FOREST PRACTICES CODE OF BRITISH COLUMBIA

ACT

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FOREST PRACTICES CODE OF BRITISH COLUMBIA ACT
CHAPTER 159

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Preamble

WHEREAS British Columbians desire sustainable use of the forests they hold in trust for future generations;
AND WHEREAS sustainable use includes

(a) managing forests to meet present needs without compromising the needs of future generations,
(b) providing stewardship of forests based on an ethic of respect for the land,
(c) balancing economic, productive, spiritual, ecological and recreational values of forests to meet the economic, social and cultural needs of peoples and communities, including First Nations,
(d) conserving biological diversity, soil, water, fish, wildlife, scenic diversity and other forest resources, and
(e) restoring damaged ecologies;

PART 1 – Definitions

Definitions

1. (1) In this Act:

“agreement under the Forest Act” means an agreement in the form of a licence, permit or agreement referred to in section 12 of the Forest Act;
“agreement under the Range Act” means an agreement in the form of a licence or permit referred to in section 3 of the Range Act;
“backlog area” means an area
   (a) from which the timber was harvested, damaged or destroyed before October 1, 1987, and
   (b) that in the district manager’s opinion is insufficiently stocked with healthy well spaced trees of a commercially acceptable species;
“bladed trail” means a bladed trail as defined by regulation;
“board” means the Forest Practices Board established under section 190;
“botanical forest product” means a prescribed plant or fungus that occurs naturally on Crown forest land;
“commission” means the Forest Appeals Commission established under section 194;
“community watershed” means a community watershed under section 41 (8);
“compacted area” means a compacted area of soil as defined by regulation;
“corduroyed trail” means a corduroyed trail as defined by regulation;
“council” means the Forest Practices Advisory Council referred to in section 221;
“Crown forest land” means forest land that is Crown land;
“cutblock” means a specific area of land identified on a forest development plan, or in a licence to cut or a cutting permit issued under a master licence to cut, road permit or Christmas tree permit, within which timber is to be or has been harvested;
“deactivate”, when used in relation to a road, means deactivation of the road as prescribed;
“designated employment and investment official” means a person employed in the Ministry of Employment and Investment who is designated by name or title to be a designated employment and investment official by the minister of that ministry for the purpose of a provision of this Act or the regulations that is set out in the designation;
“designated environment official” means a person employed in the Ministry of Environment, Lands and Parks who is designated by name or title to be a designated environment official by the minister of that ministry for the purpose of a provision of this Act or the regulations that is set out in the designation;
“designated forest official” means a person employed in the Ministry of Forests who is designated by name or title to be a designated forest official by the minister of that ministry for the purpose of a provision of this Act or the regulations that is set out in the designation;

“determination” means any act, omission, decision, procedure, levy, order or other determination made under this Act, the regulations or the standards by an official or a senior official;

“dispersed disturbance” means a dispersed disturbance as defined by regulation;

“excavated trail” means an excavated trail as defined by regulation;

“forest practice” means timber harvesting, road construction, road maintenance, road use, road deactivation, silviculture treatments, botanical forest product collecting, grazing, hay cutting, fire use, control and suppression and any other activity that is

(a) carried out on land that is
   (i) Crown forest land,
   (ii) range land, or
   (iii) private land that is subject to a tree farm licence or a woodlot licence, and
(b) carried out by
   (i) any person
      (A) under an agreement under the Forest Act or Range Act,
      (B) for a commercial purpose under this Act or the regulations, or
      (C) to rehabilitate forest resources after an activity referred to in clause (A) or (B), or
   (ii) the government;

“forest resources” means resources and values associated with forests and range including, without limitation, timber, water, wildlife, fisheries, recreation, botanical forest products, forage and biological diversity;

“free growing stand” means a stand of healthy trees of a commercially valuable species, the growth of which is not impeded by competition from plants, shrubs or other trees;

“grazing schedule” means a schedule that sets out the class and number of livestock that can use an area described in the schedule, the dates the livestock can use the area and other prescribed information;

“higher level plan” means

(a) a plan formulated under section 4 (c) of the Ministry of Forests Act and designated as a higher level plan by the district manager in accordance with direction from the chief forester,
(b) a management plan designated as a higher level plan by
   (i) the chief forester, for tree farm licences, and
   (ii) the regional manager, for other agreements under the Forest Act,
(c) an objective for a resource management zone,
(d) an objective for a landscape unit or sensitive area,
(e) an objective for a recreation site, recreation trail or interpretive forest site, and
(f) a plan or agreement declared to be a higher level plan by
   (i) the ministers, or
   (ii) the Lieutenant Governor in Council under this or any other Act;

“interpretive forest site” means an interpretive forest site established under section 6 or designated under the Forest Act before the coming into force of this Act;

“livestock” means livestock as defined under the Range Act and those species designated by regulation as being livestock;

“master licence to cut” means a licence to cut in the form of a master agreement referred to in section 51 (3) of the Forest Act;

“minister” means the member of the Executive Council charged by order of the Lieutenant Governor in Council with the administration of this Act;

“ministers” means the Minister of Forests, the Minister of Environment, Lands and Parks and the Minister of Employment and Investment;

“minor salvage operation” means minor salvage operation as defined by regulation;

“natural range barrier” means a river, rock face, dense timber or any other naturally occurring feature that stops or significantly impedes livestock movement to and from an adjacent area;

“net area to be reforested” means that portion of the area under a silviculture prescription that does not include

(a) an area occupied by permanent access structures,
(b) an area of rock, wetland or other area that in its natural state is incapable of growing a stand of trees that meets the stocking requirements specified in the prescription,

(c) a contiguous area of more than 4 ha that the district manager determines is composed of non-commercial forest cover, or

(d) an area indicated on the silviculture prescription as a reserve area where the establishment of a free growing stand is not required;

“official” means

(a) a designated forest official,

(b) a designated environment official, or

(c) a designated employment and investment official;

“operational plan” means a forest development plan, logging plan, access management plan, range use plan, silviculture prescription and stand management prescription;

“permanent access structure” means a structure, including a road, bridge, landing, gravel pit or other similar structure, that

(a) provides access for timber harvesting, and

(b) is shown expressly or by necessary implication on a forest development plan, access management plan, logging plan, road permit or silviculture prescription as remaining operational after timber harvesting activities on the area are complete;

“range development” means

(a) if related to the management, for range purposes, of range land or livestock, a structure, excavation or constructed livestock trail, and

(b) a practice, excluding grazing, that is designed to improve range conditions or facilitate more efficient use of range land for range purposes;

“range land” means Crown range and land subject to an agreement under section 18 of the Range Act;

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

“recreation resource” means

(a) a recreation feature,

(b) a scenic or wilderness feature or setting that has recreational significance or value, or

(c) a recreation facility;

“recreation site” means a recreation site established under section 6 of this Act or designated under the Forest Act before the coming into force of this Act;

“recreation trail” means a recreation trail established under section 6 of this Act or designated under the Forest Act before the coming into force of this Act;

“senior official” means

(a) a district manager or regional manager,

(b) a person employed in a senior position in the Ministry of Forests, who is designated by name or title to be a senior official for the purposes of this Act by the minister of that ministry,

(c) a person employed in a senior position in the Ministry of Environment, Lands and Parks, who is designated by name or title to be a senior official for the purposes of this Act by the minister of that ministry, and

(d) a person employed in a senior position in the Ministry of Employment and Investment, who is designated by name or title to be a senior official for the purposes of this Act by the minister of that ministry;

“soil disturbance” means the soil disturbance caused by a forest practice on an area covered by a silviculture prescription or stand management prescription including

(a) areas occupied by excavated or bladed trails of a temporary nature,

(b) areas occupied by corduroy trails,

(c) compacted areas, and

(d) areas of dispersed disturbance;

“standard” means a standard established by the chief forester under section 8;

“unfenced grazing land” means unfenced private land used for grazing in common with Crown range to which an agreement under the Range Act applies;
“wildlife” means

(a) a vertebrate that is a mammal, bird, reptile or amphibian prescribed as wildlife under the *Wildlife Act*,

(b) a fish, including

(i) any vertebrate of the order Petromyzoniformes (lampreys) or class Osteichthyes (bony fishes), or

(ii) any invertebrate of the class Crustacea (crustaceans) or class Mollusca (mollusks)

from or in the non-tidal waters of British Columbia, and

(c) an invertebrate or plant listed by the Minister of Environment, Lands and Parks as an endangered, a threatened or a vulnerable species,

and includes the eggs and juvenile stages of these vertebrates, invertebrates and plants.

(2) Words and expressions not defined in this Act have the meaning given to them in the *Forest Act* and *Range Act* except where the context indicates otherwise.

(3) A reference in this Act to the minister or his or her designate, or the minister or a person authorized by the minister, or any similar reference, does not mean that a reference to the minister alone requires the minister to deal with the matter personally, and a reference to the minister alone means a reference to the minister or an appropriate official of the Ministry of Forests.

(4) Section 14 (2) of the *Interpretation Act* does not apply to this Act.

(5) Sections 117, 119, 143 and 157 do not apply to the government.

(6) With respect to a logging plan, a reference to the district manager in the Act or the regulations includes a reference to a designated forest official authorized by the district manager to act on behalf of the district manager.

**PART 2 – Strategic Planning, Objectives and Standards**

**Provincial forest and a wilderness area**

2. (1) Private land in a tree farm licence or woodlot licence and Crown land in a Provincial forest, other than Crown land in a wilderness area, must be managed and used in a way that is consistent with one or more of the following:

(a) timber production, utilization and related purposes;

(b) forage production and grazing by livestock and wildlife;

(c) recreation, scenery and wilderness purposes;

(d) water, fisheries, wildlife, biological diversity and cultural heritage resource purposes;

(e) any purpose permitted by or under the regulations.

(2) A wilderness area must be managed and used in a way that is consistent with one or more of the following:

(a) preservation of wilderness;

(b) preservation of biological diversity;

(c) subject to subsection (3), any purpose permitted by or under the regulations.

(3) A person must not carry out commercial timber harvesting in a wilderness area.

(4) Despite subsections (1) to (3), a person may use or occupy Crown land in a Provincial forest or wilderness area under the *Coal Act*, the *Geothermal Resources Act*, the *Mineral Tenure Act* or the *Petroleum and Natural Gas Act*, but only if the use or occupation is in accordance with

(a) the regulations, and

(b) a special use permit, if required by the regulations.

(5) A person who uses or occupies Crown land in a Provincial forest or wilderness area must obtain a special use permit if required to do so by the regulations.

(6) With respect to a logging plan, a reference to the district manager in the Act or the regulations includes a reference to a designated forest official authorized by the district manager to act on behalf of the district manager.
Resource management zones and objectives

3. (1) To ensure that Crown land in a Provincial forest and private land in a tree farm licence or woodlot licence are managed and used in accordance with section 2 and the regulations, the chief forester, by written order, may establish an area of land as a resource management zone, and may vary the boundaries of the zone or cancel the zone,
   (a) in accordance with directions from the Lieutenant Governor in Council, or
   (b) if the Lieutenant Governor in Council has not issued directions to the chief forester with respect to an area, in accordance with directions approved by the ministers.

(2) The chief forester must establish objectives for a resource management zone and may vary or cancel an objective.

(3) When establishing, varying or cancelling an objective for a resource management zone, the chief forester must do so by written order and in accordance with the regulations and any directions from the Lieutenant Governor in Council or the ministers.

(4) Before establishing, varying or cancelling a resource management zone or objective in a way that significantly affects the public, the chief forester must provide for review and comment in accordance with the regulations.

(5) The chief forester may delegate in writing to an employee of the Ministry of Forests, the chief forester’s authority to establish, vary or cancel objectives for a resource management zone and may limit or cancel the delegation.

(6) The chief forester must file an order establishing, varying or cancelling a resource management zone or objective with the regional manager for the area affected by the order.

(7) The establishment, variance or cancellation of a resource management zone or objective takes effect
   (a) 6 months after the order is filed with the regional manager, or
   (b) if authorized by the regulations and in accordance with the regulations, at an earlier time specified in the order.

(8) The regional manager must make available to the public
   (a) the order, and
   (b) a map showing the boundaries of the resource management zone.

Landscape units and objectives

4. (1) To ensure that Crown land in a Provincial forest and private land in a tree farm licence or woodlot licence are managed and used in accordance with section 2 and the regulations, the district manager, by written order, may establish an area of land within the forest district as a landscape unit, and may vary the boundaries of the unit or cancel the unit, in accordance with
   (a) the regulations, and
   (b) any directions of the chief forester.

(2) Before establishing a landscape unit, the district manager must obtain the approval of the Minister of Environment, Lands and Parks, or a person authorized by that minister, if land within the proposed landscape unit is subject to an interest issued or granted under the Land Act.

(3) The district manager must establish objectives for a landscape unit, and may vary or cancel an objective.

(4) When establishing, varying or cancelling an objective for a landscape unit, the district manager must do so by written order and in accordance with the regulations and any directions of the chief forester.

(5) Before establishing, varying or cancelling an objective for a landscape unit respecting a forest resource other than a recreation resource, the district manager must obtain the approval of a designated environment official.

(6) Before establishing, varying or cancelling a landscape unit or objective in a way that significantly affects the public, the district manager must provide for review and comment in accordance with the regulations.

(7) The district manager must file an order establishing, varying or cancelling a landscape unit or objective with the regional manager for the forest region within which the forest district is located.

(8) The establishment, variance or cancellation of a landscape unit or objective takes effect.
Sensitive areas and objectives

5. (1) If, in the opinion of the district manager or a designated environment official, special circumstances require that
   (a) Crown land, or
   (b) private land in a tree farm licence or woodlot licence,
located within the forest district, be treated differently from adjacent lands to manage or conserve the forest resources, the district manager, by written order, may establish the area as a sensitive area in accordance with the regulations and any directions of the chief forester.

   (2) Before establishing a sensitive area, the district manager must obtain the approval of the Minister of Environment, Lands and Parks, or a person authorized by that minister, if land within the proposed sensitive area is subject to an interest issued or granted under the Land Act.

   (3) The district manager must establish objectives for a sensitive area and may vary or cancel an objective.

   (4) When establishing, varying or cancelling an objective for a sensitive area, the district manager must do so by written order and in accordance with the regulations and any directions of the chief forester.

   (5) Before establishing, varying or cancelling an objective for a sensitive area, the district manager must provide notice in accordance with the regulations.

   (6) Before establishing, varying or cancelling an objective for a sensitive area respecting a forest resource other than a recreation resource, the district manager must obtain the approval of a designated environment official.

   (7) The district manager must file an order establishing, varying or cancelling a sensitive area or objective with the regional manager for the forest region within which the forest district is located.

   (8) The establishment, variance or cancellation of a sensitive area or objective takes effect
       (a) 6 months after the order is filed with the regional manager, or
       (b) if authorized by the regulations and in accordance with the regulations, at an earlier time specified in the order.

   (9) If an objective for a resource management zone is established or varied for an area that includes a sensitive area, to the extent that the objective for the sensitive area is inconsistent with the objective for the resource management zone, the objective for the resource management zone prevails.

   (10) The regional manager and district manager must make available to the public
        (a) the order, and
        (b) a map showing the boundaries of the sensitive area.

Interpretive forest sites, recreation sites and recreation trails

6. (1) In accordance with the regulations the chief forester, by written order, may establish Crown land as an interpretive forest site, recreation site or recreation trail, if the land is
       (a) within a timber supply area, or
       (b) subject to a tree farm licence, woodlot licence or timber licence,
and may vary or cancel an establishment under this subsection.
(2) Before establishing, varying or cancelling an area under subsection (1), the chief forester must obtain the consent of the holder of
   (a) a cutting permit, free use permit, Christmas tree permit, road permit, timber licence, timber sale licence, silviculture prescription, stand management prescription, special use permit or licence to cut, other than a master licence to cut, or
   (b) an interest issued or granted under the *Land Act*,
if the holder’s rights under the permit, licence, prescription or interest would be adversely affected by the establishment, variation or cancellation.

(3) If the chief forester establishes an area under subsection (1), the chief forester must establish objectives for the area, in accordance with the regulations, within 6 months of the establishment.

(4) The chief forester may vary or cancel an objective established under subsection (3).

(5) The chief forester may delegate in writing to an employee of the Ministry of Forests, the chief forester’s authority to establish, vary or cancel an objective and may limit or cancel the delegation.


Maintenance of interpretive forest sites, recreation sites and recreation trails

7. If an area has been established as an interpretive forest site, recreation site or recreation trail, the minister may develop, maintain, repair or close an interpretive forest site, recreation site or recreation trail on the area.


Standards for operational plans and forest practices

8. (1) If authorized by the regulations and in accordance with the regulations, the chief forester may establish, vary or cancel standards that must be met
   (a) in preparing an operational plan, or
   (b) in carrying out a forest practice.

(2) In a standard under subsection (1), the chief forester may do one or more of the following:
   (a) delegate a matter to a person;
   (b) confer a discretion on a person;
   (c) make different standards for different persons, places, things or transactions.

(3) The chief forester must file a standard with the regional manager for the area affected by the standard.

(4) A standard takes effect
   (a) 6 months after it is filed with regional manager, or
   (b) if authorized by the regulations and in accordance with the regulations, at an earlier time specified in the standard.

(5) The regional manager must make the standard available to the public in accordance with the regulations.

(6) If 2 or more standards apply to a specific area of British Columbia, the standard which provides greater protection and conservation of the environment and the forest resources prevails.

(7) A standard is not effective to the extent it conflicts with this Act or the regulations.


Management plans and inventories

9. (1) If an objective, specification or measure in a management plan differs from those provided under this Act, the regulations, the standards or the objectives established under this Part, the more stringent objective, specification or measure prevails.

(2) to (5) Repealed. [1997-48-52]

1994-41-9; 1995-6-2; 1997-48-52.

Higher level plan
9.1 A higher level plan must specify any provision of the plan that will not be implemented when the plan is established or varied and must specify the date the provision will be implemented or the circumstances that will enable it to be implemented.

PART 3 – Operational Planning Requirements for Government and for Forest and Range Tenure Agreements

Division 1 – Content of Operational Plans

10. (1) Subject to subsections (2) to (5), a forest development plan must comply with the following:

(a) it must cover a period of at least 5 years unless otherwise prescribed;
(b) it must include, for the area under the plan,
   (i) maps and schedules describing
      (A) the size, shape and location of cutblocks proposed for harvesting during the period referred to in paragraph (a), and the approximate location of existing and proposed roads that will provide access to the cutblocks, and
      (B) in accordance with the regulations, the timing of proposed timber harvesting and related forest practices, including road construction, modification, maintenance and deactivation, and
   (ii) matters required by regulation;
(c) it must specify
   (i) in accordance with the regulations, and to the extent required by the regulations, silvicultural systems and harvesting methods that will be carried out within the cutblocks, and
   (ii) measures that will be carried out to protect forest resources;
(d) it must
   (i) be consistent with any higher level plan, and
(ii) meet the requirements of this Act, the regulations and the standards in effect 4 months before the date the plan is submitted for the district manager’s approval or given effect by the district manager, unless the higher level plan or this Act, the regulations or the standards specify otherwise;

(e) it must be signed and sealed by a professional forester.

(2) Subsection (1) (d) does not apply to a cutblock to the extent provided in the regulations made under section 212.1.

(3) A forest development plan that proposes

(a) timber harvesting operations, or

(b) road construction and modification operations

relating to minor salvage operations need not contain, for the minor salvage operations, the matters referred to in subsection (1) (b) (i) and (c) (i), but must otherwise comply with subsection (1).

Logging plans: content

11. A logging plan must comply with the following:

(a) it must include, for the area of a cutblock,

   (i) maps describing the location of

       (A) roads that will be constructed or modified, and

       (B) timber harvesting and related forest practices that will be carried out, and

   (ii) matters required by regulation;

(b) it must specify, in detail,

   (i) how harvesting methods will be carried out, and

   (ii) how methods for rehabilitation will be carried out for temporary roads, landings, excavated or bladed trails, and other areas where the amount of soil disturbance will temporarily exceed the maximum limit allowed by the silviculture prescription;

(c) if it is a logging plan referred to in section 20 or 21 (1), it must be consistent with any

   (i) forest development plan, and

   (ii) silviculture prescription

   in effect when the logging plan is submitted for the district manager’s approval or prepared by the district manager;

(d) if it is a logging plan referred to in section 21 (2), it must be consistent with any higher level plan in effect when the logging plan is submitted for the district manager’s approval or prepared by the district manager.

Silviculture prescriptions: content

12. A silviculture prescription must comply with the following:

(a) it must include, for the area under the prescription,

   (i) a description of the silvicultural system, any harvesting methods and the silviculture treatments that will be carried out to achieve a free growing stand,

   (ii) limits for soil disturbance that may occur on the area under the plan, and

   (iii) matters required by regulation;

(b) if it is a silviculture prescription referred to in section 22, it must be consistent with any

   (i) forest development plan, and

   (ii) higher level plan,

   in effect when the silviculture prescription is approved or given effect under Division 5 of this Part,
(c) if it is a silviculture prescription referred to in section 23, it must be consistent with any higher level plan in effect when the silviculture prescription is submitted for the district manager’s approval or prepared by the district manager;

(d) it must be signed and sealed by a professional forester.

13. A stand management prescription must comply with the following:

(a) it must include, for the area under the prescription,
   (i) a description of the silviculture treatments that will be carried out on a free growing stand, and
   (ii) matters required by regulation;

(b) it must be consistent with any higher level plan in effect when the stand management prescription is submitted for the district manager’s approval or prepared by the district manager;

(c) it must be signed and sealed by a professional forester.


15. An access management plan must comply with the following:

(a) it must include, for the area under the plan,
   (i) maps and schedules for road construction, modification, maintenance and deactivation activities that are proposed to be carried out, and
   (ii) matters required by regulation;

(b) it must be consistent with any higher level plan in effect when the access management plan is approved or given effect under Division 5 of this Part.

16. A range use plan must comply with the following:

(a) it must include
   (i) for the range land under the plan, a description of
      (A) grazing and hay cutting activities that will be carried out on the area,
      (B) range developments that will be constructed or carried out on the area, and
      (C) matters required by regulation, and
   (ii) for unfenced grazing land under the plan, a grazing schedule;

(b) it must be consistent with any higher level plan in effect when the range use plan is approved or given effect under Division 5 of this Part.

Division 2 – Operational Planning Requirements

17. (1) Before the holder of an agreement under the Forest Act or Range Act prepares an operational plan or amendment for submission to the district manager, the holder must carry out the assessments required by the regulations and collect and analyze the data required by the regulations to formulate operational plans, and make the assessments, data and analyses available to the district manager.

(2) Without limiting subsection (1), if required by the regulations and in accordance with the regulations, the holder must do the following:

(a) identify and classify the following:
   (i) streams, wetlands and lakes;
(ii) wildlife habitat areas;
(iii) scenic areas;
(iv) recreation features;
(v) areas that are required by the regulations to be identified and classified;
(b) assess watersheds that meet the prescribed requirements to determine the impact of proposed timber harvesting and related forest practices;
(c) assess cultural heritage resources.

(3) Without limiting subsection (1), if required by the regulations and in accordance with the regulations, the holder must collect and analyze data respecting the following:
(a) site and soil conditions;
(b) terrain, terrain stability and hazards associated with instability;
(c) forest health including pests and other forest health hazards;
(d) any prescribed matters.

Forest development plans for small business forest enterprise program
18. (1) The district manager may only invite applications for, or enter into, a timber sale licence that does not provide for cutting permits if a forest development plan identifies
(a) the cutblocks to be harvested under the timber sale licence during the period covered by the forest development plan, and
(b) the location of existing and proposed roads that provide access to the cutblocks.
(2) Subsection (1) does not apply to a timber sale licence for timber harvested under the Park Act.
(3) The holder of a timber sale licence that is not a major licence and that provides for cutting permits may only apply for a cutting permit if a forest development plan identifies
(a) the cutblocks to be harvested under the cutting permit, and
(b) the location of existing and proposed roads that provide access to the cutblocks.
(3.1) Subsections (1) and (3) do not apply to a timber sale licence that authorizes minor salvage operations if, for those operations, there is in effect a forest development plan that meets the requirements of section 10 (3).
(4) If a timber sale licence that is not a major licence and that does not provide for cutting permits has a term that extends beyond the period covered by the forest development plan referred to in subsection (1), the holder of the timber sale licence must not harvest timber under the timber sale licence from an area that was not identified in that forest development plan unless another forest development plan is given effect that identifies
(a) the additional cutblocks to be harvested under the timber sale licence, and
(b) the location of existing and proposed roads that provide access to the cutblocks.
(5) A forest development plan for a timber sale licence that is not a major licence takes effect as follows:
(a) if the district manager prepares the plan, on the effective date specified in the plan;
(b) if a holder of a timber sale licence that provides for cutting permits prepares the plan with the district manager’s consent, on the date specified in the approval of the plan under Division 5 of this Part.
(6) A forest development plan under this section expires after a prescribed period from the date the plan takes effect.
(7) Before or after the expiry of a forest development plan under this section, the plan may be extended for a period or periods not exceeding a total of one year, as follows:
(a) by the regional manager, if the plan was prepared by the district manager;
(b) by the district manager, if the plan was prepared by the holder of a timber sale licence and the holder requests or consents to the extension.
(8) If the term of a forest development plan is extended under this section, the person who prepared the plan must promptly amend the forest development plan to the extent necessary to ensure compliance with the current requirements of this Act, the regulations and the standards.
Forest development plans for major licence or woodlot licence

19. (1) A holder of a major licence or a woodlot licence may only apply for a cutting permit, and a holder of a pulpwood agreement may only apply for a timber sale licence, if a forest development plan identifies

(a) the cutblocks to be harvested under the cutting permit or licence, and

(b) the location of existing and proposed roads that provide access to the cutblocks.

(1.1) Subsection (1) does not apply to a major licence, woodlot licence or pulpwood agreement that authorizes minor salvage operations if, for those operations, a forest development plan meeting the requirements of section 10 (3) has been approved by the district manager.

(2) A forest development plan for a major licence or woodlot licence takes effect on the date specified in the approval of the plan under Division 5 of this Part.

(3) A forest development plan under this section expires after a prescribed period from the date specified in the approval of the plan under Division 5 of this Part.

(4) Before or after a forest development plan under this section expires, the district manager may extend the term of the plan for a period or periods not exceeding a total of one year at the request of or with the consent of the holder of a major licence or woodlot licence who prepared the plan.

(5) If the term of a forest development plan is extended under this section, the holder who prepared the plan must promptly amend the plan to the extent necessary to ensure compliance with current requirements of this Act, the regulations and the standards.

Logging plans for small business forest enterprise program

20. (1) Before the holder of a timber sale licence that is not a major licence harvests a cutblock under the agreement, or under a cutting permit issued under the agreement, the holder must prepare and obtain the district manager’s approval of a logging plan for the cutblock.

(2) In a notice given to the holder of a timber sale licence that is not a major licence, the district manager may relieve the holder of the requirement to prepare a logging plan.

(3) If the district manager gives the holder a notice under subsection (2), the district manager must prepare a logging plan for the cutblock to be harvested under the agreement or cutting permit.

Logging plans: generally

21. (1) Before the holder of a major licence or woodlot licence harvests a cutblock under a cutting permit, the holder must prepare and obtain the district manager’s approval of a logging plan for the cutblock.

(2) Before the holder of a licence to cut or a Christmas tree permit harvests a cutblock under the agreement, the holder must prepare and obtain the district manager’s approval of a logging plan for the cutblock.

(3) The district manager may require the holder of a road permit to prepare a logging plan before harvesting timber under the road permit if the district manager determines that the logging plan is necessary to adequately manage and conserve the forest resources of British Columbia.

Silviculture prescriptions

22. (1) The district manager must prepare a silviculture prescription for all of the following areas of Crown land:

(a) an area from which a person is authorized to harvest timber under a timber sale licence that is not a major licence;

(b) an area within a timber supply area, where the timber has been damaged or destroyed by natural causes, unless

(i) in the opinion of the district manager the area is too remote, too small or too inaccessible to warrant the preparation of a prescription, or

(ii) the area is an area to which subsection (6) applies;
(c) an area in a timber supply area on which the district manager determines timber was cut, removed, damaged or destroyed in contravention of section 96, other than an area referred to in subsection (4).

(1.1) The district manager need not prepare a silviculture prescription under subsection (1) (a) if the timber sale licence specifies that the holder of the licence must prepare and obtain the district manager’s approval of a silviculture prescription for the area to be harvested under the timber sale licence.

(2) A person must not harvest timber from an area referred to in
   (a) subsection (1) (a) until the district manager prepares the silviculture prescription for the area, or
   (b) subsection (1.1) until the holder of the timber sale licence prepares and obtains the district manager’s approval of a silviculture prescription for the area to be harvested under the timber sale licence.

(3) Before the holder of a major licence or woodlot licence harvests timber under a cutting permit, the holder must prepare and obtain the district manager’s approval of a silviculture prescription for the area to be harvested under the cutting permit.

(4) The holder of a major licence or woodlot licence must prepare and obtain the district manager’s approval of a silviculture prescription for an area where the holder has cut, removed, damaged or destroyed Crown timber in contravention of section 96.

(5) The holder of a tree farm licence, timber licence or a woodlot licence must prepare and obtain the district manager’s approval of a silviculture prescription for an area subject to the licence where timber has been damaged or destroyed by natural causes, unless in the opinion of the district manager the area is too remote, too small or too inaccessible to warrant the preparation of a prescription.

(6) The holder of a forest licence or timber sale licence that is a major licence must, if required by the district manager, prepare and obtain the district manager’s approval of a silviculture prescription for an area under the holder’s forest development plan where the timber has been damaged or destroyed by natural causes.

(7) Despite subsections (1) to (6), a district manager is not required to prepare a silviculture prescription and a person is not required to prepare and obtain the district manager’s approval of a silviculture prescription for the following areas:
   (a) an area that is outside a cutblock, if the area is to be used for the construction and use of a road, gravel pit or borrow pit;
   (b) an area that is subject to a silviculture prescription required under section 23;
   (c) an area that is subject to a stand management prescription required under section 24.

(8) For the purposes of subsection (1), Crown land does not include land that is Crown land only because the timber on the land is reserved to the government.
Stand management prescriptions

24. (1) Before the district manager carries out a silviculture treatment on a free growing stand, the district manager must prepare a stand management prescription for the area to be treated.

(2) Before the holder of a major licence or woodlot licence carries out a silviculture treatment on a free growing stand, the holder must prepare and obtain the district manager’s approval of a stand management prescription for the area.

(3) Despite subsection (2), the holder of a woodlot licence need not prepare a stand management prescription to carry out a silviculture treatment on a free growing stand if the treatment is carried out on private land within the woodlot licence area and the treatment is not paid for by the government or a Crown corporation or other agent of the government.


Access management plans

26. (1) The district manager must prepare an access management plan for the development, maintenance and deactivation by the government of forest service roads that are not identified in a forest development plan.

(2) Before the holder of a major licence constructs, modifies, maintains or deactivates roads for which the holder of the major licence is responsible under a cutting permit or road permit, other than roads identified on a forest development plan, the holder must prepare and obtain the district manager’s approval of an access management plan for the area within which the roads are located.

(3) An access management plan takes effect as follows:
   (a) if the district manager prepares the plan, on the effective date specified in the plan;
   (b) if a holder of a major licence prepares the plan, on the date specified in the approval under Division 5 of this Part.

(4) An access management plan expires after a prescribed period from the date it takes effect.

(5) Before or after the expiry of an access management plan, the plan may be extended for a period or periods not exceeding a total of one year, as follows:
   (a) by a regional manager, if the plan was prepared by the district manager;
   (b) by the district manager if the plan was prepared by a holder of a major licence and the holder requests or consents to the extension.

(6) If the term of an access management plan is extended, the person who prepared the plan must promptly amend it to the extent necessary to ensure compliance with current requirements of this Act, the regulations and the standards.


Range use plans

27. (1) The holder of an agreement under the Range Act must prepare and obtain the district manager’s approval of a range use plan before the holder
   (a) grazes livestock, cuts hay or constructs or carries out range developments on range land to which the agreement applies, or
   (b) grazes livestock on unfenced grazing land.

(2) In a notice given to the holder of an agreement under the Range Act, the district manager may relieve the holder of the requirement to prepare and submit a range use plan.

(3) If the district manager gives the holder a notice under subsection (2),
   (a) the district manager must prepare the range use plan, and
   (b) the holder must supply information requested by the district manager that is known to the person and is needed to prepare the range use plan.

(4) A range use plan takes effect as follows:
   (a) if the district manager prepared the plan, on the effective date specified in the plan;
   (b) if a holder of an agreement under the Range Act prepared the plan, on the date specified by the district manager in the approval under Division 5 of this Part.
(5) A range use plan expires on the earlier of
   (a) a date 5 years from the date the plan takes effect, and
   (b) the expiry of the agreement under the Range Act.

(6) Before or after the expiry of a range use plan, the plan may be extended for a period or periods not exceeding a total of one year as follows:
   (a) by a regional manager, if the range use plan was prepared by the district manager;
   (b) by the district manager if the plan was prepared by a holder of an agreement under the Range Act and the holder requests or consents to the extension.

(7) If the term of a range use plan is extended, the person who prepared the range use plan must promptly amend it to the extent necessary to ensure compliance with current requirements, the regulations and the standards.


Division 3 – Exemption from Operational Planning Requirements

Exemption for forest development plans

28. (1) The district manager may exempt a person referred to in section 18 or 19 from the requirement for a forest development plan if the district manager determines that
   (a) the only timber harvesting that will take place on the area is
      (i) the felling and removal of trees to eliminate a safety hazard,
      (ii) the felling of trees to facilitate the collection of seed and the proposed harvesting will not result in an opening of greater than 1 ha,
      (iii) the removal of trees that have already been felled, from landings and road rights of way,
      (iv) the removal of trees from recreation sites or recreation trails, or
      (v) the felling and removal of trees that have been or will be treated to facilitate the entrapment of pests, and
   (b) there is no road construction required to provide access for the timber harvesting referred to in paragraph (a).

(2) Despite subsection (1), if the timber harvesting activity referred to in subsection (1) is in an area referred to in section 41 (6), the district manager may not exempt a person from the requirement for a forest development plan without the approval of a designated environment official.


Exemption for logging plans

29. (1) The district manager may exempt a person referred to in section 20 or 21 (1) from the requirement for a logging plan if the district manager determines that the proposed timber harvesting on the cutblock is limited to one or more of the following:
   (a) activities referred to in section 28 (1) (a);
   (b) the felling and removal of timber from an area other than along a right of way, if the volume of timber does not exceed 500 m³ or the area does not exceed 1 ha;
   (c) the felling and removal of damaged timber from along a right of way if the area from which the trees will be removed does not exceed .25 ha;
   (d) the felling and removal of timber to facilitate gravel pit or borrow pit development;
   (e) the removal of special forest products.

(2) The district manager may exempt a holder of a licence to cut or Christmas tree permit from the requirement for a logging plan if the requirement of section 33 has been met.


Exemption for silviculture prescriptions

30. (1) The district manager may exempt a person referred to in section 22 from the requirement for a silviculture prescription if the district manager determines that the proposed timber harvesting on the area is limited to one or more of the following:
   (a) harvesting timber on land that is, or will be, used for
(i) grazing or growing of hay in accordance with an agreement under the Range Act,
(ii) an experimental purpose,
(iii) growing Christmas trees, or
(iv) any use that is incompatible with the establishment of a free growing stand;
(b) activities referred to in section 28 (1) (a);
(c) the felling and removal of timber that is damaged or in danger of being significantly reduced in value, lost or destroyed, if the volume does not exceed 500 m$^3$;
(d) removal of special forest products.

(2) If an area is to be clearcut, the district manager may only exempt a person in respect of activities referred to in subsection (1) (b), (c) or (d) if the area, together with any adjoining cutblock that has been clearcut and is subject to an exemption under this section, will result in a contiguous clearcut not exceeding 1 ha.

(3) If an area is to be harvested by a method other than clearcut, the district manager may only exempt a person in respect of activities referred to in subsection (1) (b), (c) or (d) if the area is not adjacent to land that is subject to an exemption under subsection (1).

(4) For the purposes of subsections (2) and (3), an area ceases to be subject to an exemption under this section when a free growing stand has been established on it.

(5) The district manager may exempt a person referred to in section 22 from the requirement for a silviculture prescription if the district manager determines that
(a) the requirement for the prescription results from Crown timber being cut, removed, damaged or destroyed in contravention of section 96, and
(b) the use of the area is incompatible with the establishment of a free growing stand.

Exemption for silviculture prescriptions for backlog areas

31. (1) The district manager may exempt a person referred to in section 23 from the requirement for a silviculture prescription if the area that is to be treated
(a) is not larger than 1 ha, and
(b) is not adjacent to land that is subject to an exemption under this section.

(2) For the purposes of subsection (1) (b), an area ceases to be subject to an exemption under this section when a free growing stand has been established on it.

(3) The district manager may exempt a person referred to in section 23 from the requirement for a silviculture prescription, if the district manager is satisfied that the person will carry out only planting to supplement previous planting or natural regeneration.

Exemption for stand management prescriptions

32. (1) The district manager may exempt a person referred to in section 24 from the requirement for a stand management prescription if the area that is to be treated
(a) is not larger than 1 ha, and
(b) is not adjacent to land that is subject to an exemption under this section.

(2) For the purposes of subsection (1) (b), an area ceases to be subject to an exemption under this section when the timber on the area is harvested.

Limitation on exemptions

33. The district manager may only exempt a person from a requirement referred to in sections 28 to 32 if the district manager determines that the requirement is not necessary to adequately manage and conserve the forest resources of British Columbia.
34. (1) A person who has an operational plan may at any time submit an amendment to it to the district manager for approval.

(2) A person may not amend an operational plan under subsection (1) to the detriment of another person who has relied on the plan.

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Amendment or replacement of operational plan if it is unlikely to succeed

35. (1) A person who has a logging plan, silviculture prescription, stand management prescription or range use plan, and knows, or reasonably ought to know, that performing the operations specified in the operational plan will not ensure that the results specified in the operational plan will be achieved,

(a) must submit to the district manager an amendment to the plan or a new operational plan for the approval of the district manager, and

(b) must not carry out, on any parts of the plan area that would be materially affected by the proposed amendment or new plan, any operation under the plan, unless the plan is a range use plan, until the amendment or new plan has been approved or given effect under Division 5 of this Part.

(2) If the government is required to carry out a silviculture prescription or stand management prescription and the district manager determines that carrying it out will not ensure that the results specified in the operational plan will be achieved, the district manager

(a) must prepare an amendment to the plan or a new plan, and

(b) must not carry out, on any parts of the plan area that would be materially affected by the proposed amendment or new plan, any operation under the plan until the amendment or new plan has been prepared.

(3) If the district manager determines that it is desirable because of special circumstances to amend a range use plan or prepare a new one,

(a) if the holder prepared the range use plan, the district manager may, in writing, require the holder of the plan to submit to the district manager an amendment to the plan or a new plan that meets the approval of the district manager and the person must comply with the requirement, or

(b) if the district manager prepared the range use plan, the district manager may prepare an amendment to the range use plan or prepare a new range use plan.


Amendment to a silviculture prescription if desired result impossible

36. (1) A person responsible for a silviculture prescription must comply with this section if the requirements of the prescription cannot be met as a result of

(a) carrying out, or failing to carry out, a forest practice on an area subject to a silviculture prescription, or

(b) the occurrence of a natural event.

(2) If the person referred to in subsection (1) is the holder of a major licence or woodlot licence, the holder

(a) must submit to the district manager a report as to why the requirements of the silviculture prescription cannot be met and the extent to which they will not be met, and

(b) if an amendment or new prescription is needed to ensure the requirements referred to in paragraph (a) are met, must not carry out on any parts of the area covered by the silviculture prescription that would be materially affected by the amendment or new prescription, any operation under the prescription until an amendment to the silviculture prescription or a new silviculture prescription has been approved under Division 5 of this Part.

(3) If the government is responsible for a silviculture prescription referred to in subsection (1), the district manager...
(a) must file a report with the regional manager in accordance with the regulations detailing why the requirements of the silviculture prescription cannot be met and the extent to which they will not be met, and

(b) if an amendment or new prescription is needed to ensure the requirements referred to in paragraph (a) are met, must not carry out on any parts of the area covered by the silviculture prescription that would be materially affected by the amendment or new prescription, any operation under the prescription until such time as an amendment to the silviculture prescription or a new silviculture prescription has been prepared.

Holder of an outdated prescription

37. (1) If the district manager determines that the holder of a major licence or a woodlot licence who is required to have a silviculture prescription under section 22 (3)

(a) has not been issued a cutting permit to carry out timber harvesting on the area covered by the prescription within 3 years after the date on which the district manager approved the prescription, or

(b) has been issued a cutting permit to carry out timber harvesting on the area covered by the prescription, but has not begun harvesting before the expiration of the cutting permit,

the district manager may, in a notice given to that person, require the person to submit a new prescription or an amendment to the prescription.

(2) On notice being given to the holder under subsection (1) that a new prescription is required, the prescription then in effect is no longer an approved prescription.

Outdated government prescription

38. The district manager must review a silviculture prescription that is required under section 22 (1) (a) or is referred to in section 22 (1.1), if the district manager determines that

(a) a timber sale licence for the area covered by the prescription has not been awarded within 3 years after the date on which the district manager approved the prescription, or

(b) a timber sale licence for the area covered by the prescription has been awarded, but no timber harvesting has begun on the area under the prescription within 3 years after the later of

(i) the date the timber sale licence became effective, and

(ii) the date the district manager prepared the prescription.

Division 5 – Notice and Evaluation of Operational Plans

Review and comment

39. (1) Subject to sections 42 and 43, before a holder of a major licence or woodlot licence submits an operational plan or amendment for approval, the holder must, if required by the regulations and in accordance with the regulations, make the plan or amendment available for review and comment.

(2) Before an operational plan or amendment prepared by the district manager is put into effect, the district manager must, if required by the regulations and in accordance with the regulations, make the plan or amendment available for review and comment, except where review and comment would not be required if the plan or amendment were the plan or amendment of a holder of an agreement under the Forest Act or the Range Act.

(3) Subject to sections 43 and 44, before the holder of an agreement under the Range Act submits a range use plan for approval, the holder must, if required by the regulations and in accordance with the regulations, make the plan available for review and comment.
(2) The district manager may only give effect to a forest development plan or amendment for an area referred to in section 41 (6) with the approval of the designated environment official.

Approval of plans by district manager or designated environment official

41. (1) The district manager must approve an operational plan or amendment submitted under this Part if

(a) the plan or amendment was prepared and submitted in accordance with this Act, the regulations and the standards, and

(b) the district manager is satisfied that the plan or amendment will adequately manage and conserve the forest resources of the area to which it applies.

(2) Before approving a plan or amendment the district manager may require the holder to submit information that the district manager reasonably requires in order to determine if the plan or amendment meets the requirements of subsection (1).

(3) The district manager may approve an operational plan or amendment only if it meets the requirements of subsection (1).

(4) Despite subsection (1), to the extent provided in the regulations a district manager may refuse to approve a logging plan or amendment that meets the requirements of that subsection, if the district manager determines that the person submitting the plan or amendment

(a) has previously contravened this Act, the regulations or the standards, and

(b) has not taken all measures necessary to prevent or minimize the effects of the contravention, or rehabilitate the affected area.

(5) The district manager may make his or her approval of a forest development plan or amendment subject to a condition.

(6) If a forest development plan or amendment covers an area in a community watershed, or an area that meets prescribed requirements, the portion of the forest development plan or amendment that covers the area requires the approval of both the district manager and a designated environment official.

(7) The designated environment official must approve the portion, referred to in subsection (6), of a forest development plan or amendment if the designated environment official is satisfied that the portion

(a) was prepared and submitted in accordance with this Act, the regulations and standards, and

(b) will adequately manage and conserve the forest resources of the area to which it applies.

(8) In this section, “community watershed” means

(a) the drainage area above the most downstream point of diversion on a stream for a water use that is for human consumption and that is licensed under the Water Act for

(i) a waterworks purpose, or

(ii) a domestic purpose if the licence is held by or is subject to the control of a water users’ community incorporated under the Water Act if the drainage area is not more than 500 km² and the water licence was issued before June 15, 1995, or

(b) an area that is designated as a community watershed under subsection (10).

(9) In this section “domestic purpose” and “waterworks purpose” have the meaning given to them in the Water Act.

(10) The regional manager may designate an area as a community watershed if

(a) in the opinion of the regional manager and a designated environment official it should be designated as a community watershed,

(b) the area is all or part of the drainage area above the most downstream point of diversion for a water use that is for human consumption and that is licensed under the Water Act for a domestic purpose or a waterworks purpose, and

(c) the area is not an area referred to in subsection (8) (a).

(11) With the agreement of a designated environment official, the regional manager may by written order vary or cancel an area’s status as a community watershed, whether the area is defined to be a community watershed under subsection (8) (a) or designated to be a community watershed under subsection (10).
(12) Before designating an area as a community watershed under subsection (10) or varying or cancelling the status of a community watershed under subsection (11), the regional manager must provide for review and comment in accordance with the regulations.

(13) The regional manager must make available at the regional office for the area in which the community watershed is located any order that designates, varies or cancels a community watershed.


Approval in emergency cases

42. (1) Despite section 41, the district manager may, in accordance with the regulations, approve or give effect to a forest development plan or amendment or an access management plan or amendment without the plan or amendment having been made available for review and comment, if the district manager determines that the plan or amendment

(a) otherwise meets the requirements of this Act, the regulations and the standards, and
(b) is necessary to enable measures to be taken to address an emergency.

(2) If the district manager approves a forest development plan or amendment under subsection (1), the district manager may immediately approve a logging plan or amendment or a silviculture prescription or amendment if the district manager determines that

(a) the plan, prescription or amendment complies with the regulations and the standards, and
(b) the timber on the area under the plan or prescription should be harvested without delay because it is in danger of being damaged, significantly reduced in value, lost or destroyed.

(3) Despite subsection (1), a forest development plan or amendment for an area referred to in section 41 (6) must be approved by both the district manager and a designated environment official.


Approval of minor changes to operational plans

43. (1) Despite section 41, a district manager or a person authorized by the district manager may approve or give effect to an amendment to an operational plan where the amendment has not been made available for review and comment if the district manager or person authorized determines that the amendment

(a) otherwise meets the requirements of this Act, the regulations and the standards,
(b) will adequately provide for managing and conserving the forest resources of British Columbia for the area to which it applies, and
(c) does not affect the public in a material way.

(2) Despite subsection (1), an amendment to a forest development plan for an area referred to in section 41 (6) must be approved by both the district manager and a designated environment official.

1994-41-43.
Approval of range use plans for temporary grazing permits

44. Despite section 41, the district manager may approve a range use plan or amendment that has not been made available for review and comment if the plan or amendment is for an area that is subject to a temporary grazing permit and if the district manager determines that the range use plan or amendment

(a) otherwise meets the requirements of this Act, the regulations and the standards, and
(b) will adequately provide for managing and conserving the forest resources of British Columbia for the area to which it applies.

1994-41-44.

PART 4 – Forest Practices Specific to Forest and Range Tenure Agreements and the Government

Division 1 – General

Protection of the environment

45. (1) A person must not carry out a forest practice that results in damage to the environment.

(2) Subject to subsection (3), a person does not contravene subsection (1) if, with respect to the forest practice referred to in subsection (1),

(a) the person is acting in accordance with an operational plan or a permit issued under this Act or the regulations, or
(b) the person has been exempted from the requirement to have an operational plan and is acting in accordance with this Act, the regulations and the standards.

(3) A person must not carry out a forest practice if he or she knows or should reasonably know that, due to weather conditions or site factors, the carrying out of the forest practice may result, directly or indirectly, in

(a) slumping or sliding of land,
(b) inordinate soil disturbance, or
(c) other significant damage to the environment.

(4) A person who contravenes subsection (1) or (3) must

(a) stop the forest practice in the area affected,
(b) prevent any further damage to the environment,
(c) promptly notify the district manager, and
(d) take any remedial measures that the district manager requires.

(5) A person who has stopped a forest practice under subsection (4) (a) may resume the forest practice when

(a) it can be resumed without contravening subsection (1) or (3), and
(b) any remedial measures required under subsection (4) (d) have been carried out to the satisfaction of the district manager.

(6) A person does not contravene subsection (1) or (3) if the person is

(a) acting in accordance with section 59 (1),
(b) carrying out fire control or suppression in accordance with this Act and the regulations, or
(c) carrying out a controlled burn for the purpose of range improvement, or wildlife habitat improvement, authorized by the government.

1994-41-45.

Soil conservation: permanent access

46. (1) A person carrying out a forest practice on an area under a silviculture prescription must not exceed the amount specified under the prescription for the maximum proportion of the area under the prescription that may be occupied by permanent access structures, if the prescription is prepared or approved by the district manager after December 15, 1995.

(2) Subsection (1) applies despite the provisions of a logging plan, an access management plan, or a road permit.

(3) A person carrying out a forest practice on an area under a silviculture prescription must not exceed the limits specified in the silviculture prescription for
(a) the proportion of the total area that may be occupied by haul roads, spur roads, landings, gravel pits and borrow pits, if the silviculture prescription was prepared or approved in the period from and including April 1, 1994 to and including December 15, 1995, or
(b) the site productivity that may be degraded by roads and landings, if the silviculture prescription was approved before April 1, 1994.

(4) A person who exceeds
(a) the amount specified under the silviculture prescription for the maximum proportion of the total area that may be occupied by permanent access structures under subsection (1), or
(b) the limit specified under the silviculture prescription for the proportion of the total area that
(i) may be occupied by haul roads, spur roads, landings, gravel pits and borrow pits under subsection (3) (a), or
(ii) may have site productivity degraded by roads and landings under subsection (3) (b),
must rehabilitate the disturbed portion of the area in accordance with the regulations and standards.


Soil conservation: net area to be reforested
47. (1) A person carrying out a forest practice on an area under a silviculture prescription must not exceed the maximum amount of soil disturbance within the net area to be reforested that is specified in the prescription.

(2) Despite subsection (1), a person carrying out timber harvesting operations may, in accordance with a logging plan and silviculture prescription, temporarily exceed the maximum amount of soil disturbance within the net area to be reforested if the logging plan or silviculture prescription provides for soil rehabilitation measures to be carried out on the conclusion of timber harvesting operations or in accordance with the logging plan.

(3) Despite subsection (1), a person carrying out silviculture treatments may, in accordance with a silviculture prescription, temporarily exceed the maximum amount of soil disturbance within the net area to be reforested if the silviculture prescription provides for site rehabilitation measures to be carried out on the conclusion of silviculture treatments.

(4) For greater certainty, the following types of soil disturbance contribute to the total soil disturbance amount for the net area to be reforested:
(a) any unrehabilitated compacted area, corduroyed trail or dispersed disturbance;
(b) any unrehabilitated temporary access structure that is specified as a temporary access structure in a silviculture prescription or logging plan.

(5) A person who, for an area under a silviculture prescription, causes soil disturbance to occur in the net area to be reforested such that the maximum amount of soil disturbance within the net area to be reforested is exceeded, must rehabilitate the area in accordance with the regulations and standards.

(6) A person who constructs or modifies a road, or constructs a landing, borrow pit or gravel pit that is specified in a silviculture prescription as being of a temporary nature, must rehabilitate the area occupied by the road, landing, borrow pit or gravel pit with the regulations and standards.

(7) A person who, within an area under a silviculture prescription, constructs or modifies a bladed or excavated trail or a corduroyed trail or creates a compacted area, must rehabilitate the area in accordance with the regulations and standards.


Ensuring soil rehabilitation
48. (1) If the district manager determines that the area under an operational plan has sustained damage as a result of a forest practice, the district manager may, by written notice, direct the person responsible for the damage to take measures and to pay costs that are necessary to rehabilitate the area to the satisfaction of the district manager and the person must comply with the notice.

(2) Subsection (1) applies despite any limit for soil disturbance specified for an area under a silviculture prescription or stand management prescription.


Exemption from rehabilitation
49. (1) The district manager may exempt the government or the holder of a logging plan from having to rehabilitate areas under section 46 (4) or 47 (5) to (7).

(2) The district manager may exempt a person under subsection (1) only if the district manager is satisfied that

(a) there is insufficient area affected or occupied to warrant treatment,
(b) treating the area affected or occupied is unlikely to restore soil productivity to a level necessary to achieve the results specified in the silviculture prescription for the area, or
(c) treating the area affected or occupied will create an unacceptable risk of further damage or harm to, or impairment of, forest resource values.

50. (1) When carrying out a forest practice under an agreement under the Forest Act or the Range Act, a person must

(a) comply with fuel management requirements established in an operational plan, and
(b) use fire only in accordance with the conditions of a burning permit and the regulations and standards.

(2) In accordance with the regulations and standards, a person who has carried out a planned fire that is in the nature of a broadcast burn must, after the burn, promptly

(a) carry out an impact assessment of the site and soil condition, and
(b) if the assessment shows that the effects of the planned fire were more severe than specified in the silviculture prescription or the operational plan, develop a rehabilitation plan and submit it to the district manager for approval.

(3) If the district manager approves the rehabilitation plan, the person who submitted the plan must implement it.

51. (1) In this section, “resource feature” includes the following:

(a) a cultural heritage resource;
(b) a recreation feature;
(c) a range development that is a structure, excavation or constructed livestock trail;
(d) any other feature designated in the regulations.

(2) If a person carrying out a forest practice, other than fire control or suppression, finds a resource feature that was not identified on an approved operational plan or permit, the person carrying out the forest practice must

(a) modify or stop any forest practice that is in the immediate vicinity of the previously unidentified resource feature to the extent necessary to refrain from threatening it, and
(b) promptly advise the district manager of the existence and location of the resource feature.

52. (1) In this section, “noxious weed” means a noxious weed defined under the Weed Control Act.

(2) Subject to an operational plan, a person carrying out a forest practice must, in accordance with the regulations and standards, carry out the forest practice at a time and in a manner that will limit the spread of noxious weeds to a level acceptable to the district manager.

53. This Division does not apply to roads constructed, modified or maintained under the Highway Act, Land Act or Municipal Act.
harvesting or other industrial purposes

54. (1) A person must not use a road on Crown land for timber harvesting and related forest practices unless the person is authorized to do so under a Christmas tree permit, road permit, road use permit, special use permit, cutting permit or timber sale licence that does not provide for cutting permits.

(1.1) Subsection (1) does not apply to a road built under the Coal Act, Geothermal Resources Act, Mines Act, Mining Right of Way Act, Petroleum and Natural Gas Act or Mineral Tenure Act, unless the construction, modification or use of the road is authorized by a special use permit.

(2) A person must not use a forest service road for timber harvesting and related forest practices, or for any other industrial purpose, unless the person is authorized to do so under a road use permit.

(3) A person must not use a road, for which there is a road permit, special use permit, cutting permit or timber sale licence that does not provide for cutting permits, for timber harvesting and related forest practices, or any other industrial purpose, unless the person is authorized to do so under that permit or licence or under a road use permit.

(4) The district manager may exempt a person from the requirement to have a road use permit, on being satisfied that the person’s use of the road will not

(a) materially affect the use of the road by others, or
(b) unnecessarily disturb the natural environment or cultural heritage resources.

(5) The district manager may exempt a person from a requirement to have a road permit, or requirement under a regulation referred to in section 2 (5) to have a special use permit for use of a road, on being satisfied that

(a) the person’s use of the road will not

(i) materially affect the use of the road by others, or

(ii) unnecessarily disturb the natural environment or cultural heritage resources, and

(b) the use of the road will be for a period of less than 60 days.

(5.1) The district manager may make an exemption under subsections (4) and (5) subject to conditions, and the person exempted must comply with the conditions.

(6) A person who uses a road on Crown land for timber harvesting and related forest practices must do so in accordance with all of the following:

(a) this Act, the regulations and the standards;
(b) any forest development plan or access management plan;
(c) any cutting permit, road permit, road use permit, special use permit or timber sale licence that does not provide for cutting permits.


Non-industrial use of road constructed, modified or maintained under road permit

55. (1) Subject to this section and to regulations respecting roads made under the Highway (Industrial) Act, a road constructed, modified or maintained by the holder of a road permit may be used for non-industrial purposes by any person, without charge.

(2) The holder of the road permit may take action under subsection (3) if

(a) use of the road under subsection (1) would likely cause significant damage to the road or environment or endanger life or property, or
(b) the presence on the road of a vehicle or animal would likely cause damage to the road or environment or endanger life or property.

(3) If subsection (2) applies, the holder may,

(a) with the prior consent of the district manager, close the road or restrict its use, or
(b) at the expense of the owner of a vehicle or animal, remove the vehicle or animal from the road.

1994-41-55.

No payment for use of road except as provided

56. (1) The holder of a road permit or road use permit must not require payment from a person for the non-industrial use of the road to which the permit applies.
(2) Except as set out in subsection (3), the holder of a road permit must not require payment for the use of the road from a person who uses the road under a road use permit or an exemption made under section 54 (4).

(3) The holder of a road permit may require payment from a person referred to in subsection (2) for
   (a) a reasonable contribution to the expense of maintaining the road, and
   (b) the reasonable expense of modifying the road to accommodate the special needs of the person.

(4) If the holder of the road permit and the person referred to in subsection (2) cannot agree on what constitutes a reasonable contribution or expense, they may agree to refer the matter to the district manager.

(5) On a referral under subsection (4), the district manager may determine what constitutes a reasonable contribution or expense and the district manager’s determination is binding on both parties.

Non-industrial use of a forest service road

57. (1) Except as set out in subsection (2), a person may use a forest service road for a non-industrial purpose without charge.

   (2) If use of a forest service road would likely cause significant damage to the road or environment, or endanger life or property, or if the presence on the road of a vehicle or animal would likely cause significant damage to the road or environment, or endanger life or property, the district manager may
       (a) close or restrict the use of the road, or
       (b) at the expense of its owner, remove the vehicle or animal.

Authority required to construct or modify a road on Crown land

58. (1) A person, other than the government, who constructs or modifies a road on Crown land must comply with subsection (2) if the road
       (a) is within a Provincial forest, or
       (b) is outside a Provincial forest and is for the purpose of providing access to timber.

   (2) A person to whom this subsection applies may only construct or modify the road
       (a) if
           (i) the road is identified in a forest development plan or access management plan prepared or approved by the district manager, and
           (ii) the construction or modification has been authorized by a road permit,
       (b) if the road is
           (i) authorized by a cutting permit, or timber sale licence that does not provide for cutting permits,
           (ii) wholly contained in an area covered by a cutting permit, or a timber sale licence that does not provide for cutting permits, and
           (iii) identified on
               (A) a logging plan, or
               (B) a silviculture prescription
               approved or given effect by the district manager,
           (c) subject to any requirement for a special use permit under a regulation referred to in section 2 (5), if the construction or modification is authorized under the Coal Act, Geothermal Resources Act, Mines Act, Mining Right of Way Act or Petroleum and Natural Gas Act, or
           (d) without limiting section 2 (5), if the construction or modification is authorized under a special use permit.

   (3) A person to whom subsection (2) (b) applies must obtain a road permit, unless the road to be constructed or modified is wholly contained in a cutblock and is not identified on a forest development plan or access management plan as providing access to more than one cutblock.
Road construction or modification by minister

59. (1) Before a road is constructed or modified on Crown land under section 121 of the Forest Act, the road must be identified on a forest development plan or access management plan prepared or approved by the district manager, unless the road is immediately required for fire control or suppression or another emergency.

(2) If a road referred to in subsection (1) is constructed or modified because the road is required for an emergency and the road is not identified on a forest development plan or access management plan, when the emergency is over the regional manager or district manager must assess the condition of the road and ensure that the road is maintained or deactivated in accordance with the regulations and standards.

Road layout and design

60. (1) In accordance with the regulations, a person who is the holder of a road permit, a cutting permit, a timber sale licence that does not provide for cutting permits or a special use permit, must obtain the district manager’s approval for a road layout and design before constructing or modifying a road to which the permit applies.

(2) Before a road is constructed or modified under section 121 of the Forest Act, the district manager must prepare a road layout and design in accordance with the regulations and standards, unless the road is immediately required for fire control or suppression or another emergency.

(3) The person required to prepare a road layout and design under subsection (1) or (2) must ensure that the layout and design are consistent with any forest development plan or access management plan.

Road construction surveys

61. (1) Before a person referred to in section 60 (1) constructs or modifies a road, the person must carry out a road construction survey in accordance with the regulations and standards.

(2) Before a road is constructed or modified under section 121 of the Forest Act, the district manager must carry out a road construction survey in accordance with the regulations and standards unless the road is immediately required for fire control or suppression or another emergency.

Road construction and modification must comply with Act and plans

62. (1) A person who constructs or modifies a road on Crown land

(a) within a Provincial forest, or
(b) outside a Provincial forest if the road is constructed or modified for the purpose of providing access to timber,

must do so in accordance with all of the following:

(c) this Act, the regulations and the standards;
(d) any forest development plan, access management plan or logging plan;
(e) any cutting permit, road permit or special use permit;
(f) any road layout and design;
(g) a road construction survey.

(2) This section does not apply to a road constructed or modified under section 121 of the Forest Act if the road is immediately required for fire control or suppression or another emergency.

Road maintenance

63. (1) Subject to subsection (5) a person who uses a road under the authority of a road permit, a timber sale licence that does not provide for cutting permits, a cutting permit or a special use permit must maintain it until

(a) the road is temporarily, semi-permanently or permanently deactivated,
(b) a road permit or special use permit for the road is issued to another person, or
(c) the road is declared a forest service road under section 115 (5) of the Forest Act.
(2) A person who is required to maintain a road under subsection (1), (5) or (7) must maintain it in accordance with the requirements of
   (a) any forest development plan or access management plan,
   (b) the Act, regulations and standards, and
   (c) the cutting permit, road permit, timber sale licence that does not provide for cutting permits, road use permit or special use permit.

(3) A person who has been exempted under section 54 (5) from the requirement for a road permit or a special use permit must maintain the road for the duration of the person’s use of the road in accordance with the requirements of
   (a) any forest development plan or access management plan, and
   (b) the regulations and standards.

(4) A person who constructs or modifies a road under section 58 (2) (c) must maintain the road in accordance with the regulations and standards made under this Act until the road is deactivated.

(5) The district manager may require the holder of a road use permit that authorizes the use of a road for which there is an active road permit to assume all or part of the responsibility for maintaining the road.

(6) Subject to subsection (7), the district manager must maintain forest service roads in accordance with the requirements of
   (a) any forest development plan or access management plan, and
   (b) the regulations and standards,

until the road is deactivated under a forest development plan or an access management plan.

(7) The district manager may require the holder of a road use permit that authorizes the use of a forest service road to assume all or part of the responsibility for maintaining the road.

Road deactivation

64. (1) Subject to subsection (11), a person who uses a road under the authority of a road permit, cutting permit, timber sale licence that does not provide for cutting permits or special use permit, or the government for a forest service road, must deactivate the road temporarily, semi-permanently or permanently, or a combination of temporarily, semi-permanently or permanently, as required by, and in accordance with
   (a) any forest development plan or access management plan,
   (b) this Act, the regulations and standards,
   (c) the road permit, cutting permit, timber sale licence that does not provide for cutting permits or special use permit, and
   (d) any road deactivation prescription.

(2) A person who uses a road under the authority of a road permit, cutting permit, timber sale licence that does not provide for cutting permits or special use permit, or the government for a forest service road, must ensure that, from the time deactivation of the road begins until the road is permanently deactivated, the area that has been deactivated meets prescribed requirements.

(3) After permanent deactivation of a road under this section, a person who used the road under the authority of a road permit associated with, or a cutting permit issued under, a tree farm licence must maintain, in accordance with the regulations, the stability of the area that was deactivated.

(4) After permanent deactivation of a road under this section, other than a road referred to in subsection (3), the government must maintain, in accordance with the regulations, the stability of the area that was deactivated.

(5) A person must not carry out a permanent or semi-permanent deactivation of a road unless, in accordance with the regulations, the person prepares and obtains the district manager’s approval of a road deactivation prescription for the road.

(6) In the case of a temporary deactivation of a road, if the district manager is of the opinion that a road deactivation prescription is necessary to adequately manage and conserve the forest resources of British Columbia, the district manager must give written notice of this requirement to the person charged with carrying out the temporary deactivation.
(7) If a person receives written notice under subsection (6), the person must prepare and obtain the district manager’s approval of a road deactivation prescription.

(8) The district manager must not carry out a permanent or semi-permanent deactivation of a road unless, in accordance with the regulations, the district manager prepares a road deactivation prescription for the road.

(9) The district manager must prepare a road deactivation prescription before carrying out a temporary deactivation of a road if the district manager is satisfied that the prescription is necessary to adequately manage and conserve the forest resources of British Columbia.

(10) A road deactivation prescription must specify for the road any site specific measures necessary to minimize soil erosion.

(11) A person’s responsibility for permanently deactivating a road on Crown land ceases when the district manager notifies the person in writing that, in the opinion of the district manager,

(a) future use of the road by others will preclude permanent deactivation, or

(b) the road has been permanently deactivated.

(12) A person who constructs or modifies a road under section 58 (2) (c) must deactivate the road in accordance with the regulations and standards when the person ceases to maintain the road.

Consent to connect

65. Except for roads referred to in section 59 (2), a person must obtain the consent of the regional manager or district manager before connecting a road to a forest service road.

Not a public highway

66. Despite section 4 of the Highway Act, a road constructed, modified or maintained under this Act, the Forest Act or the former Act is not a public highway unless the Lieutenant Governor in Council declares it to be.

Division 3 – Timber Harvesting

67. (1) A person who carries out timber harvesting and related forest practices on

(a) Crown forest land,

(b) Crown range, or

(c) private land that is subject to a tree farm licence or a woodlot licence,

must do so in accordance with

(d) this Act, the regulations and standards,

(e) any silviculture prescription, and

(f) any logging plan.

(2) Without limiting subsection (1), the person must

(a) conduct forest practices in and around streams in accordance with the regulations and standards,

(b) carry out timber harvesting in accordance with the silvicultural system and harvesting methods, and during the season, required by the silviculture prescription, the regulations or the standards,

(c) ensure that

(i) in areas that are not covered by a silviculture prescription, forest practices are carried out so as to minimize the area occupied by excavated or bladed trails, and

(ii) any soil disturbance in the net area to be reforested does not prevent the requirements of the silviculture prescription from being met, and

(d) not harvest or damage trees that are required by the silviculture prescription to be left standing or undamaged.

Excavated or bladed trails

Footnotes:


68. (1) A person may only build an excavated or bladed trail if it is provided for in a silviculture prescription, logging plan, range use plan or special use permit.

(2) Without limiting subsection (1), an excavated or bladed trail must be built in accordance with the regulations and standards.


Natural range barriers

69. If a person carries out a forest practice that directly or indirectly removes or renders ineffective a natural range barrier, the person who removes the natural range barrier or who renders it ineffective must take measures specified by the district manager to mitigate the effect of the removal or ineffectiveness.


Division 4 – Silviculture

Silviculture prescriptions

70. (1) In this section:

“commencement date” means

(a) for a silviculture prescription under section 22 (1) (a), (1.1) or (3), the date when timber harvesting, excluding road and landing construction, begins on the area under the prescription,

(b) for a silviculture prescription under section 22 (1) (b) or (c), the date the district manager gives effect to the prescription,

(c) for a silviculture prescription under section 22 (4) to (6), the date of the district manager’s approval,

(d) for a silviculture prescription under section 23, the date any silviculture treatment under the prescription begins,

(e) for a pre-harvest silviculture prescription that was prepared or approved by the district manager and that was in effect on June 15, 1995, the date when timber harvesting, excluding road and landing construction, begins on the area under the prescription, and

(f) for a silviculture prescription that was prepared or approved by the district manager and that was in effect on June 15, 1995, the date the district manager prepared the prescription or approved it;

“free growing assessment period” means the period of time within which the requirements of subsection (4) (e) will be met, determined as follows:

(a) the beginning and end of the period are measured from the commencement date, if the silviculture prescription is approved or prepared by the district manager on or after April 1, 1994;

(b) the beginning and end of the period are the earliest and latest dates specified in a silviculture prescription for the free growing assessment measured from the commencement date, if the silviculture prescription was approved before April 1, 1994;

“regeneration date” means the date by which the requirements of subsection (4) (d) will be met, determined as follows:

(a) the date is measured from the commencement date, if the silviculture prescription is approved or prepared by the district manager on or after April 1, 1994;

(b) the date is determined by adding to the commencement date the regeneration delay period, as defined in section 1 (1) of the Silviculture Regulation, B.C. Reg. 147/88, as it was immediately before its repeal, if the silviculture prescription was approved or prepared before April 1, 1994;

“well spaced trees” means trees that meet the minimum allowable horizontal distance specified in the prescription.

(2) If the district manager is required to prepare a silviculture prescription, or approves a prescription referred to in section 22 (1.1) and the commencement date has occurred, the government must establish, in accordance with the regulations and standards and the prescription, a free growing stand on those portions of the area under the prescription that are within the net area to be reforested.

(3) If the holder of a major licence or woodlot licence is required to submit a silviculture prescription and the commencement date has occurred, the holder must establish, in accordance with the regulations
and standards and the prescription, a free growing stand on those portions of the area under the prescription that are within the net area to be reforested.

(4) Without limiting subsection (2) or (3), the person who is required to establish the free growing stand under the prescription must do all of the following:

(a) carry out the regeneration method specified in the prescription and the silviculture treatments that are required by the prescription and the regulations;

(b) not exceed the limit for forest floor displacement specified in the prescription;

(c) use seed, seedlings and vegetative propagules only in accordance with the regulations and standards;

(d) by the regeneration date specified in the prescription meet, and after that date maintain, the stocking requirements as defined in the regulations and specified in the prescription for that date;

(e) within the free growing assessment period specified in the prescription, establish a free growing stand that meets the stocking requirements as defined in the regulations and specified in the prescription;

(f) if the density of trees exceeds the maximum number of coniferous trees allowed per hectare as specified in the prescription, carry out a spacing treatment before the end of the free growing assessment period to reduce the density of trees to within the density range specified in the prescription;

(g) if the quality and health of trees of a commercially valuable species fail to meet the prescribed requirements, carry out any necessary silviculture treatment before the end of the free growing assessment period to cause the quality and health of the trees to meet the prescribed requirements;

(h) carry out surveys at the times and in the manner specified in the regulations and standards;

(i) submit reports at the times and in the manner specified in the regulations and standards.

(5) Subsection (4) (f) does not apply to a silviculture prescription approved before April 1, 1994, unless the silviculture prescription is amended and the amendment relates to the method of regeneration.

(6) If a silviculture prescription was approved before April 1, 1994, the person who is required to produce a free growing stand must, if the density of lodgepole pine or drybelt Douglas fir exceeds the maximum density specified in the silviculture prescription, carry out a spacing treatment before the end of the free growing assessment period to reduce the number of trees to

(a) the target number of healthy well spaced trees per hectare, or

(b) if the district manager serves written notice on the person requiring a number of healthy, well spaced trees per hectare that is greater than the target number, the number required by the district manager.

Silviculture prescriptions for non-replaceable licences

71. (1) In this section, “holder of a prescription” means a person

(a) who prepared and obtained approval for a silviculture prescription after a prescribed date for an area harvested under a timber licence, non-replaceable forest licence or non-replaceable woodlot licence and who does not hold a replaceable tree farm licence or forest licence, and

(b) who meets prescribed requirements, if any.

(2) By notice given to the district manager, the holder of a prescription may request that the government assume responsibility for carrying out the prescription referred to in subsection (1).

(3) By notice given to a person who has made a request under subsection (2), the district manager may assume on behalf of the government the responsibility for carrying out the prescription if all of the following requirements have been met:

(a) the holder of the prescription has completed timber harvesting on the area under the prescription and the district manager is satisfied with the way the timber harvesting has been carried out;

(b) the district manager is satisfied that the holder of the prescription
(i) is in compliance with the Act, regulations and standards with respect to the area under the prescription, or
(ii) has remedied any contraventions of the Act, regulations or standards on the area under the silviculture prescription that the district manager required to be remedied;
(c) the holder of the prescription has paid the government an amount that the district manager determines will pay the costs of carrying out the silviculture prescription and any other directly or indirectly associated costs;
(d) other prescribed requirements.

(4) Money collected by the government under subsection (3) must be paid into the Forest Stand Management Fund special account established by the *Special Accounts Appropriation and Control Act*.

(5) After the district manager has given notice under subsection (3) to the holder of the prescription,
(a) the prescription is deemed to be a prescription prepared under section 22 (1), and
(b) the holder of the prescription is no longer responsible for obligations under the prescription assumed by the government.

(6) Compensation is not payable to the government or the holder of the prescription for any difference between the amount the person who holds the prescription paid under subsection (3) and the actual costs incurred by the government both directly and indirectly to carry out the prescription.

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**Silviculture treatments on free growing stands**

72. (1) If the district manager is required to prepare a stand management prescription, the government must carry out the silviculture treatment in accordance with the regulations and standards and a stand management prescription.

(2) If the holder of a major licence or woodlot licence is required to submit a stand management prescription, the holder must carry out the silviculture treatment in accordance with the regulations and standards and a stand management prescription approved under Division 5 of Part 3.

(3) Without limiting subsections (1) and (2),
(a) the district manager or the holder of the licence, as the case may be, must carry out surveys at the times and in the manner specified in the regulations and standards, and
(b) the district manager must prepare, and the holder must submit to the district manager, records and reports in accordance with the regulations.

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**Action by government if agreement terminates**

73. The district manager must carry out the work ordered in a notice of determination under section 118 (2) that was given to a holder of an agreement under the *Forest Act* in respect of a failure to meet the requirements of a silviculture prescription if
(a) the agreement has expired or has been cancelled, surrendered or otherwise terminated, and
(b) the holder of the agreement has not carried out the work within the period specified in the notice of determination.

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**Range developments and brands**

74. (1) A person who grazes livestock, cuts hay or constructs, carries out or maintains a range development on range land or unfenced grazing land must do so in accordance with
(a) this Act, the regulations and the standards, and
(b) any range use plan.

(2) Without limiting subsection (1), the holder of an agreement under the *Range Act* must, with respect to range land,
(a) not construct or carry out a range development until the proposed development has
(i) been approved by the district manager in accordance with the regulations, and
(ii) been shown on a map of the site,
(b) construct, carry out or maintain range developments in accordance with the regulations and
with specifications approved by the district manager, and
(c) remove range developments and rehabilitate areas subject to range development, if the
district manager, in accordance with the regulations, directs the holder to do so.

(3) In subsection (4), “registered brand” means a brand registered under the Livestock
Identification Act.

(4) The holder of an agreement under the Range Act that authorizes grazing must ensure that all
livestock authorized to graze on Crown range under the agreement are
(a) marked with the holder’s registered brand or marked in another manner approved by the
district manager, and
(b) identified by a mark or tag designating them as animals pastured under the agreement, if the
district manager requires it.

PART 5 – Protection of Forest Resources: General

Division 1 – Definitions

Definitions

75. In Divisions 2 and 3 of this Part and in the regulations that relate to those Divisions:

“forest” includes all of the following:
(a) forest land, whether Crown land or private land;
(b) Crown range;
(c) Crown land or private land that is predominantly maintained in one or more
   (i) successive stands of trees,
   (ii) successive crops of forage, or
   (iii) wilderness;

“industrial activity” includes land clearing, timber harvesting, timber processing, mechanical site preparations
and other silviculture treatments, mining, road construction and any prescribed activity;

“open fire” means any burning conducted in such a manner that combustion products are not vented through a
stack or chimney.

Division 2 – Fire Use and Prevention

Use of open fires

76. (1) A person must not light, fuel or make use of an open fire in or within 1 km of a forest except in
compliance with a burning permit and the regulations.

(2) Despite subsection (1), a person may light, fuel and make use of an open fire without a burning
permit, in accordance with the regulations, for the purposes of one or more of the following:
(a) cooking;
(b) warmth;
(c) ceremonial purposes;
(d) burning of material of a prescribed kind, in a prescribed quantity or for a prescribed purpose.

(3) Despite subsection (1), a person acting for the government does not require a burning permit to
light, fuel or make use of an open fire if the fire is for fire control or suppression purposes.

(4) The Lieutenant Governor in Council may, by order, exempt an area or class of areas from
subsection (1) and may, by regulation, regulate burning in the exempted area.

Issuing burning permit

Sept. 1/97
77. (1) A designated forest official, or a person authorized by a designated forest official, may issue a burning permit containing the conditions that are
(a) in accordance with the regulations, and
(b) considered appropriate by the person issuing the permit.

(2) Without limiting subsection (1) (a), the Lieutenant Governor in Council may make a regulation that lists the conditions that can be attached to a burning permit.

Suspension, cancellation or variation of burning as a precaution against forest fires

78. (1) A designated forest official may, if he or she considers it necessary as a preventive measure to limit the risk of a forest fire starting,
(a) in a notice published or broadcast, or both, in or near an area, including an area exempted under section 76 (4),
   (i) suspend, cancel or restrict the use of all burning permits issued for the area, and
   (ii) order that a person must not light, fuel or make use of an open fire in the area for any purpose referred to in section 76 (2), and
(b) in a notice given to the holder of a burning permit, vary, suspend, cancel or restrict the use of the burning permit.

(2) A person must comply with a notice or order published, broadcast or given under this section.

Fire hazard assessment

79. (1) If required by the regulations, a person who engages in a prescribed activity related to timber harvesting must, in accordance with the regulations,
(a) assess the fire hazard, and
(b) submit the results of the fire hazard assessment to a designated forest official.
(2) In accordance with the regulations, a designated forest official may assess whether a fire hazard exists on any land in or within 1 km of a forest, and for this purpose may enter onto private land.

(3) If a designated forest official makes an assessment under subsection (2), he or she must provide the results of that assessment to a person carrying out an industrial activity on the land, and, if the land is private land, the owner or any tenant.

(4) An assessment under subsection (1) is effective to the extent it does not conflict with an assessment under subsection (2).

Responsibility for abatement and removal of fire hazard

80. (1) If a fire hazard exists on Crown land in or within 1 km of a forest as a result of an industrial activity, the person carrying out the activity and the person causing the activity to be carried out must abate, remove or both abate and remove, the fire hazard as required by, and in accordance with, the regulations.

(2) If a fire hazard exists on private land, in or within 1 km of a forest as a result of an industrial activity, the following persons must abate and remove the fire hazard in accordance with the regulations:

(a) the landowner;
(b) the tenant;
(c) the person carrying out the activity;
(d) the person causing the activity to be carried out.

(3) In accordance with the regulations, a landowner and tenant must abate and remove a fire hazard that exists on private land as a result of insects, disease, wind, fire or other causes.

(4) Without limiting subsections (2) and (3), if a fire hazard exists on private land as a result of activities or conditions referred to in subsection (2) or (3), and a corporation is the landowner, tenant, person carrying out the activity or person causing the activity to be carried out, the following persons must abate and remove the fire hazard in accordance with the regulations:

(a) the landowner;
(b) the tenant;
(c) the person carrying out the activity;
(d) the person causing the activity to be carried out;
(e) the directors and officers of the corporation;
(f) a person who controls the corporation;
(g) 2 or more persons not dealing at arm’s length with each other who control the corporation.

Burning permit to abate or remove a fire hazard

81. (1) Before a person abates or removes a fire hazard by burning, the person must apply for a burning permit and, subject to subsection (2), a burning permit must be issued to the person.

(2) If the designated forest official determines that burning is not an appropriate means of abatement or removal of the fire hazard, he or she must determine whether

(a) a burning permit should be issued at a later date, or
(b) the hazard should be abated or removed by a means other than burning.

(3) The designated forest official who makes a determination under subsection (2)

(a) must promptly advise the person who made the application for the burning permit of the determination, and
(b) may extend the prescribed time or the time specified in a notice under section 82 for abating or removing the fire hazard.

(4) A person responsible for carrying out a silviculture prescription that specifies burning as a silviculture treatment, who is advised of a determination under subsection (2) (b), must
(a) carry out an alternate type of silviculture treatment specified in the silviculture prescription, or
(b) amend the silviculture prescription in accordance with section 35.

Order to abate or remove fire hazard
82. If a designated forest official determines that a fire hazard has not been removed as required by this Act and the regulations, he or she may, in a notice of determination given to a person under section 118 (2), require the person to remove or abate the fire hazard and the person must comply.

Division 3 – Fire Control and Suppression
Definitions
83. In this Division:
“person’s area of operation” means the area on which or within 500 m of which the person is carrying out an industrial activity;
“initial fire suppression” means action that is appropriate to take when a fire is first discovered, to contain or limit the spread of the fire, and, if possible, extinguish the fire;
“restricted area” means an area of land designated by the designated forest official as a restricted area under section 84.

Restricted area
84. (1) A designated forest official may, in a notice personally given, or in a notice that is published or broadcast in or near the area, order that for the period specified in the notice, the area is a restricted area, if the designated forest official considers it appropriate in a specified area
(a) as a preventive measure to limit the risk of a forest fire starting,
(b) as a public safety measure to protect the public from an actual or potential fire or from fire control or suppression operations, or
(c) to avoid interference with fire control or suppression operations.
(2) If an order made under subsection (1) is in effect, subject to subsection (3), a person must not enter a restricted area except with the written consent of the designated forest official.
(3) An order under subsection (1) does not prevent a person from
(a) travelling to and from or occupying his or her residence,
(b) using a highway, as defined in the Highway Act, or
(c) carrying on or travelling to and from an operation of a type authorized under the order.
(4) A person entering a restricted area must comply with the regulations.

Order to leave area
85. (1) A designated forest official may, by order, require a person to leave an area specified in the order if the government is engaged in fire control or suppression operations.
(2) A person who receives an order under subsection (1) must immediately comply with the requirements of the order.
(3) A designated forest official may make an order under subsection (1) whether or not the area specified in the order has been declared a restricted area.

General duty to report a fire
86. A person who sees a fire burning in or within 1 km of a forest, that appears to be unattended or burning without any precautions taken to extinguish or prevent its spread, must immediately report the fire to a
regional manager, district manager, designated forest official, peace officer or person who answers a forest fire reporting telephone number.

**Prohibition**

87. (1) Except for the purpose of starting a fire in accordance with this Act, a person must not drop a burning substance in or within 1 km of a forest.

(2) A person who contravenes subsection (1) must immediately take all reasonable steps to extinguish the burning substance.

**Obligation of person starting fire**

88. (1) A person must take the actions required under subsection (2) if the person does any of the following things in or within 1 km of a forest:

(a) starts or causes a fire, otherwise than as permitted by this Act and the regulations;

(b) starts or causes an open fire that spreads beyond the area authorized or intended for burning or that otherwise becomes out of control.

(2) A person to whom subsection (1) applies must

(a) immediately take all reasonable steps to extinguish the fire, if the fire can be extinguished, and after that to report the fire, or

(b) if it appears the fire cannot be extinguished by the person, immediately report the fire.

(3) A fire is reported when it is made known to a regional manager, district manager, a designated forest official, peace officer or person answering a forest fire reporting telephone number.

**Government may fight fire to protect forest**

89. (1) The government may carry out a fire control and suppression operation on any land, wherever located, if a designated forest official determines that

(a) the operation is necessary to control or extinguish a fire,

(b) adequate fire control or suppression action is not being carried out, and

(c) forest resources on Crown land or private land are threatened by the fire.

(2) If the government causes fire control or suppression operations to be carried out on private land under subsection (1), the reasonable cost of the operations is a debt due the government by the owner of the land, payable on demand.

**Access across private land**

90. (1) A person acting on behalf of the government may enter on private land for the purpose of carrying out fire control or suppression operations on adjoining land.

(2) The government must compensate the owner and any tenant for damage caused to private land by the government under subsection (1).

**Fire preparedness responsibilities of a person engaged in an industrial activity**

91. (1) A person carrying out an industrial activity in or within 300 m of a forest must

(a) do so in accordance with the regulations, and

(b) at all times have

(i) the tools and equipment in the quantity and of the type required by the regulations, and

(ii) the prescribed number of personnel who meet the prescribed training qualifications.

(2) A person engaged in a prescribed category of industrial activity must submit to a designated forest official a fire preparedness plan that

(a) specifies proposed fire detection and initial fire suppression for the person’s area of operation, and

(b) meets the requirements of the regulations.
Fire suppression responsibilities of a person engaged in an industrial activity

92. (1) If a person is carrying out an industrial activity and a fire occurs in or within 1 km of the person’s area of operation, that person
   (a) must report the fire to the regional manager, district manager, designated forest official or person answering a forest fire reporting telephone number, and
   (b) carry out initial fire suppression in accordance with the regulations.

(2) A person is not relieved of a responsibility under subsection (1) by the government carrying out a fire control and suppression activity in the person’s area of operation.

Temporary employees

93. (1) A designated forest official may hire temporary employees for the purposes of carrying out fire suppression operations.

(2) The Public Service Act does not apply to a person hired as a temporary employee under subsection (1).

(3) A temporary employee hired under subsection (1) must be compensated by the government in accordance with the regulations.

(4) A designated forest official may, in writing, authorize a temporary employee to exercise, within the limits provided in the authorizations, the powers conferred on
   (a) a designated forest official under section 77, 78 (b), 85, 89 or 94, or
   (b) a person acting on behalf of the government under section 90 (1).

Requisition of facilities, equipment and personnel

94. (1) A designated forest official may, for the purposes of carrying out fire control or suppression operations,
   (a) order a person
      (i) to provide facilities and equipment that the person owns or has use of, and
      (ii) if an employee of the person is trained to fight forest fires or has skills that can be used to fight forest fires, and is ordered to assist in controlling or extinguishing a fire under paragraph (b), to release an employee from his or her duties and to pay the employee his or her usual wages while fighting the fire, and
   (b) order a person who is age 19 or older to assist in controlling or extinguishing a forest fire if the person
      (i) is physically capable of doing so, and
      (ii) is trained to fight forest fires or possesses skills that can be used to fight forest fires.

(2) A person who is the subject of an order under subsection (1) must comply with the order without delay.

Compensation for fire control or suppression operations

95. (1) Subject to subsections (2), (4), (5) and (7), a person who carries out initial fire suppression under section 92 or who complies with an order issued under section 94 must be compensated by the government in an amount determined by a designated forest official in accordance with the regulations.

(2) Despite subsection (1), a designated forest official may make a determination that a person, or that person’s employee,
   (a) caused a fire,
   (b) failed to comply with section 92, or
   (c) failed to comply with the regulations and that failure contributed to the cause or spread of a fire.

(3) If a designated forest official makes a determination under subsection (2), a designated forest official must give the person a notice of determination under section 120.

(4) The government is not liable to compensate a person who is determined under subsection (2) to have caused a fire or failed to comply, for an expense incurred in complying with an order issued under section 94 for
(a) equipment brought to a forest fire from within 30 km by road of the person’s area of
operation, including, for example, crawlers, tractors, trucks, excavators and skidders,
(b) any facilities or vehicles that serve the person’s area of operation including, for example,
camps, first aid offices, warehouses, machine shops, trucks and crew buses,
(c) wages payable to employees referred to in section 94 (1) (a) (ii), and
(d) prescribed expenses.

(5) The government is not liable to compensate a person for carrying out initial fire suppression
activities under section 92 if a designated forest official has determined under subsection (2) of this section that the
person or the person’s employee
(a) caused the fire,
(b) failed to comply with section 92, or
(c) failed to comply with the regulations and that failure contributed to the cause or spread of the
fire.

(6) In accordance with the regulations, the government may compensate a person who incurs
expense, other than on private land owned or occupied by the person, in voluntarily attempting to control or
extinguish a fire burning in or within 1 km of a forest.

(7) Compensation is not payable under subsection (1) or (6) to a person in respect of expenses that
relate to a fire on private land that the person owns, rents or leases.

Division 4 – Unauthorized Timber Harvesting and Trespass

Unauthorized timber harvest operations

96. (1) A person must not cut, remove, damage or destroy Crown timber unless authorized to do so
(a) under an agreement under the Forest Act or under a provision of the Forest Act,
(b) under a grant of Crown land made under the Land Act,
(c) under the Mineral Tenure Act for the purpose of locating a claim,
(d) under the Park Act,
(e) by the regulations, in the course of carrying out duties as a land surveyor, or
(f) by the regulations, in the course of fire control or suppression operations.

(2) If a person cuts, removes, damages or destroys Crown timber contrary to subsection (1), at the
direction of or on behalf of another person, that other person also contravenes subsection (1).

(3) Despite any other enactment or grant of land from the government, timber on private land granted
by the government after April 6, 1887 and before April 29, 1888 may be harvested without the authority of the
government.

Private land adjacent to Crown land

97. (1) Before an owner or occupier of private land that is adjacent to Crown land authorizes another
person to cut or remove timber from the private land, the owner or occupier must inform that other person of the
boundaries of the private land.

(2) Before a person cuts or removes timber from private land adjacent to Crown land, the person
must ascertain the boundaries of the private land.

Trespassing livestock

98. A person must not cause or permit livestock to be driven on or to graze on Crown range unless
(a) authorized to do so under an agreement under the Range Act, or under a silviculture
prescription or a special use permit under this Act, and
(b) the person acts in accordance with this Act, the regulations, the standards and any range use
plan, silviculture prescription or special use permit.
Unauthorized construction and occupation

99. (1) A person must obtain the consent of the district manager before constructing or occupying a building on Crown land in a Provincial forest unless the construction or occupation is authorized under another enactment.

(2) The district manager may, in a notice given to a person who contravenes subsection (1), order the person to do one or more of the following:
   (a) remove or destroy, or both, the building or other structure;
   (b) restore the land under the building or other structure.

Unauthorized hay cutting, removal, damage or destruction of hay

100. A person must not cut, remove, damage or destroy hay on Crown range unless authorized to do so under an agreement under the Range Act.

Unauthorized hay storage or range development

101. (1) A person must obtain the consent of the district manager before
   (a) storing hay on Crown range, or
   (b) carrying out, constructing, modifying, maintaining, removing, damaging or destroying a range development on Crown range.

(1.1) The district manager may
   (a) require a person seeking consent under subsection (1) to submit the matter for which consent is sought to a review in accordance with the regulations, and for comments by interested parties during the course of the review,
   (b) grant or refuse the consent, depending on the outcome of a review required under paragraph (a), and
   (c) impose requirements, that the district manager considers necessary or desirable, to be met by the person seeking the consent as a condition of obtaining or retaining the consent, including, but not limited to, requiring that the person provide security.

(1.11) The district manager may only grant a consent under this section if
   (a) the consent is consistent with any operational plans and higher level plans in effect for the area covered by the consent, and
   (b) the district manager is satisfied that the consent will adequately manage and conserve the forest resources of the area to which it applies.

(1.12) If the district manager requires security under subsection (1.1) (c), the district manager must specify
   (a) when the security must be paid,
   (b) the amount of security that is required,
   (c) the form of the security, and
   (d) the circumstances under which the security may be realized.

(1.2) A person who obtains consent under subsection (1) must comply with any conditions imposed under subsection (1.1) in respect of the consent.

(2) The district manager may, in a notice given to a person who contravenes subsection (1) or (1.2), order the person to do one or more of the following:
   (a) remove or destroy, or both, the stored hay or the range development;
   (b) restore the land under the stored hay or the range development, or both;
   (c) repair or rehabilitate the range development.
102. (1) Subject to subsection (2), a person must obtain the consent of the district manager before constructing, rehabilitating or maintaining a trail or other recreation facility on Crown land.

(2) Subsection (1) does not apply to a person who is authorized under another enactment to construct, rehabilitate or maintain a trail or recreational facility on Crown land.

(3) The district manager may, in a notice given to a person who contravenes subsection (1), order the person to

(a) remove or destroy, or both, the trail or facility, and

(b) restore the land underlying the trail or facility.


Tree spiking prohibited

103. A person must not

(a) drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter,

(b) possess any nail, spike or other potentially hazardous object with the intention of driving or placing it into any timber that the person does not own or is not authorized to alter, or

(c) solicit funds or materials from another person with the stated intention that the funds or material will be used to enable any person to drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter.

1994-41-103.

Division 5 – Botanical Forest Products

Buying of botanical forest products

104. Unless a person holds a valid botanical forest product buyer’s licence, the person must not, as part of a commercial enterprise, buy a botanical forest product from a person, or otherwise engage in trade concerning a botanical forest product with a person who harvested the botanical forest product if it

(a) was harvested from Crown land in a Provincial forest or Crown range, and

(b) is designated in a regulation for the purposes of this section.

1994-41-104; 1995-6-32.

Division 6 – Recreation

Protection of recreation resources on Crown land

105. (1) If the district manager determines that it is necessary to protect a recreation resource or manage public recreation use on Crown land, he or she may, by written order, restrict, prohibit or attach a condition to

(a) a non-recreational use of

   (i) a resource management zone, landscape unit or sensitive area that was established for recreation, or

   (ii) an interpretive forest site, recreation site or recreation trail that is on Crown land, except any use permitted under the Coal Act, Mineral Tenure Act or Petroleum and Natural Gas Act, or

(b) a recreational use anywhere on Crown land, except a use that is specifically permitted by or under another enactment.

(2) The district manager may make different orders under subsection (1) for different uses and locations.

(3) A district manager who makes an order under subsection (1) must post a notice of it in the area to which it applies.

(4) A person must not

(a) contravene an order made under subsection (1), or

(b) remove, alter, destroy or deface a notice posted under subsection (3) without lawful authority.

1994-41-105.

Division 7 – Control of Destructive Agents

Control of insects, disease, etc.
106. (1) If a designated forest official determines that on
(a) private land, or
(b) Crown land that is subject to an agreement under the Forest Act,
there are insects, diseases, animals or abiotic factors that are causing damage to a forest, the district manager may, in a
notice given to the owner or the holder of the agreement, order measures to be undertaken within a specified time to
control or dispose of the insects, diseases, animals or abiotic factors and the person must comply.
(2) Any order under subsection (1) must be consistent with the Wildlife Act and the Pesticide Control Act.

PART 6 – Compliance and Enforcement
Division 1 – Inspecting, Stopping and Seizing

Entry and inspection
107. (1) In this Division, “the Acts” means one or more of this Act, the regulations or the standards or
the Forest Act, the Range Act or a regulation made under one of those Acts.
(2) For any purpose related to the administration or enforcement of the Acts, an official may enter,
at any reasonable time, on land or premises, other than a dwelling house or a room being used as a dwelling, if the
official has reasonable grounds to believe that the land or premises
(a) has located on it timber that is required to be scaled or marked with a timber mark under the
Forest Act,
(b) is the site of timber harvesting that is regulated under this Act or the Forest Act,
(c) is the site of a forest practice that is regulated under this Act or is carried on by a person who
is required under the Acts to hold a licence or permit to carry out that forest practice,
(d) is the site of trading in botanical forest products,
(e) is the site of an activity that requires a licence, permit, plan or approval under the Acts, or
(f) is the site of an industrial activity, as defined in section 75, being carried out in or within 1
km of a forest.
(3) An official may, at any reasonable time, enter on land that is in or within 1 km of a forest to
inspect for fire hazards if the official  has reasonable grounds to believe that an activity is being carried out or a
condition exists on the land that might cause or produce a fire hazard.
(4) An official who enters on land or premises under this section may
(a) inspect any thing or any activity that is reasonably related to the purpose of the inspection, and
(b) require production for the purposes of inspection or copying of
   (i) a licence, permit or operational plan that is required for the activity, and
   (ii) a record required to be kept under the Acts.

Inspection of vehicle or vessel carrying forest products
108. For any purpose related to the administration and enforcement of the Acts, an official may at any
time stop and inspect a vehicle or vessel that the official has reasonable grounds to believe
(a) contains or is transporting timber, special forest products, botanical forest products or hay, and
(b) is under the operation or control of
   (i) the holder of an agreement under the Forest Act or Range Act, or a product licence, or
   (ii) any person.

Stopping vehicle or vessel for contravention
109. An official may stop a person who is operating a vehicle or vessel if the official has reasonable
grounds to believe that the person is contravening or has contravened
(a) this Act or the regulations or the Forest Act or the Range Act or the regulations under either
Act.
Production of records

110. (1) A senior official may, by written order, require the holder of an agreement under the *Forest Act* or *Range Act*, within the time specified in the order, to produce records that are
   (a) related to an activity that requires a licence, permit, plan or approval under the Acts, and
   (b) specified or otherwise described in the order.

   (2) At any reasonable time, an official may enter the business premises of a holder of an agreement under the *Forest Act* or *Range Act* where records are kept, for the purpose of inspecting or copying records that are required to be kept under the Acts.

Obligation of an official

111. An official who conducts an inspection under this Division or who seizes goods under Division 2 of this Part must, on the request of the person, provide proof of identity to the person who has apparent custody or control of the property or activity being inspected or the goods being seized.

Obligation of person inspected

112. (1) A person must not obstruct an official in the lawful exercise of an inspection.

   (2) The operator of a vehicle or vessel must stop the vehicle or vessel when required to do so by an official referred to in section 108 or 109 who
   (a) is in uniform,
   (b) displays his or her official badge, or
   (c) is in or near a vehicle or vessel that is readily identifiable as a government vehicle.

   (3) A person who
   (a) has apparent custody or control of the land, premises, records or other property that is being inspected,
   (b) is in charge of the activity that is being inspected, or
   (c) is operating a vehicle or vessel that is stopped under section 108 or 109,
   must, on request of the official, produce
   (d) proof of identity,
   (e) a licence, permit or operational plan requested under section 107 (4) (b), and
   (f) a record requested under section 110.

Warrant to search and seize evidence

113. (1) A justice of the peace may issue a warrant under section 21 or 22 of the *Offence Act* to an official to enter premises and search for and seize evidence of a contravention of the Acts.

   (2) The provisions of the *Offence Act* apply to the search and seizure.

Peace officers may accompany

114. An official exercising powers or duties under this Part may be accompanied by a peace officer.

Forfeiture of timber, chattels, hay, livestock, etc.

115. (1) An official may seize the following:
   (a) Crown timber that the official has reasonable grounds to believe was cut or removed in contravention of section 96;
   (b) timber, lumber, veneer, plywood, pulp, newsprint, special forest products, wood residue and chattels on which the government has a lien under section 130 (1) (d) of the *Forest Act*;
   (c) timber, including special forest products, that the official has reasonable grounds to believe
(i) was removed from land in contravention of section 84 (1) or (3) of the *Forest Act*,
(ii) has not been scaled under section 94 of the *Forest Act* and is being or has been
   (A) transported to a place other than the place where it is required to be scaled, or
   (B) used in manufacturing,
(iii) is being transported outside British Columbia in contravention of section 127 of the *Forest Act*,
(iv) is being or has been transported in contravention of any regulation made under the *Forest Act*, or
(v) is mixed with timber to which this subsection applies;
(d) any timber product that the official has reasonable grounds to believe has been manufactured
   from timber, including special forest products, that has not been scaled under section 94 of the *Forest Act*;
(e) hay that has been cut, removed or damaged contrary to section 100;
(f) hay that has been stored contrary to section 101;
(g) a botanical forest product that the official has reasonable grounds to believe has been bought
   or traded contrary to section 104;
(h) a vehicle or vessel transporting timber, timber products, hay or botanical forest products to
   which paragraphs (a) to (g) apply.

(2) The regional manager may sell,

(a) at a public auction or by private sale, Crown timber seized under subsection (1) (a), hay seized
    under subsection (1) (e), or botanical forest products seized under subsection (1) (g), and
(b) at a public auction, timber, chattels, timber products or hay seized under subsection (1) (b),
    (c), (d) or (f).

(3) If timber, chattels or timber products are sold under subsection (2) (b), notice of the public
    auction must be published at least 10 days in advance, in or near the area where the sale is to take place, and must
    (a) specify the time and place of the auction, and
    (b) identify the name of the person from whom the timber, chattel or timber product was seized.

(4) If the money realized from the public auction exceeds the money that is payable to the
government, including interest and the costs of seizure, storage and sale, the surplus must be paid to the person who
possessed the property when it was seized if the property is

(a) timber, a chattel or a timber product seized under subsection (1) (b), or
(b) timber seized under subsection (1) (c) (v).

(5) Despite subsection (4), if within 30 days after the sale a person other than the person referred to
in subsection (4) serves a notice of a claim to the surplus on the regional manager, the surplus must be retained until
the determination of the respective rights of persons claiming the surplus.

(6) The total proceeds from the sale of timber, a chattel or a timber product seized and sold under
this section, other than timber, chattels or timber products referred to in subsection (4) (a) or (b), must be paid into the
consolidated revenue fund.

(7) A vehicle or vessel seized under subsection (1) (h) must be released from seizure once the
timber, chattel, timber product, hay or botanical forest product is delivered to a location specified by the official.

(8) If an official determines that a person has contravened section 98, the official, or person
authorized by the official, may do one or more of the following:

(a) drive the livestock from Crown range;
(b) round up, seize, tranquilize and hold the livestock;
(c) destroy the livestock if
   (i) the safety of a person acting under this section is threatened by an animal that is being
       driven, rounded up, seized, tranquilized or held,
   (ii) it is impracticable to round up the livestock, or
   (iii) it would be humane treatment to do so.

(9) If livestock are held under subsection (8),
(a) an official may return the livestock to the owner on payment of the reasonable costs of driving, rounding up, seizing, tranquilizing, holding, maintaining and returning the livestock or of disposing of a destroyed animal, or

(b) the district manager may sell the livestock in accordance with the regulations.

(10) A district manager, an official and a person authorized by an official must take reasonable care of livestock while driving, rounding up, seizing, tranquilizing, holding, returning or selling them under this section.

(11) If livestock are sold under subsection (9), all of the following apply:

(a) the purchaser acquires absolute ownership of the livestock, free of encumbrances;

(b) the government will pay the balance of proceeds realized from the sale, after deducting the costs incurred for the driving, rounding up, seizing, holding and selling the livestock, to a person who

(i) provides evidence satisfactory to the district manager that the person owned the livestock immediately before the sale, and

(ii) applies in writing to the district manager for the balance within 6 months after the sale;

(c) the balance of proceeds from the sale, if not paid under paragraph (b), must be paid to the consolidated revenue fund.


No interference with notice

116. A person must not, without the permission of the district manager, remove, alter, destroy or deface a notice posted by the government for the purposes of notifying the public of a seizure under section 115.


Division 3 – Administrative Remedies

Penalties

117. (1) If a senior official determines that a person has contravened this Act, the regulations, the standards or an operational plan, the senior official may levy a penalty against the person up to the amount and in the manner prescribed.

(2) If a person’s employee, agent or contractor, as that term is defined in section 152 of the Forest Act, contravenes this Act, the regulations or the standards in the course of carrying out the employment, agency or contract, the person also commits the contravention.

(3) If a corporation contravenes this Act, the regulations or the standards, a director or officer of it who authorized, permitted or acquiesced in the contravention also commits the contravention.

(4) Before the senior official levies a penalty under subsection (1) or section 119, he or she

(a) must consider any policy established by the minister under section 122, and

(b) subject to any policy established by the minister under section 122, may consider the following:

(i) previous contraventions of a similar nature by the person;

(ii) the gravity and magnitude of the contravention;

(iii) whether the violation was repeated or continuous;

(iv) whether the contravention was deliberate;

(v) any economic benefit derived by the person from the contravention;

(vi) the person’s cooperativeness and efforts to correct the contravention;

(vii) any other considerations that the Lieutenant Governor in Council may prescribe.

(5) The senior official who levies a penalty against a person under this section, section 118 (4) or (5) or 119 must give a notice of determination to the person setting out all of the following:

(a) the nature of the contravention;

(b) the amount of the penalty;

(c) the date by which the penalty must be paid;

(d) the person’s right to a review and appeal including the title and address of the review official to whom a request for a review may be made.
For the purposes of subsection (1), the Lieutenant Governor in Council may prescribe penalties that vary according to

(a) the area of land affected by the contravention,
(b) the volume of timber affected by the contravention,
(c) the number of trees affected by the contravention, or
(d) the number of livestock affected by the contravention.

Remediation orders

118. (1) If a senior official determines that a person who is the holder of an agreement under the Forest Act or the Range Act has contravened this Act, the regulations, the standards or an operational plan, the senior official, in a notice of determination given under subsection (2), may order the person to do work to remedy the contravention

(a) by requiring the holder to carry out a forest practice
   (i) that is required by the Act, the regulations, the standards or an operational plan, and
   (ii) that the holder has failed to carry out, or
(b) by requiring the holder to repair any damage caused by the contravention to the land on which the forest practice was carried out.

(2) A senior official who orders work to be done under subsection (1), a designated forest official who requires removal or abatement of a fire hazard under section 82 or a district manager who orders work to be done under section 99 (2), 101 (2), 102 (3) or 106 (1) must give a notice of determination to the person setting out all of the following that are applicable:

(a) the nature of the contravention;
(b) the nature of the work to be done to remedy the contravention;
(c) the date by which the work must be completed;
(d) the person’s right to a review and appeal, including the title and address of the review official to whom a request for a review may be made;
(e) the right of the government to carry out the work and levy a penalty if the person fails to comply with the order.

(3) If a person fails to comply with an order under subsection (1) or section 82, 99 (2), 101 (2), 102 (3) or 106 (1) by the date specified in a notice given under subsection (2), a senior official may do one or more of the following:

(a) in a notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
(b) subject to section 125, carry out the work;
(c) realize on any security the person was required to provide under a regulation made under section 201.

(4) If a senior official carries out work under subsection (3), he or she may levy against the person who failed to comply with the order a penalty in an amount the senior official determines to be equal to the expenses incurred in carrying out the work.

(5) If a senior official carries out work under subsection (3) that results from a contravention of section 70, the person who failed to comply with the order must pay a penalty of twice the amount the senior official determines to be equal to the expenses incurred in carrying out the work.

(6) On completion of work carried out under subsection (3) (b), the senior official must provide the person with an accounting of expenditures relating to the work.

(7) If security is realized under subsection (3) (c), the person must immediately replace the security to the extent it has been realized.

(8) If there is a surplus of funds remaining from the realization of a security under subsection (3) (c) after payment of the costs incurred by the government in doing the work, the senior official must promptly refund the surplus to the person.

(9) If the minister considers that a person is not complying, or has not complied, with an order under this section, the minister may apply to the Supreme Court for an order under section 147.
Penalties for unauthorized timber harvesting

119. (1) If a senior official determines that a person has cut, damaged, removed or destroyed Crown timber in contravention of section 96, he or she may levy a penalty against the person up to an amount equal to

(a) the senior official’s determination of the stumpage and bonus bid that would have been payable had the volume of timber been sold under section 20 of the Forest Act, and

(b) 2 times the senior official’s determination of the market value of logs and special forest products that were, or could have been, produced from the timber.

(2) A penalty may not be levied under both section 117 and subsection (1).

(3) In addition to a penalty under section 117 or subsection (1), a senior official who determines that a person has cut, damaged, removed or destroyed Crown timber in contravention of section 96 may levy a penalty against the person up to an amount equal to the senior official’s determination of

(a) the cost that will be incurred by the government in re-establishing a free growing stand on the area, and

(b) the costs that were incurred by government in applying silviculture treatments to the area that were rendered ineffective because of the contravention.

1994-41-119; 1995-6-34.

Notice of determination that a person contributed to fire

120. A designated forest official who makes a determination under section 95 (2) that a person caused a fire, failed to comply with section 92 or contributed to the cause or spread of a fire must give the person a notice of determination setting out sufficient information to enable the person to respond to the determination.

1994-41-120; 1995-6-35.

Extension of notice of determination

121. (1) The district manager, designated forest official or regional manager may extend a date referred to in a notice of determination under this Division.

(2) Any penalty or charge is due on the date set out in the notice of determination, unless the person requests a review under section 127, in which case it is due on the date the stay under section 126 ceases to apply.

1994-41-121; 1995-6-36.

Policies and procedures established by the minister

122. (1) The minister may establish, vary or rescind policies and procedures respecting penalties and remediation orders.

(2) Before a person levies a penalty under section 117 or 119, or makes an order under section 118, the person must consider any applicable policy or procedure established under this section.

(3) The policies and procedures established, varied or rescinded under subsection (1) must be made available for inspection by any person.

1994-41-122.

Stopwork order

123. (1) If an official considers that a person is contravening a provision of this Act, the Forest Act or the Range Act, or the regulations or the standards made under those Acts, the official, in accordance with the regulations, may order that the contravention cease, or cease to the extent specified by the order until the person has a required licence, permit, plan, prescription or approval.

(2) An order under this section may be made to apply generally or to one or more persons named in the order.

(3) If the minister considers that a person is not complying, or has not complied, with an order under this section, the minister may apply to the Supreme Court for an order under section 147.

1994-41-123.

Suspension or cancellation
of burning permit

124. A designated forest official may, in a notice given to the holder of a burning permit, suspend or cancel the burning permit, if the designated forest official determines that the holder of the burning permit
(a) is not complying with the permit, or
(b) has contravened Division 2 of Part 5, or the regulations.

Consistency with other Acts

125. Any measures taken by a senior official under section 118 (3) (b) as a result of the failure of a person to comply with an order under section 106 (1) must be consistent with the Wildlife Act and the Pesticide Control Act.

Division 4 – Administrative Review and Appeals

Determination not effective until proceedings concluded

126. (1) A determination that may be reviewed under section 127 does not become effective until the person who is the subject of the determination has no further right to have the determination reviewed or appealed.
(2) Despite subsection (1), the chief forester may order that a determination, other than a determination to levy a penalty under section 117 (1), 118 (4) or (5) or 119, is not stayed or is stayed subject to conditions, on being satisfied that a stay would be contrary to the public interest.
(3) Despite subsection (1), a determination is not stayed if the determination is made
(a) under section 123 (1), or
(b) under prescribed sections or for prescribed purposes.

Person subject to a determination may have it reviewed

127. (1) A person who is the subject of a determination under section 82, 95 (2), 99 (2), 101 (2), 102 (3), 106 (1), 117 to 120 or 123 (1) may deliver, to the review official named in the notice of determination, a written request for a review of the determination.
(2) The person must
(a) attach, as part of the request, a written statement explaining why the person believes the determination is wrong, and
(b) ensure that the written request meets the content requirements of the regulations.
(3) The person must deliver the request to the review official not later than 3 weeks after the date the notice of determination was given to the person.
(4) Before or after the time limit in subsection (3) expires, the review official may extend it.
(5) A person who does not deliver the request for a review within the time specified loses the right to a review.

Forest Practices Board may have determination or decision reviewed

128. (1) The board may request a review of
(a) a determination made under section 82, 95 (2) or 117 to 120,
(b) a failure to make a determination under section 82, 95 (2) or 117 to 120, and
(c) if the regulations provide and in accordance with the regulations, a determination under Division 5 of Part 3 with respect to approval of a forest development plan, range use plan or amendment to either of those plans.
(2) To obtain a review of a failure to make a determination, the board must deliver a written request for the review to the deputy minister of the Ministry of Forests, and to the person who would be subject to the determination, not later than 6 months after the occurrence of the event that would have been the subject of the determination.
(3) To obtain a review of a determination, the board must deliver a written request for the review to the review official specified in the notice of determination, and to the person who is the subject of the determination, not later than 3 weeks after the date the notice was given to the person who is the subject of the determination.

(4) Before or after the time limit in subsection (3) expires, the regional manager may extend it.

(5) If the board does not deliver the request for a review within the time specified, the board loses the right to a review.

1994-41-128.

Review

129. (1) If a request for a review is received by a review official under section 127 or 128 (3), the review must be conducted by one or more persons employed under the Public Service Act.

(2) A review of a failure to make a determination must be made by one or more persons employed under the Public Service Act after a request is received by the deputy minister under section 128 (2).

(3) The employees who conduct the review must not have made the determination or have participated in an investigation that resulted in the determination.

(4) The employee who conducts the review, or a majority of the employees conducting the review if more than one, may decide the matter
   (a) based on an oral hearing, or
   (b) without an oral hearing, based on
      (i) the written explanation that is part of the request, or
      (ii) the written explanation and any other communication with persons the employee considers necessary to decide the matter, including the person or board requesting the review and the person who made the determination.

(5) The employee who conducts the review, or a majority of the employees conducting the review if more than one, may make a decision
   (a) confirming, varying or rescinding the determination or making a determination,
   (b) referring a determination or failure to make a determination back to the person who made it or failed to make it, with or without directions, or
   (c) making a determination, if the review concerns the failure to make a determination.

(6) A written decision must be given to the board, to the person who is the subject of the determination and to the person who requested the review, not later than 60 days after the request for the review was received by the review official.

(7) Despite subsection (6), if the person conducting the review determines that the written request for review does not comply with the content requirements of the regulations, the 60 day period referred to in that subsection does not begin until a written request for review that does comply with the content requirements of the regulations is received.


No appeal without a review

130. (1) A determination or failure to make a determination may only be appealed if it has first been reviewed under sections 127 to 129.

(2) An appeal under section 131 is an appeal of the determination as varied by the review decision.

1994-41-130.

Appeal

131. (1) Not later than 3 weeks after receiving a review decision under section 129 (6), the person or the board may appeal the decision by delivering to the commission a notice of appeal that meets prescribed requirements.

(2) Before or after the time limit in subsection (1) expires, the chair or a member of the commission may extend it.

(3) If the person or the board does not deliver the notice of appeal within the time required, the person or board loses the right to an appeal.
(4) On receipt of the notice of appeal, the commission must, in accordance with the regulations, give a copy of the notice of appeal to the ministers and to
   (a) the board, if the notice was delivered by the person who is the subject of the determination, or
   (b) the person who is the subject of the determination, if the notice was delivered by the board.
(5) The government, the board, if it so requests, and the person who is the subject of the determination are parties to the appeal.
(6) At any stage of an appeal, the commission or a member of it may direct that a person who may be affected by the appeal be added as a party to the appeal.
(7) The commission, after receiving a notice of appeal, must promptly give the parties to an appeal a hearing.
(8) A party may
   (a) be represented by counsel,
   (b) present evidence,
   (c) if there is an oral hearing, ask questions, and
   (d) make submissions as to facts, law and jurisdiction.
(9) The commission may invite or permit a person to take part in a hearing as an intervenor.
(10) An intervenor may take part in a hearing to the extent permitted by the commission.
(11) A person who gives oral evidence may be questioned by the commission or the parties to the appeal.

Order for written submissions
132. (1) The commission or a member of it may order the parties to deliver written submissions.
(2) If the party that initiated the appeal fails to deliver a written submission ordered under subsection (1) within the time specified in the order, the commission may dismiss the appeal.
(3) The commission must ensure that every party to the appeal has the opportunity to review written submissions from the other parties and an opportunity to rebut the written submissions.

Interim orders
133. The commission or a member of it may make an interim order in an appeal.

Open hearings
134. Hearings of the commission must be open to the public.

Witnesses
135. The commission or a member of it has the same power as the Supreme Court has for the trial of civil actions
   (a) to summon and enforce the attendance of witnesses,
   (b) to compel witnesses to give evidence on oath or in any other manner, and
   (c) to compel witnesses to produce records and things.

Contempt
136. The failure or refusal of a person
   (a) to attend,
   (b) to take an oath,
   (c) to answer questions, or
   (d) to produce the records or things in his or her custody or possession,
make the person, on application to the Supreme Court, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

Evidence

137. (1) The commission may admit as evidence in an appeal, whether or not given or proven under oath or admissible as evidence in a court,
   (a) any oral testimony, or
   (b) any record or other thing
relevant to the subject matter of the appeal and may act on the evidence.
   (2) Nothing is admissible in evidence before the commission or a member of it that is inadmissible in a court by reason of a privilege under the law of evidence.
   (3) Subsection (1) does not override an Act expressly limiting the extent to or purposes for which evidence may be admitted or used in any proceeding.
   (4) The commission may retain, call and hear an expert witness.

Powers of commission

138. (1) On considering an appeal, the commission may
   (a) confirm, vary or rescind the decision appealed from,
   (b) make any decision that the person whose decision is appealed could have made, or
   (c) refer the matter back to the person who made the determination, with or without directions.
   (2) The commission may order that a party or intervenor pay another party or intervenor any or all of the actual costs in respect of the appeal.
   (3) An order under subsection (2) has, after filing in the court registry, the same effect as an order of the court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken as if it were an order of the court.

Decision of commission

139. (1) The commission must make a decision promptly after the hearing, and must give copies of the decision to the ministers, the parties and any intervenors.
   (2) On the request of any of the ministers or a party, the commission must provide written reasons for the decision.

Order for compliance

140. If it appears that a person has failed to comply with an order or decision of the commission or a member of it, the commission or a party may apply to the Supreme Court for an order
   (a) directing the person to comply with the order or decision, and
   (b) directing the directors and officers of the person to cause the person to comply with the order or decision.

Appeal to court

141. (1) The minister or a party to the appeal before the commission may, within 3 weeks after being given the decision of the commission and by application to the Supreme Court, appeal the decision of the commission on a question of law or jurisdiction.
   (2) After an application for leave to appeal is brought to the Supreme Court, a judge may, on terms he or she considers appropriate, order that the order of the commission be stayed in whole or in part.
   (3) An appeal from a decision of the Supreme Court lies to the Court of Appeal with leave of a justice of the Court of Appeal.
Division 5 – Offences and Court Orders

Limitation period

142. (1) The time limit for laying an information respecting an offence under this Act or the regulations is 3 years after the facts on which the information is based first came to the knowledge of a district manager, regional manager or chief forester.

(2) A document purporting to have been issued by the district manager, regional manager or chief forester, certifying the day on which he or she became aware of the facts on which an information is based, is admissible without proof of the signature or official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.

Fines

143. (1) A person who contravenes section 45 (1), (3) or (4) or 96 (1), or who intentionally or recklessly causes damage to Crown forest land by starting a fire in contravention of section 76 (1) or 87 (1), commits an offence and is liable on conviction to a fine not exceeding $1 000 000, or to imprisonment for not more than 3 years, or to both.

(2) A person who contravenes section 46 (4), 47 (5), (6) or (7), 48 (1), 51 (2), 58 (2) or (3), 62 (1), 63 (1), (2), (3) or (4), 64 (1), (2), (3), (5) or (12), 67, 68, 70 (3), 76 (1), 78 (2), 87, 88 (2) or 92 (1) commits an offence and is liable on conviction to a fine not exceeding $500 000, or to imprisonment for not more than 2 years, or to both.

(3) A person who contravenes section 20 (1), 21, 22 (2), (3), (4), (5) or (6), 23 (2), 24 (2), 26 (2), 27 (1), 35 (1), 36 (2), 46 (1) or (3), 47 (1), 50, 52 (2), 54 (1), (2), (3) or (6), 60 (1), 72 (2), 74, 80, 91, 98, 99 (1), 100, 101 (1), 105 (4) (a), 106, 112, 154, 173, 248 (1) or (2), 249 or 250 (1) commits an offence and is liable on conviction to a fine not exceeding $100 000, or to imprisonment for not more than one year, or to both.

(4) A person who contravenes section 61 (1), 65, 79 (1), 84 (2) or (4), 85 (2), 86, 94 (2), 97, 101 (1.2), 102 (1), 104 or 105 (4) (b) commits an offence and is liable on conviction to a fine not exceeding $5 000 or to imprisonment for not more than 6 months, or to both.

(5) The maximum fine to which a person is liable on a second or subsequent conviction for the same offence under subsections (1) to (4) is double the amount set out in those subsections.

(6) The Lieutenant Governor in Council may, by regulation, provide that

(a) a contravention of a regulation or standard is an offence, and

(b) a person convicted of an offence for a contravention of a regulation or standard is liable to a fine not exceeding a maximum amount, or to imprisonment not exceeding a maximum length, or to both.

(7) If the maximum fine or imprisonment provided by a regulation under subsection (6) (b) is less than that provided by a provision of this Act, the regulation prevails.

Timber spiking offence

144. (1) A person commits an offence who drives or places any nail, spike or other potentially hazardous object into any timber that person does not own or is not authorized to alter.

(2) A person commits an offence who possesses, with the intention of committing an offence under subsection (1), any nail, spike or other potentially hazardous object.

(3) A person commits an offence who solicits funds or material from another person with the stated intention that the funds or material will be used to enable a person to commit an offence under subsection (1).

(4) A person convicted of an offence under subsection (1) is liable

(a) to a fine of not more than $100 000, or to imprisonment for not more than 6 months, or to both,

(b) if the offence results in property damage in excess of $1 000, to a fine of not more than $100 000, or to imprisonment for not more than 1 year, or to both, or

(c) if the offence results in physical injury to an individual, to a fine of not more than $250 000, or to imprisonment for not more than 3 years, or to both.

(5) A person convicted of an offence under subsection (2) or (3) is liable to a fine of not more than $10 000, or to imprisonment for not more than 6 months, or to both.
Offence of irreparable damage

145. (1) In this section, “irreparable damage” means damage that results in one or more hectares of land being unable to support the growth of forage or trees of the same species, health and vigor as those that occupied the land before the damage.

(2) A person commits an offence who causes irreparable damage to Crown forest land or Crown range.

(3) A person who commits an offence under subsection (2) is liable, on conviction, to a fine of not more than $1 000 000 for each hectare of Crown forest land or Crown range that is irreparably damaged.

(4) A person does not commit an offence under subsection (2) if the person is

(a) acting in accordance with section 2 (4),
(b) building a road in accordance with an operational plan,
(c) acting in accordance with section 59 (1), or
(d) carrying out fire control or suppression in accordance with this Act and the regulations.

Remedies preserved

146. (1) A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

(2) The provisions of this Part are in addition to the provisions of any other enactment or rule of law under which

(a) a remedy or right of appeal or objection is provided, or
(b) a procedure is provided for inquiry into or investigation of a matter,

and nothing in this Act limits or affects that remedy, right, objection or procedure.

(3) Nothing in this section prevents a court that is determining the amount of a fine from taking into consideration the payment of an administrative penalty.

Order for compliance

147. (1) If the minister considers that a person is not complying, or has not complied, with an order made under section 82, 99 (2), 101 (2), 102 (3), 106 (1), 118 or 123, the minister may apply to the Supreme Court for either or both of the following:

(a) an order directing the person to comply with the order or restraining the person from violating the order;
(b) an order directing the directors and officers of the person to cause the person to comply with or to cease violating the order.

(2) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

Court order to comply

148. If a person is convicted of an offence under this Act or the regulations, then, in addition to any punishment the court may impose, the court may order the person to comply with the provisions of this Act.

Restitution

149. If a person is convicted of an offence under this Act or the regulations, then, in addition to any other penalty, the court may order the person to pay compensation or make restitution.

Continuing offence

150. If a contravention of section 45 (1), (3) or (4), 51 (2), 96 (1), 98, 99 (1), 101 (1), 102 (1), 103 or 105 (4) (a) continues for more than one day, the offender is liable to a separate penalty, without notice and without a separate count being laid, for each day that the contravention occurs.
Prosecution for unauthorized timber cutting

151. It is not a defence to a prosecution under section 96 or 97 that the person charged with the offence had the right to cut or remove timber on private land adjacent to Crown land and did not know the boundaries of the private land.

Prosecution for unauthorized cutting or storage of hay

152. It is not a defence to a prosecution under section 100 or 101 that the person charged with the offence had the right to cut, remove or store hay on private land adjacent to Crown land and did not know the boundaries of the private land.

Prosecution for unauthorized trail or recreational facility construction

153. It is not a defence to a prosecution under section 102 that the person charged with the offence had the right to construct, rehabilitate or maintain a recreation site or trail

(a) on private land adjacent to Crown land and did not know the boundaries of the private land,

or

(b) on Crown land on which the person was authorized under another enactment to carry out the activities and did not know the boundaries of that parcel of Crown land.

Interference, non-compliance and misleading

154. A person contravenes the Act who

(a) without lawful excuse, intentionally interferes with,

(b) without lawful excuse, intentionally fails to comply with a lawful requirement of, or

(c) intentionally makes a false statement to or misleads or attempts to mislead,

another person who is

(d) employed under the Public Service Act, a member of the board, commission or council, if any, or a person retained under section 191 (2), and

(e) exercising a power or duty under this Act, the regulations or the standards.

Court orders

155. If a person is convicted of an offence under this Act or the regulations, then in addition to any other punishment that may be imposed, the court may, by order, do one or more of the following:

(a) prohibit the person from doing anything that may result in the continuation or repetition of the offence or contravention;

(b) direct the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

(c) direct the person to publish, at the person’s own cost, the facts relating to the conviction;

(d) direct the person to compensate the minister, in whole or in part, for the cost of any remedial or preventative action taken by or caused to be taken on behalf of the ministry as a result of the act or omission that constituted the offence;

(e) direct the person to pay court costs;

(f) direct the person to pay the costs of the investigation.
Penalty for monetary benefit

156. (1) The court that convicts a person of an offence under this Act may increase a fine imposed on the person by an amount equal to the court’s estimation of the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence.

(2) A fine under subsection (1)
   (a) applies despite any provision that provides for a maximum fine, and
   (b) is in addition to any other fine under this Act.

Employer liability

157. (1) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by the defendant’s employee, agent or contractor.

(2) It is a defence to a prosecution under subsection (1) if the defendant establishes that the defendant exercised due diligence to prevent the commission of the offence.

(3) This section applies even if the employee, agent or contractor has not been identified or prosecuted for the offence.

Offence by directors and officers

158. If a corporation commits an offence under this Act or the regulations by contravening this Act, a regulation or a standard, a director or officer of the corporation who authorized, permitted or acquiesced in the offence also commits the offence.

Section 5 Offence Act

159. Section 5 of the Offence Act does not apply to this Act, the regulations or the standards.

PART 7 – General

Division 1 – Liability and Privilege

Liability of government

160. (1) The ministers, persons employed under the Public Service Act and any other person who acts on behalf of the government are not liable in a personal or official capacity for loss or damage suffered by another person by reason of anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty under this Act, the regulations or the standards unless the person who brings the action proves that the person acting on behalf of the government was not acting in good faith.

(2) Subsection (1) does not absolve the government from vicarious liability arising out of an act or omission for which it would be vicariously liable if this section were not in force.

(3) Without limiting subsection (1), the board, the commission, the council, if any, and their members, their employees, persons retained by them under section 191 (2), persons exercising a delegated power under section 193 and any other persons acting on behalf of any of them are persons acting on behalf of the government for the purposes of subsection (1).

(4) Despite subsection (2), the government is not liable in respect of any loss or damage caused or resulting, directly or indirectly, by or from,
   (a) the enactment of this Act or a regulation or standard made under this Act, or
   (b) anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty conferred under this Act, the regulations or the standards, unless the person who brings the action proves that the person exercising or performing or purporting to exercise or perform the power or duty was not acting in good faith.

(5) It is conclusively deemed for all purposes, including for the purposes of the Expropriation Act, that no expropriation or injurious affection occurs as a result of
   (a) the enactment of this Act or a regulation or standard made under this Act, or
(b) anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty conferred under this Act, the regulations or the standards, unless the person who brings the action proves that the person exercising or performing or purporting to exercise or perform the power or duty was not acting in good faith.

(6) If damages or compensation is precluded by this section in respect of a matter, a person must not commence or maintain proceedings in respect of that matter
   (a) to claim damages or compensation of any kind from the government, or
   (b) to obtain a declaration that damages or compensation is payable by the government.

(7) This section applies despite any other enactment including the Expropriation Act.

Protection against libel and slander

161. For the purposes of any Act or law respecting libel or slander,
   (a) anything said, all information supplied and all records and things produced in the course of an investigation, inquiry or proceedings before the board, commission or council, if any, under this Act are privileged to the same extent as if the inquiry or proceedings were proceedings in a court, and
   (b) a report made by the board and a fair and accurate account of the report in a newspaper, periodical publication or broadcast is privileged to the same extent as if the report of the board were the order of the court.

Liability of persons to government

162. (1) A person is liable to the government for costs incurred by the government in
   (a) controlling or suppressing a fire, and
   (b) establishing a free growing stand,
   if the costs are incurred as a result, directly or indirectly, of the person’s failure to comply with
   (c) the requirements of, Division 2 or 3 of Part 5,
   (d) a requirement of a regulation or standard made under this Act respecting fire use, prevention, control or suppression,
   (e) a burning permit, or
   (f) an order under section 78, 82, 84, 85, 94 or 118.

(2) A person is liable to the government for the value of Crown timber and other forest resources of the government or other property of the government damaged or destroyed as a result, directly or indirectly, of the person’s failure to comply with a requirement, permit or order referred to in subsection (1) (c) to (f).

(3) A person is liable to the government
   (a) for costs incurred by the government in controlling or disposing of insects, diseases, animals or abiotic factors, and
   (b) the value of Crown timber damaged or destroyed,
   directly or indirectly, as a result of the person’s failure to comply with an order under section 106.

Confidentiality and disclosure to government

163. (1) In this section, “person” means
   (a) the government, the board, the commission or the council, if any,
   (b) an employee, agent and independent contractor of the government, the board, the commission or the council, if any, and
   (c) a member of the board, the commission or the council, if any.
(2) Each of the following persons must take an oath that he or she will not disclose information or records obtained under this Act, the regulations or the standards except as permitted by this section and the Freedom of Information and Protection of Privacy Act and the regulations under that Act:
   (a) a member of the board, commission or council, if any;
   (b) an employee of the board, commission or council, if any;
   (c) a person appointed to carry out an audit referred to in section 176;
   (d) a specialist or consultant retained by the board, commission or council, if any.

(3) A person must not disclose any information or record obtained in exercising or performing a power, duty or function under this Act, the regulations or the standards except as required for the performance of his or her duties under this Act or the regulations or as permitted in this section or the Freedom of Information and Protection of Privacy Act and the regulations under that Act.

(4) A person may disclose to the government any information or record obtained in the exercise or performance of a power, duty or function under this Act, the regulations or the standards.

(5) A person may disclose information or a record in the course of a proceeding referred to in section 183.

(6) A person must not disclose, or be compelled to disclose, any information or record obtained in the exercise of a power, duty or function under this Act, the regulations or the standards to a court, or in a proceeding of a judicial nature, except in the following matters:
   (a) a trial of a person for perjury;
   (b) a proceeding to enforce powers of investigation under this Act;
   (c) a prosecution for an offence under section 154;
   (d) a review or appeal under this Act.

How notice may be given

164. (1) A notice or other document that the government, board or commission is required or permitted to give to a person under this Act, the regulations or the standards may be given by giving it, or a copy of it, to the person as follows:

   (a) if the person is an individual,
      (i) by leaving it with the individual,
      (ii) by leaving it at the individual’s last or most usual place of residence with someone who is or appears to be at least age 16 years, or
      (iii) by mailing it by registered mail to the individual’s last known postal address;
   (b) if the person is a corporation,
      (i) by leaving it with
         (A) a director, officer or manager of the corporation,
         (B) a receptionist at a place of business of the corporation, or
         (C) an attorney of the corporation appointed under section 304 of the Company Act,
      (ii) by leaving it at the registered office of the corporation if the corporation is incorporated under the Company Act, or
      (iii) by mailing it by registered mail to
         (A) the registered office of the corporation,
         (B) the attorney of the corporation appointed under section 304 of the Company Act, or
         (C) an address provided by the corporation for service;
   (c) if the person is a municipal corporation, regional district or other local government body, by leaving it with or sending it by registered mail to the clerk, deputy clerk or some similar official.

(2) A notice or other document that is mailed to a person by registered mail under subsection (1) is conclusively deemed to be received by the person on the eighth day after it is mailed.
Extension of time

165. The minister, or a person the minister authorizes in writing, may extend a time required to do anything under this Act, the regulations or the standards, other than a review or appeal of a determination or the time to commence a proceeding.

Evidence of designation or delegation

166. (1) A document purporting to have been issued by one of the ministers certifying that the minister has designated a person as an official or senior official under this Act is admissible as evidence of the designation without proof of the signature or official character of the minister purporting to have signed the document.

(2) A document purporting to have been issued by a district manager certifying that the district manager has delegated a power or duty to a person under this Act is admissible as evidence of the delegation without proof of the signature or official character of the district manager purporting to have signed the document.

Powers cumulative

167. The powers in this Act, the regulations and the standards for the government to
(a) make an order,
(b) impose a fine or penalty, or
(c) commence a proceeding
may be exercised separately, concurrently or cumulatively, and do not affect the powers of the government under this or any other enactment.

Amendment or remedial action does not affect offences or penalties

168. (1) An amendment to an operational plan does not affect any fine, imprisonment, fee, charge or penalty to which a person may be liable under this Act, the regulations or the standards, if the offence or contravention occurred before the amendment.

(2) Taking remedial action after an offence or contravention has occurred does not affect any fine, imprisonment, fee or penalty to which a person may be liable under this Act, the regulations or the standards, for the offence or contravention.

Right of proceeding

169. Nothing in this Act, the regulations or the standards limits, interferes with, or extends the right of a person to commence or maintain a proceeding for damages caused by fire.

Power to enter into agreements

170. (1) The government may enter into agreements to assist in ensuring that forest resources are properly managed and conserved.

(2) Without limiting subsection (1), on behalf of the government,
(a) the chief forester may enter into agreements for the growing and disposing of seeds, seedlings and vegetative propagules,
(b) a designated forest official may enter into agreements for the control and disposal of insects, diseases, animals and abiotic factors on forest land and for sharing costs of control and disposal,
(c) the minister or a designated forest official may enter into agreements under which the government provides forest protection, forest health services, or fire control or suppression services, or
(d) a designated forest official may enter into an agreement with a person to develop, expand, maintain, repair or close an interpretive forest site, recreation site or recreation trail.

(3) An amount equal to any money paid to the government under an agreement referred to in subsection (2) (c) for a purpose specified in that subsection
   (a) is appropriated for that purpose,
   (b) is in addition to any other amount appropriated for that purpose, and
   (c) is to be paid out of the consolidated revenue fund without any other appropriation other than this subsection.

Appropriation for fire fighting

171. If money appropriated for direct fire fighting costs in any year is insufficient, the extra money is to be paid out of the consolidated revenue fund without any appropriation other than this section.

Property in trees

172. Trees established on Crown land under section 70 are the property of the government.

Whistle-blower protection

173. A person must not evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty on, or otherwise discriminate against, a person because that person complains or is named in a complaint, gives evidence or otherwise assists in respect of a prosecution, complaint or other proceeding under this Act, the regulations or the standards.

Cost of performing obligations

174. (1) If this Act, a regulation or a standard requires a person to perform an obligation or otherwise comply with this Act, the regulations or the standards, the person must do so at the person’s own expense unless another provision of this Act or the regulations specifically provides otherwise.

   (2) If a person is required under the Act, the regulations or the standards to submit an operational plan or any other plan for approval to a person acting on behalf of the government, any implementation of the plan or prescription is at the person’s own expense.

PART 8 – Forest Practices Board

Division 1 – Definition

Definition of “party”

175. In this Part and the regulations related to this Part, “party” means the government or the holders of agreements under the Forest Act or Range Act.

Division 2 – Complaints and Audits

Audits and special investigations

176. In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine
   (a) compliance with the requirements of Parts 3 to 5 and the regulations and standards made in relation to those Parts by a party, and
   (b) the appropriateness of government enforcement under Part 6.

Complaints from public
177. (1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to this Act.

(2) Despite subsection (1), the board may refuse to investigate a complaint, or may stop investigating a complaint, if, in the opinion of the chair, any of the following applies:

(a) the complainant knew or ought to have known of the determination to which his or her complaint relates, more than one year before the complaint was received by the board;

(b) the law or existing administrative procedure provides a remedy adequate in the circumstances for the person aggrieved and, if the person aggrieved has not taken advantage of the remedy, there is no reasonable justification for the failure to do so;

(c) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(d) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;

(e) in the circumstances, investigation would not benefit the complainant.

(3) The board must promptly notify, in writing, the complainant and the party of its decision and the reasons for it and may indicate any other recourse that may be available to the complainant if it decides

(a) to not investigate or further investigate a complaint, or

(b) that the complaint has not been substantiated.

1994-41-177.

Powers of investigation

178. (1) Without limiting sections 176 and 177, for the purposes of those sections the board may investigate a determination.

(2) The board may conduct an audit or special investigation or complaint investigation despite a provision to the effect that a determination is final and whether or not there is a right of appeal.

(3) The board may not investigate conduct occurring before the commencement of this Act.

(4) If a question arises as to the board’s jurisdiction to investigate a case or class of cases, the chair may apply to the Supreme Court for a declaratory order determining the question.

1994-41-178.

Power to obtain information

179. (1) The board may require a party to provide information or records related to an audit, a special investigation or a complaint investigation.

(2) The board may require the party to provide the information in the form and manner the board considers appropriate.

(3) The party must comply with a requirement of the board under subsection (1) or (2).

(4) Without restricting subsection (1), the board may do all of the following:

(a) at any reasonable time enter and inspect business premises occupied by a party, speak in private with any person there and otherwise investigate matters within the board’s jurisdiction;

(b) require a person to provide information or produce a record or thing in his or her possession or control that relates to an investigation at a time and place the board specifies;

(c) make copies of information provided or a record or thing produced under this section.

(5) If the board obtains a record or thing under subsection (4) and the person from whom it was obtained requests its return, the board must, within 48 hours after receiving the request, return it to the person, but the board may again require its production in accordance with this section.

(6) In conducting an audit, a special investigation or a complaint investigation, the board members have the powers given to a commissioner by sections 15 and 16 of the Inquiry Act.


Power to obtain information limited

180. The board must not require information or a record to be produced if the Attorney General certifies that the giving of the information or record may
(a) interfere with or impede investigation or detection of offences,
(b) involve the disclosure of the deliberations of the Executive Council, or
(c) involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be harmful to the public interest.


Board must notify and consult party

181. (1) If the board conducts an audit or investigation, the board must notify the party affected and any other person the board considers appropriate.

(2) The board must consult with a party if the board receives a request for consultation from the party before the board has made its report under section 185.


Opportunity to make representations

182. If it appears to the board that there may be sufficient grounds for making a report or recommendation under this Act that may adversely affect a party or person, the board must inform the party or person the opportunity to make representations, either orally or in writing at the discretion of the board, before it decides the matter.

1994-41-182.

Evidence not admissible

183. Evidence given by a person in proceedings before the board and evidence of the existence of the proceedings are inadmissible against the person in a court or in any other proceeding of a judicial nature except for the following:

(a) the trial of a person for perjury;
(b) the trial of a person for an offence under section 154;
(c) an application for judicial review or an appeal from a decision with respect to that application.

1994-41-183.

Person may be reimbursed for expenses

184. If a person incurs expenses in complying with a request of the board for production of documents or other information, the board may, at its discretion, reimburse that person for reasonable expenses.


Division 3 – Remedies

Report and recommendations

185. (1) After completing an audit or investigation, the board must report its conclusions, with reasons, to any complainant, to the party and, if the government is not the party affected by the audit or investigation, to the ministers.

(2) If the board makes a report under subsection (1), it may make recommendations it considers appropriate.

(3) Without limiting subsection (2), the board may make any of the following recommendations:

(a) a matter be referred to the appropriate party for further consideration;
(b) an act be remedied;
(c) an omission or delay be rectified;
(d) a decision or recommendation be cancelled or varied;
(e) reasons be given;
(f) a practice, procedure or course of conduct be altered;
(g) an enactment or other rule of law be reconsidered;
(h) any other steps be taken.

(4) Without limiting subsection (1), the chair may, if the regulations provide and in the manner they provide, make an application under section 128 for a review of a determination or failure to make a determination.

Party to notify board of steps taken

186. (1) If the board makes a recommendation under section 185 the board may request that the party notify it within a specified time

(a) of the steps that have been or are proposed to be taken to give effect to its recommendation, or

(b) if no steps have been or are proposed to be taken, of the reasons for not following the recommendation.

(2) If, after considering a response made by a party, the board believes it advisable to modify or further modify its recommendation, the board must notify the party and the complainant of its recommendation as modified and may request that the party notify it

(a) of the steps that have been or are proposed to be taken to give effect to the modified recommendation, or

(b) if no steps have been or are proposed to be taken, of the reasons for not following the modified recommendation.

(3) The party must respond promptly to the board’s request under subsection (1) or (2).

Report of board if no suitable action taken

187. (1) If, within a reasonable time after a request by the board under section 186, no action is taken that the board believes adequate or appropriate, the chair may, after considering any reasons given by the party,

(a) submit a report on the matter to the ministers, and

(b) after submitting a report under paragraph (a), make a report to the Lieutenant Governor in Council respecting the matter.

(2) The chair

(a) must attach to the report a copy of the board’s recommendation and any response made to the board under section 186,

(b) must delete from his or her recommendation and from the response any material that would unreasonably invade any person’s privacy, and

(c) may in his or her discretion delete material revealing the identity of a member, officer or employee of a party.

Complainant to be informed

188. After a complaint investigation, if the board makes a recommendation under section 185 or 186 (2) and no action that the board believes adequate or appropriate is taken within a reasonable time, the board must inform the complainant of its recommendation and make such additional comments as it considers appropriate.

Annual and special reports

189. (1) In accordance with the regulations, the chair must report annually on the affairs of the board to the ministers.

(2) The minister must promptly table the report with the Legislative Assembly.

(3) If the chair considers it to be in the public interest, he or she may make a special report to the ministers or comment publicly respecting a matter relating generally to the exercise of the board’s duties under this Act or to a particular case investigated by the board.
Establishment of the Forest Practices Board

190. (1) The Lieutenant Governor in Council must establish a Forest Practices Board.

(2) The board consists of a chair, one or more vice chairs and other members the Lieutenant Governor in Council may appoint.

(3) Appointments under subsection (2) may be for a term of up to 3 years.

(4) The Lieutenant Governor in Council may

(a) appoint a person as a temporary member to deal with a matter before the board, or for a specified period or during specified circumstances, and

(b) designate a temporary member as chair.

(5) A temporary member has all the powers and may perform all the duties of a member of the board during the period or under the circumstances or for the purpose of the appointment.

(6) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of

(a) the chair, vice chair and other members of the board, and

(b) persons appointed under the regulations to carry out audits.

1994-41-190.

Board staff

191. (1) Employees necessary to carry out the powers and duties of the board may be appointed under the Public Service Act.

(2) In accordance with the regulations, the board may engage or retain specialists, consultants and auditors that the board considers necessary to carry out the powers and duties of the office and may determine their remuneration.

(3) The Public Service Act does not apply to the retention, engagement or remuneration of specialists, consultants and auditors retained under subsection (2).


No hearing as of right

192. A person is not entitled to an oral hearing before the board.

1994-41-192.

Delegation of powers

193. (1) The chair may in writing delegate to a person or class of persons any of the board’s powers or duties under this Act, except the power

(a) of delegation under this section, or

(b) to make a report under this Act.

(2) A delegation under this section is revocable and does not prevent the board exercising a delegated power.

(3) A delegation may be made subject to terms the chair considers appropriate.

(4) If the chair makes a delegation and then ceases to hold office, the delegation continues in effect as long as the delegate continues in office or until revoked by a succeeding chair.

(5) A person purporting to exercise a power of the board by virtue of a delegation under this section must, when requested to do so, produce evidence of his or her authority to exercise the power.

PART 9 – Forest Appeals Commission

Establishment of a Forest Appeals Commission

194. (1) The Lieutenant Governor in Council must establish a Forest Appeals Commission to hear appeals under Division 4 of Part 6.

(2) The commission consists of a chair, one or more vice chairs and other members the Lieutenant Governor in Council may appoint.

(3) Appointments under subsection (2) may be for a term of up to 3 years.

(4) The Lieutenant Governor in Council may

(a) appoint a person as a temporary member to deal with a matter before the commission, or for a specified period or during specified circumstances, and

(b) designate a temporary member as chair.

(5) A temporary member has all the powers and may perform all the duties of a member of the commission during the period, under the circumstances or for the purpose of the appointment.

(6) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of the members of the commission.


Organization of the commission

195. (1) The chair may organize the commission into panels, each comprised of one or more members.

(2) The members of the commission may sit

(a) as a commission, or

(b) as a panel of the commission

and 2 or more panels may sit at the same time.

(3) If members of the commission sit as a panel,

(a) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the commission, and

(b) an order, decision or action of the panel is an order, decision or action of the commission.


Application of other sections

196. Sections 191 and 193 apply to the commission.

1994-41-196.

Mandate of the commission

197. (1) In accordance with the regulations, the commission must

(a) hear appeals under Division 4 of Part 6,

(b) provide the ministers with an annual evaluation of the manner in which review and appeals under this Act and the regulations are functioning and identify problems that may have arisen under their provisions,

(c) annually, and at other times it considers appropriate, make recommendations to the ministers concerning the need for amendments to this Act and the regulations respecting reviews and appeals, and

(d) perform other functions required by the regulations.

(2) The chair must give to the ministers an annual report concerning the commission’s activities.

(3) The ministers must promptly lay the report before the Legislative Assembly.

1994-41-197.

PART 10 – Regulations

Power to make regulations
198. (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) The Lieutenant Governor in Council may make regulations respecting matters that are referred to in a provision of this Act as having to be in accordance with the regulations, or indicated by a provision of this Act as being a matter for a regulation.

(3) The Lieutenant Governor in Council may make a regulation defining a word or expression used in the Act.

(4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
   (a) delegate a matter to a person;
   (b) confer a discretion on a person;
   (c) make different regulations for different persons, places, things or transactions.

1994-41-198; 1995-6-42.

Forms

199. The Lieutenant Governor in Council may prescribe forms for the purposes of this Act.

1994-41-199.

Fees

200. (1) The Lieutenant Governor in Council may make regulations respecting fees for the provision, under this Act or the regulations or standards, of a service by the government, the board, the commission or the council, if any, to any person.

(2) Without limiting subsection (1), the preparation of a logging plan, a range use plan or an amendment to either of them by the district manager is a service by the government.


Security

201. (1) The Lieutenant Governor in Council may make regulations requiring security of any kind, including money, to be provided by the holder of an agreement under the Forest Act or an agreement under the Range Act to ensure the performance of an obligation arising under this Act or the regulations, the Forest Act or the regulations under that Act, the Range Act or the regulations under that Act or an agreement entered into under any of those Acts or regulations.

(2) Without limiting subsection (1) the Lieutenant Governor in Council may make regulations respecting the following:
   (a) the type of security that is acceptable or not acceptable;
   (b) the form and content of the security;
   (c) the circumstances under which the security may be realized.

1994-41-201.

Recovery of money

202. The Lieutenant Governor in Council may make regulations respecting the recovery of money that is required to be paid to the government under this Act or the regulations.


Exemptions

203. (1) The Lieutenant Governor in Council may make regulations respecting the exemption of a person, place, thing or transaction from a provision of this Act, the regulations or the standards.

(2) In making a regulation under subsection (1), the Lieutenant Governor in Council may make the exemption subject to conditions.

(3) The Lieutenant Governor in Council may make regulations restricting the district manager’s authority to exempt a person from a provision under this Act, the regulations or the standards.
(4) The Lieutenant Governor in Council may not make a regulation under this section unless satisfied that the forest resources will be properly managed and conserved.

Criteria for exercise of discretionary powers

204. (1) The Lieutenant Governor in Council may make regulations respecting the criteria that a person must use in exercising a discretionary power conferred on the person under this Act.

(2) Criteria prescribed under subsection (1) are in addition to any criteria required by this Act.

Provincial forest

205. (1) The Lieutenant Governor in Council may make regulations respecting the use of a wilderness area or other Crown land in a Provincial forest or a portion of a Provincial forest.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the issuance of permits to control or prohibit the use of a wilderness area or other Crown land in a Provincial forest or a portion of a Provincial forest.

Interpretive forest sites, recreation sites and recreation trails

206. The Lieutenant Governor in Council may make regulations respecting interpretive forest sites, recreation sites and recreation trails, including regulations that restrict, prohibit or attach a condition to the use of an interpretive forest site, recreation site or recreation trail.

Authorizing chief forester to establish standards

207. (1) For the purposes of section 8, the Lieutenant Governor in Council may make regulations authorizing the chief forester to establish standards for operational planning and forest practices respecting all of the following:

(a) biological diversity;
(b) forest practices in resource management zones, landscape units and sensitive areas;
(c) timber quality standards for wood produced on areas that have been previously harvested;
(d) soil conservation;
(e) silvicultural systems;
(f) roads to which this Act applies, including the location, survey, design, construction, maintenance and deactivation standards for various types of roads;
(g) timber harvesting, including
   (i) felling and bucking,
   (ii) yarding and skidding,
   (iii) area marking,
   (iv) density, location, design, construction and rehabilitation of logging trails, landings and fireguards,
   (v) debris disposal, and
   (vi) utilization standards;
(h) silviculture, including vegetation management, seed, seedlings and propagule transfer and silviculture surveys;
(i) forest health;
(j) botanical forest products;
(k) range management, including range use, range development and weed control;
(l) recreation, visual landscape and wilderness management, including recreation use and resource enhancement and protection;
(m) fire use, prevention, control and suppression;
(n) the performance of surveys and assessments.
(2) The Lieutenant Governor in Council may make regulations limiting the circumstances in which a standard may be set under subsection (1), and regulating the practice and procedure for setting the standards.

Operational plans
208. (1) The Lieutenant Governor in Council may make regulations respecting operational plans.
(2) Without limiting subsection (1), for operational plans the Lieutenant Governor in Council may make regulations respecting the following:
(a) form and content;
(b) the manner of, and time for, submitting an operational plan for approval;
(c) the making of assessments;
(d) the carrying out of surveys;
(e) the making and submitting of reports.

Review and comment
209. The Lieutenant Governor in Council may make regulations to provide for review and comment on a matter dealt with in this Act or the regulations.

Silvicultural systems and silviculture treatments
210. (1) The Lieutenant Governor in Council may make regulations respecting silvicultural systems and silviculture treatments.
(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
(a) clearcutting, including limiting or prohibiting clearcutting,
(b) silviculture treatments, including limiting or prohibiting various types of silviculture treatments,
(c) collection, drying, processing, registration, transportation, purchase, sale, disposition and standards of quality of tree cones, tree seeds, vegetative propagules and vegetative material, and
(d) rehabilitation of areas that fail to comply with a prescription.

Timber harvesting methods
211. The Lieutenant Governor in Council may make regulations respecting harvesting methods, including limiting or prohibiting the use of a harvesting method.

Cutblocks
212. (1) The Lieutenant Governor in Council may make regulations respecting cutblocks.
(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
(a) the size, including the maximum allowable size of a cutblock;
(b) the shape of a cutblock;
(c) the spatial distribution of cutblocks, including green-up.
Roads and rights of way

213. (1) The Lieutenant Governor in Council may make regulations respecting the following:
   (a) the use of forest service roads and rights of way;
   (b) the regulation or prohibition of the use and operation of vehicles or classes of vehicles on forest service roads or rights of way;
   (c) the regulation or prohibition of road construction, maintenance or deactivation.
   (2) A district manager may exempt a person from all or part of a regulation made under subsection (1) (a) or (b), subject to conditions or alternative requirements the district manager may specify.

Use of Crown range and range developments

214. (1) The Lieutenant Governor in Council may make regulations respecting the use of Crown range and range developments.
   (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
       (a) the use of Crown range for grazing, hay cutting and other purposes;
       (b) the identification of livestock pastured on Crown range;
       (c) range developments and the payment of costs for range developments.

Fire use, prevention, control and suppression

215. (1) The Lieutenant Governor in Council may make regulations respecting fire use, prevention, control and suppression related to a forest as defined in section 75, including
       (a) fire precautions to be taken in relation to plants, machinery and equipment in or near forests and in relation to railways and utilities, and
       (b) site rehabilitation.
   (2) A designated forest official may exempt a person from all or part of a regulation made under subsection (1), subject to conditions or alternative requirements the designated forest official may specify.

Botanical forest products

216. (1) In this section, “licence” means a botanical forest product buyer’s licence referred to in section 104.
   (2) The Lieutenant Governor in Council may make regulations respecting the following:
       (a) establishing a licensing scheme for the purposes of section 104;
       (b) issuing, amending, renewing, suspending or cancelling licences;
       (c) applications for licences;
       (d) fees for licences and applications;
       (e) inspectors and inspections for the purposes of enforcing licensing;
       (f) appeals.

Private land

217. (1) With respect to private land referred to in subsection (2), the Lieutenant Governor in Council may make regulations as follows:
       (a) establishing conditions that must be complied with before, during and after timber harvesting by the owner of private land or by the person having the right to harvest timber from private land, including, without restriction, public notice requirements;
       (b) requiring plans in the nature of operational plans to be prepared by the owner of the land and approved by the district manager before timber harvesting is carried out on private land;
(c) authorizing the district manager or designated forest official to
   (i) control the manner in which the timber harvesting is done on a particular parcel of private land,
   (ii) set conditions that must be complied with by the owner of the land or the person harvesting timber on a parcel of private land, and
   (iii) vary the requirements established by regulation made under this section for all or part of a parcel of private land;
(d) authorizing the district manager or designated forest official to prohibit timber harvesting on all or part of a parcel of private land, if the district manager or designated forest official considers that the harvesting would result in an unacceptable level of environmental damage either on the parcel or on land located elsewhere;
(e) requiring that authority to harvest timber from private land be obtained before harvesting commences;
(f) requiring that the owner of the land establish a free growing stand on the area from which the timber was harvested;
(g) establishing fees for the authority referred to in paragraph (e) and for harvesting timber including setting fees according to the size of the parcel, the volume, species and location of the timber to be harvested;
(h) applying all or part of this Act, including section 143, to the private land.

(2) Regulations under subsection (1) may be made applicable to
   (a) forest reserve land under the Forest Land Reserve Act, other than land included in a tree farm licence area or a woodlot licence area, and
   (b) private land, other than forest reserve land under the Forest Land Reserve Act, that is classified as managed forest land under the Assessment Act and the regulations made under that Act.

(3) If a bylaw respecting the cutting of trees has been adopted by the council of a municipality, including the City of Vancouver, the board of a regional district, the local trust committee of the Islands Trust or the executive committee of the Islands Trust acting as a local trust committee, that bylaw does not apply to land to which a regulation under subsection (1) applies to the extent that the bylaw conflicts with the regulation.

Administrative remedies

218. (1) The Lieutenant Governor in Council may make regulations respecting administrative remedies.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting fees, charges and penalties in cases where there is a failure to comply with the requirements of
   (a) this Act, the regulations or the standards,
   (b) an operational plan under this Act or the regulations, or
   (c) a permit or licence issued under this Act or the regulations.

Forest Practices Board

219. (1) The Lieutenant Governor in Council may make regulations respecting the Forest Practices Board.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
   (a) audits referred to in section 176, including, without limitation, auditors, specialists and consultants, the manner of conducting an audit and the dissemination of audit results;
   (b) complaints to the board, including
      (i) the manner of making a complaint,
      (ii) specifying which complaints may be heard,
      (iii) the manner of dealing with complaints, and
      (iv) the nature and extent of investigations which may be taken in relation to a complaint;
(c) procedures for notifying the board of determinations or reviews;
(d) reports made by the board;
(e) the qualifications of board members;
(f) fees with respect to complaint investigations.

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**Reviews, appeals and the commission**

220. (1) The Lieutenant Governor in Council may make regulations respecting reviews, appeals and the commission.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

(a) the circumstances in which a review or appeal may be made;
(b) the practice, procedure and forms for reviews and appeals;
(c) the content of a request for a review or an appeal;
(d) the costs of reviews and appeals and the apportionment of those costs between parties;
(e) fees and deposits respecting applications for reviews and appeals;
(f) the number of members that constitutes a quorum of the commission or a panel;
(g) annual reports made by the commission.

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**Forest Practices Advisory Council**

221. (1) The Lieutenant Governor in Council may, by regulation, establish a Forest Practices Advisory Council to undertake periodic reviews of the requirements that apply to operational planning and forest practices under this Act, the regulations and the standards and make recommendations to the ministers on any specific matter relevant to this Act that is referred to the council by the ministers.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

(a) the membership of the council, including
   (i) the maximum number of persons that may be appointed to the council,
   (ii) the qualifications of council members,
   (iii) the terms of appointed members, and
   (iv) the removal and replacement of members;
(b) the annual report that must be prepared by the council;
(c) the application of sections 191 and 193 to the council.
PART 11 – Transitional Provisions

Division 1 – Application of this Act

Immediate application

222. Unless otherwise provided in this Part, this Act, the regulations and the standards apply to an agreement under the Forest Act or Range Act, a burning permit or a special use permit, whether or not the agreement or permit was entered into or issued before or after the coming into force of this section.

Enactment overrides agreement

223. Section 222 applies despite any wording in the agreement or permit to the contrary.

Division 2 – Grandparented Plans

Grandparented plans

224. (1) This Division applies to the following plans:

(a) a development plan or 5 year development plan prepared by the holder of an agreement under the Forest Act that was approved by the district manager and is in effect on June 15, 1995;

(b) any plan for development of areas subject to timber sale licences other than major licences that was prepared by the district manager and is in effect on June 15, 1995;

(c) an operating plan prepared by the holder of a timber licence that was approved by the district manager and is in effect on June 15, 1995;

(d) a logging plan prepared by the holder of an agreement under the Forest Act that was approved by the district manager, or other authorized person, and is in effect on June 15, 1995;

(e) a logging plan prepared by the district manager, or other authorized person, for a timber sale licence other than a major licence, that is in effect on June 15, 1995;

(f) a preharvest silviculture prescription or silviculture prescription that was prepared or approved by the district manager and is in effect on June 15, 1995;

(g) a tenure management plan prepared or approved under the Range Act, or a plan approved as part of an agreement under the Range Act respecting the use and development of Crown range, that is in effect on June 15, 1995.

(2) A plan referred to in subsection (1) (a), (b) or (c) is deemed to be a forest development plan under this Act and remains in effect until the first to happen of the following:

(a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated;

(b) the plan is replaced with a forest development plan prepared in accordance with this Act;

(c) June 15, 1997.

(3) A plan referred to in subsection (1) (d) or (e) is deemed to be a logging plan under this Act and remains in effect until the first to happen of the following:

(a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated;

(b) the forest practices required on the area under the plan are completed to the satisfaction of the district manager;

(c) the plan is replaced with a logging plan prepared in accordance with this Act.

(4) A prescription referred to in subsection (1) (f) is deemed to be a silviculture prescription under this Act and remains in effect until the first to happen of the following:

(a) a free growing stand is produced on the area under the prescription;

(b) the prescription is replaced with a silviculture prescription prepared in accordance with this Act.

(5) A plan referred to in subsection (1) (g) is deemed to be a range use plan under this Act and remains in effect until the first to happen of the following:

(a) the agreement for which the plan was prepared expires or is cancelled, surrendered or otherwise terminated;

(b) the plan is replaced with a range use plan prepared in accordance with this Act;
(c) June 15, 1997.

(6) An operational plan referred to in subsections (2) to (5) does not have to meet the content requirements or any public review requirements that are prescribed under this Act.

(7) Repealed. [1997-48-130]

Review of cutblocks by holder of a major licence or woodlot licence

225. (1) On or before December 15, 1995, the holder of a major licence or woodlot licence must, in accordance with this section and the regulations, submit a report to the district manager regarding

(a) cutblocks identified in a cutting permit issued, or an application for a cutting permit submitted, before the coming into force of this Act,

(b) cutblocks identified on a forest development plan referred to in section 224 (2) for which

(i) the holder may apply for a cutting permit, or

(ii) the holder of a pulpwood agreement may apply for a timber sale licence, and

(c) roads to be constructed under a road permit, cutting permit or timber sale licence under a pulpwood agreement associated with the holder’s agreement.

(2) The holder must assess the cutblocks referred to in subsection (1) for conformity with the regulations and standards respecting cutblock size and green-up.

(3) The holder must assess the cutblocks and roads referred to in subsection (1) for conformity with the regulations and standards respecting the following:

(a) the location of the cutblocks and roads relative to high value fish bearing streams as identified by a designated environment official;

(b) community watersheds;

(c) terrain hazard assessment;

(d) other matters required by regulation.

(4) The report submitted by the holder must indicate the cutblocks and roads that

(a) conform with the regulations and standards referred to in subsections (2) and (3), and

(b) do not conform and the reasons they do not conform.

(5) After reviewing the report, the district manager, in a notice given to the holder, must

(a) identify, in accordance with policies and procedures established by the minister under section 227,

(i) cutting permits and road permits that require amendment, and

(ii) operational plans referred to in section 224 that the holder must amend to satisfy the district manager that the cutblocks and roads will be consistent with conservation and good management of the forest resources, and

(b) specify the date by which the amendments referred to in paragraph (a) (ii) must be prepared to the satisfaction of the district manager.

(6) The holder who receives a notice under subsection (5) must prepare and submit any amendments to operational plans required in the notice.

(7) If a holder fails to submit a report as required under subsection (4), or fails to comply with a notice under subsection (5), the district manager may suspend, in whole or in part, the rights of the holder in accordance with section 76 of the Forest Act.

(8) The district manager may amend any cutting permit or road permit in accordance with the notice.
Review of cutblocks by government

226. (1) On or before December 15, 1995, the district manager must, in accordance with this section and the regulations, submit a report to the regional manager regarding

(a) cutblocks under timber sale licences that are not major licences, advertised or entered into before the coming into force of this Act, and

(b) roads proposed to be constructed to provide access to the cutblocks referred to in paragraph (a).

(2) The district manager must assess the cutblocks referred to in subsection (1) for conformity with the regulations and standards respecting cutblock size and green-up.

(3) The district manager must assess the cutblocks and roads referred to in subsection (1) for conformity with the regulations and standards respecting the following:

(a) the location of the cutblocks and roads relative to high value fish bearing streams identified by a designated environment official;

(b) community watersheds;

(c) terrain hazard assessment;

(d) other matters required by regulation.

(4) The report prepared by the district manager must

(a) indicate those cutblocks or roads that the district manager has determined conform with the requirements of the regulations and standards referred to in subsections (2) and (3) and those that do not conform, and

(b) include a plan specifying how cutblocks or roads that do not comply with the requirements of the regulations and standards referred to in subsections (2) and (3) will be made to comply with those requirements.

(5) If directed by the regional manager, the district manager must amend operational plans referred to in section 224 that were prepared by the district manager to the extent required to implement the plan referred to in subsection (4) (b).

(6) If the district manager amends an operational plan under subsection (5), he or she may amend timber sale licences referred to in subsection (1) (a) to the extent necessary to comply with the amended operational plan.

(7) In making an amendment under subsection (5) or (6), the district manager must do so in accordance with

(a) any directions of the regional manager, and

(b) policies and procedures established by the minister under section 227.

Policies and procedures established by the minister

227. (1) For the purposes of section 225 or 226, the minister may establish, vary or rescind policies and procedures respecting amendments to

(a) cutting permits,

(b) road permits,

(c) timber sale licences that do not provide for cutting permits, and

(d) operational plans.

(2) The policies and procedures established, varied or rescinded under subsection (1) must be made available for inspection by any person.
Amendments to grandparented plans

228. (1) An amendment to an operational plan referred to in section 224, other than a silviculture prescription,

(a) prepared or approved by the district manager on or before December 15, 1995, need not comply with the content and review and comment requirements of this Act and the regulations but must, at a minimum, meet the requirements that applied to the operational plan under the agreement for which it was prepared, and

(b) prepared or approved by the district manager after December 15, 1995 must

(i) meet the review and comment requirements of this Act and the regulations,

(ii) substantially meet the other requirements of this Act, the regulations and the standards, and

(iii) meet the requirements of the agreement for which it was prepared, to the extent the agreement is consistent with this Act, the regulations and the standards.

(2) Despite subsection (1) (a), if the district manager determines that an amendment referred to in that subsection regarding cutblocks or roads does not conform with the regulations and standards referred to in section 225 (2) and (3), the district manager may require a modification to the amendment to the extent necessary to satisfy the district manager that the cutblocks and roads will be consistent with conservation and good management of the forest resources.

(3) An amendment to an operational plan referred to in section 225 (5) or 226 (5) is not required to meet the content requirements or the review and comment requirements of the Act and the regulations, but must meet the notice requirements of section 225 or 226, as the case may be.

(4) If a silviculture prescription referred to in section 224 (4) is amended, section 232 applies.

(5) Before the district manager approves an amendment to a forest development plan referred to in section 224 (2) prepared for an area referred to in section 41 (6), the plan must be approved by a designated environment official.

1994-41-228.

Division 3 – Operational Plans During Transitional Period

229. Repealed. [1997-48-130]

Forest development plans

230. (1) Despite section 18 or 19, if the district manager prepares a forest development plan or amendment or approves a forest development plan or amendment submitted by the holder of an agreement under the Forest Act on or before December 15, 1995, the plan or amendment

(a) need not comply with the content and review and comment requirements of this Act and the regulations, and

(b) must, at a minimum, meet the requirements that, immediately before June 15, 1995, applied to a forest development plan under

(i) the agreement of the holder who submitted the plan, or

(ii) the policies or guidelines of the government for the plans referred to in section 224 (1) (b).

(2) Despite subsection (1), if the district manager determines that a forest development plan or amendment referred to in that subsection regarding cutblocks or roads does not conform with the regulations and standards referred to in section 225 (2) and (3), the district manager may require a modification to the plan or amendment to the extent necessary to satisfy the district manager that the cutblocks and roads will be consistent with conservation and good management of the forest resources.

(3) Despite section 18 or 19, during the 18 month period that begins on December 15, 1995, if the district manager prepares or approves a forest development plan or an amendment to a forest development plan or a designated environmental official approves a portion of a forest development plan or amendment under section 41 (6) and (7), the plan or amendment must

(a) meet the review and comment requirements of this Act and the regulations,

(b) substantially meet the other requirements of this Act, the regulations and the standards, and

(c) meet the requirements of the agreement for which it was prepared, to the extent the agreement is consistent with this Act, the regulations and the standards.

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Logging plans

231. Despite sections 20 and 21, if the district manager approves a logging plan or an amendment to a logging plan on or before December 15, 1995, the plan or the amendment need not comply with the content and review and comment requirements of this Act and the regulations but must, at a minimum, meet any requirements that, immediately before June 15, 1995, applied to it under the agreement of the person who submitted the plan.

Silviculture prescriptions

232. (1) Despite section 22 (3) or (4), if on or before December 15, 1995, the district manager approves a silviculture prescription or an amendment to a silviculture prescription, the prescription or amendment need not comply with the requirements of this Act and the regulations but must, at a minimum, comply with the requirements of sections 10 to 14 of the Silviculture Practices Regulation, B.C. Reg. 42/94, as it was immediately before June 15, 1995.

(2) Despite section 22 (1), if on or before December 15, 1995, the district manager prepares a silviculture prescription or an amendment to a silviculture prescription, the prescription or amendment

(a) need not comply with the requirements of this Act and the regulations, and

(b) must, at a minimum, comply with the requirements of sections 10 to 14 of the Silviculture Practices Regulation, B.C. Reg. 42/94, as it was immediately before June 15, 1995.

(3) Without limiting subsections (1) and (2), if

(a) more than 6 months after June 15, 1995

(i) the district manager approves a silviculture prescription or an amendment to a silviculture prescription, or

(ii) the district manager prepares a silviculture prescription or an amendment to a silviculture prescription, and

(b) a forest development plan in effect for the area for which the prescription applies has not been the subject of review and comment under the regulations,

the person who submitted the silviculture prescription or amendment for approval or the district manager who prepared the prescription must make the prescription or any amendment to the prescription that the district manager determines would affect the public in a material way, available for review and comment in accordance with sections 12 to 14 of the Silviculture Practices Regulation, B.C. Reg. 42/94, as it was immediately before June 15, 1995.

(4) Repealed. [1997-48-132]

Silviculture prescriptions: backlog areas

233. (1) Despite section 23, if on or before December 15, 1995,

(a) the district manager approves a silviculture prescription or an amendment to a silviculture prescription, or

(b) the district manager prepares a silviculture prescription or an amendment to a silviculture prescription

the prescription or amendment need not meet the content requirements and review and comment requirements of this Act and the regulations.

(2) Despite section 23, if during the 12 month period that begins December 15, 1995 the district manager prepares or approves a silviculture prescription or an amendment to a silviculture prescription, the prescription or amendment must be in substantial compliance with this Act and the regulations.

(3) Repealed. [1997-48-132]

Stand management prescriptions

234. (1) Despite section 24, if on or before December 15, 1995,

(a) the district manager approves a stand management prescription or an amendment to a stand management prescription, or
(b) the district manager prepares a stand management prescription or an amendment to a stand management prescription, the prescription or amendment need not meet any content requirements of this Act or the regulations.

(2) Despite section 24, if during the 12 month period that begins December 15, 1995, the district manager prepares or approves a stand management prescription or an amendment to a stand management prescription, the plan or amendment must be in substantial compliance with this Act and the regulations.

(3) Repealed. [1997-48-132]

Access management plans

236. (1) Despite any other provision of this Act, on or before December 15, 1995, a person need not prepare an access management plan.

(2) Despite section 26, if during the 18 month period that begins December 15, 1995, the district manager prepares or approves an access management plan or amendment, the plan or amendment must

(a) meet the review and comment requirements of this Act and the regulations, and

(b) be in substantial compliance with the other requirements of this Act and the regulations.

(3) On or before June 15, 1997, the district manager may authorize a road to be used, constructed, modified, maintained or deactivated even if there is no access management plan in effect for the area on which the road is located.

Range use plans

237. (1) Despite section 27, if on or before June 15, 1996,

(a) the district manager approves a range use plan or an amendment to a range use plan, or

(b) a district manager prepares a range use plan or an amendment to a range use plan, the plan or amendment need not meet the content and review and comment requirements of this Act and the regulations.

(2) Despite section 27, if during the 18 month period that begins June 15, 1996 the district manager prepares or approves a range use plan or an amendment to a range use plan, the plan or amendment must

(a) meet the review and comment requirements of this Act and the regulations, and

(b) be in substantial compliance with the other requirements of this Act and the regulations.

(3) Despite section 27, a range use plan approved under subsections (1) and (2) may be for a term less than that specified in section 27.

Division 4 – Grandparenting Permits and Permits During the Transitional Period

Road permits and road use permits

238. (1) A road permit granted under the Forest Act before the coming into force of this Act terminates on the happening of the earlier of the following:

(a) the date on which it expires, is surrendered, cancelled or otherwise terminated;

(b) June 15, 1997.

(2) The holder of a road permit referred to in subsection (1) that, except for subsection (1) would have extended beyond June 15, 1997, may apply for a replacement road permit or road use permit, as the case may be, and subject to subsection (3) and section 225 (7), the district manager must issue the permit providing the applicant with substantially the same rights as were contained in the original road permit.

(3) If the district manager determines that, at the time of the application under subsection (2), the applicant was in contravention of the conditions of the original road permit, the district manager may

(a) refuse to issue the road permit or road use permit, or
(b) specify any additional conditions in the permit that the district manager determines to be reasonable and appropriate.

(4) A road permit or road use permit issued under subsection (2) or (3) must comply with the requirements of the Forest Act.

239. Repealed. [1997-48-133]

Burning permits and special use permits

240. (1) Every burning permit and special use permit issued under the Forest Act and regulations that is in effect when this Act comes into force is deemed to be a burning permit or special use permit under this Act and the regulations.

(2) A permit referred to in subsection (1) does not have to comply with the content requirements of this Act, the regulations or the standards.

(3) Subject to subsection (2), a holder of a permit referred to in subsection (1) must comply with this Act, the regulations and the standards.

(4) Despite subsection (2), if the district manager determines that a permit referred to in subsection (1) does not conform with the requirements of the regulations and the standards, the district manager may

(a) amend the permit to the extent necessary to comply with the requirements of the regulations or standards, or

(b) cancel the permit.

241. (1) This section applies to a timber sale licence, that does not provide for cutting permits, advertised or entered into before June 15, 1995.

(2) Despite a provision in a timber sale licence referred to in subsection (1), if an area of land has been approved for harvesting under the timber sale licence before June 15, 1995, the district manager may amend the size, configuration or location of the area of land to the extent necessary to ensure consistency with resource management zone objectives, landscape unit objectives, sensitive area objectives and this Act, the regulations and standards, provided the volume authorized for harvest under the timber sale licence, as amended, based on a cruise of the timber before it is cut, does not exceed the volume of timber that, but for the amendment, would have been authorized for harvest under the timber sale licence.

(3) Despite a provision in a timber sale licence referred to in subsection (1), the district manager is not required under the agreement to approve an area of land for harvesting, unless its size, configuration and location is consistent with any resource management zone objectives, landscape unit objectives, sensitive area objectives and this Act, the regulations and standards.
(4) Despite section 11 of the *Forest Act*, if, as a result of the district manager exercising powers under subsection (2) or (3) or section 226 (6), the total cruised volume of timber on the area of land designated for harvest under the timber sale licence is less than the cruised volume of timber on the area of land designated for harvest before the exercise of these powers, the district manager may, by way of compensation, amend the timber sale licence to grant the right to harvest an additional area of land, provided the total cruised volume of timber on the area of land designated for harvest under the amended timber sale licence does not exceed the total cruised volume of timber on the area of land designated for harvest before the exercise of the powers under subsection (2) or (3) or section 226 (6).

(5) Subsection (4) does not apply to a timber sale licence entered into under a pulpwood agreement.

**Licences to cut and free use permits**

242. (1) A licence to cut or free use permit granted under the *Forest Act* before June 15, 1995 terminates on the happening of the earlier of the following:

(a) the date on which it expires or is surrendered;
(b) June 15, 1997.

(2) Despite subsection (1), if the district manager determines that a licence or permit referred to in subsection (1) does not conform with the requirements of this Act, the regulations and the standards, the district manager may

(a) amend the licence or permit to the extent necessary to comply with the requirements of this Act, the regulations and the standards, or
(b) cancel the licence or permit.

**Division 6 – Implementation Regulations**

243. (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable for the purpose of more effectively bringing into operation this Act, and amendments to this Act, and to remedy any difficulties encountered in doing so.

(2) A regulation made under this section may, for a period the Lieutenant Governor in Council specifies in the regulation,

(a) amend a provision of this Act or of an enactment that amends this Act, and
(b) suspend the operation of a provision of this Act or of an enactment that amends this Act,

if that provision would impede the effective operation of this Act.

(3) A regulation made under this section may be made retroactive to a date not earlier than June 15, 1995.

(4) This section is repealed August 31, 1999 and on its repeal any regulations made under it are also repealed.

**Division 7 – Incorporation of Access Management Plans into Forest Development Plans**

244. (1) An access management plan that is in effect before January 5, 1998 remains in effect until the earlier of

(a) the date that road information in the access management plan is included in a forest development plan in accordance with sections 18 (4.1) and (4.2) and 19 (1.2), and
(b) June 15, 1999.

(2) The law respecting access management plans as it was immediately before January 5, 1998 including, without limitation, the law respecting offences and administrative remedies, continues to apply to an access management plan that is in effect before January 5, 1998, subject to any procedural changes to the law.
Forest development plans

245. Subject to section 230, if a forest development plan is in effect before January 5, 1998

(a) sections 18 (1) (b), (3) (b) and (4) (b) and 19 (1) as they were immediately before January 1, 1998 apply to that plan until it expires, and

(b) sections 18 (4.1) and (4.2) and 19 (1.2) do not apply to that plan.


Division 8 – Logging Plans and Silviculture Prescriptions

246 to 247. [Not yet in force.]

Division 9 – Riparian and Terrain Stability Requirements

on and after June 15, 1997

Compliance by operational plans

248. (1) Despite any provision of an operational plan approved or put into effect by the district manager before June 15, 1997, on and after that date, a person must not remove trees from, or modify trees in, an area under the plan that is in a riparian reserve zone set out under Part 10 of the Operational Planning Regulation unless the removal or modification

(a) before the coming into force of this section was approved in the operational plan for one or more of the following purposes:

(i) recovery of trees that have been windthrown or that have been damaged by fire, insects, disease or other causes;

(ii) sanitation treatments;

(iii) undertaking recreational facility management;

(iv) managing fisheries and wildlife values;

(v) establishing a free growing stand in accordance with a silviculture prescription, this Act and the regulations on an area harvested before June 15, 1997;

(vi) silviculture treatments under a stand management prescription, or

(b) is necessary for one or more of the following purposes:

(i) removal of trees felled before June 15, 1997;

(ii) removal of trees for approved stream crossings;

(iii) removal of trees for the construction or modification of a road under an approved road layout and design;

(iv) full suspension yarding corridors;

(v) removal of danger trees;

(vi) reducing windthrow potential by topping or pruning;

(vii) carrying out, constructing, modifying or maintaining a range development, or

(2) Despite any provision of an operational plan, referred to in subsection (1), on and after June 15, 1997, the holder of an agreement under the Forest Act must not, outside a community watershed, clearcut an area under the plan that has a high likelihood of landslides, unless

(a) the district manager determines that the clearcutting will adequately manage and conserve the forest resources of the area, or

(b) timber harvesting of the area began before June 15, 1997.


Compliance by cutting permits

249. Despite any provision of a cutting permit that is in effect on June 15, 1997, a person must not, on and after that date,

(a) remove trees from, or modify trees in, an area under the cutting permit that is in a riparian reserve zone set out under Part 10 of the Operational Planning Regulation, unless the removal or modification
(i) is approved in an operational plan for one or more of the purposes referred to in section 248 (1) (a), or
(ii) is necessary for one or more of the purposes referred to in section 248 (1) (b), or

(b) outside a community watershed, clearcut an area under the cutting permit that has a high likelihood of landslides, unless

(i) the district manager determines that clearcutting will adequately manage and conserve the forest resources of the area, or
(ii) timber harvesting of the area began before June 15, 1997.

Compliance by timber sale licences without cutting permits

250. (1) Despite any provision of a timber sale licence that does not provide for cutting permits, if the licence is advertised on or before June 15, 1997, or is in effect on June 15, 1997, a person must not, on and after that date,

(a) remove trees from, or modify trees in, an area under an operational plan for the licence that is in a riparian reserve zone set out under Part 10 of the Operational Planning Regulation, unless the removal or modification

(i) is approved in an operational plan for one or more of the purposes referred to in section 248 (1) (a), or
(ii) is necessary for one or more of the purposes referred to in section 248 (1) (b), or

(b) outside a community watershed, clearcut on an area under the licence that has a high likelihood of landslides, unless

(i) the district manager determines that clearcutting will adequately manage and conserve the forest resources of the area, or
(ii) timber harvesting of the area began before June 15, 1997.

(2) Subsections (3) to (5) apply to a timber sale licence that does not provide for cutting permits,

(a) if the licence was advertised on or before June 15, 1997 or entered into before June 15, 1997, or

(b) if an operational plan for a cutblock under the licence was prepared before June 15, 1997.

(3) Despite a provision in a timber sale licence respecting an area in a cutblock referred to in subsection (2) (b), the district manager may amend the size, configuration and location of the cutblock to ensure consistency with this section.

(4) Section 241 (2) and (3) applies to a timber sale licence referred to in subsection (2) of this section.

(5) Section 241 (4) and (5) applies to the exercise of powers by a district manager under subsection (3) of this section.

Meaning of “fish stream”

251. For the purpose of determining the width of a riparian zone referred to in sections 248 to 250, “fish stream” has the meaning defined in the Operational Planning Regulation as it was on June 15, 1997.
Amendment of plans, cutting permits and timber sale licences

252. (1) If an amendment to a timber sale licence that does not provide for cutting permits, an operational plan or a cutting permit results from sections 248 to 251,

(a) the holder of the plan, permit or licence must submit the amendment to the district manager for approval as soon as practicable and not later than the end of September 30, 1997, if the plan was prepared and submitted to the district manager by the licensee for approval,

(b) the amendment must be prepared by the district manager as soon as practicable and not later than the end of September 30, 1997, if the plan was put into effect by the district manager,

(c) sections 2 to 5 of the Operational Planning Regulation do not apply to the amendment, and

(d) timber harvesting may take place under the licence, plan or permit before it is amended, to the extent that the harvesting does not conflict with this Division.

(2) This Division does not require an amendment to a timber sale licence that does not provide for cutting permits, an operational plan or a cutting permit except an amendment resulting from sections 248 to 251.