First Nations consultation. More recently, the implications of climate change on forest health, water supplies and fire behaviour, along with the associated timber salvage activities are becoming more common. Much of the focus of complaints is specific to individual interests and direct forestry practice impacts, but there is also growing concern for the overall cumulative impact of the whole complex of resource activities that affect the forest estate and our stock of natural capital.

As the province moves from the Code to the FRPA regulatory environment, these same public concerns are likely to continue or grow and will need to be addressed by the evolving planning, public consultation, results monitoring and auditing processes.

The Board's course of action will examine the FRPA regulatory regime throughout its implementation stages. Constructive suggestions or formal recommendations may be made with the aim of supporting the results-based regulatory model. The general order of our work will be to:

- Comment on the Board's initial impressions of early forest stewardship plans as the vehicle for public involvement and government enforcement within the FRPA regime.
- Assess the content and usefulness of forest stewardship plans and develop constructive suggestions for improvement where, in the Board's view, they appear to be warranted.
- Audit field performance in achieving the objectives set by government for identified forest resources, in relation to the commitments made by licensees in their forest stewardship plans and subsequent site plans.
- Assess forest practices in achieving the objectives set by government using collaboratively developed, scientifically objective, criteria and indicators of effective performance.

The Board is considering how the FRPA regulations might be improved to deal with the concerns outlined in this report. A critical feature of the approach to sustainable forestry is the

concept of “adaptive management.” To the Board, this means that all participants in the forestry enterprise are engaged in learning that allows us to respond continuously to on-the-ground experience, environmental change, emerging forest science, changing public values and regulatory reform. The faster these elements change, the greater is the need for critical examination in real time. It is in this spirit of continuous improvement that the Board provides comment on the FRPA regime and the emerging forest stewardship plans while the system is still in its launch phase.

The Board is aware of the time and effort being expended to implement the FRPA regime. It is also aware of the workload implied by trying to approve upwards of 300 FSP’s in the remaining months of 2006. The following ideas are offered as refinements to the FRPA regulatory scheme, with the intention of making constructive suggestions for the evolution of a rigorous results-based system that is understood and supported by the public and amenable to effective government enforcement.

Objectives Set by Government

The FRPA results-based model relies on the clarity and measurability of the objectives set by government. The current objectives place priority on maintaining timber supply, at a time that interest is growing for a more balanced consideration of the full range of forest resource values and the economic and ecological necessity of doing so. There are many voices, for instance, that express the growing primacy of fresh water values over others in the drier areas of the province or visual values in areas of intensive tourism. At the very least, there are likely to be areas of the province in which different values might take priority for ecological, economic, community safety or aesthetic reasons and that might require an objective that is less constrained. Attention could be given by government to refining the FRPA resource value objectives to enable variation in priorities to reflect the varying circumstances of the province. This would assist government forest managers to apply their professional judgment in balancing among important, but competing, values.

Objectives could also be strengthened by including statements of the standards to be achieved and the criteria of measurement that will indicate what the government believes to be successful achievement. Consideration could also be given to consolidating the many sources of objectives into plain English stewardship statements, that would be easier for members of the public to understand and that would improve their ability to make useful comment during the review period for FSPs.

Content of Forest Stewardship Plans

The Board is interested in exploring ways in which the content of forest stewardship plans, or their supplementary materials, can be made more useful as the first generation is prepared, approved and amended. The objective would be to ensure that there is a robust, publicly

validated communication vehicle for the forest professionals of the province to explain how they intend to use the flexibility of the FRPA regime to achieve sustainable forest management in both the public and private interest

There appear to be two main alternatives for improving the rigour, transparency and usefulness of the FSPs. One way would be to increase the comprehensiveness of the content requirements and the approval tests; a second way could be to formalize the attachment of licensee sustainable forest management planning (SFMP) or other similar such statements to the legal plans. The SFMP statements could indicate the content of professional forestry considerations that are to be employed, provide a source of information about the contingencies that may well need the application of professional judgment to variances, give more comprehensible spatial and scheduling detail and provide a more thorough model of how operational level public consultations will be conducted and concerns accommodated at the site plan level.

This is not suggesting a re-introduction of the cumbersome forest development planning, amendment and approval system demanded by the Code. More illustrative material could be a means of formally conveying a more publicly transparent version of the forestry management content, that has to be created by licensees anyway for their own operational management purposes, but that is absent in the current FSPs and of limited accessibility in future site plans.

Issues such as the increasing forest health problems, reforestation responses to climate change, management of forest fuels and interface fires and the necessary collaboration with other natural resource users on the same landscape are mounting. Licensed professionals in both government and industry, who are afforded "professional reliance" status in the FRPA regime, need to have an effective vehicle for conveying to the wider public their management strategies for these more complex forestry concerns, many of which lie outside the legal content requirements of FSPs.

Consideration could be given to amending the FSP content requirements and approval tests to afford delegated decision makers a higher degree of professional capability to consider variances or place conditions on the approval of FSPs. While the inflexibility of the Forest Practices Code prescriptive environment may be usefully consigned to the past, the ability of a public resource manager to balance local considerations and fine-tune practice requirements on behalf of the public interest is as important as ever.

The flexibility afforded licensed professionals should work in both directions, with the public checks and balances commensurate with the freedoms extended to private interests through greater delegation of stewardship to forest licensees under FRPA.

Timing of Amendments

There appears to be considerable risk associated with a 5- to 10-year approval period for the first generation of forest stewardship plans. A shorter duration of approval may be prudent in order to ensure that the content and approval tests for FSPs can respond to both professional and public reception and evolve rapidly to address gaps.

If government were to address the FSPs legal content requirements directly, then this could possibly be accomplished through the amendment procedures now in place. Government may establish new or revised objectives that require FSP amendments while licensees may also propose amendments. Government could review and refine the FSP content and approval requirements over a period of years and could set a target time for this revision, say three years, and remove until then the 5- and 10-year approval windows that now apply. If government were to go the route of encouraging more comprehensive supplementary statements, then these could be adopted progressively without disrupting the current implementation schedule. In any event, this should be an orderly procedure to avoid the potential of an uncontrolled resumption of command and control mechanisms being applied as patchwork solutions to issues arising in the emerging regime.

The Board intends to work cooperatively with government, industry, the scientific community and the public in fostering the development of the results-based model of forestry regulation. A great deal of attention needs to be paid in the early stages of development while flexibility of application is possible and course corrections are obtained at lower cost. While the role of "watchdog" requires a critical eye and the occasional barking, the Board believes that the province is on the right track with the move to results-based forestry regulation.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Fraser".

Bruce Fraser, PhD
Chair

Foreword

One of the strategic priorities of the Forest Practices Board is monitoring the implementation of the new *Forest and Range Practices Act* (FRPA). The Board is very interested in the approach taken in the first forest stewardship plans prepared under the new legislation. Board staff obtained 15 of the first forest stewardship plans prepared in the province to analyze their content and assess the implications for forest practices, enforcement by government agencies, and public consultation. The plans were systematically analyzed, as discussed in this report. Some initial considerations arising from that review were assembled in a draft discussion paper that was intended to test the Board's early thoughts with other parties.

The discussion paper, or a summary of the thoughts it contained, was provided to the following parties (generally in face-to-face meetings designed to gather feedback):

- Ministry of Forests and Range Executive and the Chair of the FRPA Implementation Team
- The Ministries of Agriculture and Lands and Environment
- The Council of Forest Industries and the Coast Forest Products Association
- The professional associations for foresters, biologists, engineers and agrologists
- The Sierra Legal Defence Fund and the Western Canada Wilderness Committee
- Individual forestry and engineering professionals
- A major certification auditing firm
- Past chairs of the Forest Practices Board
- Senior forestry managers in several major forest companies
- The Member of the Opposition responsible for forestry

In addition, the Board has received copies of letters from the public on some forest stewardship plans that were undergoing public review, which clearly illustrate some of the issues identified in this report.

Comments from all parties were taken into consideration by the Board in preparing this report.

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Board Commentary

Over the past 11 years, the Forest Practices Board has been conducting independent audits and investigations of forest practices on the ground, and has reported its findings to the public. The Board has seen a steady improvement in the quality of forest practices carried out by companies and professionals operating in BC:

- streams are better protected;
- environmental impacts of logging roads are reduced;
- landslides are both fewer in number and smaller;
- there is more attention paid to wildlife habitat; and
- conventional harvest areas are smaller with more retention (beetle salvage may challenge this latter point).

Much of this improvement is attributed to the rigorous rule-based requirements of the Forest Practices Code (the Code). Many companies have also embraced independent certification, and have made great strides in establishing environmental management systems and developing sustainable forest management plans to meet the requirements for attaining certification. Based on our own field observations, the Board is comfortable that the major licensees in the province are practicing sound forest management on the ground.

Accordingly, the Board recognized industry and government concerns that the Code was too prescriptive and was stifling innovation. Based on the good Code-based performance of most operators in BC, the Board agrees that the regulatory system is ready for a move to a more results-based approach; one where licensees and professionals have discretion to decide how to carry out their activities in a manner that is not only consistent with government's objectives for important forest resources, but also sensitive to local conditions that require judgment.

The Board supports the introduction of a results-based regulatory regime and is committed to contributing to the successful implementation of that regime.

The Board also recognizes that the shift to a new regulatory regime represents a significant culture change. Instead of being told exactly how to do things, forestry professionals now must figure out what government's expectations are, and design and develop plans and practices that meet those expectations. The former "command and control" regulatory environment is no longer there. The responsibility for stewardship of public forest lands rests more with forestry professionals and licensees, and much less with the regulatory staff that used to have more direct control. These major changes will take time to understand and implement. Much as we saw a transition period of several years as people learned to operate effectively under the Forest Practices Code, it will take several years to achieve a mature level of comfort with the *Forest and Range Practices Act* (FRPA). Thus, while it is not reasonable to expect that the first forest stewardship plans (FSPs) prepared under this new regime will be perfect, it is important to

recognize that they are the main vehicle used to launch the regime and will receive considerable public scrutiny.

Adjusting to the new regime will require a process of adaptive management—we try things, review them, and adjust to make improvements. It is in this spirit of continuous improvement that the Board has reviewed 15 of the first FSPs and offers its thoughts to encourage improvement in the FSPs yet to come.

The first practical test of FRPA is the FSPs that are now being prepared. Until now, there has only been speculation about how FRPA will actually play out in practice. As these plans take concrete form, they are the first indication for the public how industry will respond to the new requirements. The main concerns arising for the Board with these first FSPs are the clarity and measurability of the commitments made and their usefulness for public comment. The latter point is particularly important because public dissatisfaction or concern with FSPs may lead to major setbacks in the credibility that the forest industry has earned through its improved practices over the past decade. Indeed, the Board is already starting to hear about public concerns with the lack of information, the lack of measurable commitments, and inability to understand these early plans.

Some of the Board's main concerns with the first 15 FSPs examined are:

- FSPs are intended to set out how licensees will meet government objectives for important resource values. However, many of the objectives from land use plans have not yet been established and some existing objectives are vague in their intent or subject to a clear timber priority. As a result, the early FSPs are often silent or ambiguous on how important forest resources are to be protected from the impacts of forest practices. As a result, the plans do not describe for the public an understandable vision of how the forest will be managed or what it will look like in the future.
- FSPs tend not to make commitments to measurable results or outcomes. Most simply propose to follow the legally required default practices while providing little innovation. This is understandable, as licensees may wish to limit their exposure to enforcement for results that are, by nature, uncertain and may not necessarily be achieved. There is no incentive for licensees to propose innovative approaches, and in fact there is a disincentive in that they will be held accountable for whatever they do propose.
- FSPs must be approved if they meet the limited content required by the legislation and that is what is happening. Plans have the required legal content and offer few further commitments. District level decision makers appear to have little influence or authority to direct how forest management should take place in their local area, as long as the legal requirements are met.
- The plans do not describe how, when, and where licensees will carry out activities, and are written in a complex legal language that makes them extremely difficult for the

public to understand. As the only plan provided for formal public review and comment, the Board finds this inappropriate. The public may be able to look at site plans prepared later on, but the FSP is the only plan on which they have the legislated right to review and provide comment. There are no guarantees that comments provided on the more detailed site plans or other background documents will be considered or addressed. Adding to this problem is the fact that many of the plans indicate a very large area within which development will occur, but provide no further details. It is extremely difficult for a member of the public to fathom how their interests might be affected by forestry activity in an undifferentiated area averaging some 3000 square kilometres in size.

- The commitments in FSPs tend to be somewhat vague and non-measurable, which could lead to problems for government enforcement officials. If it is not clear what commitment is made in the FSP, it will not be easy for government compliance and enforcement officials to determine if the commitment has been met, thus hindering their ability to enforce FSPs. While the default practice requirements in the legislation are enforceable, and most licensees are committing to follow those, they do not address all of the important forest values included in FRPA.

An issue of great concern for the Board is the fact that we know forest professionals and licensees are capable of carrying out sound forest practices. We see it in our work on the ground. That the content requirements of FSPs do not encourage licensees to make those commitments to sound forest practices, to the public that owns the forests on which they operate, does not seem appropriate. The credibility of professionals and companies is put at risk. Public perception of how well they are managing public forests is very important and the first FSPs do not foster a positive perception at all. The Board would hope that licensees and professionals currently preparing FSPs will step up to the challenge, and demonstrate to the public that they are both capable and willing to carry out sound forest practices by committing to do so in their FSPs.

In raising early concerns about FSPs, the Board is 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 regularly sees thoughtful and innovative professional management, has published many positive examples and fully expect the positive trend established in the last ten years to continue. It is important for the public audience and the international marketplace to recognize that the application of a results-based model in British Columbia is a major innovation, with the potential to become a world leading system of forestry regulation. Our comments are intended to encourage the forest stewardship plans now in development to reflect the actual quality of good practices that are taking place in the province today.

Introduction

The former planning-based regulatory regime for forest and range practices in British Columbia is being replaced by a new regime that is described as results-based. Under the new regime, only one plan requires public review and government approval—the forest stewardship plan. The Forest Practices Board examined the attributes of 15 of the earliest forest stewardship plans (FSP). This report provides the results of the Board’s assessment. The Board decided to report its findings because it is expected that these early plans will serve as the template for the 300-400 FSPs that will follow. While these are the early attempts at creating a FSP, they may well influence the content of the plans that follow. The Board decided to identify potential concerns now in the hope that these comments will be constructive and will help to influence the content of the many plans currently in development.

Background

Since early 2004, the *Forest and Range Practices Act* (FRPA) has been replacing the *Forest Practices Code of British Columbia Act* (the Code). The transition is expected to be completed by the end of 2006 (although government can extend that deadline).

FRPA sets out objectives for a range of forest values and relies on forest professionals to devise effective means to achieve those objectives in the course of planning, road building, logging and reforestation. Government anticipates that FRPA will:

- maintain high levels of protection for forest values, including watersheds and wildlife habitat;
- create efficiencies for both government and industry through streamlined planning processes;
- encourage innovation by skilled resource professionals;
- hold industry responsible for outcomes;
- involve rigorous compliance and enforcement; and
- contribute to high quality forest management and sustainable environmental values for future generations.¹

Although FRPA and its regulations took effect in 2004, activities approved under the Code continue to be governed by the Code. However, as of the end of 2006 (under current timelines), no new road or cutting permits will be issued unless the applicant has an approved FSP. Once a licensee’s FSP is approved, the licensee will operate under FRPA.

¹ See Ministry of Forests and Range website “**Forest and Range Practices Act – FRPA**” at: <http://www.for.gov.bc.ca/code>, September 2005.

The Context – The FRPA Framework

FRPA includes some mandatory practice requirements that prohibit high-risk activities such as:

- causing landslides or debris floods;
- disruption of natural surface drainage;
- delayed road revegetation where erosion may move sediment into a stream;
- failure to destroy insects that were concentrated in an area by bait;
- damage to stream banks and fish habitat; and
- blocking fish passage.

These requirements are not referred to in FSPs because licensees must comply with them.

Beyond those mandatory requirements, the FRPA regulatory scheme hinges on government objectives. Those objectives are statements of the ends to be achieved for a series of forest resources.

Government Objectives

The *Forest Planning and Practices Regulation* (FPPR) sets out three sources for objectives. They can be set out in FPPR itself, authorized or enabled by another regulation, or set out in land use plans. The objectives in the FPPR apply province-wide. Other objectives are created under the *Government Actions Regulation* (GAR). GAR allows various ministers to establish objectives for specific values such as lakeshore zones, visual quality, water quality, wildlife habitat and fisheries sensitive watersheds. These usually apply locally or regionally. Finally, land use objectives can be set by the Minister of Agriculture and Lands. They only apply to specific plan areas.

The objectives set out in the FPPR relate to a range of forest resource values:

1. soils;
2. timber;
3. species at risk and ungulates such as deer, moose and goats (winter range only), but only where government has issued a formal notice;
4. riparian values (water, fish and wildlife habitat and biodiversity);
5. fish habitat in specified fish-sensitive watersheds;
6. water in community watersheds;
7. wildlife and biodiversity at the landscape level (natural disturbance patterns);
8. wildlife and biodiversity at the local or cutblock level (wildlife trees and patches);
9. visual quality; and
10. cultural heritage resources.

If a land use objective conflicts with an objective set out in the regulation, the land use objective prevails.

In reality, the objectives continue to be a work in progress. For example, government is currently working on translating the direction provided by some land use plans into objectives that would direct forest practices under FRPA. Until that work is completed, the guidance provided to forest managers in these areas is incomplete. FSPs being prepared now need only address those objectives that have already been established. When new objectives are created, FSPs may need to be amended to show consistency with the new objectives.

Default Practice Requirements

Section 5 of FRPA requires that licensees, in their FSPs, include results to be achieved, or intended strategies to be carried out, for each government objective (whether in FPPR, GAR or declared higher level land use plans) except timber. However, for four sets of objectives, the FPPR offers default “practice requirements,” which licensees can adopt instead of setting out their own results or strategies. The default practice requirements can be summarized as follows:

1. For soils, government’s objective is to conserve soil productivity and function, but without unduly reducing timber supply. Default practice requirements are to keep soil disturbance to less than 10 percent of the area (less than 5 percent if the area has soil that is particularly likely to slide or erode). In addition, permanent roads or trails should not make up more than 7 percent of a cutblock.
2. For streams, wetlands and lakes, government’s objective is to conserve water quality, fish habitat, wildlife habitat and biological diversity at the landscape level, but without unduly reducing timber supply. Default practice requirements set specified widths and practice restrictions along streams, wetlands and lakes.
3. For wildlife and biological diversity at the landscape level, government’s objective is to design timber harvesting areas that resemble, in space and over time, patterns of natural disturbance, but without unduly reducing timber supply. The default practice requirements set limits on cutblock size and require older cutblocks to have trees a metre high before adjacent cutblocks are harvested.
4. For wildlife and biological diversity at the stand level, government’s objective is to retain wildlife trees without unduly reducing timber supply. The default practices require that licensees retain at least seven percent of cutblocks as wildlife tree patches.

There are no default practice requirements for the remaining values (species at risk and ungulate winter range; fish habitat in specified fish-sensitive watersheds; water in community watersheds; visual quality; and cultural heritage resources). Licensees must propose their own

results or strategies for those values. The regulation offers a list of suggested factors that licensees can incorporate, if they choose to do so, in designing such results or strategies.²

Use of Results or Strategies

Section 21 of FRPA requires that the holder of an FSP ensure that the plan's results are achieved or that strategies are carried out. However, there is no requirement to have both results and strategies; one or the other is enough. There is also no requirement that a result or strategy actually be effective in contributing to achieving a government objective; they must only be consistent with the objectives. Therefore, an FSP could contain only verifiable, un-measurable strategies and no expected results or outcomes at all, and it would meet the requirements of FRPA.

Public Review and Comment

FSPs are the only plans under FRPA that are required to go through public review and comment. The term "forest stewardship plan" implies that these documents are plans that will explain how the licensee will carry out its stewardship of the public forest lands covered by the plan. The Board has previously stated that effective and meaningful comment requires that the public obtain sufficient information to understand what is proposed in the way of stewardship of forest values.³

However, there is no requirement for FSPs to show the locations of proposed roads or cutblocks. Instead, a licensee must show one or more "forest development units," areas that encompass all roads and cutblocks planned for the five-year term of the FSP. There may be very little information about what is likely to occur where. Such details may be depicted on more site-specific site plans, but there is no requirement for public review and comment, nor is government approval required, for site plans.

Once an FSP is approved, forest practices can be carried out within the forest development units for the five-year term of the plan. An FSP can be amended. If government sets a new objective, FSPs may be amended to take that into account. On the other hand, an FSP can also be extended for an additional five years.

² Schedule 1 to the *Forest Planning and Practices Regulation* lists "factors" for each objective. For example, for the objective to conserve productivity of soils, applicable factors include the classification and sensitivity of the soils, the kinds of disturbance that would be detrimental and the amenity of the soil to rehabilitation.

³ Forest Practices Board, 2000. *A Review of the Forest Development Planning Process in British Columbia*. <http://www.fpb.gov.bc.ca/special/reports/fdp/index.htm>.

Evaluation of the FSPs

The Board examined 15 FSPs prepared by a broad range of licensees. These were both large and small forest companies, including a First Nations forest management company, a regional district and a community salvage company. Some involved a number of licensees; others a single licensee. Two of the FSPs were prepared by government's BC Timber Sales Program.

Comparative and consistent assessment of the FSPs was difficult. Various groups of licensees used different approaches, providing either very little or quite extensive detail. Some FSPs were for large-scale operations over vast areas, whereas others were for very small salvage openings dotted over large areas. Some had to be consistent with land use plan objectives for all or part of their areas, whereas others had no such requirements.

The Board assessed the FSPs for three attributes:

1. whether the FSPs met FRPA's content requirements;
2. the utility of the FSPs for public review and comment; and
3. whether the FSP strategies and results were measurable and enforceable, as that would affect government's ability to hold industry accountable for outcomes.

Content Requirements

Government must approve an FSP if it meets FRPA's content requirements, shows intended results or strategies and is consistent with the objectives.⁴ FRPA does not require a great deal of content for FSPs. The Board found that all of the FSPs had the necessary content:

1. All of the FSPs contained the licences to which the FSP applied, except for FSPs by BC Timber Sales for which licences need not be specified.
2. They all included a map showing one or more forest development units that encompassed the area where forest practices would be carried out.
3. They all specified strategies or results for applicable objectives.
4. They all included stocking standards for reforestation and measures related to invasive plants and natural range barriers.
5. They all showed established land designations such as ungulate winter ranges, wildlife habitat areas and scenic areas.
6. They were all signed by the person authorized or required to prepare the plan.
7. They were all for a term not exceeding five years.

⁴ FRPA Administration Bulletin #3, <http://www.for.gov.bc.ca/rco/pfit/Bulletins/Interpretive%20Guidance.pdf>.

Utility for Public Review and Comment

In a special report in 2000, the Board examined public expectations for review and comment on plans concerning forest practices.⁵ The Board recognized that flexibility is necessary given the diversity of communities, forest resources, and licensees across the province. What works well in one area may not be appropriate in another. However, the public generally needs an opportunity to access plans and provide input at several levels, from strategic through to operational, depending on their specific interests and how they are affected by forest operations.

The Board's review found that the plans are written in a legal and intricate manner that makes them difficult for the average person to understand and, therefore, particularly unsuitable for public review and comment.

FSPs do not have to show the locations of planned forestry activities. They must show one or more forest development units that encompass the outer boundaries of activity areas. The Board found that forest development units ranged widely in size. The FSP with the smallest forest development units had units that averaged 5,000 hectares (50 square kilometres, or an area of 7 by 7 kilometres). At the other extreme, two FSPs had units that were 1,000,000 hectares (10,000 square kilometres, or 100 by 100 kilometres). The average forest development unit size was 300,000 hectares, or 3,000 square kilometres—roughly the size of the Fraser Valley from Agassiz to Vancouver. Within such vast areas, there was no detail provided on where activities would occur, so the public had little information for review and comment.

Given that FSPs alone do not have to have, and appear not to have, adequate information for effective public review, it will be up to individual members of the public to make extra efforts to ensure that their interests are addressed and accommodated. More information can be found in the Board's recent Bulletin on *Forest Stewardship Plan Review: A Public Responsibility*.⁶

Measurability and Enforceability of Strategies and Results

For many of the forest resource values, licensees have a choice of adopting default practice requirements from the regulations or drafting their own strategies or results. Those default practice requirements tend to be measurable.

The Board found that licensees adopted the default practice requirements more than two-thirds of the time. Some defaults, such as restrictions on where trees can be harvested in riparian reserve zones along streams and those for soil disturbance and riparian protection zone widths, were almost always used. Other default options, such as tree retention in riparian areas, were

⁵ Forest Practices Board, 2000. A Review of the Forest Development Planning Process in British Columbia. <http://www.fpb.gov.bc.ca/special/reports/fdp/index.htm>.

⁶ Forest Practices Board, 2006. Board Bulletin, Volume 7 – Forest Stewardship Plan Review: A Public Responsibility, http://www.fpb.gov.bc.ca/bulletins/FSP_Review.pdf.

used in less than one-third of cases. In some cases, licensees adopted the defaults, but then added some strategies to allow forest practices to be carried out in areas or features that would be protected under the default practice requirements.

Where default practice requirements were not adopted, or do not exist, licensees had to provide their own results or strategies that were consistent with government objectives. Two of the FSPs set out results for each government objective, supplemented by strategies to achieve those results. Thirteen of the 15 offered a composite of “strategies and results” without distinguishing between them. Upon examination, more than three quarters of those “strategies and results” had the attributes of strategies—they described steps and practices, not measurable outcomes.

For example, several of the FSPs reviewed had a strategy for conservation of cultural heritage resources similar to the following:

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

This strategy is verifiable, in that the licensee could produce documents or records to show that it made efforts to communicate with local First Nations groups. However:

- there is no measurable element to assess the extent to which the strategy is carried out;
- there is no result or expected outcome, such as an expected success rate in communicating or a percentage of bands that provide input; and
- the strategy includes unmeasurable qualifying words, such as “reasonable efforts.”

Enforceability of strategies and results depends on government being able to hold industry responsible for outcomes. The Board assessed enforceability in two ways:

1. examining whether the licensees were holding themselves accountable by developing enforceable results and strategies; and
2. examining whether FSP commitments as a whole (adopted default practice requirements plus licensee-prepared results and strategies) were enforceable.

Looking first at the enforceability of the licensees’ results and strategies, they were considered measurable if achievement was objectively assessable, usually by a numerical indicator. They were considered unmeasurable if they included confounding qualifiers such as “if necessary” or “will move toward,” or subjective qualifiers such as “if practicable.” They were also considered unmeasurable when numerical indicators were cited, but were so broad as to be practically meaningless, such as a commitment to retain from 0 to 100 percent of the trees in a riparian management zone.

As shown in the following table, 72 percent of licensees’ results were measurable outcomes.⁷ However, licensees preferred to set out strategies rather than results; 81 percent of the “strategies and results” were strategies. Because strategies tend to set out steps or practices rather than outcomes, a low proportion (21 percent) of licensees’ strategies were measurable outcomes.

Proportion of default practice requirements, results and strategies that committed to measurable outcomes

	Total proposed, all FSPs	Number measurable	Number with measurable outcomes	Proportion with measurable outcomes
Defaults	77	77	77	100%
Results	46	41	33	72%
Strategies	193	106	40	21%
TOTAL	316	224	150	47%

Overall, 31 percent of the licensee-prepared results and strategies committed to measurable outcomes that held industry accountable for outcomes. When the default practice requirements were added, 47 percent the FSP commitments were enforceable. This is because default practice requirements from the regulation are generally enforceable.

The FSPs reveal that industry is not committing itself to enforceable or measurable results, preferring instead to commit to the default requirements of FRPA and strategies that do not include measurable outcomes. Based on our experience auditing compliance and enforcement, the Board believes that many of the commitments in these FSPs, other than the default practice requirements, will be difficult for government to enforce or to use in holding licensees accountable.

⁷ There were essentially two types of results proposed in the FSPs—one was measurable results and the other was measurable outcomes. For example, one can measure how many times a licensee inspects roads. Number of inspections is a result; however, it is not an outcome. The related outcome would be something like less than 1 culvert blockage for every 10 kilometres of road. FRPA talks about outcomes in the definition of results. Therefore, what is important to enforcement of FSP commitments would be the achievement of predicted outcomes. For enforcement purposes, the Board assumed that an outcome had to be measurable in order to assess compliance.

Conclusions

The Board supports a results-based regulatory regime. FRPA is objectives-based, not plan-based, so FRPA plans have a different function from the forest development plans of the previous regulatory framework. In addition, BC's forest management system has many influences beyond the regulated requirements for plan content. Best practices, emerging science, public land use plans, species recovery plans, professional experience and opinion, third-party certification and industry guidelines and handbooks all influence forest practices on the ground.

The Board's review indicates that the early FSPs are not particularly suitable for public review and comment. This is partly due to their sparse detail but also due to their cumbersome and qualified wording. The FSPs do not use plain language, presumably because FSP commitments are subject to enforcement and legal interpretation. FSPs have therefore been written as contract terms, producing convoluted and intricate documents that are difficult to understand. In addition, the Board found that licensees tended to avoid commitment to measurable outcomes. They chose to minimize their exposure to government enforcement by setting out verifiable, but usually unmeasurable, strategies instead. The sparse content and limited enforceability of FSPs complies with FRPA, but there may well be public concern expressed as more of these plans are presented to the public for review. Indeed, the Board is already receiving strongly expressed letters of concern from members of the public.

Limited content of FSPs does not, of course, prevent industry from practicing sound forest stewardship. Professional foresters, biologists, geoscientists, engineers and agrologists will be implementing the plans and carrying out forest practices and those professions have their own standards. For example, under the *Foresters Act*, the foresters' association and its members uphold principles of stewardship of forests, forest lands, forest resources and forest ecosystems. It may well be that the public can rely on forest professionals to carry out sound forest stewardship.

In conclusion, there is little stewardship demonstrated or committed to for the public landowners in these first FSPs, in part because no results are actually required in FRPA's results-based regulatory regime. More broadly, the FRPA approach of regulating some forest practices and leaving it to licensees and their professionals to manage the rest entails some risk. However, it may well produce sound forest stewardship. The Board will continue to monitor the results of this new approach, and will report to the public if we see any reduction of forest stewardship in practices that are occurring on the ground.