



Forest Legislation and Policy Reference Guide 2009

Chapter Six

Forest and Range Planning

Chapter Six

Forest and Range Planning

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Forest and Range Planning

6.1 Transition from the Forest Practices Code to FRPA

Generally, the calendar years 2005 through to 2007 are the transition period. Although FRPA came into force early in 2004, it was widely known that many of FRPA's regulations were still in flux. As a result, few licensees could reasonably begin implementing FRPA.

The transition period from FPC to FRPA expired on March 31st, 2007 for all agreement holders required to prepare a forest stewardship plan, and on December 31st 2007 for range and woodlot agreement holders. On those dates, all FPC-based forest development plans and range plans automatically expire. With the exception of a forest development plan for a woodlot agreement holder that had an approved term exceeding that date.

Any outstanding obligations of the tenure holder can remain as per the FPC -based rules, or those obligations may be rolled forward into the FSP using FRPA-based standards. This avoids having to administer two sets of obligations based on two sets of legislation.

Once the FSP is approved, the licensee must ensure the FRPA-based practice requirements (results and/or strategies in the FSP, as well as any measures, plus the practice requirements in regulations) are met.

FRPA's structural architecture

FRPA is one element of the statutory (i.e. Acts and regulations) framework that guides forest management. Other statutes include provincial resource statutes (e.g. *Water Act*, *Wildlife Act*), federal resource statutes (e.g. *Species at Risk Act*, *Fisheries Act*), and provincial statutes governing self-regulating professions (e.g. *Foresters Act*, *Agrologists Act*).

In addition to the statutory framework, there are other non-statutory elements of the legal framework that can impact on forest management decisions. Notable among these common law elements are professional negligence (malpractice) and civil liability.

Finally, there are a host of "non-legal" elements of the framework surrounding FRPA that also impact forest management decisions. These may be generally categorized as "scientific/technical guidance" and societal expectations. While "guidance" is likely a well-recognized concept, it may not be immediately evident why, or how society's expectations might manifest themselves. Consider market certification schemes such as the Forest Stewardship Council (FSC), or the International Standards Organization (ISO) as examples of how society's expectations can play a powerful role in managing forest resources.

For a more complete discussion of the various elements of FRPA's legal and non-legal framework, see "The Expectations that Affect the Management of Public Forest and Range Lands in BC – Looking Outside the Legislation", a discussion paper jointly commissioned by the Ministry of Forests and Range and the Ministry of Environment in 2006. This reference text is available on the MFR's Forest Practices Branch website: www.for.gov.bc.ca/hfp/legislation/index.htm

FRPA legislation is comprised of the *Forest and Range Practices Act* (FRPA) and its regulations, and defines the legal requirements for planning and practices on British Columbia's Crown lands, community forest agreements and woodlots.

The functional architecture of FRPA includes three pillars:

- **Objectives** – government will establish objectives for managing and protecting forest and range values;
- **Plan and Practice Requirements** – those conducting practices must meet requirements in both approved operational plans and in the regulations; and
- **Compliance and Enforcement** – government will inspect activities for compliance with approved operational plans and other requirements in FRPA and the regulations.

The three pillars are supported by:

- **Professional Reliance** – the judgment of resource professionals will be incorporated into the management of Crown land subject to the regulations and other requirements including provisions of the professional associations.
- **Effectiveness Evaluations** – government will conduct effectiveness evaluations to assess if desired outcomes for managing and protecting FRPA values are being achieved.

This section of the reference guide will go into more detail on the first two pillars; the objectives and the plan and practice requirements.

Compliance and enforcement, professional reliance and effectiveness evaluations are dealt with elsewhere in this publication.

6.2 Provincial Planning Overview

6.2.1 Government Objectives

Government will set FRPA-specific objectives for managing and protecting forest and range values. There are three types of objectives:

- **Land Use Objectives** – established under the *Land Act*, and the Land Use Objectives Regulation under the *Land Act*.
- **Objectives in Regulation** (see **section 149 of FRPA, secs. 5-10** of the Forest Planning and Practices Regulation (FPPR), **secs. 6-11** of the Range Planning and Practices Regulation (RPPR), and **sec. 9** in the Woodlot Licence Planning and Practices Regulation (WLPPR)); and
- **Objectives Enabled by Regulation** (see **secs. 56, 149.1-150.3, and 181 of FRPA, Sections 1-20** of Government Actions Regulation (GAR)).

Objectives apply to forest, range and woodlot agreement holders and must be addressed in the applicable operational plans.

(Note: Objectives established under the Forest Practices Code for topics now addressed by GAR have been “grandparented” or continued for use in FRPA, they are considered as a subset of “objectives enabled by regulation”.)

6.2.1.1 Land Use Objectives

Land use objectives are one of two types of Objectives Set by Government (OSBG). OSBGs include those land use objectives that:

- were established or continued as “higher level plans” (HLP) under **secs. 3-5** of *Forest Practices Code of BC Act*; and
- those established under the *Land Act*.

HLP objectives are derived from sources such as regional land use plans, LRMPs and landscape unit plans (for example the Vancouver Island Land Use Plan, or the Kamloops Land and Resource Management Plan).

Land use objectives established under the *Land Act* have one major difference compared to objectives established under FRPA. They are outside of the policy guidance on timber supply impacts established in the FRPA policy realm.

Establishment

The Minister of Agriculture and Lands (MAL) will establish land use objectives through orders under the *Land Act* and the Land Use Objectives Regulation.

Land use objectives always prevail if any conflict exists with other objectives to the extent that other objectives are inconsistent with the land use objectives.

Intent

Land use objectives enable existing and new objectives developed under regional and sub-regional planning processes to be brought forward into FRPA, thereby triggering the requirement for results or strategies in forest stewardship plans.

Changing objectives

New or modified land use objectives are established by MAL. New objectives generally require mandatory plan amendments within two (2) years but can specify a shorter period.

6.2.1.2 Objectives in Regulation

Objectives in regulation are the second of two types of Objectives Set by Government (OSBG). These are “**section 149** objectives” (i.e. the subject areas for such objectives are listed in **section 149** of FRPA) and are set out directly in regulation. They apply province-wide, and are the most general type of objectives.

Establishment

These objectives are set out in the FPPR, RPPR and WLPPR regulations. The suite of government objectives is slightly different in each of these regulations. FPPR contains objectives in regulation for soils; timber; wildlife; water, fish, wildlife and biodiversity in riparian areas; wildlife and biodiversity; fish habitat in fisheries sensitive watersheds, water in community watersheds, visual quality objective and cultural heritage resources.

Objectives in regulation must be consistent with any land use objective, otherwise, to the extent of any conflict, the land use objective prevails.

Intent

Objectives in regulation are intended to provide goalposts for managing and protecting FRPA values, and to provide a provincial-scale baseline suite of objectives.

Results and strategies in operational plans must address and be consistent with these objectives. In addition, forest stewardship plans must specify results and strategies for other objectives such as land use objectives and objectives enabled by regulation (for example, objectives for ungulate winter range, wildlife habitat areas, and visual quality).

In the case of woodlot licence plans, range use plans and range stewardship plans, the plans themselves must be consistent with the objectives in regulation.

Changing objectives

New or modified objectives in regulation are established through the legislative drafting and amendment process, and approved by Cabinet. New objectives generally require mandatory amendments to previously approved FSPs within two years.

6.2.1.3 Objectives Enabled by Regulation

The third type of government objectives are the objectives enabled under the Government Actions Regulation. These are established by the appropriate Minister, or their delegate, for a specified area. These are the most specific of all objectives. These objectives are not stated in the regulations, but the legislation gives authority to ministers (or delegate) to establish them for various types of areas.

Establishment

The appropriate minister (as authorized in the legislation) may designate areas, establish objectives for these areas, and establish other things, such as measures or features. Depending on the resource value, various ministers are responsible for designating an area and setting objectives within the area.

The following ministers can designate areas and establish objectives enabled by regulation:

- **Minister of Agriculture and Land** – may:
 - designate scenic areas; and
 - designate community watersheds;
- **Minister of Environment** – may:
 - establish water quality objectives in community watersheds;
 - designate areas and establish objectives for fisheries sensitive watersheds;
 - designate wildlife habitat areas (WHA) and establish objectives for these areas;
 - designate ungulate winter range (UWR) and establish objectives for these areas;
 - establish categories of “species at risk” for species that are endangered, threatened or vulnerable;

- establish categories of “regionally important species” where species are important to a region of BC and may be adversely impacted by forest or range practices;
 - establish categories of “specified ungulate species” for which an ungulate winter range is required for winter survival of the species;
 - establish general wildlife measures (GWM) for specified areas and categories of “species at risk”, “regionally important species” and “specified ungulate species”; and
 - identify categories of wildlife habitat features to protect certain bird nests, significant mineral licks and other localized habitat features.
- **Minister of Forests and Range** – may:
 - designate and establish objectives for interpretive forest sites, recreation sites and recreation trails ; (subsequently delegated to the Minister of Tourism, Sport and the Arts);
 - establish resource features;
 - designate and establish objectives for lakeshore management zones; and
 - establish visual quality objectives for scenic areas.

Note: although the regulation indicated the Minister of MAL must designate an area as a scenic area before MFR can establish visual quality objectives, MAL has subsequently delegated this authority to the Minister of Forests and Range.

Objectives enabled by regulation must be consistent with established objectives.

When establishing these objectives, the appropriate Minister or delegate must consider the impact of the proposed objective on the provincial timber supply and must weigh the public benefit against any negative impacts to licensee’s cost or harvest opportunities, cumulative impact on rights granted to timber, woodlot or range agreement holders.

Existing objectives established under the Forest Practices Code have been grandparented to FRPA as objectives enabled by regulation.

Intent

These objectives guide effective forest management, for specific resource values, at the local level.

Changing objectives

Designations and objectives can be established, varied or cancelled by the appropriate minister. The Ministers can delegate these authorities. Existing operational plans must be amended to address the new objective, if applicable to the area under the plan. The amendment must generally be done within two years, although a shorter period can be specified for wildlife habitat area objectives.

6.2.1.4 Hierarchy of Objectives

Government must explicitly consider the:

- interactions among the established objectives; and
- legal requirements for “consistency” between objectives, and across different geographic scales and legislation.

In the event of inconsistency, there is a hierarchy of objectives. This hierarchy is intended to help clarify how the various objectives apply to the land under an operational plan.

6.2.1.5 Objectives Matrix

How do I know what objectives apply in my area?

Because of the complexity of objectives that already exist in BC, the ministries responsible for FRPA identified a need to examine the hierarchy of objectives that apply in planning areas and provide information to licensees. The result was a series of Objectives Matrices, one for each management unit (TSA or TFL), listing the various objectives and their hierarchy. This matrix will be used by:

- planners – the Ministry will use this tool to communicate the objectives each licensee must address in their plan; and
- agencies – in setting new objectives.

6.2.1.6 Establishing Objectives Enabled by Regulation

Objectives Enabled by Regulation come into effect through government actions outlined in **sections 2 to 4** of GAR. In establishing these objectives, the appropriate minister must:

- identify the location of the objective and the date the objective takes effect;
- file the objective at the closest MFR regional office; and
- place a notice on the relevant ministry’s website and in the Gazette.

6.2.2 Plan and Practice Requirements

The second pillar in the FRPA functional architecture consists of the plan and practice requirements for which licensees are responsible:

- **operational plans** – results and strategies in operational plans must be consistent with government objectives; and
- **practice requirements** – in the Act and regulations. Practice requirements apply to those who conduct forest and range practices under agreements issued under the *Forest Act* or *Range Act*. This includes those exempt from preparing an operational plan. Practice requirements are found in the regulations.

Operational Plans

There are four operational plans under FRPA:

- **forest stewardship plans** (FSP) for forest agreement holders;
- **woodlot licence plans** (WLP) for woodlot agreement holders;
- **range use plans** (RUP) for grazing or hay cutting by range agreement holders; and
- **range stewardship plans** (RSP) for range agreement holders.

More information on operational plans for woodlot and range agreement holders is available on the FRPA training website.

6.2.2.1 Practice Requirements

Practice requirements in FRPA and the Forest Planning and Practices Regulation (FPPR) include:

- **default practice requirements in the FPPR** – sometimes referred to as “default results and strategies” (**section 12 to 12.5** of FPPR) are deemed to be consistent with relevant government objectives. May be followed in lieu of alternative results and/or strategies;
- **other practice requirements in the FPPR** – to be met when conducting practices “on the ground”, but do not need to be references in operational plans; and
- **measures in the FPPR** – must be specified in forest stewardship plans, and are to be complied with when conducting practices.

Requirements in the FPPR

The practice requirements in FPPR (“default practice requirements”) are deemed to be consistent with objectives in regulation (objectives under **section 149** of FRPA). “Defaults” are provided for some of the objectives in regulation.

These requirements, listed in **section 12 to 12.5** of the FPPR, address higher-risk objectives or those objectives with complex management issues. Licensees can address these risks and issues through selecting the “default practice requirement”.

Examples of requirements in the FPPR that act as “default results and strategies” include:

- seven percent limit on permanent access structures (PAS);
- widths of riparian areas and limits on activities within riparian areas; and
- five percent limit on soil disturbance during harvesting on sensitive soils, otherwise ten percent.

Plan preparers can either specify the “defaults”, or they can propose alternative results and strategies in their plan. These results and strategies must be consistent with government objectives and be approved by government. For all other objectives without “defaults” in the FPPR, the licensee must propose results or strategies in their FSP. These results and strategies must also be consistent with government objectives and be approved by government. Once a result or strategy is approved, it becomes the licensee’s obligation to meet or follow, as the case may be.

Practice Requirements in the FPPR

Practice requirements are defined in the regulations. These practice requirements must be met when conducting practices, including those done by persons exempted from the requirement to prepare a plan.

Examples of practice requirements in the Forest Planning and Practices Regulation include:

- activities not having a material adverse effect on fish passage in fish streams;
- restricting use of fertilizer in community watersheds;
- complying with a general wildlife measure;
- activities not damaging or rendering resource features ineffective; and
- activities not causing a landslide that impacts the FRPA values.

The FPPR contains provisions for the Ministers of Forests and Range and Environment, or their delegates, to grant exemptions to some practice requirements if it is not practicable to comply. Similar flexibility is provided in the RPPR and WLPPR.

Measures in the FPPR

Measures are similar to practice requirements in that they must be complied with when applicable to the area under a plan.

The measures in the FPPR are to mitigate the removal of natural range barriers, and to prevent forest practices from introducing or spreading invasive plants.

6.2.3 Apply the Knowledge

1. What types of considerations about your results and strategies do you think about to ensure your plan content is "consistent" with government objectives? What does that "consistency test" consist of?
2. You are preparing an FSP, and intend to "certify" some of the content that is eligible for certification. Does this extra "certification" step lead you to develop the plan differently in any way? If so, in what ways, and why?

6.3 Strategic Land and Resource Planning

6.3.1 Policy Objective

The *Forest and Range Practices Act* (FRPA) recognizes a forest planning framework comprised of both strategic planning as well as requirements for operational planning. This section takes a closer look at strategic land and resource planning and the establishment of legal land use objectives under the *Land Act*, which is the responsibility of the Ministry of Agriculture and Lands (MAL) and the Integrated Land Management Bureau (ILMB).

6.3.2 Current Policy

6.3.2.1 Strategic Land and Resource Planning Framework

Strategic land and resource planning is a process for determining how public Crown lands can be used. The planning process enables land use decisions to be made over large regions, sub-regions or watershed-level areas of the province. Strategic land and resource plans (SLRPs) provide a blueprint for sustainable resource management in that they help ensure resource management decisions take into account the needs of communities, the economy and the environment to benefit both present and future generations. The planning process goes through various stages: consultation, planning, decision making, implementation, monitoring and amendment. Through the planning process, needs are identified, land use zones are defined, objectives are set, and strategies for managing resources in those zones are developed.

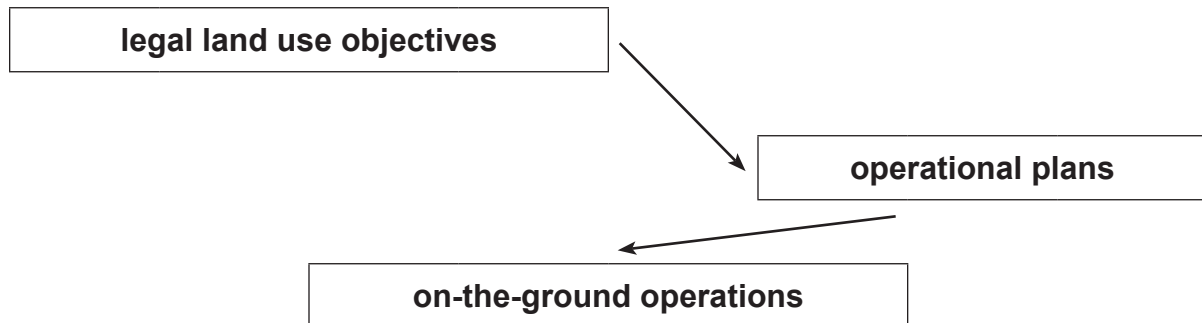
A majority of the SLRPs throughout the province have direct linkages to FRPA implementation and the forest industry in BC. SLRPs can provide broad legal objectives pertaining to land and resource use that forest licensees and other stakeholders are required to adhere to. Other planning processes such as the identification of spatial Old Growth Management Areas (OGMAs), Wildlife Tree Retention (WTR) areas, and the establishment of legal objectives under the *Land Act* are also linked to the strategic land and resource planning process. The procedure for plan development has been relatively consistent across BC, but the plans themselves are unique as each is tailored to the local communities and environmental conditions within each respective plan area.

Under new ILMB policy, any new plans will require a business case analysis to determine if a new plan is warranted or required. In the past, the primary types of SLRPs have been Regional Land Use Plans (RLUPs) and Land and Resource Management Plans (LRMPs) at the regional level (several million hectares), and Sustainable Resource Management Plans (SRMPs), including coastal plans, at the landscape or local level (up to several hundred thousand hectares in area). Operational plans, which are site-specific, ground-level plans focusing on single resources (e.g., Forest Stewardship Plans), must all be consistent with SLRPs. SRMPs have been an important tool for translating existing broad SLRPs (i.e. RLUPs and LRMPs) into more specific and tangible resource management direction that may be needed for operational planning or to support day-to-day resource management decisions.

6.3.2.2 Land Use Objectives

The legal framework of operational plans under the *Forest and Range Practices Act* requires that they must be consistent with legal land use objectives (Figure 1).

Figure 1: *Forest and Range Practices Act* Planning System



- Legal land use objectives established by MAL and ILMB provide land use direction to operational plans;
- Operational plans must specify results and strategies that are consistent with legal land use objectives and strategic land and resource planning processes; and
- On the ground operations must achieve the specified results and ensure that the strategies are carried out.

The *Land Amendment Act*, 2003 (Bill 46) amended the *Land Act* to add several new sections including **section 93.4** which enables the Minister of Agriculture and Lands (or delegate) to establish legal objectives for the purposes of implementing FRPA. Formerly objectives were established using the *Forest Practices Code of British Columbia Act* (FPC). **Section 93.4** of the *Land Act* replaces the authority of the Minister of Agriculture and Lands under **sections 3 and 4** of the *FPC Act*, as well as **section 5** of the *FPC Act* (sensitive areas). Objectives established under **sections 3 through 5** of the *FPC Act* are known as “Higher Level Plan” objectives. Grandparenting provisions assure that all Higher Level Plan objectives continue to apply as land use objectives under FRPA.

The Land Use Objectives Regulation (LUOR) became effective on February 1, 2006. Using this provision, MAL or ILMB is able to determine if any objective in a SLRP should be legally established for the purposes of FRPA. An LUOR objective becomes legally binding through a written order approved and signed by the Minister (or delegate) of MAL. A land use objective applies to a specified area of provincial Crown land that can be very large (e.g., 500,000 hectares) or very small (e.g., less than 100 hectares). FRPA establishes a legal link between LUOR objectives under the *Land Act* and operational planning required under FRPA. All operational plans must specify results and strategies that are consistent with land use objectives that are in effect at least four months before an operational plan is submitted for approval.

Prior to a land use objective being established it must be made available for public review and comment. This is in addition to the consultation that occurs with the various stakeholders at the strategic planning table during the development of a strategic plan. First Nations interests also need to be reflected in the establishment of legal objectives. These interests are formally expressed through government-to-government relationships established through discussions between

the two bodies with “standing” that results in a contractual agreement between governments regarding accommodation of rights and title. Once a land use objective has been established a notice of establishment of an objective will be published in the Gazette and on the MAL/ILMB web site.

In June of 2004 the BC government established a legal land use objective for the purposes of implementing FRPA, known as the Provincial Non-Spatial Old Growth Order. This is a unique land use objective as it applies provincially to any forested areas where there are no spatially defined old growth management areas. A non-spatial old growth objective indicates the amount of old forest that must be retained for various ecological zones, but unlike an OGMA established by government, it relies on the development interest (i.e. a licensee) to plan how old growth forest is to be conserved in the area. This land use objective ensures that there are legally binding old growth objectives in place across the province where they had not already been established.

6.3.2.3 Other Government Objectives

The *Forest and Range Practices Act* recognizes three types of government objectives:

- Land use objectives under the Land Act (established by MAL or ILMB under Order and stemming from strategic land and resource planning processes);
- Objectives in FRPA regulation (established by the LGenC (Cabinet) and stemming from legislative change to better reflect changing public values); and
- Objectives enabled by FRPA regulation (established by MFR or MoE through a technical process).

In addition, section 56 of FRPA directly empowers the Ministry of Tourism, Culture and the Arts to establish objectives for recreation sites, recreation trails, and interpretive forest sites. Unless exempted, operational plans (i.e. FSPs) must be consistent with all types of government objectives by specifying measurable and/or verifiable results and strategies. Strategic land and resource planning can be a forum for discussing where these areas should be established and the appropriate objectives that should apply. Objectives enabled in regulation can also be established where there is no guidance from strategic planning, for example, where the values to be protected are more site specific or localized relative to the broader area covered by strategic plans. In the case of inconsistencies between objectives, land use objectives prevail.

Not all forestry related direction that is included in a SLRP will become legally established for the purposes of FRPA. Non-legal direction can be, and is often, voluntarily considered by forest or woodlot licensees as they prepare operational plans. Licensees are part of the development of SLRPs so it makes sense that they would consider non-legal strategic planning outcomes/objectives as part of their operational planning processes. Thus, as professionals it is important to consider both the legal and non-legal direction deriving from SLRP processes when developing FSPs and other forestry planning activities.

6.3.3 Looking Ahead

ILMB has recently undergone a business shift to devote more resources to developing strategic engagement agreements through collaborative decision-making with First Nations. This shift is designed to achieve a more focused and streamlined approach to working with First Nations as

part of the Province's commitments made in the New Relationship. As a result of this business shift, agency resources are allocated to new projects where First Nations are a key component while continuing to resource the completion of legacy LRMPs and other existing land use planning projects. Strategic land and resource planning is also expected to be an important tool in working with First Nations towards strategic agreements. However, in this new planning environment, a business case analysis will be required before any new planning processes or major plan amendments will be considered by ILMB and MAL.

In summary, the amended *Land Act* replaces the *Forest Practices Code (FPC)* as the legislative tool for setting land use objectives that must be considered in operational plans. ILMB is placing a greater emphasis on First Nations values when developing legal objectives under the LUOR. Part of the new framework, including linkages with strategic land and resource planning, is the recognition of the need for continuous improvement. Government continues to monitor and review the implementation of legal and non-legal SLRP objectives and address those that pose a significant risk to public values and resources.

6.3.4 References

- ILMB Strategic Land and Resource Planning: ilmbwww.gov.bc.ca/slrp/index.html
- *Forest and Range Practices Act*: www.for.gov.bc.ca/code/
- FRPA Training: www.for.gov.bc.ca/code/training/frpa/
- *Land Act*: www.qp.gov.bc.ca/statreg/stat/L/96245_01.htm
- Provincial Non-Spatial Old Growth Order:
ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/oldgrowth/
- Land Use Objectives Regulation: www.qp.gov.bc.ca/statreg/reg/L/Land/357_2005.htm
- List of *Land Act* enabled legal objectives:
www.ilmb.gov.bc.ca/slrp/legalobjectives/pdf/Table_of_Legal_Objectives_20090506.pdf

6.3.5 Apply the Knowledge

1. ABCFP members have a duty to consider public input for land use and management practices developed through strategic planning processes and other forums. How would you describe this duty?

As a forest professional, describe the resources you would need and actions you would take to clarify the public interest when making social, environmental and economic choices affecting operations in your work area. Discuss whether or not these sources provide an adequate foundation (basis) for operational planning.

2. Describe how the Land Use Objectives Regulation can be used to reflect the direction provided in government approved strategic land and resource plans. Where the Ministry of Forests and Range is tasked with many elements of management of the provincial forest under sec. 4 of the *Ministry of Forests Act*, what elements of public interest would ILMB then consider in evaluating a business case for strategic land use planning?

6.4 FRPA Operational Planning Framework

The FRPA planning framework for forestry operations contains the following plans:

- **Forest Stewardship Plan (FSP)** - the primary operational plan under FRPA that most licensees and BC Timber Sales (BCTS) Managers must prepare and submit to government for approval. FSPs contain results and strategies consistent with government objectives, measures, stocking standards and identify large areas (Forest Development Units (FDUs)) within which harvesting and road activity may be undertaken; and
- **Site Plan** - that holders of a FSP must prepare before harvesting or road building. Site plans describe standards units for soil disturbance and stocking standards, and show how the results and strategies in approved FSPs apply to the site. Site plans are expected to be prepared by resource professionals, but are not approved by government.

Permits for harvesting and road building rights (cutting permits and road permits) will continue to be issued under the *Forest Act*.

6.4.0.1 Major Changes in Planning

There are major changes in planning under FRPA including:

- government establishes the objectives that must be addressed in operational plans. FPC had some objectives in the higher level plans that were grandparented into FRPA and so must also be addressed in operational plans;
- licensees will focus on proposing results and/or strategies that are consistent with government objectives. Where requirements (“default practice requirements”) are provided in the FPPR, licensees may choose to conform to these. Alternatively, licensees may choose to prepare their own alternate results and/or strategies. This option provides licensees with more freedom to manage, compared to the FPC, in deciding how to prepare plans and deliver results;
- under a FSP, results and strategies with higher risk may entail a greater level of detail to demonstrate consistency with government objectives. Site specific details will be provided later - for example in the site plan; and
- the approval tests for FSPs are:
 - meeting content requirements,
 - consistency with government objectives, and
 - consistency with timber harvesting rights.

6.4.1 Forest Stewardship Plan

Forest stewardship plans (FSPs) link government objectives to practices on the ground through results and strategies. FSPs must contain results and/or strategies for government objectives that apply to their plan area. If the licensee wants to act other than as provided in specified “defaults”, the licensee may include alternative results and/or strategies for the related government objectives in the FSP.

All results and strategies in an approved FSP will be subject to inspection, investigation and enforcement by C & E.

The FSP represents a dramatic departure from past forest planning:

- it is the only operational plan for large forestry operations that must be submitted for Ministry approval. (Other operational plans such as woodlot licence plans, range use plans and range stewardship plans also require government approval);
- the FSP defines:
 - forest development units (FDU) - general areas where harvesting and road building may occur, and
 - the outcomes of activities in FDUs as results, strategies, measures and stocking standards;
- harvesting or road activity cannot start until a FSP is approved by Government; and
- the FSP has a term of up to five (5) years but may be extended for an additional five years if consistent with government objectives then in effect.

Note: In the case of operation plans for woodlots, the woodlot licence holder never proposes an alternative to the “default results and strategies” in the regulation. Instead, the holder is limited to proposing an alternative limit (e.g., 8% instead of 7%).

6.4.1.1 Planning units under FRPA and FPPR

Each planning unit that exist under the FRPA and FPPR is explained below:

Forest Stewardship Plans

- There are no defined requirements in FRPA for the size of the area under a FSP.
- An FSP can cross MFR administrative boundaries and apply to multiple districts, for example to match a licensee’s divisional structure.
- Licensees have an opportunity to optimize their planning efforts by selecting an area for their FSP with the flexibility and efficiencies to manage their woodlands operations.
- Licensees can work with other licensees and prepare a multi-licence FSP. This could be advantageous in reducing the planning effort. For example, a licensee needing poplar in a stand could work with another licensee who can use the softwood.

Forest Development Units

- Forest Development Units are areas identified in a FSP to indicate where harvesting and road building may occur during the term of the plan. There is no requirement in FRPA for number or size of FDUs within a FSP.
- FDUs can be at the landscape or cutblock level or based on the type of agreement.
- FDUs can be new or existing, including those with existing cutting and road permits.
- Licensees have the opportunity to identify FDUs based on how they want to manage the area within their FSP.

Declared Areas

- Declared areas continue the concept of Category A blocks from the FPC world. Licensees may identify an area as a declared area when all activities and evaluations have been conducted where needed to locate the approximate boundaries of a cutblock or road having regard to the resources on site, results, strategies, and practice requirements.
- Licensees will receive protection for planning purposes from new legislation and objectives that may be established once the area is declared. This designation enables licensees to have an approved inventory of cutblocks to choose from before applying for their cutting permit(s). This approach makes FRPA more market sensitive by allowing licensees to make choices based on their business needs. This planning protection is different from FDUs that will need to be amended if a new objective or legislation comes into force.

Site Plans / Standards Units

- Licensees identify Standards Units (SU) in the Site Plan. SUs are reported on the first annual report for regeneration delay when a map is submitted to government indicating the SU. Site plans are typically at the stand level and cover stocking standards, site degradation, etc. The number of SUs in a site plan is a planning decision on how to manage the area within the site plan.

Cutting Permit / Road Permit

- A licensee submits an application for a cutting or road permit which grants the right to harvest timber or construct a road. These permits are issued under the *Forest Act*.
- Once a cutting permit or road permit is issued, and the forest stewardship plan is approved, the harvesting or road building may proceed.

6.4.1.2 Legal Requirements for FSPs

Prepare a FSP

A holder of the following agreements or licences under the *Forest Act* must prepare and obtain the Minister's approval of a Forest Stewardship Plan before harvesting or constructing a road:

- major licence;
- timber sale licence that requires the holder to prepare a FSP;
- community forest agreement;
- community salvage licence; or
- pulpwood agreement.

A BC Timber Sales Manager must prepare and obtain the Minister's approval of a FSP before:

- inviting applications or entering into a timber sale licence;
- granting road permits; or
- constructing an access road to areas to be harvested.

Content Requirements

The FSP must meet the content requirements outlined in the Act and regulations. The plan must:

- **contain a map** - showing boundaries of all Forest Development Units (FDUs) at a scale and format satisfactory to the Minister (or delegate);
- **contain results and strategies** - for every government objective applicable to the plan area. The exception is the timber objective; FPPR provides an automatic exemption for having to prepare results or strategies for this objective.

Results and strategies:

- must meet the definition included in the regulation (e.g., measurable or verifiable),
 - must be consistent with government objectives, and
 - are not required in those cases where the person chooses to conform with the related provisions (e.g., comply with “defaults” in the FPPR);
- **be consistent** - with government objectives and timber harvesting rights; and
 - **be signed** - by person required to prepare plan, typically the tenure holder.

The *Foresters Act* defines planning of harvesting, silviculture and rehabilitation of forests as within the practice of professional forestry. Other professional statutes define the practices of professional biologists, agrologists, engineers and geoscientists. Professional association bylaws mandate the signing and sealing of work performed by a registered professional. These requirements are outside of the scope of the *Forest and Range Practices Act*.

The FPPR contains other content requirements for the FSP. The FSP must:

- **identify stocking standards** - and regeneration and free growing dates for the Net Area to be Reforested (NAR). More information on stocking standards is contained in the silviculture section of this guide;
- **contain measures** - to prevent the introduction or spread of invasive plants and mitigate the effect of removing or rendering ineffective natural range barriers; and

- **identify FDUs** - including any designations contained within the FDU that are in effect four months before the plan is submitted for approval. The designations are defined in regulation and include:
 - approved FDUs, cutting and road permits previously issued and declared areas, and
 - other designated areas applicable to the FDU such as parks, wildlife habitat areas, ungulate winter range, community watersheds and old growth management areas, where timber harvesting is either prohibited or restricted.

Preparing Results & Strategies

Unless the requirements in the FPPR (“defaults”) are selected, the FSP must contain a result or strategy consistent with each of government’s objectives that apply to the plan area. An objective can be addressed by a result, a strategy or both a result and a strategy. A result or strategy can address more than one objective. To be able to demonstrate due diligence, professionals developing the plan and its results and strategies would likely conduct or supervise the necessary evaluations or other field work. As part of this due diligence process, the professional should consider the use of information in the non-statutory framework such as guidelines, science and information and opinions from a range of qualified resource professionals.

Factors

A factor is anything a licensee considers in developing a result or strategy. When developing results and strategies, licensees can use factors listed in the FPPR Schedule and/or other factors relevant to the area and its resources.

Advertise Plan

It is the licensee’s responsibility to advertise the FSP before it is sent to the Minister for approval. The licensee must publish a notice in the newspaper stating the plan is available for review including:

- details on where the plan can be reviewed;
- the address that the public can submit written comments to; and
- the time frame of the review period - unless otherwise specified this must be 60 days from the date of the publication. The review period may vary:
 - 10 days if timber is dead or at risk from disease or insects and must be harvested expeditiously,
 - longer than 60 days if deemed necessary for adequate review and comment, or
 - shorter than 60 days if the period provides adequate opportunity for review and comment.

The review period can be waived if the Minister believes an emergency exists. In such a case, the licensee must publish a notice including the following details:

- that the forest stewardship plan has been approved without having been made available for review and comment; and
- the date on which the operations are authorized to begin.

Plan Available for Comments

The licensee who publishes the notice for a review period must:

- provide a copy of FSP to appropriate government agencies if required by the Minister;
- subject to the review period criteria listed above, provide to anyone interested in the plan an opportunity to review the plan at the licensee's place of business, during normal business hours;
- subject to the review period criteria listed above, provide an opportunity to review the plan in a manner that is commensurate with the nature and extent to which a person's rights or interests may be affected by the plan; and
- make reasonable efforts to meet and discuss the FSP with First Nations groups who are affected by the plan.

Consider Comments

A licensee who publishes notice must consider any written comments that are both received during the review period and are relevant to the plan or its amendment:

- from agencies the licensee forwarded copies to as directed by the Minister; and
- from persons who reviewed the plan.

A licensee who submits an FSP to the Minister for approval, must also submit a:

- copy of the published notice;
- copy of written comments received;
- description of changes made as result of comments received; and
- description of efforts made to gather comments from First Nations.

Responsibility for Approving the Plan

The Minister is responsible for making the determination as to whether or not to approve the FSP. The Minister can delegate the determination on approval of a plan to a Delegated Decision Maker (DDM). The Minister may also provide binding directions to the delegate on how the delegated authority is to be exercised. FSP approval has been delegated to the local Ministry of Forests and Range district manager.

Approval Tests

Before conducting the approval tests, the Minister must be satisfied the FSP process requirements, such as those for review and comment, have been met.

The Minister, or DDM, must approve a FSP if it meets the following three tests:

1. The plan meets the content requirements of the Act and regulations.
2. Results and strategies are consistent with government objectives.
3. The plan is consistent with the timber harvesting rights granted by the government.

Based on the results of these tests, the Minister must approve the plan or reject it with a written rationale.

On the request of the licensee, the Minister may balance the objectives, results, strategies or other plan content when making a determination whether or not to approve a plan.

The approval of stocking standards is covered in the silviculture section of this Guide.

Certification of plan content by professionals:

One element of plan approval is the consideration, by the DDM, of any parts of the plan that have been “certified” by one or more resource professionals. This certification indicates that the professional has turned their mind to one or more specified content elements of the plan (as listed below), the legal requirements for that element, and approval tests for that element, and that the approval criteria have been met.

This “certification” does NOT allow the professional to approve the elements. Rather the certification allows the DDM to accept those elements at “face value” without having to necessarily review those elements in detail. Certified elements will still be reviewed in the context of the “plan as a whole” by the DDM.

The following registered professionals can certify specified plan elements:

- Professional foresters;
- Professional agrologists;
- Professional biologists;
- Professional engineers; and
- Professional geoscientists.

Professional statutes obligate registered members to practice only where qualified by education, training and experience. FRPA does not limit the elements that may be certified by any particular professional.

FSP content elements that may be certified include:

- Results and/or strategies for visual quality objectives;
- FSP maps;
- Measures for invasive plants and natural range barriers; and
- The free growing height component of stocking standards.

Consistency Test

The "consistency test" assesses if the results and strategies are consistent with government objectives, and whether the result/strategy is measurable/verifiable and adequately describes the situations or circumstances where in the FDU it will be applied. This is a new test under FRPA. This test is only conducted on results and strategies proposed in the FSP. Requirements in the FPPR (“default results and strategies) that are selected for the plan are not subject to the consistency test.

In conducting the consistency test, the Minister, or DDM, may consider any information submitted by the licensee in assessing if the result or strategy is consistent with government objectives. This includes considering:

- factors used by licensee in developing the result or strategy - these factors are not approved but used as information to demonstrate and assess consistency;
- expert professional opinions to support the result or strategy; and
- other information provided by the licensee.

The Minister, or DDM, cannot find a result or strategy inconsistent with government objectives based solely on:

- producing a condition outside the range of natural variations in season, area or resource;
- the result or strategy causing an adverse impact on a forest resource if the impact is consistent with the objective;
- the result or strategy being innovative in addressing the objective, or
- the licensee using factors other than those specified in the Schedule.

Request Information

The Minister, or DDM, may request information in order to determine whether or not to approve the plan - including information on the results and strategies proposed in the plan.

If the person required to prepare the plan addressed all the factors in the FPPR Schedule, the Minister must not require other factors to be considered. The Minister can only request information if it is relevant to the factors used and available to the licensee. If factors other than those in the Schedule are used, the Minister can ask for information, but only on the factors actually used by the person required to prepare the plan.

Automatic Approvals

The following parts of a FSP are automatically approved:

- cutting / road permits and declared areas that are in effect; and
- the parts of the plan that are parts of a previously-approved FSP, except in certain circumstances. In the event that any of the following occur:
 - a new enactment applies to the FDU,
 - an objective set by government that has been established or varied applies to the FDU,
 - another objective set by regulation applies to the FDU,
 - a community watershed that has been designated or varied on the area under the FDU, or
 - timber in the vicinity of the FDU that has suffered catastrophic damage,

during the defined FSP preparation window and the minister considers that the FDU is inconsistent with the above events, the deemed approval does not apply and the plan must be amended.

Cumulative Effect of Multiple FSPs

The Minister, or DDM, can establish targets and proportion them amongst the agreement holders in situations where there are multiple forest stewardship plans within an area and:

- one or more agreement holders may be unduly constrained in specifying results or strategies unless targets are established;
- the agreement holders are unable to reach agreement;
- an agreement holder requests the Minister to establish targets; and
- the Minister is satisfied that a fair and effective order can be made.

Amendments

There are two main types of amendments – those that require approval and those that do not require approval:

- an amendment does not require approval if the plan continues to meet content requirements and the intended results or strategies in the plan are not materially changed. A copy of the amendment must be provided to DM. An example of an amendment not requiring approval is for the identification of declared areas; and
- amendments requiring approval include:
 - adding a new FDU to a FSP,
 - materially changing an existing FDU in a FSP,
 - amending an alternative to a provision in the FPPR (e.g., result or strategy) specified in the plan,
 - changes to a results or strategy that is not achieved and measures specified in the remedial order have not been carried out,
 - changes to the regeneration date, free growing date, free growing height or stocking standards that apply to an area, and
 - amendment required as per the mandatory amendment provision in **sec. 8(1)** of FRPA.

Amendments are subject to the same review and comment provisions as the FSP and must be submitted to the Minister, or DDM, for approval.

Mandatory Amendments

Plans must be amended within two years, or less as specified, if a new enactment, a new objective set by government (OSBG) affects the area of the FSP or a new objective for water quality, a wildlife habitat area or a fisheries sensitive watershed is ordered under the Government Actions Regulation (GAR). The plan may need to be amended immediately for a Wildlife Habitat Area (WHA) or a Land Use Objective under the *Land Act* when proposed amendments come into force. The Minister may exempt the mandatory amendment from the review and comment provisions. If not, mandatory amendments are subject to the same review and comment provisions as the FSP. This does not apply to areas covered by cutting permits, road permits, advertised TSLs, declared areas or areas to which FRPA sec. 196 (1) applies.

FSP Exemptions

Licensees are exempt from having to prepare a FSP when harvesting to:

- eliminate a safety hazard;
- facilitate collection of seed;
- remove felled trees from road areas;
- harvest less than 500 m³ of damaged timber; or
- harvest less than 50 m³ outside of a FDU that is a necessary incidental to harvesting, road activity or silviculture treatments.

6.4.1.3 Additional Information on FSPs

Tools and Information

Prior to starting development of the FSP, licensees may want to meet with other agencies in order to:

- gather objectives for plan area;
- collect related information for consideration including guidelines available and an assessment or assignment of risk amongst the 11 FRPA values in the plan area;
- set expectations with Minister, or DDM, for information required to support results or strategies proposed in the FSP;
- discuss any forest health requirements; and
- set submission schedules for FSP to balance workloads for approving plans.

The following tools and information are available to assist in developing the FSP:

- **FRPA and regulations** - containing legal requirements;
- **Objectives Matrix** - containing objectives applicable to the plan area. The Minister or DDM may use this to communicate to the licensee that objectives are in place for the plan area. This matrix is designed to address potential conflicts between objectives and identify values at high risk in an area;
- **Delegation Matrix** - identifying who has authority to approve plans;
- **Guidelines** - local knowledge, science, commonly accepted practices and other non-legal advice that may be available to assist licensees prepare their plan;
- **Administrative Guide for Forest Stewardship Plans (AGFSP)** - guide to aid in the preparation and approval of FSPs;
- **Agency personnel** - in MFR district, regional and branch offices and other agencies with scientific or technical knowledge who can support the licensees and the Minister, or DDM, in preparing/approving results and strategies; and
- **Sustainable resource management plans** - containing scientific or technical information for the local area.

6.4.2 Site Plan

Note: An over-riding point that must be borne in mind as you read this section is: you must consider your personal obligation to due diligence when using site plans prepared under the forest practices code that relate to activities that you are continuing to carry out under frpa.

On December 17, 2002, streamlining amendments to the *Forest Practices Code of British Columbia Act* and regulations came into effect. The requirement for silviculture prescriptions was repealed at that time. Existing silviculture prescriptions remain in effect unless replaced by a site plan.

Silviculture Prescriptions (SPs) are not required under the *Forest and Range Practices Act* (FRPA). In place of SPs, Site Plans are required under FRPA (where required under FPC transition). The site plan is the link to a set of approved stocking standards within a Forest Stewardship Plan (or Forest Development Plan) applicable to the area. Site plans are not reviewed or approved by government.

The Site Plan identifies how the intended results or strategies apply to the site (**FRPA section 10**). The site plan also identifies the stocking standards and soil disturbance limits applicable to the site (**FPPR section 34**). The holder of a site plan must retain the plan until the holder has met (or been relieved of) the obligations under the plan. A site plan can apply to one or more cutblocks or roads.

The legislation also requires that a Site Plan contain a map. The map must identify the approximate location of cutblocks and roads.

The intent of Site Plans is to reduce the number of plans requiring approval before operations can begin. This eliminates the need for time-consuming review by government, and improves overall efficiencies by eliminating a cycle of submission and amendments. The government relies on qualified professionals to produce quality site plans and accompanying documentation for harvesting operations. The licensee must keep site plans on file and the Minister may review site plans upon request (**FRPA section 11**).

There are not any requirements in FRPA for public review and comment of site plans but site plans must be publicly available upon request. It is the site plan holder's responsibility to make the plan available at any reasonable time at the location of the holder's place of business nearest the site. (**FRPA section 11**)

Site Plan Content (FRPA sec 10 and FPPR sec 34)

The site plan must:

- identify the approximate location of roads or cut blocks;
- be consistent with the FSP, FRPA and regulations;
- identify how the intended results and strategies in the approved FSP apply to the site; and
- identify the standards units in the net area to be reforested and the corresponding stocking standards and soil disturbance limits.

A site plan may apply to one or more cutblocks and roads.

Site Plan Exemption (FPPR sec 33)

The Forest Planning and Practices Regulation allows the Minister of Forests and Range to exempt a plan holder from preparing a site plan if:

- eliminating a safety hazard;
- harvesting openings less than 1 ha to collect tree seed;
- harvesting less than 50 m³, and;
- harvesting timber to improve visibility of a road or increasing the number or size of pullouts; and
- the cutblock is within a Forest Health Emergency Management Area.

See the FRPA Training Site for more information and presentations on Site Plans.

Term of Silviculture Prescriptions / Site Plans (under FPC transition)

Silviculture prescriptions (and site plans) prepared before FRPA (and the amendments to the FPC) will remain in effect for the extent of their term unless otherwise specified in the Forest Stewardship Plan (FSP). The *Forest Practices Code Act* and Regulations in effect apply to existing silviculture prescriptions and site plans (harvested under FPC transition). **Section 197 (4) of FRPA** allows existing SPs and site plans to be rolled into a Forest Stewardship Plan (if specified in the FSP). If rolled into a FSP the standards applicable under the FSP apply to the area harvested under FPC legislation.

Minor Amendments to Silviculture Prescriptions (under FPC transition)

Existing silviculture prescriptions that are still in effect can have minor amendments without requiring DM approval. An amendment is considered minor if it meets one of two tests:

- amendment conforms with the *Forest Practices Code of British Columbia Act*, regulations and standards and does not affect the likelihood of achieving the objectives/results; or
- the amendment meets prescribed requirements.

Section 7.1 of the OSPR contains the complete list of minor amendments that can be made to a Silviculture Prescription without DM approval.

Section 7.2 of the OSPR authorizes enforcement action if the DM determines an amendment is not minor and should have been submitted for approval.

Section 7.3 of the OSPR prevents minor amendments being made without approval for the following (for both FDPs and silviculture prescriptions).

Site Plan Content (under FPC transition)

Section 36.2 of the OSPR lists the content requirements of a site plan. A Site Plan may apply to more than one cutblock. However, the commencement date for the entire area under the Site Plan is initiated with the first harvesting in any cutblock.

Site plans (FPC transition) must be consistent with the Forest Development Plan (FDP) and conform to the FPC Act, regulations, and standards. Previously, standards for soil disturbance, extent of permanent access structures and wildlife tree retention were prescribed in silviculture prescriptions and then approved by the DM. The Site Plan identifies the approved standards that apply to the area under the plan.

Other than for emergency harvesting, a person preparing a Site Plan must carry out the following assessments as per **section 36.1 of the OSPR**:

- **Visual Impact Assessment (VIA)** - if in known scenic area with established visual quality objectives. VIA not required for minor or expedited salvage unless required by District Manager;
- **Coast Gully Assessment** - on coastal operations;
- **Pest Incident Survey** - if required by District Manager; and
- **Archaeological Impact Assessment** - if the District Manager is satisfied that the assessment is necessary to adequately manage and conserve archaeological sites in the area.

6.4.2.1 References

- FRPA
 - *Forest and Range Practices Act*: www.for.gov.bc.ca/tasb/legsregs/frpa/frpa/frpatoc.htm
 - Forest Planning and Practices Regulation:
www.for.gov.bc.ca/tasb/legsregs/frpa/frparegs/forplanprac/fppr.htm
- FPC Transition
 - Timber Harvesting and Silviculture Practices Regulation:
www.for.gov.bc.ca/tasb/legsregs/archive/fpc/fpcaregs/thspr/thspr.htm
 - Operational and Site Planning Regulation
www.for.gov.bc.ca/tasb/legsregs/archive/fpc/fpcaregs/oplanreg/opr.htm

6.4.2.2 Apply the Knowledge

1. Are site plans voluntary?

No, site plans are not voluntary. They are required under section 10 *Forest and Range Practices Act* and section 21.1 of the *Forest Practices Code of BC Act*.

2. Can a site plan be amended without district manager approval?

3. Does a site plan require signing and sealing by a professional forester?

4. Does an amendment to a site plan require signing and sealing by a professional forester?

6.4.3 Range Use Plan

Refer to Chapter 7.17

6.4.4 Range Stewardship Plan

Refer to Chapter 7.17

6.4.5 Woodlot Plan

Refer to Chapter 4.5.3.6

6.4.6 Private Managed Forest Land Planning

The private managed forest land legislation is results-based, placing an obligation on owners to carry out forest operations in accordance with the Council regulations. Private managed forest land owners may carry out strategic and operational level planning for their property. For example, the larger owners use forest simulation models to project short and longer term harvest levels. However there is no statutory requirement in the *Private Managed Forest Land Act* for an owner to submit any plans to the Private Managed Forest Land Council. The Council does not approve operational plans or issue permits. Owners prepare plans directly for their own use and are not subject to public review and comment.

If an owner considers that a variance to a regulatory requirement is justified, it must apply to Council for an exemption before operations commence. Authority of exemptions is in **section 4** of the Private Managed Forest Land Council Regulation. The Council may grant an exemption from a regulatory requirement in situations where:

- it is in the interest of public safety; and
- it is not inconsistent with either the public interest or the forest management objectives defined in the *Private Managed Forest Land Act*.

Owners are bound by the planning requirements of the *Water Act* and the federal *Fisheries Act*. When crossings or in-stream works are planned, a notification and application under **section 9** of the *Water Act* must be submitted to the Ministry of Environment. The federal Department of Fisheries and Oceans must be consulted when operations that may directly or indirectly affect an anadromous fish stream are being proposed. For example upgrading a stream crossing or repairing an existing road section within riparian area.

6.4.6.1 References

- Private Managed Forest Land Council: www.pmflc.ca/legislation.html

6.5 Results-based Forest Practices Code Pilots

Since the Forest Practices Code was introduced in 1995, forest companies have generally met and in some cases exceeded the code standards. However, a number of the Code's administrative processes were found to be needlessly complex and costly. Many of these processes have now been significantly streamlined.

As the Code legislation has evolved the focus has shifted to achievement of quantifiable auditable target results, rather than on how those results were achieved.

Increasing levels of accountability rest with licensees, registered professional foresters and other resource professionals.

Part 10.1 of the *Forest Practices Code of British Columbia Act* – Pilot Projects to Improve the Regulatory Framework – allows government and industry to test various models of implementing a more results-based code of forest practices.

6.5.1 Purpose of Legislation

The pilot project legislation is designed to explore new ways to regulate and enforce BC forest practices to create efficiency and save costs for both industry and government. Forest management standards are to be maintained or enhanced, and the public will be invited to participate.

Enabling legislation was introduced in the legislature in June 1999, and was revised December 17, 2002 along with other Bill 75 amendments.

6.5.2 Current Legislation

The legislation allows testing of different ways to regulate forest practices requires that protection of forest resources be at least equivalent to that provided in the Forest Practices Code. Pilot projects must also be consistent with the code's preamble, which defines sustainable use of forests and requires the balancing of the many values of forests while meeting the economic, social and cultural needs of peoples and communities, including First Nations.

The legislation allows the ministers of forests and range, environment and energy and mines and petroleum resources to establish a local public advisory committee to review and report on the acceptability to the public of a proposed pilot project.

There are opportunities for the public to comment, and proponents must submit responses and actions to government addressing the public comments. The public will have access to most pilot project records and the role of the Forest Practices Board is maintained. A limit of ten per cent of all allowable cuts (or animal unit months in the case of a range pilot) per forest region has been set. This will also prevent pilots from being concentrated in one region.

Code pilot projects can only be approved in areas where measurable resource management goals to guide operational activities have been established, either in higher level plans or in other processes designed to balance competing interests and values.

Pilot projects will be assessed annually, and any proposed changes will be introduced as soon as new management techniques are tested and meet the legal requirements. Legislative changes may be needed for any changes to the code on a wider basis.

The pilot project team will ensure First Nations' interests are considered during the regulation and project development process. The Ministry of Forests and Range will continue to consult with First Nations and ensure the team fulfils its legal duty to prevent infringement on aboriginal rights and title.

The legislation requires an annual report by the code pilot project proponent(s) be made to the Ministers, and the Ministers make the report publicly available. This adds accountability to government and licensees for the pilot projects.

6.5.3 Pilot Project Regulations

6.5.3.1 Stillwater Pilot Project Regulation

The Stillwater Pilot Project Regulation was deposited in April 2001. This regulation in turn enables the licensee to implement and test a pilot project on Block 1 of Tree Farm Licence 39 near Powell River.

The Stillwater pilot project simplifies the FPCode planning process by shifting the management focus from administration to on-the-ground performance. At the core of the proposal is the forest stewardship plan, which has five primary objectives:

- Encourage early and on-going public participation in the planning process;
- Focus on landscape-level planning;
- Maintain or improve current environmental protection;
- Provide flexibility to adapt to market fluctuations; and
- Shift the forest management focus from office approvals to field results.

The major elements of the Stillwater Pilot Project Regulation are:

- Balancing competing values and interests. Because the pilot area is not yet subject to a higher level plan, the regulation must provide for balancing of competing values and interests. In combination with the previously-identified protected areas, the regulation provides this balance by establishing resource value goals, which are reflected in four stewardship zones and resource management objectives for each zone. The forest stewardship plan must be consistent with the zones and objectives;
- The forest stewardship plan, which also contains resource management strategies and measurable targets. This plan is subject to public and government review, and is approved by government;
- Cutting permits, which are also subject to government review and approval;
- Operational planning map, for information only, prepared by an RPF, licensee must implement;
- Current forest practices standards are largely maintained;

- Increased levels of public participation, mainly through a Community Advisory Group;
- Pilot project documents are freely available;
- Monitoring and evaluation of practices and process, including third-party audits;
- Continuation of existing compliance and enforcement regime; and
- Map of the forest stewardship zones.

6.5.3.2 Fort St. John Pilot Project Regulation

The Fort St. John Pilot Project Regulation was deposited in November 2001. This regulation enables Canadian Forest Products, Louisiana-Pacific Forest Products, Slocan Forest Products (now Canadian Forest Products Ltd.) and the Ministry of Forests and Range's BCTS to cooperatively employ new and innovative ways to manage forest practices, without compromising environmental values, in the Fort St. John timber supply area.

The five stated objectives of this pilot project are to:

- Incorporate landscape level planning into forestry plans using the Fort St. John Land and Resource Management Plan as its guide;
- Combine individual forest development plans into one consolidated submission;
- Eliminate the need for approval of site level plans;
- Establish a process for ongoing public involvement in forestry planning; and
- Test certification processes as a means to maintain or improve environmental performance.

The Fort St. John pilot includes the following key elements:

- The participants will establish a sustainable forest management plan for joint approval by the Ministry of Forests and Range regional executive director and the Ministry of Environment regional director;
- The participants will prepare the sustainable forest management plan with the guidance of a local public advisory group, First Nations, and a scientific/technical advisory committee;
- During the transition until the sustainable forest management plan is prepared, licensee's forest development plans may be consolidated into a single forest development plan;
- After a sustainable forest management plan has been approved, the participants are expected to submit a forest operations schedule to identify the areas where timber harvesting and road construction are proposed;
- The forest operations schedule is subject to public review and comment;
- The district manager will not formally approve the schedule, but may withhold the authorization of specific operations;
- Elimination of agency approval of site level operational plans and road plans; and
- Incorporation of local stakeholder values in forestry plans by ensuring consistency of sustainable forest management plans with approved Fort St. John Land and Resource Management Plan resource management zone objectives.

Looking Ahead – Fort St. John Code Pilot:

The Ministry of Forests and Range initiated a review of the Fort St. John Pilot Project in 2008. This reviewed continued in 2009. In point of fact this is the first "comprehensive" evaluation of the Pilot Project and is being carried out under the authority of Section 53 - Evaluation of the pilot project by government - of the Fort St. John Pilot Project Regulation.

A draft report of summarizing the findings of this review has been jointly prepared by staff from the Ministries of Forests and Range and Environment and the Pilot Project Participants.

Next steps include finalizing this report later in 2009 to enable its use by Executive Decision-Makers as a component of the information base that they will use to determine the future direction that will be taken respecting the Fort St. John Pilot Project.

Section 53 - Evaluation of the pilot project by government - of the Fort St. John Pilot Project "Regulation.

6.5.3.3 TFL 49 Pilot Project Regulation

Since late 1999, the licensee has been developing a Code pilot project for TFL 49, in the Kelowna - West Bank area.

The TFL 49 Pilot Project Regulation was deposited in June 2004. This regulation enables the licensee to use new and innovative ways to manage forest practices, without compromising environmental values within the non-BC Timber Sales Program portion of TFL 49.

As required by the legislation at the time Riverside carried out a formal public advertising and review process regarding the pilot project regulation. In addition, government directed the licensee to hold separate meetings and discussions with the BC Environmental Network. The company also established a separate task group comprised of regional staff from the resource ministries. The licensee has gathered and considered comments from these processes as well as undertaking extensive First Nations consultation. In February 200, the proposed pilot project regulation was reviewed by an inter-ministry assistant deputy minister's committee and approved for drafting.

The key objectives of the TFL 49 Pilot Project are to:

- Create and implement a cost efficient ecologically-based forest resource management system that pursues environmental sustainability, community stability and economic security;
- Field test a workable results-based regulatory framework that shifts the administrative effort from managing process to managing for results;
- Wherever possible, decrease administrative and regulatory costs to the forest industry and resource ministries; and,
- Transfer forest resource management accountability from resource ministries to the forest company's management and professionals.

The key features of the TFL 49 Pilot Project are:

- Through the ecological stewardship model, the licensee will take on more responsibility and accountability for resource management decisions of the TFL;

- An ecological stewardship plan which is enabled by the pilot project regulation is the vehicle for delivering on the intent of the regulation. It will propose clear, measurable targets for environmental, social and economic values; and
- This initiative represents an important vehicle for testing new approaches to forestry.

6.5.4 Looking Ahead

As the trend toward consolidation of the forest industry in British Columbia continues consideration must be given to the possibility that licensees will ask government for the opportunity to relinquish code pilots and replace them with forest stewardship plans under FRPA.

This is a distinct possibility because it conforms to the goal of fully evolving from the FPC into FRPA. As, and if this evolution occurs, licensees will be required to meet tests to ensure the standards to which they were held in the code pilot projects are transferred to their commitments under FRPA's forest stewardship plans.

6.5.5 The Current Reality

The current reality of the Code Pilots as it relates to the Stillwater Pilot Project and the TFL 49 Pilot Project Regulation as of June 30, 2009 is that what was identified in the Looking Ahead section of the 2009 edition of the ABCFP 2009 Reference Guide is the new reality. Specifically:

1. Stillwater Pilot Project licensee has taken advantage of the provisions of FRPA that enable moving from the "Code Pilot" regime to management under provisions of the FRPA forest stewardship plan (FSP). Specifically, the Stillwater Pilot Project Regulation has been amended to transition management of the pilot project area from the provisions of the Stillwater Pilot Project Regulation to management under the provisions of a larger FRPA FSP that includes the pilot project area. Over time, as harvesting of the cutting permits that were established under the regulation is completed, the area that remains to be managed under the regulation (rather than the FRPA FSP) will be reduced to nothing, and area that was formerly covered by the regulation will be managed under the FRPA FSP.
2. TFL 49 Pilot Project Regulation licensee has exercised provisions of the regulation that enable an application for its repeal. Accordingly, the TFL 49 Pilot Project Regulation is now repealed.
3. The Fort St. John Pilot Project is currently continuing, and at the same time, the Government is conducting a "comprehensive" evaluation under Section 53 of the Fort St. John Pilot Project Regulation.

6.5.6 References

Further information on the results-based pilot initiative, the Stillwater, Fort St. John and TFL 49 pilot projects (repeal of the regulation), and the other pilot proposals can be found on the Pilot Project web site: www.for.gov.bc.ca/hfp/rbpilot/

6.5.7 Apply the Knowledge

1. What elements of the current legislative requirements of the Code would you propose to streamline under this pilot program? Why?
2. What “competing values and interests” would you expect to be addressed in a regulation made under *FPC Act*, section 221.1?
3. How would those “competing values and interests” be balanced in such a regulation?
4. What are the benefits to government of the pilot program? To the forest industry? To the public?
5. Is there provision for creating a Pilot Project under the *Forest and Range Practices Act* (FRPA) If so do you think a proponent would choose to do it under the FPC Act or under FRPA? What would the reasons be for making that choice?
6. Given that one of the three Code Pilot projects has been repealed (TFL 49), another has been significantly amended with the intention to transition out of the pilot and fully into a forest stewardship plan under FRPA over time (Stillwater), and at the same time while the Fort St. John Pilot Project currently remains as a functioning Code Pilot project the government and the Fort St. John Pilot Project "Participants" (as is indicated in Looking Ahead above) are conducting a "comprehensive evaluation" of it. The question then becomes do you/or do you not think that the pilot project concept is still viable and should continue? Why?/Why not?

6.6 Public Consultation for Operational Planning

6.6.1 Policy Objective

The *Forest and Range Practices Act* provides the public with the opportunity to review and comment on forest stewardship plans (FSPs), woodlot licence plans (WLPs), or amendments to either of them. The same opportunities are available for the public to review and comment on range use plans, range stewardship plans, or amendments to either of them.

6.6.2 Current Policy

Note: ON MARCH 31, 2007 FDPs for all licences (except for Woodlot Licences) EXPIRED. FDPs associated with Woodlot Licences (except for about 100 Woodlot Licences) EXPIRED ON DECEMBER 31, 2007.

Delivery of public involvement for all licences, except Woodlot Licences (except for the approximately 100 Woodlot Licences noted above) is now achieved exclusively through the provisions of stewardship plans under FRPA. For those approximately 100 woodlot licences noted above the rules for public consultation are still the same as they were under the Forest Practices Code (see Section 6.6.3 below).

6.6.3 Referral, review and comment provisions for operational plans

Note: Section 6.6.3 relates, during 2008, to only those approximately 100 Woodlot Licences noted above.

For these approximately 100 Woodlot Licences the provisions for referral, review and comment for operational plans are specified in the Operational and Site Planning Regulation.

Notification of plans available for review and comment

A notice must be published in the newspaper that circulates in, or nearest to, the area of each FDP and each range use plan when these plans (or major amendments to them) are made available for review and comment. Notices are not required for minor amendments or emergency harvesting (see below). These notices typically state:

- the individual, company or forest district that is proposing the plan;
- the geographic area covered by the plan;
- the types of information presented in the plan;
- the dates and times of any scheduled opportunities to view the plan;
- where else the plan may be viewed;
- who to contact to arrange to view the plan at other times or places;
- the extent of the review and comment period;
- who to send written comments to; and
- other relevant information, as specified by the district manager.

In some forest districts, FDPs are available for review and comment at the same time each year, often late winter/early spring. However in other districts, the forest development planning process occurs year-round.

Forest companies may maintain mailing lists of persons or groups who have expressed an interest in reviewing specific plans. Such mailing lists may be used to advise on the availability of operational plans for review and comment. Notices of plan availability in addition to the local paper may be posted in public places, on the web, radio, and other local sites.

Plan viewings

Plan proponents must provide an opportunity to review forest development plans, but may do so in a variety of ways. A copy of the proposed plan may often be viewed at locations such as libraries, forest company offices or BC Forest Service offices and corporate websites. Where there is sufficient community interest, the proponent may hold one or more “open house” sessions. Open houses are usually held at locations and times convenient to the public and may include evening and/or weekend sessions. Range use plans are normally available for viewing at the BC Forest Service district offices during regular office hours.

The operational plan in question will be available in its entirety, usually accompanied by supporting documentation and other reference material. The people who prepared the plan should be in attendance to explain the preparation process, contents of the plan and answer questions.

Other information available during review of operational plans

Assessments may be required to be completed as part of the planning process. While the assessments themselves are not part of the plan, they contain detailed information on specific forest resources in the plan area. All assessments completed before a particular plan is reviewed must be made available as part of the review of the proposed plan.

Assessments that may be required in forest development planning and made available for review are:

- forest health;
- watershed;
- riparian assessment for community watersheds; and
- terrain stability field assessment for community watersheds or areas where the likelihood of landslides is high; see description following.

Higher level plans applicable to the area under an operational plan are typically available for review with operational plans. Other reference material such as regional plans, photographs and maps is often available as background information.

Referrals

The district manager may require the person who prepared the plan to provide copies to a specific resource agency. This “referral” usually occurs in conjunction with the public review and comment period.

The district manager may also require referral of plans to specific persons or groups that the district manager feels may be “materially affected” by the proposed plan. For example, a trapper or local outdoor recreation group that uses trails in the area. “Materially affected” is a judgment call that varies on a case-by-case basis and cannot be pre-defined. Referral copies are provided free of charge.

The plan proponent may also voluntarily make copies of the plans available, although there may be a charge for this service. Due to the size and complexity of FDPs, they are usually too costly to produce for mass distribution. Those wishing to review a proposed plan should contact the person responsible for preparing the plan and arrange a viewing at a mutually convenient time.

Review and comment period

The review and comment period for forest development plans is 60 days from the date of the first newspaper notice. The review period for expedited major salvage is at least 10 days. The advertisement for the plan usually states the deadline by which comments must be received. Comments received after the deadline may not be considered during plan finalization, as licensees are not legally required to consider late comments.

For range use plans, the review and comment period is at least 60 days; although the district manager may reduce the period to no less than 30 days if they determine a shorter period will provide adequate opportunity for review and comment by those who may be interested in or affected by the plan.

Types of comments

There are not any restrictions on the comments that can be made on a proposed plan. However, there are some limitations on what comments must be considered by the plan proponent when the plan is being finalized. For forest development plans, the only comments that must be considered are those that relate to:

- cutblocks proposed for approval (termed “proposed category A” cutblocks);
- road construction, modification or deactivation activities proposed for approval; or
- only those previously-approved category A cutblocks where assessments have been completed since the previous forest development plan was approved.

Forest development plan comments may address technical aspects of the “proposed category A” cutblocks or proposed road activities, or the impact those proposed forest practices may have on other resources, resource uses or specific stakeholders. These proposals should be the focus of agency and public review and comment, as only those comments on proposed cutblocks and roads are required to be addressed in the final plan submission. The statutory decision maker approving the plan must then consider the comments and the proponent’s responses prior to making a determination.

The plan proponent may include in the plan other cutblocks and roads, identified as “category I”, that are not being submitted for approval. These elements are only shown to give those reviewing the plan an indication of where future harvesting development is being considered. Comments received on category I cutblocks or roads may identify issues that the person preparing the plan might address prior to including the cutblocks or roads in a subsequent forest development plan; however, review comments on category I blocks and roads are not required to be considered or addressed in the current forest development plan submission.

Dealing with comments

For forest development plans and range use plans, the person who prepared the plan must consider all written comments received during the review period, and based on those comments, must make any revision to the proposed plan that they consider appropriate.

When the forest development plan is submitted by the proponent for approval by the district manager, it must contain a:

- copy of the notices that were published in the newspaper advising the plan was available for review and comment;
- copy of each written comment received by the end of the review period; and
- summary of all revisions made to the proposed forest development plan as a result of consideration of the written comments.

Review and comment provisions for proposed amendments to forest development plans and range use plans

Unless the amendment is a “minor” amendment or an “emergency” amendment, the provisions for notification, referral, review and comment are generally the same for amendments as for a proposed operational plan.

To be considered as a minor amendment, the proposed change must meet the requirements of the *Forest Practices Code* and the regulations, must adequately manage and conserve the forest resources, and must not materially change the objectives or results of the plan.

To be considered an emergency amendment, the timber proposed for harvest must be in imminent danger of being damaged, significantly reduced in value, lost or destroyed.

There is not a requirement for notification, review or comment for minor or emergency amendments.

Review and comment provisions for “expedited major salvage” and “minor salvage”

Expedited major salvage is defined as harvesting salvageable materials or carrying out sanitation treatments where the volume to be harvested is greater than 2,000 cubic metres per opening, and where the operations must be expedited to prevent the spread of insects or to harvest timber that is deteriorating in quality and value. This type of harvest usually requires an amendment to an existing forest development plan. Generally, all the requirements of a forest development plan are also required for expedited major salvage, except that the review period must be at least 10 days, instead of the usual 60 days.

Minor salvage is defined as the harvest of:

- timber that is dead, infested with pests, or damaged;
- timber that must be harvested to facilitate removal of the dead, infected or damaged timber;
- timber that is required as part of a sanitation treatment; or
- special forest products, such as poles, posts, pilings, shakes, shingle bolts, or Christmas trees.

“Minor salvage” cannot exceed 2,000 cubic metres per opening, except for the harvest of special forest products, which has no upper limit.

At the discretion of the district manager, minor salvage may require either a minor amendment (with no public notification or review period), or a standard amendment, which requires notification and a 60 day review period.

Review and comment provisions for “emergency” harvesting

In certain emergency conditions (for example, if the timber is to be salvaged due to risk of being damaged, reduced in value, lost or destroyed), the district manager may waive the review and comment provisions for an amendment to a forest development plan entirely. If so, the person preparing the plan must publish a notice in the newspaper stating that the plan has been approved without review and comment, the reasons why, and the date operations will commence. The earliest commencement date for operations is five days from the date of publication.

On-going process

Public consultation should be an ongoing process. In addition to the required 60-day review period of the completed plan, it is important for sound forest development planning that consultation take place at the front end of the planning process. Forest resource planners should become well acquainted with the interested public in their area of operations, and solicit their input regularly.

6.6.4 The Current Situation

Note: section 6.6.4 is currently applicable to all licences except for the approximately 100 woodlot licences that are noted at the beginning of section 6.6.2 (Current policy; a major change).

Under the *Forest and Range Practices Act*, the forest stewardship plan (FSP) replaces the forest development plan as the primary planning document. The review and comment requirements of the forest stewardship plan are similar to the FDP requirements.

Forest Stewardship Plan Review and Comment Provisions: Providing Notice

The licence holder who is responsible for the FSP must:

- provide public notice by publishing a notice in a newspaper that provides the public with information on where and when the plan can be reviewed, and the period of time during which the plan can be reviewed and comments can be made (normally sixty days);
 - if any of the timber covered by the plan is infested with pests or otherwise damaged then the period for review and comment is either reduced to ten days, or if there is a reasonable belief that it is an emergency then the review and comment period can be waived,
 - the period of time can also exceed sixty days if it is determined that sixty days will not provide an adequate opportunity for public review and comment;
- publish a notice in a newspaper stating that the FSP has been approved without a period for public review and comment because it was determined that it was an emergency. This notice must also include the date on which operations have been authorized to begin

Review and Comment

The licence holder who is responsible for the FSP must:

- if required by the minister, refer a copy of the FSP to any government agency, any agency of the Government of Canada, or a person specified by the minister (e.g., including, but not limited to, local governments, ranchers, guide outfitters, tourism operators);
- provide the public with the opportunity for review and comment; and
- make a reasonable effort to meet with affected First Nations groups.

Responding to Review and Comment

The licence holder who is responsible for the FSP must:

- consider written comments that are received;
- submit along with the FSP copies of the notice published in the newspaper, copies of comments received, a description of any changes that were made to the plan as a result of comments received; and
- submit a description of the efforts made to meet with and seek comments from affected First Nations groups.

Range Stewardship Plan Review and Comment Provisions

The licence holder who is responsible for the RSP must:

- make the range stewardship plan available for review and comment.

The minister may waive the review and comment requirement if:

- the plan or amendment to the plan is subject to a temporary grazing permit or temporary hay cutting permit; and,
- the minister determines that the range stewardship plan or amendment meets the requirements of the Act, and its regulations and standards.

6.6.5 References

- *Forest Practices Code of British Columbia Act*:
www.for.gov.bc.ca/tasb/legsregs/fpc/fpcact/contfpc.htm
- *Forest and Range Practices Act*, section 41:
www.for.gov.bc.ca/tasb/legsregs/frpa/frpa/frpatoc.htm
- Operational and Site Planning Regulation
www.for.gov.bc.ca/tasb/legsregs/archive/fpc/fpcaregs/oplanreg/opr.htm
- Forest Planning and Practices Regulation (BC Reg.14/04):
www.for.gov.bc.ca/tasb/legsregs/frpa/frparegs/forplanprac/fppr.htm
- Ministry of Forests and Range website: www.gov.bc.ca/for/

6.6.6 Apply the Knowledge

1. You are a forester working for a woodlot licensee who's licence is one of the approximately 100 Woodlot Licences still operating under an FDP and is in an area with many non-timber values of interest to your community. You need to produce a forest development plan that meets your company's and government's requirements, including a meaningful public consultation process. What factors do you consider in choosing to either meet the minimum requirements or provide some enhanced opportunities for public review and comment? What cost and time-effective measures would you take beyond the minimum requirements for review and comment? Consider both the requirements of a grandparented FDP, and the requirements of an FSP.
2. As a district manager, you are about approve a forest stewardship plan when you realize that the licence holder has not attached to the plan any evidence of meeting with affected First Nations groups. What do you do? And why?
3. Do you have a personal obligation to due diligence when you are using a site plan that was prepared under the Forest Practices Code that relates to activities that you are continuing to carry out under FRPA?
4. You are a forester working for a major licensee. From a "pure business perspective" is it a good idea to give other tenure holders who operate in areas adjacent to your company's area of operation an opportunity to review and comment on planned activities even if your company is NOT REQUIRED to do this?

