

TABLE OF CONTENTS

SUMMARY	ii
Discussion	ii
List of Recommendations	iv
PATF REPORT	1
INTRODUCTION	1
Mandate	1
Achievements	2
What Remains to be Done	2
THE ISSUE: DELAY IN APPROVAL OF OPERATIONAL PLANS	3
Introduction	3
Causes of Delay	3
Potential Solutions	4
TOWARDS A SOLUTION FOR REDUCING DELAY IN SP APPROVALS	6
The Key: A Change in Culture	6
Standards of Review	7
Table 1: Proposed Standards of Review for SPs	10
Application of Standards of Review to s.39 of the Operational Planing Regulation	11
Accountability and Duties Expected Within the SP Processes	13
Table 2: Accountability for SPs Prepared By or For Licensees	14
Table 3: Examples and Duties for SPs Prepared By or For Licensees	16
Application	17
Time Limits	17
Implementation	18
Follow-Up	19
CONCLUSION	21
LIST OF APPENDICES	22
Appendix “A”: PATF Members	23
Appendix “B”: PATF Terms of Reference	24
Appendix “C”: Summary of Reasons for SP Rejection	26
Appendix “D”: Standards of Review Applicable to s. 39 Elements	27
Appendix “E”: Examples: Application of Standards of Review	34

PROFESSIONAL ACCOUNTABILITY TASK FORCE REPORT

SUMMARY

Discussion

In February, 1996 the Association of British Columbia Professional Foresters, Ministry of Forests, and Council of Forest Industries established the Professional Accountability Task Force.

Recognizing that widespread (although not universal) delay exists in obtaining approval for operational plans under the *Forest Practices Code of British Columbia Act*, the Task Force was mandated to analyze the processes by which those plans which are required to be signed and sealed by professional foresters are prepared, reviewed, and either rejected or approved (the "Processes"). The Task Force was further charged with the task of reviewing the role of professional foresters in these Processes. The approach taken by the Task Force was with the view to providing a set of recommendations which, when implemented, could help to lessen the delay associated with them by placing a greater degree of emphasis and reliance on the obligations and accountabilities of professional foresters. The Task Force concentrated its efforts on Silviculture Prescriptions ("SP" or "SPs") as one type of operational plan where an increased reliance on professionalism and professional accountability could play a significant role in reducing approval delay.

The Recommendations call for a greater recognition of, and reliance on, the professional accountability and professionalism of foresters in the Processes relative to SPs. This is achieved through a set of proposed standards for review for SP submissions which recognize the rights of professional foresters to practice relative to scientific/technical elements of an SP and the district manager's discretion relative to balancing public policy issues and resource values. The standards detail what is expected of prescribing and reviewing foresters as well as other staff within the Ministry of Forests who may be reviewing or passing judgement on one or more aspect(s) of an SP submission. Once implemented, the Task Force expects that:

- (a) the roles, responsibilities, and accountabilities associated with the Processes will be better understood;
- (b) the Processes themselves will be streamlined; and
- (c) delay, where it exists, can be reduced.

The Recommendations call for a significant change in the way the Processes are currently carried out. A "cultural shift" amongst foresters and non foresters across the forest sector is required such that we move from a culture of SP rejection to one in which consistently high quality SPs are submitted and approved.

Implicit in this “change in culture” is a recognition of the rights of professional foresters to practice and to be creative in that practice, regardless of who their employer may be. The Task Force also recognizes the obligations of professional foresters, enforceable by the Association of British Columbia Professional Foresters, to be competent, independent, to act with integrity, and to abide by the canons of ethics and conduct expected by the Association of British Columbia Professional Foresters and the public. Professional foresters must also realize that they all share these obligations regardless of who their employer may be. If the Recommendations are to be effective, it is imperative that the proposed standards of review and timelines for approval outlined in this report be adopted and supported by all parties.

The Task Force is cognisant of the fact that in many cases the current Processes relative to SPs are producing significant challenges for both the Ministry of Forests and industry. If these challenges are to be met, change is necessary. Change, however, must be managed carefully. To this end, an appropriate time frame must be established in which the Recommendations and accompanying implementation procedures can be announced and joint, sector wide training conducted.

The Task Force is confident that there will be increased efficiencies and decreased delay in the preparation, review, and approval processes for Silviculture Prescriptions when the Recommendations of this report are implemented. The Recommendations are, however, not expected to be a complete solution; they are perhaps an important first of many steps necessary to address issues relevant to both the system brought about under the *Forest Practices Code of British Columbia Act* and the application of that system. The Task Force recognizes and encourages all parties to consider the broad range of alternate approaches, including the present review of the Operational Planning Regulation, in a constructive and consultative manner. No matter what other approaches may be adopted or changes made in the future, the “change in culture” described and advocated in this report remains essential.

Adoption and Endorsement:

- 1. The Recommendations in this report, and in particular the proposed standards of review and timelines for approval of Silviculture Prescriptions be formally adopted by the Ministry of Forests, endorsed by industry, consulting foresters, and the Association of British Columbia Professional Foresters, and supported by each of these groups.**

Applying Professionalism to other Operational Plans:

- 2. The Ministry of Forests should initiate dialogue to determine whether professional accountability can play an increased role in reducing delay associated with other operational plans.**

Priority for Solving all Causes of Delay is Needed:

- 3. The pursuit of solutions for all causes of delay related to operational plan preparation, review, and approval / rejection processes, not just the solutions proposed in this report, should be given a high priority.**

Need for Clear Management Objectives:

- 4. The establishment of clear management objectives at the landscape level should remain a top priority amongst the Ministry of Forests and planning stakeholders.**

Methods to Define Management Objectives Not Already Defined:

- 5. In order to facilitate the orderly and consistent processing of Silviculture Prescriptions where clear management objectives and/or values are not available, the definition of such objectives and/or values should be established through full and timely discussions involving the appropriate Licensee, Ministry of Forests, and other resource agency representatives before submission of the Silviculture Prescription.**

Need for a Change in Culture:

6. **If increased reliance on the professional accountability of Registered Professional Foresters is to reduce delay, the changes that are implemented or adopted must promote a change in culture such that standards of preparation and review result in approval rather than rejection of Silviculture Prescription submissions becoming the norm.**

Need to Understand and Support the Change in Culture:

7. **The Association of British Columbia Professional Foresters should make it a priority to assist its members to understand and achieve this change in culture at a professional level and all employer groups (Ministry, industry, and Consulting Foresters of British Columbia) should support the Association of British Columbia Professional Foresters in this endeavour in the workplace.**

Adoption of Standards of Review:

8. **To reduce delays in submission, review, and approval/rejection of Silviculture Prescriptions, a system of standards of review be adopted as set out in Table 1 of this report.**

Non Delegation of Decision Making Powers:

9. **Because Silviculture Prescriptions are key stand-level documents, the statutory decision maker for Silviculture Prescription approval or rejection should remain the district manager.**

Application of Standards of Review:

10. **The standards of review in Table 1 be applied to the contents of Silviculture Prescriptions as described in Appendix “D” to this report.**

Time Limits:

11. **The Ministry of Forests implement time limits of :**
 - (a) **a total aggregate not more than 30 days in the Ministry of Forests’ offices when a field review is not required or has been carried out prior to submission; and otherwise**
 - (b) **a total aggregate of 60 days in the Ministry of Forests’ offices where a field review is required and has not been carried out prior to submission,**

from the time of original submission in which Silviculture Prescriptions must be approved or rejected and providing appropriate remedies for failure to meet these time limits. The 60 day limit in sub-paragraph (b) above may be adjusted where field conditions, such as snow, prevent a meaningful field review.

Need for Ministry Policy or Regulation:

- 12. The Ministry of Forests develop either policy or regulation consistent with the Recommendations and in particular the standards of review and time frames proposed in this report.**

Change Management and Training:

- 13. The Ministry of Forests should give at least two to three month's notice before the Recommendations are implemented. In the intervening period, training and information sessions on the new system and on the functions, duties, and accountabilities expected of persons involved in the preparation, review, and approval processes for Silviculture Prescriptions should be provided throughout the province. These should be funded by Forest Renewal British Columbia. As much as possible, these sessions should be joint including Ministry of Forests and Industry professionals in each of the training sessions. The Ministry of Forests, Council of Forest Industries, and Association of British Columbia Professional Foresters should be jointly responsible for developing training material, identifying trainers, and co-ordinating sessions.**

Employers (Industry, Consultants, and Ministry of Forests) should inform their professional and relevant non-professional staff of the new approach to the preparation, review, and approval / rejection processes embodied in the Recommendations and the implications for accountability.

Professional Workshops:

- 14. The Association of British Columbia Professional Foresters should make it clear to members that they are and continue to be professionally accountable now, in the transition period prior to implementing the Recommendations, and beyond their implementation.**

The Association of British Columbia Professional Foresters should conduct workshops on the accountability of Ministry and Licensee professionals in respect of submitting and reviewing operational plans.

Tracking Systems:

15. The Ministry of Forests should establish a system to track Silviculture Prescription submissions and approvals or rejections as soon as possible but not later than the date the Recommendations are implemented. The tracking system should include information on the length of time it takes for Silviculture Prescriptions to be approved, as well as the reasons for rejection of any Silviculture Prescriptions which are rejected. This information should be submitted to the Regional Manager and should be made available to licensees and the Association of British Columbia Professional Foresters. Information on a report generated by this tracking system should include the:

- (a) number of submissions;**
- (b) number of Silviculture Prescriptions approved the first time they are submitted;**
- (c) number of Silviculture Prescriptions rejected the first time they are submitted;**
- (d) number of times Silviculture Prescriptions are being re-submitted before they are approved;**
- (e) average time period for processing all Silviculture Prescription submissions to approval;**
- (f) average time period for processing Silviculture Prescriptions approved on the first submission ; and**
- (g) primary reason(s) for rejection.**

Need for Continued Dialogue:

16. The Ministry of Forests, Council of Forest Industries, and Association of British Columbia Professional Foresters should initiate further dialogue in the event of problems with implementation of the Recommendations and subject to need, re-convene the Task Force within one year of implementation of the Recommendation to assess their effect on Silviculture Prescription preparation, review, and approval / rejection processes.

PROFESSIONAL ACCOUNTABILITY TASK FORCE REPORT

1.0 INTRODUCTION

1.1 Mandate

In February, 1996 the Association of British Columbia Professional Foresters (the “Association” or the “ABCPF”) the Ministry of Forests (the “Ministry” or “MOF”), and the Council of Forest Industries (“COFI”) agreed to establish the Professional Accountability Task Force (the “Task Force” or “PATF”). Each body appointed three persons to the Task Force. The members of the Task Force are listed in Appendix “A” of this report. Before the Task Force was struck, a steering committee of representatives from the ABCPF, MOF executive, and COFI met to formulate draft terms of reference. The Task Force then met to finalize these terms and each Task Force member consulted their constituents to obtain agreement of the specific terms.

The Task Force’s mandate is to make recommendations, recognizing applicable legislation and policy, to clarify and, if appropriate, modify:

- (a) the preparation, review and approval processes for operational plans under the *Forest Practices Code of British Columbia Act* (the “FPC”) requiring signature and/or seal of a professional forester (referred to as “Operational Plans”);¹ and
- (b) the respective roles and responsibilities of professional foresters in the Processes,

all with a view to improving efficiency and reducing delays identified in the Processes.

The specific terms of reference for the Task Force are attached as Appendix “B” of this report. While the Terms of Reference call on the Task Force to make any such other recommendations as it sees fit, it limited itself to analyzing the current situation under the present legislative regime. The Task Force specifically noted and discussed the possible need for legislative amendment in the future but decided, at this time, to explore changes which could be accomplished without this need. It is to be noted however that the Task Force views its recommendations and conclusions as a first step in an ongoing evaluative process and does not rule out the possibility that the issue of legislative amendment may need to be considered by a similarly constituted body sometime in the future.

¹ There are seven “operational plans” identified under the FPC (as defined herein): the Logging Plan; the Access Management Plan; the Range Use Plan; the Forest Development Plan; the Silviculture Prescription; the Stand Management Prescription; and the Five-Year Silviculture Plan. Of these seven plans, the FPC requires the latter four to be signed and sealed by an RPF.

1.2 Achievements

Although the Task Force was mandated to review Processes relative to all Operational Plans, there was insufficient time, resources, and experience with new planning requirements under the FPC to produce a cohesive set of recommendations for each type of Operational Plan. The Task Force therefore chose to limit its analysis to what it perceived to be the most pressing area of concern at this time and where an increased reliance on professionalism and professional accountability could have the greatest effect; that of the Processes relating to SPs. In so doing the Task Force produced the set of recommendations (the “Recommendations”) set out and discussed more fully in this report.

RECOMMENDATION 1:

The Recommendations in this report, and in particular the proposed standards of review and timelines for approval of Silviculture Prescriptions be formally adopted by the Ministry of Forests, endorsed by industry, consulting foresters, and the Association of British Columbia Professional Foresters, and supported by each of these groups.

1.3 What Remains To Be Done

Although the Task Force has not developed recommendations for each of the Operational Plans other than for SPs, professional accountability may be relevant for improving efficiencies and reducing possible delay associated with them as well. For example, the Processes applicable to stand management prescriptions (“SMPs”) may be sufficiently similar to those of SPs to warrant the application of the Recommendations to them. A set of recommendations for the submission, review, and approval of SMPs based on the Recommendations set forth in this report may be useful.

Conversely, while the Task Force is concerned about the possibility of delays in processing Forest Development Plans (“FDPs”), it is not convinced that the Recommendations developed for SP Processes will resolve this issue. The Ministry should, however, immediately initiate dialogue to determine whether a greater reliance on the judgement and accountability of professional foresters can play a role in facilitating FDP Processes and if other actions may be appropriate.

RECOMMENDATION 2:

The Ministry of Forests should initiate dialogue to determine whether professional accountability can play an increased role in reducing delay associated with other operational plans.

2.0 THE ISSUE: DELAY IN APPROVAL OF OPERATIONAL PLANS

2.1 Introduction

Significant processing delay exists relative to Operational Plans, and specifically to SPs, in many areas of the province. The causes for such delay are many and varied. Likewise, the degree of delay varies both among and within forest districts. In some cases “wood-ahead” has been reduced to a matter of days, weeks, or months while in other cases licensees have managed to secure significant amounts of “wood-ahead”.² The Task Force has been informed of one instance where a licensee has managed to secure three year’s “wood-ahead,” but this is the exception rather than the rule.

2.2 Causes Of Delay

Delay has many causes. Some causes are specific to the over-all system established by the FPC itself (referred to in this report as the “System” and delays of this type referred to as “System Delay”). Some types of System Delay apply generally, such as (by way of example only) changes in rules implemented without adequate lead time and lack of approved management objectives to provide context for operational plans. Other causes of System Delay are attributable to specific operational plans and include, by way of example: the requirement for the documents themselves;³ the content requirements for these documents; and the processes required for preparation, review and approval of these documents.

Other causes are specific to the application of the System (“Application Delays”) and include, by way of example: lack of understanding of the System and lack of communication amongst parties involved in the System.

In conducting its analysis, the Task Force reviewed a summary of the most common reasons for SP rejection as reported by 28 of 43 forest districts. An analysis of this summary, attached as Appendix “C” of this report, indicated that the current levels of delay experienced with the SP Processes are attributable in one degree or another to a combination of all of the sources of delay mentioned above. The Task Force notes that combinations of “Application Delay” and “System Delay” revealed cases where acceptable SPs were inappropriately rejected as well as cases where the quality of submitted SP content was less than that expected of professional foresters.

Just as the degree of delay was found to vary amongst and within forest districts, the specific causes and combinations of causes were found to vary from case to case. Although

² Statistical information on the issue of “wood ahead” may be found in the Ministry of Forests’ reports on Cutting Permit Status.

³ An analysis of this cause of delay requires that each such document be reviewed to determine whether it is needed to achieve the objectives of the System and/or the document can be incorporated, in whole or in part, into another document.

a greater reliance on and enforcement of professional accountability can help, it may not be a complete solution. It cannot solve all causes of delay and should not be expected to do so. Faced with this reality the Task Force has formulated its Recommendations in such a manner as to address the more common causes of delay. The Task Force believes that effective implementation of the Recommendations will also help to address other causes or at least isolate them so that they may be analyzed and addressed by others at some future time.

RECOMMENDATION 3:

The pursuit of solutions for all causes of delay related to operational plan preparation, review, and approval / rejection processes, not just the solutions proposed in this report, should be given a high priority.

2.3 Potential Solutions

This section briefly discusses some of the potential solutions to delay affecting operational plans generally. The following section (Section 3.0) will identify steps to reduce delay in SP Processes specifically.

The Task Force notes that the lack of clearly stated and defined resource management objectives and/or values is an almost universal concern expressed by professional foresters across the sector. Without such objectives and/or values the preparation, review, and approval of operational plans cannot be based on clear criteria consistently and fairly applied.

Additionally, both MOF and industry foresters have expressed concerns in the numerous professional workshops conducted by the ABCPF throughout the province that these objectives and/or values for which accommodation must be made in Operational Plans often change after the plans have been submitted. The same is also true for specific FPC requirements. This, all too often, results in rejection of the plan on the basis of these new requirements, objectives, and/or values. An atmosphere of uncertainty and strained working relationships is evolving, not only for the prescribing forester who does not have clear criteria for which to design and create his or her prescription, but also for the reviewing forester who is often uncertain as to what criteria must be applied when conducting his or her review.

The Task Force has identified a clear need to define resource management objectives and/or values at the landscape level where this has not already been done. This is critical since by definition “silviculture” involves the manipulation of forest and woodland vegetation in stands and on landscapes to meet management objectives. One method, among many, to achieve this is through the development of “higher level” plans where such plans are deemed appropriate.

RECOMMENDATION 4:

The establishment of clear management objectives at the landscape level should remain a top priority amongst the Ministry of Forests and planning stakeholders.

RECOMMENDATION 5:

In order to facilitate the orderly and consistent processing of Silviculture Prescriptions where clear management objectives and/or values are not available, the definition of such objectives and/or values should be established through full and timely discussions involving the appropriate Licensee, Ministry of Forests and other resource agency representatives before submission of the Silviculture Prescription.

Potential solutions to the causes of delay specific to Operational Plans were analyzed in two contexts; those of solutions relative to the content of the document themselves and those relative to the way in which these documents are reviewed. Solutions falling into the “content” category canvassed by the Task Force included amending the document or deleting content from the document. Solutions falling into the “review” category included:

- (a) reducing the elements subject to review;
- (b) changing the nature of review;
- (c) reducing the number of persons or agencies involved with reviewing the document;
and
- (d) reducing the time period in which a document could be reviewed after which it would be deemed to be accepted or some other remedy would be made available to the licensee.

To reach consensus, the Task Force focused on changing the nature of Operational Plan review. The Task Force recognizes that other approaches could also be taken such as legislative amendments or amending or eliminating specific parts of an Operational Plan. In this regard, the Task Force believes the current review of the Operational Planning Regulation is a timely opportunity to seek additional solutions to delay in some aspects of applicable legislation and policy. The Task Force believes that greater recognition of professional foresters’ rights to practice and of professionalism and professional accountability will be fundamental to the success of any modified or new system of operational planning.

3.0 TOWARDS A SOLUTION FOR REDUCING DELAY IN SP APPROVALS.

3.1 The Key: A Change In Culture

If delay is to be reduced, there must be a change in the “culture and philosophy” currently associated with SP Processes such that standards of preparation and review resulting in approval rather than rejection become the norm. This can be achieved through:

- (a) a greater recognition of the professional forester’s right to practice; and
- (b) greater reliance on his/her professional obligations of competence, independence, and integrity⁴ (the “Professional and Ethical Obligations”) in preparing and reviewing SPs as well as the accountability of forestry professionals to the ABCPF if these obligations are not carried out to the standards expected of professional foresters by the ABCPF.

When considering an SP submission, Ministry staff, including professional foresters employed by the Ministry, should not routinely examine, in detail, the technical/scientific work of the prescribing forester.⁵ Professionals and their employers and clients must recognize and support the fact that prescribing foresters are accountable to the ABCPF (and through the ABCPF, to the public) for prescriptions of poor quality. Reviewing foresters are likewise accountable for proposing rejection or acceptance when that rejection or acceptance is not warranted.

This change in culture must occur to differing extents with all parties involved in the forest sector. The MOF, as well as Ministry staff (including reviewing RPFs) must accept and recognize the professional forester’s rights of practice and the accountability of all RPFs; licensees and prescribing RPFs must accept and recognize that this system will work only if the SPs they submit are competently prepared; and the ABCPF must help its members accept and adapt to this change in culture by helping them maintain their competence, independence, and integrity and, in appropriate circumstances, must hold its members accountable for their actions through its discipline processes.

Clearly, all parties must promote co-operation and communication to facilitate this change in culture.⁶ The Task Force is concerned that the current culture is one increasingly characterized by polarization between “Ministry foresters” and “industry foresters”. While it is legitimate for a professional forester to promote the interests of his or her employer,

⁴ The reference to integrity includes a reference to the Code of Ethics incorporated into the ABCPF’s Bylaws and which is binding on each of its members.

⁵ It is important to note that the prescribing forester is not always an employee of a licensee. While the prescribing forester is often a licensee employee, she or he is often a Ministry employee or a consulting forester engaged by either a licensee or the Ministry. In some cases the prescribing forester may also be a licensee him-or-herself.

⁶ One of many strategies could include for example joint field reviews on a representative number of blocks involving the licensee, MOF and where appropriate, MOELP to facilitate a common understanding and to promote communication.

and while differences of professional opinion and healthy debate are encouraged, a forester's Professional and Ethical Obligations are paramount to all others. This means not only that professional foresters are duty-bound to handle such differences of opinion in a responsible and professional manner but also that employers must recognize and encourage these rights and obligations and must not ask or expect a professional forester to do anything inconsistent with his or her Professional and Ethical Obligations. The issue of how differences of professional opinion should be addressed is a key element to the standards of review proposed by the Task Force in the next section of this report.

RECOMMENDATION 6:

If increased reliance on the professional accountability of Registered Professional Foresters is to reduce delay, the changes that are implemented or adopted must promote a change in culture such that standards of preparation and review result in approval rather than rejection of Silviculture Prescription submissions becoming the norm.

RECOMMENDATION 7:

The Association of British Columbia Professional Foresters should make it a priority to assist its members to understand and achieve this change in culture at a professional level and all employer groups (Ministry, industry, and Consulting Foresters of British Columbia) should support the Association of British Columbia Professional Foresters in this endeavour in the workplace.

3.2 Standards Of Review

Section 41 of the FPC provides that the district manager must approve operational plans or amendments to such plans if they are prepared and submitted in accordance with the FPC, the regulations to the FPC, and the standards⁷ and the "...plan[s] or amendment[s] will adequately manage and conserve the forest resources of the area to which it applies."⁸ Section 12 of the FPC provides, among other things, that an SP must be signed and sealed by a professional forester as well as a general description of the content requirements for the SP. This description includes the statement that the SP "...must include, for the area under prescription, ... matters required by regulation"⁹. The more detailed content requirements for SPs are set out in section 39 of the *Operational Planning Regulation* ("s. 39").

An analysis of s. 39 reveals that SPs contain three elements:

⁷ FPC, section 41(1)(a).

⁸ FPC, section 41(1)(b).

⁹ FPC, section 12(a)(iii).

- (a) elements requiring only factual information where no judgement is required;
- (b) elements requiring, in addition to the foregoing, scientific and/or technical content where professional judgement is required; and
- (c) elements requiring, in addition to the foregoing, a balancing of public policy issues and resource values for which judgement of a statutory decision maker is required for approval or rejection of the prescription.

For each element, three questions arise:

- (a) what is the nature of review conducted by the MOF?;
- (b) what should be the criteria for rejecting an SP submission?; and
- (c) how should rejection occur?

The answers to these questions give rise to what can be called the system of “standards of review” for SPs.

Since the first element is factual information only, no professional judgement is required. Consequently, increased reliance on, and recognition of, professionalism and professional accountability is unlikely to appreciably reduce any delay currently associated with this element. Nevertheless, a consistent pattern of errors or omissions in respect of this element on the part of a prescribing forester could constitute professional misconduct that would, in appropriate circumstances, be subject to discipline.

In contrast to the first element, the last two elements require professional judgement on the part of the prescribing forester in that he or she must apply his/her professional expertise and judgement to address each element. For scientific and/or technical elements this expertise and judgement relates purely to the scientific and/or technical aspects of the element in question. For elements requiring a balancing of public policy issues and resource values the, professional forester is challenged to create a workable prescription which is not only scientifically and/or technically sound but which adequately balances identified public policy issues and resource values while at the same time achieves the management objectives established for the area under prescription.¹⁰

Professional expertise and judgement is also required of a reviewing forester charged with advising the statutory decision maker as to approval or rejection of an SP when he or she reviews scientific and/or technical elements. The reviewing forester’s duty is not to demand that the prescribing forester do things the way the reviewing forester would do things if he or she were preparing the prescription, but rather to evaluate whether the

¹⁰ In order for the forestry professional to do this, the policy or value must be clearly identified and all parties concerned must be made aware of it at a time sufficiently early enough in the process as to allow for incorporation into the prescription.

element of the prescription in question is scientifically and/or technically sound as proposed by the prescribing forester. Put in a slightly different way, the reviewing forester must not and cannot look at scientific and/or technical elements in a prescription with a view to supplanting the professional judgement or opinion of the prescribing forester with his or her own professional opinion.¹¹ Rather, the reviewing forester should propose that the statutory decision maker reject the prescription only if he or she can point to substantial and demonstrable evidence that the element in question is not scientifically and / or technically sound.

The concept of “substantial and demonstrable evidence” is central to the success of the approach recommended in this report. The test of what will be substantial and demonstrative evidence connotes factors such as: (a) scientific or operational data; or (b) long-term field experience of professionals, all of which is generally accepted by peer, scientific, or professional review. What will or will not constitute such evidence in specific cases will develop over time.¹²

The statutory decision maker is also called upon to bring judgement to bear when making decisions relative to a balancing of public policy issues and resource values. Before exercising discretion to accept or reject a prescription based on such elements he or she should apply judgement to assess whether the element in question adequately manages and conserves the forest resources of the specified area.

The standards or review developed by the Task Force and suggested procedures to be followed are summarized in Table 1 following.

TABLE 1
PROPOSED STANDARDS OF REVIEW (“SR”) FOR SILVICULTURE
PRESCRIPTIONS

	SR1	SR2 (SR1+SR2)	SR3¹³ (SR1+SR2+SR3)
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¹¹ The Task Force suggests that it would also be appropriate that the statutory decision maker should not exercise his or her discretion to reject an SP on these criteria either.

¹² An example of how this test relates to FPC guidebooks follows: Guidebooks or parts of guidebooks may, in certain appropriate circumstances, be referred to as constituting substantial and demonstrable evidence that the element under review is scientifically and/or technically unsound but are not conclusive in all cases. For example, some guidebooks or parts thereof (e.g., the six Establishment To Free Growing Guidebooks) have widely accepted scientific basis and have been subject to extensive technical review by a wide segment of the forestry community. Other guidebooks or parts thereof (e.g., Biodiversity Guidebook) are based more on the opinions of a relatively narrow segment of the scientific community. It is widely recognized that this information is quite limited and therefore the guidebook or parts thereof alone should not be considered as meeting the test of substantial and demonstrable evidence that the element under review is scientifically and/or technically unsound. Another potential example of evidence which may meet the tests set out under standard of review two are the anticipated findings of the Stand Density Management Working Group which consists of MOF and Industry representatives and which is currently deliberating.

	SR1	SR2 (SR1+SR2)	SR3¹³ (SR1+SR2+SR3)
CRITERIA (i.e., nature of element to which the standard applies)	Fact or information only - No judgement required.	Judgement required - scientific/technical issues.	Judgement required - balancing of public policy issues and resource values.
NATURE OF REVIEW BY MOF	Determine if element is filled-in, labelled, or calculated correctly.	Determine if element is scientifically and technically sound.	Determine if element meets subsection 41(1)(b) of FPC.
REJECTION BY	MOF staff.	District Manager.	District Manager.
GROUND FOR REJECTION	“Box” not filled in, mislabelled, or miscalculated.	MOF will not normally reject for elements in this category. Rejection will occur only if there is substantial and demonstrable evidence that the element is not scientifically and technically sound.	Full discretion to reject if, in the opinion of the district manager, a risk that subsection 41(1)(b) of FPC not met for relevant element(s).
METHOD OF REJECTION	Can range from return of SP to informal communication between reviewer and forester who signs SP.	District manager (<u>not</u> MOF staff) should provide a written rejection accompanied by a written rationale signed by a reviewing RPF that cites: <ul style="list-style-type: none"> ☞ the scientific/ technical element that is of concern; and ☞ the substantial and demonstrable evidence that it is not scientifically and technically sound. 	District manager (<u>not</u> MOF staff) should provide a written rejection accompanied by a written rationale signed by him or her that cites: <ul style="list-style-type: none"> ☞ the policy issue or value of concern; ☞ the source of that policy issue or value (a higher level plan, a development plan, or other source); and ☞ the reasonable risk as to why the proposed SP does not satisfy subsection 41(1)(b) in respect of that policy issue or value.

RECOMMENDATION 8:

To reduce delays in submission, review, and approval/rejection of Silviculture Prescriptions, a system of standards of review be adopted as set out in Table 1 of this report.

¹³ Note that the standards are cumulative in that a SR2 element must first undergo SR1 scrutiny before SR2 and a SR3 element which contains scientific and/or technical content must first undergo SR1 then SR2 scrutiny before SR3 scrutiny.

The Task Force notes with concern the *Forest Statutes Amendment Act*, S.B.C. 1996, c. 11 which allows for the delegation of approval or rejection decisions relative to operational plans by the district manager to other ministry staff. The Task Force feels that it is important that the district manager be responsible for approval or rejection of the SP. The SP is a key document and is one which requires consistency of approval or rejection determinations. The district manager is the individual best positioned to make over-all judgements balancing public policy issues and resource values as well as priorities within the district.

RECOMMENDATION 9:

Because Silviculture Prescriptions are key stand-level documents, the statutory decision maker for Silviculture Prescription approval or rejection should remain the district manager.

3.3 Application Of Standards Of Review to Operational Planning Regulation, s. 39

Having determined the standards of review the Task Force then undertook a detailed analysis of each element described in s. 39 and reached consensus on what review standard should be applied to each one. A table describing each element of s. 39 and the standard of review to which it should be subjected is reproduced in Appendix "D".

The Task Force cannot stress strongly enough that it is not intended nor desired that these standards be applied by rote to SPs on a line by line basis. The SP should be looked at as a whole. If a reviewer has any doubt about whether an SP should be approved then he or she should clearly identify those elements which are of concern and then use the chart to assist in his or her analysis and to determine the manner and type of review to which each element of concern should be subjected. By way of example, a forester submits a prescription on behalf of his/her employer who is a major licensee which is then reviewed by the appropriate MOF staff. The reviewing forester notices that the SP is not signed by or on behalf of the licensee ("issue 1" for this example) and also has concerns about the regeneration methods and silvicultural treatments prescribed ("issue 2" for this example). The statutory decision maker has reviewed the prescription and taken all appropriate advice from his or her professional staff. The statutory decision maker however has concerns about the choice of silvicultural system prescribed given the particular public resource values expressed and published within the district ("issue 3" for this example). Reference to Appendix "D" reveals that: issue 1 relates to s. 39(2)(bb) and is a SR1 element; issue 2 relates to s. 39(2)(x) and is a SR2 element; and issue 3 relates to s. 39(2)(h) and is a SR3 element. Each of these will now be discussed.

Issue 1 deals with an element concerning fact or information only. The MOF staff person (in this case the reviewing forester) need only determine if the element is properly filled in or whether it has been correctly labelled or calculated. This element does not require a professional forester to review or reject it. In most cases the error or omission could be

corrected without formal rejection through appropriate arrangements between ministry and licensee staff. The Task Force anticipates that this type of error will be rare, but if a particular forester or licensee repeatedly submits SPs with these errors they may be appropriately rejected and the forester may, in appropriate circumstances, face professional sanction.

Issue 2 deals with an element that is scientific and/or technical in nature. Analysis of such elements requires first that the element is filled in (SR1) and then that a professional forester review it and apply his or her expertise and judgement to determine whether the element is scientifically and/or technically sound and whether the prescription will achieve the desired result for the element in question. The reviewing professional forester can recommend that the statutory decision maker reject the prescription based on SR2 criteria only if he/she can present substantial and demonstrable evidence that the element is not scientifically and/or technically sound. Should the statutory decision maker decide to reject the prescription on this basis then he/she must provide a written rationale including a rationale signed by the reviewing forester that cites:

- (a) the scientific and/or technical element of concern; and
- (b) the substantial and demonstrable evidence that the prescribed action for that element is unsound.

Issue 3 deals with an element which involves public policy issues and resource values. As with all other elements which require SR3 criteria, there can also be a scientific and/or technical component to the element. Before the statutory decision maker makes a determination for a SR3 element with scientific and/or technical content that element should first undergo SR1 and then SR2 analysis. If the reviewing forester's analysis reveals that the prescription for the scientific and/or technical element is sound¹⁴, the statutory decision maker would then go on to consider whether that element of the prescription adequately addresses known and published public policy issues and resource values for the district. This is accomplished through the statutory decision maker's exercise of discretion under section 41(1)(b) of the FPC under which he or she is mandated to determine whether the prescribed element adequately manages and conserves the forest resources of the area to which it applies.

Further examples of how the standards of review are applied to operational situations are referenced in section 3.5 and the examples in Appendix "E" of this report. The Task Force intends that the standards of review, as described in Table 1, Appendix "D", and the examples above and in Appendix "E" will be useful to assist all persons involved with SP Processes in understanding where increased recognition of and reliance on professional accountability can and should be used.

¹⁴ If the element is scientifically and /or technically unsound the reviewing professional forester would normally recommend the SP be rejected and must provide a signed, written rationale which the statutory decision maker will then consider.

RECOMMENDATION 10:

The standards of review in Table 1 be applied to the contents of Silviculture Prescriptions as described in Appendix “D” to this report.

3.4 Accountability and Duties Expected Within the SP Processes

A SP is a professional prescription that, once approved, contains binding legal obligations. There are three stages to an SP:

- (a) development (including preparation, review and approval of content);
- (b) implementation; and
- (c) attainment of results (including review to determine whether the results prescribed are achieved).

There are several aspects to each phase of each SP and several persons involved in its journey through preparation, review, acceptance or rejection, implementation and achievement of end results. The concept of accountability must be explained and understood in this context. Table 2 below describes the differing types of accountability for SPs prepared by or for licensees. *It is important to note that Table 2 sets out the legal accountability attaching to SPs other than those under the Small Business Program for which the principles would be similar but not necessarily the same.*

TABLE 2

**ACCOUNTABILITY FOR SPs
PREPARED BY OR FOR LICENSEES**

	ACCOUNTABILITY OF				
	Prescribing Professional ¹⁵	Reviewing Professional ¹⁵	Statutory Decision Maker	Licensee	Ministry ¹⁶
A. For Content	Under the <i>Foresters Act</i> , the prescribing forester is professionally accountable to the ABCPF if the prescription does not meet Section 12 of the FPC due to incompetence or some other form of professional misconduct.	Under the <i>Foresters Act</i> the Reviewing RPF is professionally accountable to the ABCPF for incompetence or professional misconduct in respect of any advice, recommendations, or rejection rationale.	Accountable to ensure that Section 41 (and other relevant provisions) of the FPC are met.	None	None
B. For Execution	None	None	None.	Accountable under Section 70(4) (and other relevant provisions) of the FPC. ¹⁷	None
C. For Results	Professionally accountable if objectives of plan are not achieved due to error, omission, or incompetence relative to content (Box "A" above).	None	None	Accountable under Section 70(3) and (4) of the FPC.	None

The concept of accountability connotes legal responsibility or liability. In most cases when there is legal responsibility or liability a remedy is provided, whether it be a fine or some other such penalty. In Table 2 it is evident that the signing and reviewing professional is accountable to his or her professional association through its disciplinary processes.¹⁸ The

¹⁵ Statements of accountability under these charts are examples only and are not an exhaustive list of accountabilities owed by an RPF. For example an RPF is also accountable and owes duties to his or her client or employer. Reference should be made to the ABCPF Code of Ethics.

¹⁶ There is no legal accountability that attaches to the Ministry of Forests because the FPC specifically excludes any such liability. Reference section 160 of the FPC.

¹⁷ See for example sections 35 and 36 of the FPC.

¹⁸ The ABCPF currently conducts a series of professional workshops throughout the province each year to promote better understanding of professional rights and obligations amongst its members as well as to make members more aware of the discipline process and the rights and responsibilities accorded to complainants and members against whom a complaint has been laid.

licensee is accountable under the FPC which provides for enforcement mechanisms and remedies such as administrative and court sanctions. No such remedy exists as against a statutory decision maker, an employee of the Ministry, or the Ministry itself,¹⁹ however the FPC does stipulate what is expected of the statutory decision maker. To this extent it may be argued that he or she is accountable at least in:

- (a) an employment sense as an employee of the Provincial Crown; and
- (b) a political sense in that certain public expectations are placed on government and its agencies.

While the concept of “legal” accountability, as defined above, may not apply in all cases, various parties are expected to carry out certain functions and have various duties relative to SPs. Table 3 below sets out some examples of situations when prescribing and reviewing foresters may, in appropriate circumstances be held accountable by the ABCPF. It also lists some of the duties expected of other parties involved with SP Processes and implementation whether or not formal accountability, in the legal sense attaches for failure to carry out the duty specified. *Table 3 contains examples only and is in no way intended to be viewed as exhaustive.*

The Task Force discussed the use of an informal Review Panel to monitor implementation of the Recommendations and hear complaints about individuals who may or may not be carrying out the Recommendations as mandated. Consensus on the issue of adjudicating complaints was not reached. Most Task Force members felt that inquiries into the conduct of professional foresters can be dealt with only by reference to the Association. To proceed otherwise can lead to potentially serious legal and procedural difficulties should a matter first brought before an informal review panel turn out to be of a nature that would require formal disciplinary action by the ABCPF. Should concerns arise about the implementation of the Recommendations, members are reminded of their obligations under the Code of Ethics to (1) attempt to resolve such concerns between affected members and (2) where this does not resolve the matter or where it is impossible or inappropriate to do resolve the matter in this way, to immediately inform the Association in writing.

¹⁹ Section 160 of the FPC provides a general exclusion of personal and corporate liability to government and all persons working for government for any loss or damage suffered by virtue of anything done or not done in the exercise or performance of a power or duty under the FPC so long as the government or person was acting in good faith.

TABLE 3

**EXAMPLES AND DUTIES FOR SPs PREPARED
BY AND FOR LICENSEES**

	Prescribing Professional	Reviewing Professional	Statutory Decision Maker	Licensee	Ministry
A. For Content	<p>Examples of areas which may, under appropriate circumstances, be reviewed by the ABCPF include, but are not limited to:</p> <p>All information required to be considered is considered;</p> <p>Consistency with higher level plans;</p> <p>Reasonable clarity about the courses of action and options presented to achieve stated results; and</p> <p>Ensuring that adequate explanation is provided for deviations from Establishment of Free Growing Guidebook. (Caution: this example is limited only to this guidebook and does not apply to all guidebooks).</p>	<p>Examples of areas which may, under appropriate circumstances, be reviewed by the ABCPF include, but are not limited to:</p> <p>Timeliness of review; and</p> <p>Recommendations for either rejection or approval are consistent with the criteria set out for each of the Standards of Review applicable to the RPF.</p>	<p>Responsible to ensure that prescription has been reviewed by Ministry RPF and that, if rejected under SR2 criteria, that a rationale has been provided and signed by a Ministry RPF.</p> <p>Timeliness of review.</p> <p>Responsible for providing a written rationale for SR3 rejections.</p>	<p>Ensure that an SP is submitted in accordance with the FPC.</p> <p>Ensure that SP meets Section 12 of the FPC.</p>	N/A
B. For Execution	N/A	N/A	<p>Responsible to take steps to ensure that approved SP is complied with.</p>	<p>Responsible to implement SP as prescribed or amended.</p>	<p>Responsible for implementing / monitoring applicable MOF policy concerning review and approval of SP.</p>
C. For Results	N/A	N/A	<p>Determines what action to be taken by Crown if results not achieved.</p>	<p>All duties to fulfill obligations identified in Table 2.</p>	<p>Monitors that the commitments contained in the prescription are met and that all necessary remedial actions have been instructed and completed.</p> <p>Accepts or denies the releasing of blocks as free growing stands.</p>

The examples in Appendix “E” illustrate how these accountabilities and duties apply to actual “on-the-ground” situations.

3.5 Application

The Task Force consulted extensively with their staff, colleagues, and constituents to develop a series of operational examples to test and explain how the review criteria and Recommendations would apply to SP situations and to give context to the Recommendations. The examples are representative only, and are in no way to be viewed as an exhaustive list of possible scenarios and outcomes; they may be found in Appendix “E” of this report.

3.6 Time Limits

In addition to changing the nature and extent of review as described in the previous sections of this report, the Task Force found that the time period for review needs to be more clearly defined. Time limits should be set for approval or rejection of SPs submitted to the MOF. This could be accomplished through policy (not binding) or regulation (binding) and could include a provision that the SP be “deemed approved” if no response is received by the expiry of the allotted time period.²⁰ Care must be taken that if timelines are established consistent with the recommendation below, an SP is not rejected simply to restart the time clock. The policy or regulation establishing time frames should make it clear that the time clock will be re-set only if substantive changes are required such that the SP submitted to address these changes is significantly different from the SP first submitted. Criteria establishing what constitutes substantive changes must be clearly defined and set out in the policy or regulation.

RECOMMENDATION 11:

The Ministry of Forests implement time limits of :

- (a) a total aggregate not more than 30 days in the Ministry of Forests’ offices when a field review is not required or has been carried out prior to submission; and otherwise**
- (b) a total aggregate of 60 days in the Ministry of Forests’ offices where a field review is required and has not been carried out prior to submission,**

²⁰ Deemed approval provisions in legislation are not uncommon. See for example: s. 158.9 of the *Forest Act*; s. 39 of the *Sale of Goods Act*; and s. 396A of the *Vancouver Charter*.

from the time of original submission in which Silviculture Prescriptions must be approved or rejected and providing appropriate remedies for failure to meet these time limits. The 60 day limit in sub-paragraph (b) above may be adjusted where field conditions, such as snow, prevent a meaningful field review.

3.7 Implementation

While the Task Force calls for implementation of its Recommendations as soon as possible it cannot stress strongly enough that if they are to succeed, all affected parties should understand them before they are implemented. This requires that training and information sessions on the Recommendations and how they are to be implemented be given a high priority by MOF, COFI, and the ABCPF jointly. Attendance at each of these training sessions cannot, and must not be limited to “MOF foresters”, “Industry foresters”, or “Consulting foresters”, rather the sessions must be attended by a mixture of all foresters no matter who their employer may be. The sessions will require dedication of resources, both financial and intellectual. The Task Force strongly suggests that funding for this initiative be provided from revenues existing in FRBC.

The Recommendations as they relate to the MOF can be implemented by the MOF through policy, Regulation, or a combination of policy and Regulation. The Task Force recognizes that the standards of review may lend themselves to incorporation into Regulation. Another important Recommendation which may lend itself to incorporation by regulation is that of time frames for approval or rejection of an SP and the remedy or remedies made available for failing to meet the time frames. One of the main advantages of introducing time frames by regulation is to provide certainty for submitting licensees. On the other hand, a disadvantage would be that it could restrict flexibility within the Ministry for dealing with other priorities (including backlog of silviculture prescription approvals). The Task Force was unable to reach consensus on whether the Recommendations relative to standards of review and time frames should be implemented by policy or by regulation. The Task Force recognizes that ultimately this is a decision which must be made by government. Whichever direction is taken, it is critical that all parties understand that a new approach has been adopted and everyone is expected to act accordingly.

RECOMMENDATION 12:

The Ministry of Forests develop either policy or regulation consistent with the Recommendations and in particular the standards of review and time frames proposed in this report.

RECOMMENDATION 13:

The Ministry of Forests should give at least two to three month's notice before the Recommendations are implemented. In the intervening period, training and information sessions on the new system and on the functions, duties, and accountabilities expected of persons involved in the preparation, review, and approval processes for Silviculture Prescriptions should be provided throughout the province. These should be funded by Forest Renewal British Columbia. As much as possible, these sessions should be joint including Ministry of Forests and Industry professionals in each of the training sessions. The Ministry of Forests, Council of Forest Industries, and Association of British Columbia Professional Foresters should be jointly responsible for developing training material, identifying trainers, and co-ordinating sessions.

Employers (Industry, Consultants, and Ministry of Forests) should inform their professional and relevant non-professional staff of the new approach to the preparation, review, and approval / rejection processes embodied in the Recommendations and the implications for accountability.

RECOMMENDATION 14:

The Association of British Columbia Professional Foresters should make it clear to members that they are and continue to be professionally accountable now, in the transition period prior to implementing the Recommendations, and beyond their implementation.

The Association of British Columbia Professional Foresters should conduct workshops on the accountability of Ministry and Licensee professionals in respect of submitting and reviewing operational plans.

3.8 Follow-Up

The Task Force believes that a tracking system should be used to determine whether or not the Recommendations are helping to reduce delay in SP Processes. The tracking system should include information on the length of time it takes for SPs to be approved, as well as the reasons for rejection of any SPs which are rejected. This information should be submitted to the Regional Manager and sent to licensees and the ABCPF.

There are three options for addressing ongoing problems, if any, which may be brought to light by the tracking system or which are not sufficiently addressed by the Recommendations:

- (a) appoint a group now to meet periodically (e.g. every quarter);
- (b) appoint a group now to meet in one year's time; or

- (c) informally watch the tracking results and appoint a group if and when difficulties arise.

After careful consideration of this issue the Task Force felt that a blend of these options is the more appropriate route to pursue. The Ministry, COFI, and ABCPF should be ready to immediately initiate further dialogue in the event of problems with implementation and, subject to need, the Task Force should re-convene within one year of the Recommendations' implementation to assess their effect on the SP Processes.

RECOMMENDATION 15:

The Ministry of Forests should establish a system to track Silviculture Prescription submissions and approvals or rejections as soon as possible but not later than the date the Recommendations are implemented. The tracking system should include information on the length of time it takes for Silviculture Prescriptions to be approved, as well as the reasons for rejection of any Silviculture Prescriptions which are rejected. This information should be submitted to the Regional Manager and should be made available to licensees and the Association of British Columbia Professional Foresters. Information on a report generated by this tracking system should include the:

- (a) number of submissions;**
- (b) number of Silviculture Prescriptions approved the first time they are submitted;**
- (c) number of Silviculture Prescriptions rejected the first time they are submitted;**
- (d) number of times Silviculture Prescriptions are being re-submitted before they are approved;**
- (e) average time period for processing all Silviculture Prescription submissions to approval;**
- (f) average time period for processing Silviculture Prescriptions approved on the first submission; and**
- (g) primary reason(s) for rejection.**

RECOMMENDATION 16:

The Ministry of Forests, Council of Forest Industries, and Association of British Columbia Professional Foresters should initiate further dialogue in the event of problems with implementation of the Recommendations and subject to need, re-convene the Task Force within one year of implementation of the Recommendation to assess their effect on Silviculture Prescription preparation, review, and approval / rejection processes.

4.0 CONCLUSION

The Task Force has concluded that significant SP processing delays exists, and that the causes of such delays are many and varied both among and within forest districts. The causes for such delays can be broadly categorized as “system” delays, relative to the legislative / regulatory framework, and “application” delays, relative to the application of the current system occasioned by the *Forest Practice Code of British Columbia Act* and regulatory requirements to the preparation, review, and approval / rejection processes for Operational Plans and more specifically for Silviculture Prescriptions.

If delay is to be reduced, there must be a change in the culture and philosophy currently applied to the processes of submission, review, and acceptance or rejection of Silviculture Prescriptions. Standards of preparation and review of such prescriptions resulting in approval rather than rejection should become the norm. In part, this can be accomplished by:

- (a) greater recognition of professional foresters’ rights to practice, professionalism, and professional accountability; and
- (b) the establishment of a system of standards of review and time frames as set out in this report.

The Task Force feels that a greater reliance on professionalism is, at least, a partial solution to the causes and types of delay it identifies in this report and that other potential solutions need to be explored. To this end, the current review of the Operational Planning Regulation is a complementary and timely initiative. Giving a higher priority to formulating clear management objectives and values that provide context for Silviculture Prescription preparation, review, and approval or rejection is also important.

The Task Force is confident that there will be increased efficiencies and reduced delay in the Silviculture Prescription preparation, review, and approval or rejection processes when the recommendations contained in this report are implemented. It is felt that these recommendations will likely be of direct relevance to Stand Management Prescriptions as well, but need checking by the Ministry of Forests relative to Forest Development Plans.

Finally, the Task Force stresses that if the recommendations contained in this report are to succeed, joint Ministry of Forests, industry, and Association of British Columbia Professional Foresters training and information sessions must be given a high priority so that the functions, duties, and accountabilities / responsibilities expected of persons involved in the Silviculture Prescription preparation, review, and acceptance or rejection processes are clearly understood.

LIST OF APPENDICES

Appendix “A”	Task Force Members
Appendix “B”	Terms of Reference
Appendix “C”	Summary of Reasons for SP Rejection
Appendix “D”	Table of Standards of Review Applicable to Each s. 39 Element
Appendix “E”	Examples: Application of Standards of Review

APPENDIX “A”

PATF MEMBERS

Bruce McLean, RPF (ABCPF, Co-chair)	Henry Benskin, RPF (ABCPF, Co-chair)
John Hammons, RPF (ABCPF, representing CFBC)	Ken Belik, RPF (MOF)
Jim Sutherland, RPF (MOF)	Brian Murphy, RPF (MOF)
Brian Gilfillan, RPF (COFI)	Dennis Rounsville, RPF (COFI)
Michel de Bellefeuille, RPF (COFI)	

Jerome Marburg, LL.B. (ABCPF Registrar and Manager, Professional Standards) participated as secretariat to the Task Force.

APPENDIX “B”

TERMS OF REFERENCE

FPC - PROFESSIONAL ACCOUNTABILITY TASK FORCE

I. COMPOSITION

- A. The task force shall consist of nine (9) persons plus a secretariat provided by the Association of British Columbia Professional Foresters (the “ABCPF”).
- B. The Ministry of Forests (MOF), Council of Forest Industries (COFI), and the ABCPF shall each appoint three members to sit on the task force. One of the three ABCPF representatives shall be a representative of the Consulting Foresters of British Columbia (CFBC).
- C. The task force shall be chaired by a representative of the ABCPF.

II. PURPOSE

- A. The task force shall make recommendations, recognizing applicable legislation and policy to:
 - 1. Clarify and if appropriate modify the processes of preparation, review, and approval of *Forest Practices Code of British Columbia Act* (“FPC”) operational plans requiring the signature and seal of a professional forester with a view to streamlining them and / or making them more efficient; and
 - 2. Clarify and if appropriate modify the respective roles and responsibilities of professional foresters in the above processes (reference sub-section 2.1.1 above) with a view to streamlining and / or making them more efficient.
- B. The task force shall make any such other recommendations as are or may be appropriate.
- C. The task force shall make recommendations for the effective implementation and communication of its findings and recommendations arising from sub-sections 2.1 and 2.2 above.

III. REPORTING

- A. All recommendations made by this task force shall be made by consensus.

- B. The task force shall submit its report to the ABCPF Council; the CFBC; the Ministry of Forests; and COFI.
- C. The task force shall produce its report by 30 June 1996.

IV. **MEETINGS**

- A. The task force shall be free to decide for itself matters regarding types of meetings (in person, telephone, etc.) as well as the frequency and procedures to be followed at meetings.

APPENDIX "C"

SUMMARY OF REASONS FOR SP REJECTION

AS PROVIDED BY 28 OF 43 MOF DISTRICT OFFICES

February 13, 1996

Silviculture Prescriptions - Survey Summary

1) Have you rejected/returned any licensee SPs in the last 12 month period?

Yes - 26

No* - 2

*Draft SP comments provided.

2) Approximately how many SPs are returned?






0%	-	2
1-30%	-	6
31-70%	-	6
71-100%	-	14








3) Main reasons for returning/rejecting SPs








- inadequate riparian management considerations (reserves, NMB) (8)
- does not meet legislated requirements (8)
- incorrect site disturbance and area calculations (8)
- incorrect/not meeting/deviations from stocking standards (7)
- does not comply with higher level plan (6)
- inconsistencies/contradictions within the prescription (6)
- poor silvicultural system (prescription) (5)
- not adequately addressing forest health issues (5)
- inadequate/vague working (5)
- poor quality or incomplete maps (4)
- missing ecological information (4)
- changes required to species (acceptable to preferred) (3)
- insufficient/inadequate advertising or no advertising info (3)
- inappropriate harvesting method (3)
- inadequate soil protection measures (3)
- not addressing input (other agency, user group, public) (3)
- inadequate consideration of other resource values (2)
- management objectives not clear/acceptable (2)
- poor quality/incomplete/inadequate submissions (3)
- no licensee signature (2)
- not complying with road deactivation/closure agreements (2)
- prescription not signed and scaled by an RPF (2)
- improper/inadequate site preparation treatments (2)
- typographical errors (2)










APPENDIX “D”








STANDARDS OF REVIEW APPLICABLE TO S. 39 ELEMENTS









OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (2)	A person must ensure, for the area under a silviculture prescription, that the prescription	N/A	N/A	N/A
39 (2) (a)	names the forest development plan that applies to the area, or if there is no forest development plan that applies to the area, any higher level plan that applies to the area that guides the formulation of the prescription,			
39 (2) (b)	describes the location of all sensitive areas,			
39 (2) (c)	describes the location of (i) the area from which timber is to be harvested, (ii) the area where timber was destroyed or damaged, or (iii) the area from which timber was cut, removed, damaged or destroyed in contravention of section 96 of the Act,			
39 (2) (d)	specifies (i) the biogeoclimatic ecosystem classification, (ii) the hazard for soil compaction, surface soil erosion, soil displacement and forest floor displacement, unless not required under section 48(2); (iii) the likelihood of landslides, if a terrain stability field assessment has been carried out under section 30; (iv) if the area is in the Interior, the mass wasting hazard; and (v) any critical site factors,			
39 (2) (e)	contains a map of the locations referred to in paragraph (c) showing the classification referred to in paragraph (d)(i),			



OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (2) (f)	sets out the long term management objectives for the area, ⁽¹⁾			
39 (2) (g)	contains a reasonable evaluation of any forest health factors that exist currently in the area or that may reasonably be expected to occur in the area before the harvest of the next crop and describes the treatments that are required to be carried out on the area before the stand of trees becomes free growing,			
39 (2) (h)	contains a description of the silvicultural system to be used including the characteristics, species and function of any trees to be left standing,			
39 (2) (i)	without limiting paragraph (h), for even-aged silvicultural systems, contains a description of (i) the rotation age, (ii) the timing of the next harvest entry and intermediate stand treatment, and (iii) the stand structure composition goals for partial cutting,			
39 (2) (j)	without limiting paragraph (h), for single tree selection silvicultural systems, contains a description of (i) the cutting cycle, (ii) the pre-harvest stand structure, and (iii) the stand structure composition goals of the current entry and a minimum of one subsequent cutting cycle, or a description as otherwise required by the district manager,			
39 (2) (k)	without limiting paragraph (h) for group selection silvicultural systems, contains a description of (i) the stand structure composition goals, (ii) the cutting cycle and rotation age, and (iii) the range and average of opening sizes,			

OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (2) (l)	without limiting paragraph (h), for silvicultural systems not referred to in paragraphs (i) to (k), contains a description of (i) the pre-harvest stand structure, (ii) the stand structure composition goals of the current entry and a minimum of one subsequent cutting cycle, or a description as otherwise required by the district manager, and (iii) the rationale for the proposed silvicultural system,			
39 (2) (m)	describes the method of harvesting or mechanized silviculture treatments and any seasonal site conditions or constraints that would limit the timing of operations,			
39 (2) (n)	describes the total area under the prescription, including areas of rock, water, swamp and any other area whether or not it is capable of growing a stand of trees,			
39 (2) (o)	describes the net area to be reforested,			
39 (2) (p)	sets out the maximum proportion, if any, of the total area referred to in paragraph (n) that may be occupied by permanent access structures,	 If approved or built or if specified in FDP - otherwise SR3		
39 (2) (q)	sets out the maximum proportion, if any, of the net area to be reforested that may be occupied by soil disturbance,			

OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (2) (r)	sets out the maximum proportion, if any, of the net area to be reforested that may be occupied by temporary access structures including excavated or bladed trails, haul roads and landings,			
39 (2) (s)	specifies the general location where excavated or bladed trails may be constructed, the approximate spacing between them, the maximum allowable depth and width of excavation into the mineral soil and the maximum allowable gradient of the trails,			
39 (2) (t)	describes the action, if any, that will be taken to rehabilitate the area referred to in paragraph (r),			
39 (2) (u)	sets out the maximum amount by which the forest floor may be (i) reduced or displaced by any planned broadcast burning or other planned burning required by the district manager, or (ii) displaced by any harvesting or mechanical site preparation treatments,			
39 (2) (v)	describes the action, if any, that will be taken to (i) abate fire hazards, (ii) accomodate course woody debris objectives, (iii) accommodate the forest resources identified in any higher level plans or in the forest development plan that applies to the area under the prescription, and (iv) address the sediment and debris transport potential if the area is in a gully on the coast,		   (if scientific / technical evidence exists for management of that resource) 	 (if no scientific / technical evidence exists for management of that resource)

OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (2) (w)	contains a reasonable assessment of the non-timber forest resource values known to be on or adjacent to the area and describes the action, if any, that will be taken in the area to accommodate those values,			
39 (2) (x)	contains a description of the regeneration method and silviculture treatments to be carried out, including the alternative silviculture treatments to be carried out in the event of reasonably foreseeable treatment failures or omissions,			
39 (2) (y)	contains the stocking requirements,			
39 (2) (z)	contains the regeneration date,			
39 (2) (aa)	contains the free growing assessment period, and			
39 (2) (bb)	if the prescription is for the holder of a major licence or woodlot licence, contains the signature of the holder or a person who has authority to sign the prescription on behalf of the holder.			
39 (3)	Without limiting subsection (2), a person must ensure, for the area under a silviculture prescription and the area adjacent to that area, that the prescription describes or contains	N/A	N/A	N/A
39 (3) (a)	the location of known resource features,			

OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (3) (b)	for each stream and wetland,			
	(i) the riparian class,			
	(ii) the riparian reserve zone and any proposed forest practices for that zone,			
	and (iii) the riparian management zone and any proposed forest practices for that zone,			
39 (3) (c)	for each lake in and adjacent to the area,			
	(i) the riparian class and, where applicable, the known lake class,			
	(ii) the riparian reserve zone and any proposed forest practices for that zone,			
	(iii) where applicable, the width of the lakeshore management zone and the riparian management zone, and any proposed forest practices for those zones,			
39 (3) (d)	any proposed group reserves, including wildlife trees, and			
39 (3) (e)	any wildlife habitat areas. ⁽²⁾			

OPERATIONAL PLANNING REGULATION SECTION REFERENCE	TOPIC	PROPOSED STANDARD OF REVIEW		
		STANDARD #1	STANDARD #2	STANDARD #3
39 (4)	A silviculture prescription prepared under section 22(1)(b) or (c), 22(4) or 23 of the Act must meet all of the requirements of subsection (2), except the requirements in subsection (2)(h) to (m), which need not be met if	N/A	N/A	N/A
39 (4) (a)	there are no trees to harvest on the area under the prescription, and			
39 (4) (b)	the requirements are, in the opinion of the district manager, not applicable [am. B.C. Reg. 249/95, s. 5]			

FOOTNOTES:

(1)SR1 if in a FDP, otherwise it is SR1

(2) The Task Force notes that this section should deal with only "known" wildlife habitat areas. By "known" it is meant that the wildlife area must be identified in a higher level plan or otherwise make available by the government at least four months prior to submission of the operational plan. Reef: section 1(3) of Op. Planning Regulation.

APPENDIX “E”

EXAMPLES: APPLICATION OF STANDARDS OF REVIEW

Note to reader:

These examples have been placed in ascending order of review criteria starting with the more simple SR1 only and progressing through to examples of SR3 review which, by definition requires SR1 and SR2 review before SR3 analysis.

Example 1

1. Principle:

SP must meet legislated requirements. In this example the content requirement is mislabeled.

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(a)

3. Standard of Review 1:

Fact or information only, no judgment required.

4. Scenario:

Forest Development Plan is incorrectly identified. MOF staff discover that the correct FDP is Davis Logging TFL 101 Block 4 Doe River Development Plan 1996-2000.

Non Approval

C.1 CONSISTENCY WITH HIGHER LEVEL PLANS AND/OR FOREST DEVELOPMENT PLANS
NAME AND term OF APPLICABLE HIGHER LEVEL PLAN(S): • Charlotte LRMP, 1996-2000
NAME AND TERM OF EXISTING OR PROPOSED FOREST DEVELOPMENT PLAN: • Davis Logging TFL 111 Block 4 Doe River Development Plan 1996-2000
COMMENTS: • None.

5. Variations:

None

6. Accountability Implications:

The prescribing forester is accountable for ensuring the prescription meets the legislated requirements. The reviewing MOF staff can reject a prescription based on SR1 criteria.

Example 2

1. Principle:

Silviculture Prescription references a Geotechnical Report which has not been completed.

2. SR Chart Reference for Element at Issue:

OPR Sections 39(2)(d) & (m)

3. Standard of Review 2:

Judgment required - Scientific or Technical Issue.

4. Scenario:

Seasonal site conditions and critical site factors.

On an SP there is missing soil conservation commitments. During the development plan, terrain overview assessments were conducted and identified areas of high instability. The area is on a steep outer coastal hypermaritime site subject to heavy fall rains. Soils are shallow folisols over bedrock.

Non approval

The following excerpt is an example of why a prescription would be rejected based on inappropriate reference of soil conservation commitments to a terrain report which was not yet available.

SU	OPERATING CONDITIONS: SEASONAL SITE CONDITIONS, STAND AND SITE LIMITING FACTORS, AND OTHER HARVEST CONSTRAINTS
A	Per Geotechnical Terrain Report to be completed by xxx consulting on 28 August 1999.
B	Per Geotechnical Terrain Report to be completed by xxx consulting on 28 August 1999.
SU	MEASURES FOR MINIMIZING SOIL DISTURBANCE AND FOREST FLOOR DISPLACEMENT:
A	Per Geotechnical Terrain Report to be completed by xxx consulting on 28 August 1999.
B	Per Geotechnical Terrain Report. to be completed by xxx consulting on 28 August 1999.

5. Variations:

If the report was in fact completed, relevant information from the report must be included before the prescription could pass SR1 scrutiny. Reference to the report alone is not sufficient. If the box was filled out correctly it would pass SR1 review and then if there was a question regarding the element, it would have to be analyzed using SR2 criteria.

6. Accountability Implications:

Prescribing forester is responsible for ensuring appropriate content in the SP to ensure the legislated requirements are met. Reference to a non-existence document is not appropriate to meet soil conservation requirements. Actions of this nature may be appropriate for professional review by the ABCPF. Whether discipline procedures are, in fact, appropriate would depend on all the circumstances of the particular case. MOF staff can reject based on SR 1 criteria.

Example 3

1. Principle:

Differences of professional opinion where there is no substantial and demonstrable evidence that the SP should be rejected and where there is evidence that it should be rejected.

2. SR Chart Reference for Element at Issue:

OPR Sections 39(2)(g) & (x)

3. Standard of Review 2:

Judgment required - Scientific or Technical Issue.

4. Scenario:

Forest Health Treatments

During the development plan, hemlock mistletoe was extensively noted throughout the stand and neighbouring stands. The block in question was 35 hectares in size.

Approval

The following excerpt is an example of a prescription that would be approved based on an appropriate treatment for the mistletoe hazard. The three meter knockdown would help in checking the mistletoe infection and a sanitation spacing treatment would occur when the infection symptoms are visible.

In this scenario, it is the reviewing forester's opinion that a new SU should be established along the periphery of the block boundary in which hemlock would not be an acceptable species. This is recommended in the guidebook however there is no substantial and demonstrable evidence that the prescription would fail with only the three meter knockdown and sanitation spacing if required. The SR2 approval criteria are therefore met and the prescription must be approved for this element.

Management Objectives

This area will be managed to produce an even-aged saw log stand of approximately 700-800m³/ hectare at a rotation of 80 years with a diameter range of 40-50cm. This stand will be comprised of Hemlock and Balsam, with minor amounts of Cedar.

FOREST HEALTH AGENT OCCURRENCE:							
SU	AGENT NAME			% INCIDENCE (TOTAL TREES)	AREA AFFECTED (ha)	EXPECTED FUTURE HAZARD	
A	Hw mistletoe			20	35 ha	H	
SU	ACTIONS TO ACCOMMODATE EXPECTED FUTURE HAZARDS:						
A	See Forest Health Treatments. 3 m knockdown and sanitation spacing.						
FREE GROWING STOCKING REQUIREMENTS							
SU	REGEN METHOD	REGEN DATE (yrs)	FREE GROWING (yrs)		MAX CONIFEROUS (st/ha)	POST SPACING DENSITY (st/ha)	
			EARLY	LATE		MIN	MAX
A	Natural	36	11	14	5000	800	1000

PREFERRED/ACCEPTABLE SPECIES						
SU	PREFERRED SPECIES/MINIMUM HEIGHT (m)				ACCEPTABLE SPECIES/MINIMUM HEIGHT (m)	
A	Ba/0.75 Hw/1.0				Cw/1.0	
WELL SPACED TREES/ha						
SU	WELL SPACED TREES/ha				HEIGHT RELATIVE TO COMP (% OR cm)	
	TARGET	MINIMUM	MIN PREF	MIN HORIZ DISTANCE		
A	900	500	400	2.0	150	
SU	SPECIAL SURVEY CRITERIA					
A	Only Hw not infected with mistletoe will be considered acceptable well spaced trees.					
REFORESTATION TREATMENTS						
REGENERATION						
SU	PREFERRED REGENERATION TREATMENT(s)				ALTERNATE REGENERATION TREATMENT(s)	
A	Natural regeneration.				Survey for regeneration 4 years post harvest. Infill plant with Hw/Ba/Cw mixture 5 years post harvest.	
FOREST HEALTH						
SU	PREFERRED FOREST HEALTH TREATMENT(s)				ALTERNATE FOREST HEALTH TREATMENT(s)	
A	3m knockdown will be carried out concurrently with harvest to minimize the spread of Hw mistletoe infection. A free growing survey will be conducted to determine the extent of mistletoe encroachment into the stand . If mistletoe encroachment affects more than 20% of the stand , a sanitation spacing will be conducted to eliminate all Hw infected with mistletoe.				None	

5. Variations:

The prescription is the same as above, however, in this case the forester has specified that no forest health treatments are required. With no treatment for the Hw mistletoe problem the prescription would be rejected based on the fact that there is substantial and demonstrable evidence that the prescription would not succeed in meeting its management objectives. Substantial and demonstrable evidence would include such things as: scientific journals; evidence / experience of experts in this particular area; and case histories. Guidebooks may be used as evidence in certain appropriate circumstances but may not be conclusive in all cases.

6. Accountability Implications:

Prescribing forester is accountable to ensure that there are technical treatments prescribed that meet management objectives. Reviewing forester is accountable to ensure that the recommended rejection is based on substantial and demonstrable evidence that the prescribed treatments will not meet the management objectives.

Example 4

1. Principle:

Silviculture Prescription contains a calculation error.

2. SR Chart Reference for Element at Issue:

OPR Section 39(3)(c)(iii)

3. Standard of Review 3:

Judgment required - Balancing of public policy issues and resource values.

4. Scenario:

On a silviculture prescription the riparian assessment information is described.

Non approval

The following excerpt is an example of why a prescription would be rejected based on miscalculations in the prescription for water body ID # 1 and 4. The calculation when the Riparian Reserve Zone is added to the Riparian Management Zone does not equal the value presented for the Total Riparian Management Area. *Even though this would normally be an SR3, it is rejected because it does not pass the first step - SR1 test - because of a miscalculation.*

RIPARIAN ASSESSMENTS								
WATER BODY ID	RIPARIAN CLASS	RIPARIAN RESERVE ZONE (m)	HARVESTING PROPOSED	SU XRef (if applicable)	RIPARIAN MANAGEMENT ZONE (m)	HARVESTING PROPOSED	SU XRef (if applicable)	RIPARIAN MANAGEMENT AREA (m)
1	S2	30	N	n/a	20	Y	G	70
2	L2	10	N	n/a	20	Y	C	30
3	W4	0	n/a	n/a	50	Y	B	50
4	S2	30	N	n/a	25	Y	F	80
5	S3	20	N	n/a	20	Y	H	40

PROPOSED FOREST PRACTICES FOR DESIGNATED ZONES INCLUDING THE APPLICATION OF OPR S.44 AND/OR 45 (Describe objectives for RMZ and actions to meet objectives. Tree removal specifications for RRZ must be stated. Include name, date, author of riparian assessment report if available.):

- 1 Reserve and Management zone in accordance with Riparian Management Area guidebook.
- 2 To maintain visual quality objectives around this lake, the 20 m RMZ (SU C) will be selectively harvested. See silviculture system section for SU C for further details.
- 3 Many woodpeckers have been noted throughout this wetland, therefore the RMZ is a little larger, and wildlife tree patches, marked with blue paint, will be left throughout this section.
- 4 Pockets of root rot have been noted immediately to the west of this stream. To ensure the 30 m RRZ remains windfirm, selection system will be applied throughout the 25 m RMZ (SU F). Windfirm trees will be ribboned with blue ribbon, and will remain standing, all others will be removed. Deep rooted Ss and Ba, >25m in height, with well developed taper will be selected. Trees will be left in deep, well drained pockets.
- 5 Reserve and management zone in accordance with Riparian Management Area guidebook.

5. Variations:

None presented.

6. Accountability Implications:

Prescribing forester is responsible to ensure that there are no miscalculations in the prescription. MOF staff can reject based on SR 1 criteria.

Example 5

1. Principle:

Submission of a technically competent SP that is subsequently rejected by the Statutory Decision Maker in the course of exercising his/her discretion in the consideration of other resource values. The decision to reject was based on the Statutory Decision Maker's extensive experience in winter wildlife habitat management.

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(f)

3. Standard of Review 3:

Judgment required - Balancing of public policy issues and resource values.

4. Scenario:

Other resource values not adequately addressed

Non Approval

Management Objectives

To enhance ungulate winter range by maintaining snow interception, thermal and hiding cover for ungulates. To manage the stand on an uneven-aged basis using single tree selection. Stand entries will be approximately every 20 years with a B-level stocking of 18m²/ha. The stand structure will approximate that depicted on table 1 of appendix 2 (refers to factor cruise compilation). Stand entries will be targeted towards producing approximately 30m³/ha of Fdi, Lw and Pli sawlogs at each entry.

The MOF reviewing forester reviewed the prescription and found that it was scientifically and technically sound such that it was likely to meet the stated management objectives. He/she recommended approval to the Statutory Decision Maker. The Statutory Decision Maker reviewed the prescription and exercised his/her discretion under 41(1)(b) to reject the prescription. His/her rationale stated that in his/her opinion the management objective should have included forage production as the area was identified in the development plan as critical ungulate winter range.

5. Variations:

If the management objectives were reworded to include forage production, the reviewing forester would have to evaluate the uneven age single tree selection silvicultural system to determine if it is technically and scientifically sound such that the enhanced winter range objectives are met. If, for example, a credible and authoritative wildlife study showed that single tree selection with a B-level stocking greater than 15m²/ha did not result in increased forage production, the reviewing forester may have demonstrable evidence to recommend rejection of the prescription.

6. Accountability Implications:

The Statutory Decision Maker has exercised his/her discretion. In this case, no professional liability concerns are evident with respect to the prescribing forester who has submitted a valid prescription which to his/her knowledge satisfied 39 (2)(f). Once made aware of the concerns raised by the Statutory Decision Maker, the prescribing forester should develop a new prescription which addresses these concerns. The prescribing forester is professionally accountable for the revised prescription.

Example 6

1. Principle:

Silviculture Prescription must meet legislated requirements--box is not filled in

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(x)

3. Standard of Review 2:

Judgment required - Scientific or Technical Issue.

4. Scenario:

On a silviculture prescription, an area has been identified as posing a moderate to high brush hazard.

Non approval

This following excerpt is an example of why a prescription would be rejected on SR1 criteria. Even though it is SR2 for the scientific/technical content it does not pass SR1 (as a first step) because the element was not filled in. The test for SR1 criteria is to ask the question: is the element filled in, mislabeled, or miscalculated. Once this question is answered the reviewer then goes on to do SR2 analysis.

ECOLOGY AND CRITICAL SITE FACTORS	
BIOGEOCLIMATIC: Zone: CWH Subzone: ms Variant & Phase: 2 Site Series: 06	
ECOLOGY COMMENTS: Amabilis - Cedar - devil's club ecosystem. Salmonberry, Devil's club, Alder sp., elderberry, and currant species noted throughout this unit, especially in natural openings. These species, with the exception of Devil's club, will respond positively and rapidly to the removal of the forest canopy.	
REFORESTATION TREATMENTS	
REGENERATION	
PREFERRED REGENERATION TREATMENT(s)	ALTERNATE REGENERATION TREATMENT(s)
Plant large 615 2+0 Cw plugs in late summer immediately following harvest .	In the event of 2+0 plugs cannot be obtained within the necessary time frame after harvest, use 1+0 plugs. In the event of planting failure, infill plant large 615 1+0 Cw plugs.
BRUSHING	
PREFERRED BRUSHING TREATMENT(s)	ALTERNATE BRUSHING TREATMENT(s)
Anticipated competition: Ribes sp. Rubus spectabilis, Sambucus racemosa, Alnus rubra Manually treat competing vegetation 1 year after planting , and follow up with another manual treatment 3 years after planting.	

Note: The degree of detail under the preferred brushing treatment in the example box should only be required if it is critical to the success of the prescription.

5. Variations:

The word "None" could be acceptable as an alternate treatment but will have to pass scrutiny under SR 2 criteria.

6. Accountability Implications:

Prescribing forester is responsible for ensuring the prescription meets the legislated requirements. Reviewing MOF staff can reject on SR1 criteria.

Example 7

1. Principle:

Submission of a technically sound SP but which is rejected by the Statutory Decision Maker in the course of exercising his discretion in the consideration of policy or other values.

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(p)

3. Standard of Review 3:

Judgment required - Balancing of public policy issues and resource values.

For this example it is SR3 because the roads are not yet built or specified in the FDP

4. Scenario:

Permanent Access

Maximum Allowable Proportion of Permanent Access within the Total area: 7.4 %

The higher than normal proportion of permanent access is because the steep & broken nature of the terrain in the western half of the block necessitates the construction of Spur "A" to maintain deflection.

Although the SP is scientifically and technically sound (it meets SR2 review criteria) the Statutory Decision Maker decided to reject it on the basis that it exceeds the maximum percentage recommended in the Soils Conservation Guidebook. In this case the Statutory Decision Maker decided not to accept the higher percentage because there were reasonable alternatives that could be implemented which could achieve the 7%.

In the rationale for rejection, the Statutory Decision Maker must state the:

- (a) Value at issue (maximum permanent access percentage);
- (b) Source of that value;
- (c) Other reasonable alternatives; and
- (d) Reasonable risk as to why the proposed SP does not satisfy 41(1)(b) in respect of that value.

5. Variations:

In a case where the reasons for the higher than normal proportion of permanent access included that the size of the block is restricted by adjacent reserves for biodiversity or for visual quality objectives, the Statutory Decision Maker may have approved the SP based on his/her judgment of how all these other factors justify the higher percentage.

6. Accountability Implications:

The prescribing forester will remain professionally accountable for the changes he/she makes to the prescription. A prescribing forester should not sign a prescription which in his or her opinion will not meet management objectives. Coping strategies could include: not signing the prescription; modifying the prescription to accommodate the changes requested while meeting management objectives; and further discussion between relevant parties to resolve an impasse.

Example 8

1. Principle:

Submission of a technically sound SP but which is inappropriately rejected under SR2 criteria. This also illustrates that an element reviewed under SR3 must first pass SR1 then SR2 for the scientific / technical component before undergoing SR3 analysis.

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(p)

3. Standard of Review 3:

Judgment required - Balancing of public policy issues and resource values.

For this example it is SR3 because the roads are not yet built or specified in the FDP

4. Scenario:

Permanent Access

Maximum Allowable Proportion of Permanent Access within the Total area: 7.0 %

The total calculated disturbance for permanent access is 7.4%. The Company commits to meet 7% for the maximum allowable proportion of permanent access. To do so, a portion of Spur "A" could be de-built. If this was done the calculated maximum allowable proportion of permanent access will be 7%. Similarly, a portion of Spur "B" could also be de-built to meet this percentile. Post harvest measurements will be used to identify the exact need for road de-building.

Although the SP is technically and scientifically sound, the reviewing forester inappropriately recommends rejection. The reasons given in the rational is that there is no enforceable commitment to de-build and that the commitment is unclear. While it is true that the commitment to de-build is subject to the result of a post-harvest measurement, the commitment is very clear that 7% will be adhered to. As well, possible measures are given to demonstrate it is achievable. The SP should have been accepted at this level as there is no substantial and demonstrable evidence that this strategy will not achieve the objective.

If an appropriate rejection is to be made in this example it can only be done so under SR3 criteria since it passes SR1 and SR2 review criteria.

5. Variations:

None presented for this example

6. Accountability Implications:

The reviewing forester is professionally accountable for the accuracy of the reasoning for his/her recommendations.

Example 9

1. Principle:

Statutory Decision Maker exercises discretion to reject the prescription on policy or value consideration

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(w)

3. Standard of Review 3:

Judgment required - Balancing of public policy issues and resource values.

4. Scenario:

Accommodation of other resources.

Grizzly bear habitat has been identified as an important value and has been made known in accordance with the provisions of subsection 1(3) of the Operational Planning Regulation in that it is either contained in a higher level plan or otherwise made available by the government at least 4 months before the prescription was submitted.

Non approval

In this example the reviewing forester would appropriately recommend rejection of the prescription under SR2 criteria since:

- (a) the proposed stocking standards are not technically suitable for achieving the habitat objectives; and
- (b) the statement "harvest carefully" is not acceptable from a technical perspective to adequately manage the grizzly bear resource.

The substantial and demonstrable evidence in this case are the draft Guidelines for Integrating Grizzly Bear Habitat and Silviculture in Coastal British Columbia. The reason that the guideline is adequate to meet SR2 evidentiary requirements is that it is based on empirical, and generally accepted scientific study and data.

LONG TERM MANAGEMENT OBJECTIVES (Stand Level)
LONG TERM MANAGEMENT OBJECTIVES: This block will be managed for Cw, Ss, and, Hw sawlogs, 50 cm dbh, over a 80 year rotation. Maintain fish, water, and wildlife values. Grizzly bear habitat to be maintained.
C.5e WILDLIFE HABITAT (in/adjacent to prescribed area)
WILDLIFE HABITAT VALUES / CONCERNS Bear droppings noted.
ACTIONS TO ACCOMMODATE WILDLIFE HABITAT OBJECTIVES: Block will be harvested carefully.
ECOLOGY AND CRITICAL SITE FACTORS
BIOGEOCLIMATIC: Zone: CWH Subzone: ms Variant & Phase: 2 Site Series: 11
ECOLOGY COMMENTS: Cedar - spruce - skunk cabbage ecosystem. Salmonberry, elderberry, and currant species noted throughout this unit, especially in natural openings. Grass species noted throughout. These species will respond positively to the removal of the forest canopy.

REFORESTATION TREATMENTS						
REGENERATION						
PREFERRED REGENERATION TREATMENT(s)				ALTERNATE REGENERATION TREATMENT(s)		
Plant large 415 Cw plugs on raised microsites within 1 year of harvest..				Natural regeneration with infill planting of Cw and Ss on raised microsites.		
BRUSHING						
PREFERRED BRUSHING TREATMENT(s)				ALTERNATE BRUSHING TREATMENT(s)		
Anticipated competition: Calamagrostis sp., Ribes sp. Rubus spectabilis, Sambucus racemosa, Alnus rubra. Manually treat competing vegetation 2 years after planting, and repeat with another manual treatment if necessary.				Chemically spot treat with herbicide where manual treatment fails.		
FERTILIZATION						
FREE GROWING STOCKING REQUIREMENTS						
REGEN METHOD	REGEN DATE (yrs)	FREE GROWING (yrs)		MAX CONIFEROUS (st/ha)	POST SPACING DENSITY (st/ha)	
		EARLY	LATE		MIN	MAX
Plant	3	8	11	5000	750	850
PREFERRED/ACCEPTABLE SPECIES						
PREFERRED SPECIES/MINIMUM HEIGHT (m)				ACCEPTABLE SPECIES/MINIMUM HEIGHT (m)		
Cw/0.75				Hw/0.75 SS/2.0		
WELL SPACED TREES/ha						
TARGET	WELL SPACED TREES/ha			HEIGHT RELATIVE TO COMP (% OR cm)		
	MINIMUM	MIN PREF	MIN HORIZ DISTANCE			
800	400	400	1.0m	150%		
SPECIAL SURVEY CRITERIA						
During regeneration survey, note how many seedlings per plot are chlorotic. Then estimate a proportion of the SU of seedlings exhibiting chlorotic symptoms.						
RATIONALE FOR CHOICE OF STOCKING REQUIREMENTS						
In accordance with LMH 28 (1994) and Establishment to Free Growing Guidebook: Vancouver Forest Region.						

5. Variations:

Non Approval

If in the above example the proposed stocking standards were technically appropriate but there were no descriptions related to grizzly bears other than "bear droppings noted", the Statutory Decision Maker could reject under SR3 criteria if he/she concluded that this statement did not provide a reasonable assessment of the grizzly bear habitat known to be on or adjacent to the area under prescription.

In the Statutory Decision Maker's rationale he or she must clearly identify the source of information indicating grizzly bear values. In this case grizzly bear habitat is a known value in that it was specified in a higher level plan or otherwise made available by the government at least 4 months before the prescription was submitted. The Statutory Decision Maker must therefore reference the document(s) in which this value was identified. The rationale would also state that the description of the resource value did not quantify the extent of the resource. Without an adequate description of the resource, there can be no analysis of the adequacy of management techniques.

Approval

The prescription after rectification to the following excerpts could then be approved since the stocking standards, including maximum density and treatments were appropriate for that objective and the actions to accommodate wildlife habitat objectives were clearly stated. The grizzly stocking standards will likely reduce the value or quality of future sawlogs due to the open light conditions. For this reason, a pruning treatment was added, with follow ups, since epicormic branching was expected on these species. Although the pruning would be able to increase the quality / value of the sawlogs, the wood would be expected to contain small knots. Since the site is rich, and since broadcast chemical herbicide application is not recommended, a commitment had to be made to plant large stock immediately following harvest, and follow up with manual brushing or spot chemical treatments.

LONG TERM MANAGEMENT OBJECTIVES (Stand Level)
LONG TERM MANAGEMENT OBJECTIVES: This block will be managed for Cw, Ss, and Hw sawlogs, 50 cm dbh, over a 80 year rotation. Maintain fish, water, and wildlife values. Grizzly bear habitat to be maintained.
C.5e WILDLIFE HABITAT (in/adjacent to prescribed area)
WILDLIFE HABITAT VALUES / CONCERNS Bear droppings noted extensively throughout this unit and surrounding area. Area has been identified on FDP by MOE FES ,John Doe, as having high grizzly bear habitat value.
ACTIONS TO ACCOMMODATE WILDLIFE HABITAT OBJECTIVES: Special measures will be taken to ensure the density of crop trees will be controlled to encourage the development of bear forage species throughout the development of the forest stand. See Treatments.
ECOLOGY AND CRITICAL SITE FACTORS
BIOGEOCLIMATIC: Zone: CWH Subzone: ms Variant & Phase: 2 Site Series: 11
ECOLOGY COMMENTS: Cedar - spruce - skunk cabbage ecosystem. Salmonberry, elderberry, and currant species noted throughout this unit, especially in natural openings. Grass species noted throughout. These species, with the exception of grass, are important forage species for Grizzly Bear (per Coastal Grizzly Bear Habitat Management Guidelines). These species will respond positively to the removal of the forest canopy.

REFORESTATION TREATMENTS

REGENERATION						
PREFERRED REGENERATION TREATMENT(s)				ALTERNATE REGENERATION TREATMENT(s)		
Cluster plant large 615 Cw plugs on raised microsites within 1 year of harvest. Estimate 6-10 trees/cluster.				Natural regeneration with infill planting of Cw and Ss on raised microsites.		
VEGETATION MANAGEMENT						
PREFERRED BRUSHING TREATMENT(s)				ALTERNATE BRUSHING TREATMENT(s)		
Anticipated competition: Calamagrostis sp., Ribes sp. Rubus spectabilis, Sambucus racemosa, Alnus rubra Manually treat competing vegetation in July if survey notes that target well spaced trees will not be maintained through to free growing.				Chemical spot treatments of clusters only. Conduct a follow up brushing survey 1 year after initial brushing treatment. If survey indicates that competing vegetation is within greater than 90% of the height of the crop trees, schedule another manual treatment for the following year..		
PRUNING						
PREFERRED PRUNING TREATMENT(s)				ALTERNATE PRUNING TREATMENT(s)		
Since target densities are low, prune trees to 1/2 live crown when at least 80% of the DBH stem diameters exceed 5 cm. Do not prune any trees whose DBH diameters do not exceed 5 cm. This is anticipated to occur 11-14 years post harvest. Pre-pruning assessment should be conducted approx. 11 years after harvest to determine whether pruning window has been reached. Follow up with another treatment 1-2 years after initial pruning treatment to remove epicormic branches.				None		
FREE GROWING STOCKING REQUIREMENTS						
REGEN METHOD	REGEN DATE (yrs)	FREE GROWING (yrs)		MAX CONIFEROUS (st/ha)	POST SPACING DENSITY (st/ha)	
		EARLY	LATE		MIN	MAX
Plant	3	14	20	1000	350	450
PREFERRED/ACCEPTABLE SPECIES						
PREFERRED SPECIES/MINIMUM HEIGHT (m)				ACCEPTABLE SPECIES/MINIMUM HEIGHT (m)		
Cw/0.75				Hw/0.75 SS/2.0		
WELL SPACED TREES/ha						
TARGET		WELL SPACED TREES/ha			HEIGHT RELATIVE TO COMP (% OR cm)	
MINIMUM	MIN PREF	MIN HORIZ DISTANCE				
400	200	400	2.0m		150%	

OTHER REQUIREMENTS
The pruned bole will have at least 2 meters clear bole from the ground to the point of live crown. At least 1/2 live crown must remain for a crop tree to be considered well spaced. Any pruned trees less than 5cm dbh will not be considered well spaced.
SPECIAL SURVEY CRITERIA
Count all pruned trees with at least 2 meters clear bole from the ground to the point of live crown well spaced. Do not count any pruned tree with less than 1/2 live crown well spaced. do not count any pruned tree with less than 5cm dbh well spaced.
RATIONALE FOR CHOICE OF STOCKING REQUIREMENTS
Because the Cw and Ss will be open grown to manage for important grizzly bear forage, quality / value of logs will be reduced. The pruning treatment can compensate somewhat, although small knots can still be expected as a result of epicormic branching. The trees should be at least 4 meters before they are pruned and this is anticipated to occur between 11-14 years after harvest. For this reason, free growing delays must be extended to ensure adequate time for pruning treatment and subsequent follow up. Stocking standards in accordance with the draft Guidelines for Integrating Grizzly Bear Habitat and Silviculture in Coastal British Columbia. Max. density has been adjusted to ensure stand is managed for grizzly forage.

6. Accountability Implications:

Prescribing forester is accountable to ensure that the prescription is consistent with forest development plan and higher level plan decision making. In addition statements must contain measurable actions and not vague and inadequate wording.

Example 10

1. Principle:

Submission of a technically sound SP that is inappropriately rejected by the Statutory Decision Maker in the course of exercising his/her discretion in the consideration of other resource values. The decision to reject incorporates inappropriate technical information submitted by the reviewing RPF.

2. SR Chart Reference for Element at Issue:

OPR Section 39(2)(w)

3. Standard of Review 3:

Judgment required - Balancing of public policy issues and resource values.

4. Scenario:

This was an inappropriate rejection under SR3 criteria because the rationale provided by the reviewing forester included unobtainable requirements for accommodating other resource values.

Management Objectives

This area will be managed to produce an even-aged saw log stand of approximately 200-250 m³/hectare at a rotation age of 100-120 years with a diameter range 20-35 cm. This stand will be comprised of lodgepole pine and spruce with minor amounts of balsam and white bark pine.

Caribou management has been deemed a high priority in the development of the No-name Creek Resource Management Plan. Caribou habitat will be managed by promoting future lichen production within the block.

WILDLIFE action prescribed

The No-name Creek Resource Management Plan has identified that the cutblock has low-medium caribou habitat. Relatively small clear-cut area with surrounding coniferous will be sufficient to maintain habitat and movement corridors. Acceptable advanced balsam regeneration will be reserved and protected during harvesting to maintain/enhance future lichen production.

The reviewing MOF forester prepared a written rationale recommending that the Statutory Decision Maker reject the silvicultural prescription on the basis that in his/her opinion the balsam regeneration should be specifically left in clumps to further facilitate lichen production. The Statutory Decision Maker considered the MOF reviewing forester comments and rejected the SP on the basis that the prescription did not adequately accommodate other resource values since the prescribed treatments were not consistent with locally accepted practices for maintaining / enhancing lichen production.

Following the rejection, the prescribing forester clarified that he/she purposely did not prescribe that Balsam be left in clumps as the balsam residuals were evenly distributed across the site and clumps did not exist. The reviewing forester should have been aware of this as he/she had taken part in an on-site review.

There are two important facets of the review by the reviewing forester. Firstly, the reviewing forester should not propose rejection based on his/her opinion that another option may produce better results. His/her rejection must be based on factors relating to why the prescribing forester will or will not achieve the desired results and if recommending rejection must marshal substantial and demonstrable evidence that the technical or scientific element is not sound.

Secondly, the reviewing forester must ensure that the information he/she uses in making recommendations is based on fact. In this particular case, if he/she had actually visited the site, he/she should have been aware the distribution of residual balsam prior to making the recommendation.

5. Variations:

If there was substantial and demonstrable evidence that the management objective of managing Caribou habitat by promoting lichen production would not be met unless the balsam was left in clumps, the prescribing forester's prescription could be appropriately rejected on SR2 criteria. In this case the prescribing forester would have to submit an alternative prescription (eg.: block size, shape, etc) which would adequately address the caribou management objectives if the block was to be harvested.

6. Accountability Implications:

The reviewing forester is accountable for the accuracy of the information leading up to his/her recommendation to the district manager. He/she must ensure that there are valid reasons for proposing rejection of the prescribing forester's prescription based on the SR2 review criteria of substantial and demonstrable evidence that the prescribed action is not sound. Repeated actions of the type of actions demonstrated by the reviewing forester in this example may expose the individual to review of his/her competence.