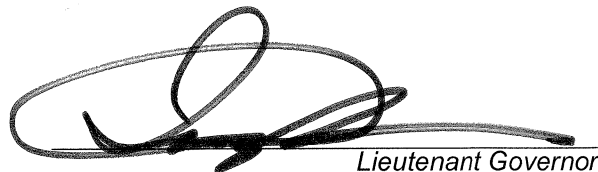


## ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 1244, Approved and Ordered DEC 11 2004


  
Lieutenant Governor

## Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) Sections 79, 80, 81, 83, 84, 89, 90, 94, 97 and 102 of the *Forests Statutes Amendment Act, 2004*, S.B.C. 2004, c. 36, are brought into force, and
- (b) the Forest Planning and Practices Regulation, B.C. Reg. 14/2004, is amended as set out in the attached Schedule.


  
Minister of Forests


  
Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

## Authority under which Order is made:

Act and section:- *Forest and Range Practices Act*, S.B.C. 2002, c. 69, ss. 5, 13, 17, 18, 141, 142, 146, 147, 149 to 151, 154 to 157, 159, 160 and 162  
*Forest Statutes Amendment Act, 2004*, S.B.C. 2004, c. 36, s. 147

Other (specify):- OIC 17/2004

November 30, 2004

1540 /2004/11

## SCHEDULE

***1 Section 1 of the Forest Planning and Practices Regulation, B.C. Reg. 14/2004, is amended***

***(a) by adding the following definitions:***

**“access structure”** means a road, landing, pit, quarry, excavated or bladed trail or other logging trail;

**“altered forest landscape”** means forest landscape that

- (a) is viewable from a significant public view point,
- (b) contains cutblocks or roads, and
- (c) is in one of the categories prescribed under section 1.1; ,

***(b) in the definition of “authorized in respect of a road” by adding the following***

(a.1) a person who

- (i) is the holder of a road use permit for a forest service road, and
- (ii) receives an order from the minister under section 79 (4), ,

***(c) in the definition of “authorized person” by striking out “described in paragraphs (a) or (c)” and substituting “described in paragraphs (a), (a.1) or (c)”;***

***(d) by repealing the definitions of “cutblock” and “designated official”,***

***(e) by adding the following definition:***

**“delivered wood costs”** means the costs associated with accessing and harvesting timber and delivering it to a timber processing facility; ,

***(f) by repealing the definitions of “established objective” and substituting the following:***

**“established objective”** means

- (a) an objective continued under section 181 of the Act,
- (b) an objective described in Division 1 of Part 2,
- (c) a land use objective, and
- (d) an objective established under the Government Actions Regulation; ,

***(g) by repealing the definition of “forest stewardship plan”,***

***(h) by repealing the definition of “ ‘harvests timber’ or ‘timber harvesting’ ” and substituting the following:***

**“harvest”**, in relation to timber, means to fell or remove timber, other than under a silviculture treatment, including to

- (a) yard, deck or load timber,
- (b) process timber on site,
- (c) pile or dispose of logging debris,
- (d) construct excavated or bladed trails or other logging trails,

- (e) rehabilitate an area referred to in section 35, and
- (f) carry out sanitation treatments associated with operations referred to in paragraphs (a) to (e); ,

(i) *by repealing the definition of “landscape unit”,*

(j) *by repealing the definition of “minor tenure” and substituting the following:*

**“minor tenure”** means

- (a) a free use permit,
- (b) a Christmas tree permit,
- (c) an occupant licence to cut, or
- (d) a forestry licence to cut that is not a major licence and limits
  - (i) the area from which timber may be harvested to 1 ha or less, and
  - (ii) the volume of timber to be harvested to 2 000 m<sup>3</sup> or less; ,

(k) *by repealing the definitions of “permanent access structure”, “result”, “soil disturbance”, “standards unit”, “strategy”, “temporary access structure” and “visual quality objective” and substituting the following:*

**“permanent access structure”** means an access structure in a cutblock that

- (a) at the time of its construction, is reasonably expected to provide access for timber harvesting and other activities that are not wholly contained in the cutblock, or
- (b) is constructed on or through, or contains, materials unsuitable for the establishment of a commercial crop of trees and is not an excavated or bladed trail,

but does not include an area that contained an access structure before rehabilitation of the area under section 36;

**“result”** means a description of

- (a) measurable or verifiable outcomes in respect of a particular established objective, and
- (b) the situations or circumstances that determine where in a forest development unit the outcomes under paragraph (a) will be applied;

**“soil disturbance”** means disturbance to the soil in the net area to be reforested in a cutblock because of

- (a) temporary access structures,
- (b) gouges, ruts and scalps, or
- (c) compacted areas,

but does not include the effect on the soil of rehabilitating an area in accordance with section 35;

**“standards unit”** means one or more parts of a cutblock for which part or parts there is only one of each of the following:

- (a) soil disturbance limit;
- (b) regeneration date;

- (c) stocking standard;
- (d) free growing date;
- (e) free growing height for each species that contributes to establishing a free growing stand on the cutblock;

**“strategy”** means a description of

- (a) measurable or verifiable steps or practices that will be carried out in respect of a particular established objective, and
- (b) the situations or circumstances that determine where in a forest development unit the steps or practices will be applied;

**“temporary access structure”** means an access structure that

- (a) is in a cutblock, and
- (b) does not conform to the criteria described in paragraph (a) or (b) of the definition of “permanent access structure”

and does not include a pit or quarry;

**“visual quality objective”** means

- (a) an objective continued, in respect of a scenic area, under section 181 of the Act,
- (b) an objective established for a scenic area under the Government Actions Regulation, or
- (c) a visual quality class continued, for a scenic area, under section 17 of the Government Actions Regulation; , **and**

*(1) by renumbering the section as section 1 (1) and by adding the following subsections:*

(2) In the Act and this regulation:

**“certify”**, in section 16 (1.01) of the Act, means to attest by means of a certificate that the agrologist, the professional biologist, the professional engineer, the professional geoscientist or the professional forester who issues the certificate

- (a) is of the opinion that a forest stewardship plan or amendment to a forest stewardship plan conforms to section 5 of the Act in relation to the subject matter described in section 22.1 (2) of this regulation,
- (b) in forming that opinion, he or she took all steps required of him or her as a professional, and
- (c) the opinion referred to in paragraph (a) is based on either or both of the following:
  - (i) his or her own knowledge;
  - (ii) information from credible sources.

**“net area to be reforested”** means the portion of a cutblock that remains after the following have been excluded:

- (a) areas occupied by permanent access structures;
- (b) contiguous areas that

- (i) in their natural state, are not capable of supporting a stand of trees in order to meet the stocking standards for un-excluded areas, and
    - (ii) are at least 0.1 ha in size and 10 m wide or are identified under section 86;
  - (c) contiguous areas of non-commercial forest cover that
    - (i) are present on the cutblock at the commencement of timber harvesting, and
    - (ii) are at least 0.1 ha in size and 10 m wide or are identified under section 86;
  - (d) wildlife tree retention areas;
  - (e) riparian reserve zones;
  - (f) areas reserved for purposes other than timber harvesting.
- (3) Section 177 (2) and (3) of the Act and the definitions of “Code”, “Code Regulation”, “effective date” and “site level plan” in section 177 (1) of the Act apply for the purposes of this regulation.

## 2 *The following section is added:*

### **Categories of visually altered forest landscape**

- 1.1** For the purposes of paragraph (c) of the definition of “altered forest landscape” in section 1, the following categories are prescribed, each according to the extent of alteration resulting from the size, shape and location of cutblocks and roads:
- (a) *preservation*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is
    - (i) very small in scale, and
    - (ii) not easily distinguishable from the pre-harvest landscape;
  - (b) *retention*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is
    - (i) difficult to see,
    - (ii) small in scale, and
    - (iii) natural in appearance;
  - (c) *partial retention*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint, is
    - (i) easy to see,
    - (ii) small to medium in scale, and
    - (iii) natural and not rectilinear or geometric in shape;
  - (d) *modification*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint,
    - (i) is very easy to see, and
    - (ii) is
      - (A) large in scale and natural in its appearance, or
      - (B) small to medium in scale but with some angular characteristics;

- (e) *maximum modification*: consisting of an altered forest landscape in which the alteration, when assessed from a significant public viewpoint,
  - (i) is very easy to see, and
  - (ii) is
    - (A) very large in scale,
    - (B) rectilinear and geometric in shape, or
    - (C) both.

**3      *Section 2 is repealed and the following substituted***

**Application and interpretation**

- 2      (1) This regulation does not apply in respect of a person who is authorized to carry out a forest practice that is
  - (a) funded under a vote as defined in section 1 of the *Financial Administration Act*, and
  - (b) administered under the Forest Investment Account, under the *Financial Administration Act*
 unless the funding is provided as set out in section 96 of this regulation.
- (2) In this regulation, a reference to distance in respect to riparian management areas, riparian management zones and riparian reserve zones, and in Division 4 of Part 4, is a reference to the slope distance.
- (3) A person is exempt from
  - (a) a requirement of Parts 4 and 5 of this regulation, or
  - (b) an obligation under section 21, 29, 47 or 48 of the Act
 as necessary to allow the person to conform to the *Workers Compensation Act* and the regulations under that Act.
- (4) Until June 1, 2005, Parts 2 and 3 of this regulation and the standards and objectives made under Parts 2 and 3 apply immediately, despite section 16 (2) of the Act, to a forest stewardship plan.

**4      *Section 4 is amended by adding the following:***

- (1.1) An agreement holder and the timber sales manager may cut, damage or destroy Crown timber as necessary for the purpose of carrying out silviculture treatments, stand tending treatments or forest health treatments.

**5      *The following section is added to Division 1 of Part 2:***

**Application of this Division to forest stewardship plans**

- 4.1 The objectives prescribed under sections 5 to 10 of this regulation are objectives set by government referred to in section 5 (1) (b) (i) of the Act and are applicable only to forest stewardship plans.

**6     *Section 6 is amended by striking out “and” at the end of paragraph (a) and by repealing paragraph (b) and substituting the following:***

- (b) ensure that delivered wood costs, generally, after taking into account the effect on them of the relevant provisions of this regulation and of the Act, are competitive in relation to equivalent costs in relation to regulated primary forest activities in other jurisdictions, and
- (c) ensure that the provisions of this regulation and of the Act that pertain to primary forest activities do not unduly constrain the ability of a holder of an agreement under the *Forest Act* to exercise the holder’s rights under the agreement.

**7     *Section 7 is amended***

***(a) by repealing subsections (2) and (3) and substituting the following:***

- (2) A person required to prepare a forest stewardship plan must specify a result or strategy in respect of the objective stated under subsection (1) only if the minister responsible for the *Wildlife Act* gives notice to the person of the applicable
  - (a) species referred to in subsection (1), and
  - (b) indicators of the amount, distribution and attributes of wildlife habitat described in subsection (1).
- (3) If satisfied that the objective set out in subsection (1) is addressed, in whole or in part, by an objective in relation to a wildlife habitat area or an ungulate winter range, a general wildlife measure, or a wildlife habitat feature, the minister responsible for the *Wildlife Act* must exempt a person from the obligation to specify a result or strategy in relation to the objective set out in subsection (1) to the extent that the objective is already addressed. , ***and***

- (b) in subsection (4) by striking out “August 1, 2004” and substituting “December 31, 2004”.***

**8     *Section 9 is repealed and the following substituted:***

**Objectives set by government for wildlife and biodiversity – landscape level**

- 9**     The objective set by government for wildlife and biodiversity at the landscape level is, without unduly reducing the supply of timber from British Columbia’s forests and to the extent practicable, to design areas on which timber harvesting is to be carried out that resemble, both spatially and temporally, the patterns of natural disturbance that occur within the landscape.

**Objectives set by government for wildlife and biodiversity – stand level**

- 9.1**   The objective set by government for wildlife and biodiversity at the stand level is, without unduly reducing the supply of timber from British Columbia’s forests, to retain wildlife trees.

**9     *The following section is added:***

## Objectives set by government for visual quality

### 9.2 (1) In this section:

“**scenic area**” means an area of land established as a scenic area under the *Forest Practices Code of British Columbia Act* on or before October 24, 2002 and continued as a scenic area under section 180 (c) of the Act;

“**visual sensitivity class**” means a visual sensitivity class established on or before October 24, 2002, particulars of which are publicly available in the Land and Resource Data Warehouse maintained by the minister responsible for the *Land Act*.

- (2) The objective set by government in relation to visual quality for a scenic area, that
- (a) was established on or before October 24, 2002, and
  - (b) for which there is no visual quality objective
- is to ensure that the altered forest landscape for the scenic area
- (c) in visual sensitivity class 1 is in either the preservation or retention category,
  - (d) in visual sensitivity class 2 is in either the retention or partial retention category,
  - (e) in visual sensitivity class 3 is in either the partial retention or modification category,
  - (f) in visual sensitivity class 4 is in either the partial retention or modification category, and
  - (g) in visual sensitivity class 5 is in either the modification or maximum modification category.

### 10 *Section 11 is repealed.*

### 11 *Section 12 is repealed and the following substituted:*

#### **Specifying results or strategies**

- 12 (1) A person who prepares a forest stewardship plan under section 5 (1) (b) of the Act, may consider the factors set out in the Schedule when specifying results or strategies for established objectives.
- (2) After December 31, 2004, for a forest stewardship plan or amendment to one, it is sufficient compliance with the objectives referred to in section 5 (1) (b) (ii) of the Act if the plan or amendment when submitted to the minister for approval conforms to those objectives as they were in effect 4 months before the date of the submission.
- (3) Despite section 12.1 (2), a person who prepares a forest stewardship plan must specify in it, for the objective set out in section 8, a result and strategy that addresses retention of trees in a riparian management zone.
- (4) If a land use objective conflicts with an objective described in this Division, a person who prepares a forest stewardship plan is exempt from specifying a result



or strategy in relation to the objective described in this Division, to the extent that doing so would conflict with the land use objective.

- (5) If 2 or more established objectives are applicable to
  - (a) a common area, and
  - (b) the same or a similar subject matter,the minister may exempt a person who is required to prepare a forest stewardship plan from the requirement to specify a result or strategy for all but one of the established objectives.
- (6) In making an exemption under subsection (5), the minister must do so in accordance with the following descending order of priority:
  - (a) an objective established under the Government Actions Regulation;
  - (b) an objective described in Division 1 of this Part;
  - (c) a land use objective.
- (7) If the minister determines that it is not practicable, given the circumstances or conditions applicable to a particular area, for the person otherwise required to do so, to specify a result or strategy consistent with an established objective for that area, the minister must exempt the person from that requirement in relation to that area.
- (8) A person who is required to prepare a forest stewardship plan is exempt from the requirement to prepare results or strategies for an objective set by government for timber.

## ***12 The following sections are added to Division 1 of Part 2:***

### **Exemptions – when undertaking given for compliance with specified regulations**

- 12.1** (1) A person required to prepare a forest stewardship plan is exempt for that plan from the requirement under section 5 of the Act that the plan specify intended results or strategies in relation to the objective for soils set out in section 5 of this regulation if the person
- (a) prepares the plan, including in it an undertaking that the person will comply with sections 35 and 36 of this regulation, during the term of the plan, and
  - (b) receives the minister's approval to the plan.
- (2) A person required to prepare a forest stewardship plan is exempt for that plan from the requirement under section 5 of the Act that the plan specify intended results or strategies in relation to the objective for water, fish, wildlife and biodiversity set out in section 8 of this regulation if the person
- (a) prepares the plan, including in it an undertaking that the person will comply with sections 47 to 51, 52 (2) and 53 of this regulation, during the term of the plan, and
  - (b) receives the minister's approval to the plan.
- (3) A person required to prepare a forest stewardship plan is exempt for that plan from the requirement under section 5 of the Act that the plan specify intended

results or strategies in relation to the objective for biodiversity at the landscape level set out in section 9 of this regulation if the person

- (a) prepares the plan, including in it an undertaking that the person will comply with sections 64 and 65 of this regulation, during the term of the plan, and
  - (b) receives the minister's approval to the plan.
- (4) A person required to prepare a forest stewardship plan is exempt for that plan from the requirement under section 5 of the Act that the plan specify intended results or strategies in relation to the objective for wildlife and biodiversity at the stand level set out in section 9.1 of this regulation if the person
- (a) prepares the plan, including in it an undertaking that the person will comply with sections 66 and 67 of this regulation, during the term of the plan, and
  - (b) receives the minister's approval to the plan.

**Conditional exemption – section 35 or 36**

- 12.2** (1) A person required to prepare a forest stewardship plan is exempt from section 35 if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for soils that is set out in section 5, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (2) A person required to prepare a forest stewardship plan is exempt from section 36 if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for soils that is set out in section 5, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.

**Conditional exemption – from one or more of sections 47 to 53**

- 12.3** (1) A person required to prepare a forest stewardship plan is exempt from section 47 (4) to (6) if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (2) A person required to prepare a forest stewardship plan is exempt from section 48 (3) to (5) if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.

- (3) A person required to prepare a forest stewardship plan is exempt from section 49 (2) and (3) if the person
  - (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (4) A person required to prepare a forest stewardship plan is exempt from section 50 (1) if the person
  - (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (5) A person required to prepare a forest stewardship plan is exempt from section 51 (1) or (3) if the person
  - (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (6) A person required to prepare a forest stewardship plan is exempt from section 52 (2) if the person
  - (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (7) A person required to prepare a forest stewardship plan is exempt from section 53 if the person
  - (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for the objective for water, fish, wildlife and biodiversity set out in section 8, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.

**Conditional exemption – section 64 or 65**

- 12.4** (1) A person required to prepare a forest stewardship plan is exempt from section 64 (1) if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for wildlife and biodiversity at the landscape level set out in section 9, in relation to the areas of primary forest activity under the plan, and

- (b) receives the minister's approval to the plan.
- (2) A person required to prepare a forest stewardship plan is exempt from section 65 (2) if the person
  - (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for wildlife and biodiversity at the landscape level set out in section 9, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.

**Conditional exemption – section 66 or 67**

- 12.5** (1) A person required to prepare a forest stewardship plan is exempt from section 66 if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for wildlife and biodiversity at the stand level set out in section 9.1, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.
- (2) A person required to prepare a forest stewardship plan is exempt from section 67 if the person
- (a) prepares and submits to the minister the proposed plan, including an intended result or strategy for wildlife and biodiversity at the stand level set out in section 9.1, in relation to the areas of primary forest activity under the plan, and
  - (b) receives the minister's approval to the plan.

**12.1 Section 13 is repealed**

**13 Section 14 is repealed and the following substituted:**

**Identifying forest development units**

- 14** (1) A person required to prepare a forest stewardship plan may specify in the plan or an amendment to it,
- (a) a new forest development unit,
  - (b) a forest development unit that is in effect on the date of the submission of the forest stewardship plan to the minister,
  - (c) an area to which section 196 (1) or (2) of the Act is applicable that is in a forest development unit referred to in paragraph (a) or (b) of this subsection,
  - (d) an area to which section 197 (4) or (7) of the Act is applicable that is in a forest development unit referred to in paragraph (a) or (b) of this subsection, or
  - (e) cutblocks to which section 197 (5) of the Act is applicable that is in a forest development unit referred to in paragraph (a) or (b) of this subsection.

- (2) A person required to prepare a forest stewardship plan must ensure that the plan identifies for the forest development units specified under subsection (1) those things described in subsection (3) that
  - (a) are in the forest development unit, and
  - (b) are in effect
    - (i) on the date the plan or amendment to it is submitted for approval, if the plan is submitted on or before December 31, 2005, or
    - (ii) 4 months before the date the plan or amendment to it, as the case may be, is submitted for approval, if the plan or amendment to it is submitted after December 31, 2005.
- (3) The things that under subsection (2) are to be identified in a forest stewardship plan referred to in that subsection are each
  - (a) ungulate winter range,
  - (b) wildlife habitat area,
  - (c) fisheries sensitive watershed,
  - (d) lakeshore management zone, including specifying the width of the zone, if the zone is identified on a map accompanying the establishment of the lakeshore management zone,
  - (e) scenic area,
  - (f) lake identified as an L1 lake under section 49 (1) (b) (ii) if the lake has been identified on a map accompanying the identification,
  - (g) community watershed,
  - (h) old growth management area,
  - (i) area in which commercial timber harvesting is prohibited by another enactment,
  - (j) cutting permit and road permit held by the agreement holder if that is the person required to prepare the plan, and
  - (k) road permit or timber sales licence granted or entered into by the timber sales manager.
- (4) A person who prepares a forest stewardship plan may identify an area as a declared area if, on the date that the area is identified,
  - (a) the area is in a forest development unit in effect, and
  - (b) all activities and evaluations that are necessary in relation to inclusion of cutblocks and roads in the area have been completed.

**14     *Section 15 is repealed.***

**15     *Section 17 is amended by striking out “prescribed in the Invasive Plants Regulation” and substituting “that are invasive plants under the Invasive Plants Regulation”.***

**16     *The following heading is added before section 19:***

## **Division 2.1 – Miscellaneous .**

### ***17 The following section is added to Division 2.1:***

#### **Limited content forest stewardship plans**

- 19.1** The minister may exempt the holder of
- (a) a forestry licence to cut that is not a major licence, or
  - (b) a community salvage licence
- from one or more of the requirements of Divisions 1 and 2 if the minister is satisfied that the exemption is appropriate, given the nature and extent of the timber harvesting proposed by the holder.

### ***18 Section 20 and 21 are repealed and the following substituted:***

#### **Providing notice**

- 20** (1) Before a person submits to the minister for approval a forest stewardship plan or an amendment to one, the person must publish a notice at least once in a newspaper, and may publish the notice more frequently, stating
- (a) that the plan or amendment is publicly available for review and for written comment at the person's place of business or at another place specified in the notice,
  - (b) persons may attend at that place during business hours to review the plan or amendment, and
  - (c) the address of the person proposing the plan or amendment to which address persons may submit written comments about the plan by mail or in person.
- (2) For the purposes of subsection (1), the period during which persons have the opportunity to review a forest stewardship plan or an amendment to one begins on the date the notice is first published and ends
- (a) 60 days after that date, if no greater or lesser number of days is determined under paragraph (b) or (c) and paragraph (d) is inapplicable,
  - (b) a greater number of days after that date that the minister may determine if paragraph (d) is inapplicable and he or she considers that the greater number of days is necessary to provide an adequate opportunity for review and comment under section 21,
  - (c) a lesser number of days that the minister may determine if paragraph (d) is inapplicable and he or she considers that the lesser number of days will provide an adequate opportunity for review and comment under section 21, or
  - (d) 10 days after that date if all or a substantial part of the timber to which the plan pertains
    - (i) is dead, infested with pests or otherwise damaged, or is required to be harvested to facilitate the removal dead, infested or damaged timber, and
    - (ii) must be harvested expeditiously to prevent

- (A) the spread of pests, or
  - (B) a significant reduction in the economic value of the timber due to a deterioration in the quality of the timber.
- (3) The minister by order may grant an exemption to a person who proposes a forest stewardship plan or an amendment to one from the requirement to publish a notice under subsection (1).
- (4) If the minister makes an order under subsection (3) and the forest stewardship plan or amendment is approved, the person exempted under the order must publish in a newspaper a notice specifying
  - (a) that the forest stewardship plan or the amendment has been approved without having been made publicly available for review and comment, and
  - (b) the date on which operations under the plan have been authorized to begin.
- (5) Despite subsection (1), a person who proposes an amendment to a forest stewardship plan in respect of section 16 is not required to publish a notice in a newspaper.

#### **Review and comment**

- 21** (1) A person who publishes a notice under section 20 (1), during the applicable period referred to in section 20 (2),
- (a) if required by the minister, must refer a copy of the forest stewardship plan, or a portion of the plan, to
    - (i) any agency of government, or
    - (ii) any agency of the Government of Canada,
  - (b) must provide a person who is interested in the plan with an opportunity to review the plan during normal business hours at the place of business of the person who published the notice or other venue specified in the notice under section 20 (1),
  - (c) must provide a person whose rights may be affected by the plan with an opportunity to review the plan in a manner that is commensurate with the nature and extent to which the person's rights may be affected, and
  - (d) must make reasonable efforts to meet with First Nation groups affected by the plan to discuss the plan.
- (2) A person given the opportunity to review or discuss the plan under subsection (1) may submit written comments in respect of the plan during the period and to the address specified in the notice under section 20 (1).

#### **19 Section 22 (1) is repealed and the following substituted:**

- (1) A person who publishes a notice under section 20 (1)
  - (a) must consider any written comments received under section 21 that are
    - (i) relevant to the plan, or
    - (ii) in the case of an amendment, relevant to the amendment, and
  - (b) is not required to consider comments in respect of

- (i) areas described in section 14 (1) (b), (c) or (d), (3) (j) or (k) or (4), or
- (ii) results and strategies that relate to the areas referred to in subparagraph (i).

**20     *The following section is added to Division 4 of Part 3:***

**Certification of content**

**22.1** (1) For the purpose of section 16 (1.01) (a) of the Act the prescribed qualifications are being qualified, in relation to one or more of paragraphs (a) to (j) of subsection (2),

- (a) as an agrologist under the *Agrologists Act*,
- (b) as a professional biologist under the *College of Applied Biology Act*,
- (c) as a professional engineer or professional geoscientist under the *Engineers and Geoscientists Act*, or
- (d) as a professional forester under the *Foresters Act*

and being authorized under that Act to practice as a professional in relation to the subject matter prescribed under that paragraph or those paragraphs, as the case may be.

(2) For the purpose of section 16 (1.01) (a) of the Act, that provides for certification by a person with the prescribed qualifications referred to in subsection (1) that a forest stewardship plan conforms to section 5 of the Act in relation to prescribed subject matter, the following subject matter is prescribed:

- (a) that the map referred to in section 5 (1) (a) (ii) of the Act shows the boundaries of all applicable forest development units;
- (b) that the intended results or strategies, specified in the plan, in relation to the objective set by government for visual quality under section 9.2 of this regulation are consistent with that objective;
- (c) that the plan accurately specifies the forest development units, the areas, and the cutblocks in accordance with section 14 (1) of this regulation;
- (d) that, in accordance with section 14 (2) of this regulation, the plan accurately identifies for those forest development units, the things set out in section 14 (3) of this regulation;
- (e) that, in accordance with section 14 (4) of this regulation, the plan accurately describes each area that is identified in it as a declared area;
- (f) that the measures specified in accordance with section 17 of this regulation for the plan, to prevent the introduction or spread of species of plants prescribed in the Invasive Plants Regulation, will be effective;
- (g) that the measures specified in accordance with section 18 of this regulation for the plan, to mitigate the effect of removing or rendering ineffective natural range barriers, will be effective;
- (h) that the free growing height referred to in section 44 (1) (b) of this regulation
  - (i) is appropriate, and



- (ii) is of sufficient height to demonstrate that the tree is adapted to the site, is growing well and can reasonably be expected to continue to do so;
- (i) that the intended results or strategies, specified in the plan, in relation to an objective set by government for visual quality, are consistent with that objective;
- (j) that the intended results or strategies, specified in the plan, in relation to a visual quality objective, are consistent with that objective.

**21 Section 23 is repealed and the following substituted:**

**Deemed approval**

- 23** (1) Each of the following is prescribed as being one of the prescribed requirements referred to in section 7 (1) (b) of the Act in relation to an area referred to in that provision:
- (a) the area is identified in the plan as a declared area;
  - (b) the area is the subject of a cutting permit, road permit or timber sale licence with a term that begins after the date of submission of the plan to the minister;
  - (c) the area is one to which section 196 (1) of the Act applies.
- (2) Until December 31, 2005, for the purposes of section 7 (1.1) (a) (iii) of the Act the following objectives are prescribed as specified other objectives, in relation to a forest development unit referred to in section 7 (1.1) of the Act:
- (a) an objective established under section 56 (3) of the Act for an interpretive forest site, recreation site or recreation trail;
  - (b) a wildlife habitat area objective;
  - (c) an ungulate winter range objective;
  - (d) a lakeshore management zone objective;
  - (e) a water quality objective;
  - (f) a fisheries sensitive watershed objective;
  - (g) a visual quality objective.
- (3) Effective January 1, 2006, for the purposes of section 7 (1.1) (a) (iii) of the Act the following objectives are prescribed as specified other objectives in relation to a forest development unit referred to in section 7 (1.1) of the Act:
- (a) a water quality objective;
  - (b) a fisheries sensitive watershed objective;
  - (c) a wildlife habitat area objective.

**22 Section 25 is repealed and the following substituted:**

**Consistency of results and strategies with established objectives**

- 25** (1) An intended result or strategy is not inconsistent with an established objective only because it
- (a) is capable of producing a condition outside the range of natural variation characteristic of a season, an area or a forest resource,

- (b) proposes an innovative means of addressing the established objective, or
  - (c) is based on a factor other than one specified in the Schedule.
- (2) On application by a person required to prepare a forest stewardship plan, the minister responsible for the *Land Act* may exempt the person from the requirement that an intended result or strategy specified in the plan, in relation to an objective that was
- (a) established or continued under section 3 or 4 of the *Forest Practices Code of British Columbia Act*, and
  - (b) in effect on January 31, 2004,
- be consistent with the objective, if the minister determines that requiring the result or strategy to be consistent with the objective would
- (c) have a material adverse impact on the delivered wood costs of a holder of an agreement under the *Forest Act* to which the plan applies, and
  - (d) unduly constrain the ability of a holder referred to in paragraph (c) to exercise the holder's rights under the agreement, and
- the material adverse impact and undue constraint outweigh the benefits to the public that would be achieved by requiring the result or strategy to be consistent with the objective.
- (3) In making a determination under section 16 of the Act in respect of a forest stewardship plan or an amendment to a forest stewardship plan, the minister responsible for the *Forest Act* must consider any exemption granted by the minister responsible for the *Land Act* under subsection (2) of this section.

**23     *The following section is added:***

**Consistency of intended results and strategies with objectives**

- 25.1** (1) For the purpose of section 5 (1.1) of the Act, each intended result or strategy in a forest stewardship plan must be consistent with the established objectives to the extent practicable, to take into account the circumstances or conditions applicable to that area or that part.
- (2) If an established objective is comprised of measurable or verifiable steps, processes or outcomes, an intended result or strategy that
- (a) is specified in a forest stewardship plan for that objective,
  - (b) restates the same measurable or verifiable steps, practices or outcomes, and
  - (c) describes the circumstances in which those measurable or verifiable steps, practices or outcomes are to be achieved or carried out,
- is to be considered to be consistent with objectives set by government and with the other established objectives to the extent practicable, as described in subsection (1) of this section.

**24     *Section 26 is repealed and the following substituted:***

**Minister's consideration of stocking standards**

- 26** (1) If, in specifying stocking standards under section 16, a person satisfies the minister that the person addressed only those factors contained in section 6 of the Schedule, the minister must not require the person to address other factors.

- (2) The minister may request information under section 16 (2.1) of the Act in respect of stocking standards if the information is
  - (a) relevant to the factors in section 6 of the Schedule that were addressed, if any,
  - (b) relevant to any factor that the person addressed that is not a factor listed in section 6 of the Schedule, and
  - (c) either available to the person or in the control or possession of the person.
- (3) The minister must approve the regeneration date, free growing height and stocking standards referred to in section 16 (3) if the minister is satisfied that
  - (a) the regeneration date and the standards will result in the area being stocked with ecologically suitable species that address immediate and long-term forest health issues on the area, to a density or to a basal area that, in either case,
    - (i) is consistent with maintaining or enhancing an economically valuable supply of commercial timber from British Columbia's forests, and
    - (ii) is consistent with the timber supply analysis and forest management assumptions that apply to the area covered by the plan on the date that the plan is submitted for approval, and
  - (b) the free growing height is of sufficient height to demonstrate that the tree is adapted to the site, and is growing well and can reasonably be expected to continue to do so.
- (4) The minister must approve the stocking standards referred to in section 16 (4) if the minister is satisfied that the standards will result in the area being stocked with ecologically suitable species that address immediate and long-term forest health issues on the area, to a density or to a basal area that, in either case, is consistent with
  - (a) maintaining or enhancing an economically valuable supply of commercial timber from British Columbia's forests, and
  - (b) the timber supply analysis and forest management assumptions that apply to the area covered by the plan on the date that the plan is submitted for approval.
- (5) The minister may approve the stocking standards referred to in section 16 (3) or (4), even though they do not conform to subsection (3) or (4) of this section, if the minister is satisfied that the regeneration date and stocking standards are reasonable, having regard to the future timber supply for the area.

**25     *The following section is added:***

**Approval in emergency cases**

**27.1** For the purpose of section 17 of the Act, the prescribed circumstances are those described in that section.

**26     *Sections 29 to 32 are repealed and the following substituted:***

### **Amendments that require approval**

- 29** The following are the prescribed circumstances, referred to in section 20 (1) of the Act, in which an approval is required to amend a forest stewardship plan, despite a determination under that provision:
- (a) the addition of a new forest development unit;
  - (b) a material change to an existing forest development unit;
  - (c) an intended result or strategy described in section 12.2 to 12.5 of this regulation;
  - (d) a result or strategy in respect of which a remediation order under section 74 of the Act is outstanding;
  - (e) a change to the regeneration date, free growing date, free growing height or stocking standards that apply to an area in a manner that would be a significant departure from that originally approved in the plan;
  - (f) a matter referred to in section 8 (1) of the Act.

### **Amendments that do not require approval**

- 30** (1) For the purpose of section 20 (1) (b) of the Act, a proposed amendment to a forest stewardship plan to identify a declared area does not require approval of the minister.
- (2) An amendment under section 20 (1) of the Act that does not require the approval of the minister takes effect on the date a copy of it is provided to the district manager in accordance with section 20 (2) of the Act.

### **Amendment wrongly made**

- 31** (1) Under section 20 (3) of the Act, if after giving the holder of a forest stewardship plan who made a determination under section 20 (1) of the Act an opportunity to be heard, the minister determines that the holder's determination was wrongly made, the minister may
- (a) declare the amendment that was the subject of the holder's determination to be without effect, and
  - (b) if the minister considers it appropriate, require the holder to suspend operations that are not authorized in the absence of the amendment.
- (2) The holder of a forest stewardship plan referred to in subsection (1) does not contravene the Act or this regulation by carrying out, before the minister makes a determination under subsection (1), operations that are not authorized in the absence of the amendment if
- (a) the minister is satisfied, or
  - (b) the holder establishes that the holder had reason to believe
- that the amendment would have been approved under section 16 (1) of the Act, had the amendment been properly submitted for approval.

### **Exemption from review and comment process for mandatory amendments**

- 32** The minister may exempt a holder of a forest stewardship plan from a requirement of Division 3 pertaining to an amendment under section 8 (1) of the Act, if the minister

is satisfied that the requirement is not practicable, given the circumstances or conditions applicable to a particular area.

**27     *The following sections are added to Division 5 of Part 2:***

**Criteria for when section 8 of the Act does not apply**

**32.1** The prescribed criteria with which a portion of a forest stewardship plan must conform under section 19 (2) (c) of the Act, so that section 8 of the Act will not apply, are that the portion is

- (a) a declared area,
- (b) an area to which section 196 (1) of the Act applies, or
- (c) an area for which a forestry licence to cut is issued under a pulpwood agreement.

**Amendments required where certification wrongly given**

**32.2** If a holder of a forest stewardship plan that contains material certified under section 22.1 knows or ought reasonably to know that the plan, at the time of its approval, did not conform in relation to the subject matter that was certified, the holder must deliver notice to the minister to that effect, stating the particulars.

**28     *The following Division is added to Part 2:***

**Division 6 – Exemptions**

**Exemptions under section 4 (1) (e) of the Act**

**32.3** The following are prescribed purposes under section 4 (1) (e) of the Act:

- (a) timber harvesting or road construction incidental to one or more primary forest activities, if the timber harvested outside the forest development unit does not exceed 50 m<sup>3</sup>;
- (b) timber harvesting or road construction related to a research installation that is approved by the government.

**Exemptions under section 4 (2) of the Act**

**32.4** The following are prescribed circumstances under section 4 (2) (b) of the Act:

- (a) the timber harvesting or road construction is needed in relation to a research installation approved by the minister;
- (b) timber harvesting or road construction is needed in support of activities authorized or required under an enactment other than the *Forest Act*.

**29     *Section 33 is repealed and the following substituted:***

**When site plans not required**

**33** (1) For section 10 (1) of the Act, the prescribed circumstances, in which the holder of a forest stewardship plan need not prepare a site plan in accordance with section 10 (1) (a) of the Act, are

- (a) that timber harvesting
    - (i) must proceed expeditiously to eliminate a safety hazard,
    - (ii) is needed to facilitate the collection of seed, leaving an opening not greater than 1 ha, or
    - (iii) is limited to a volume timber of 50 m<sup>3</sup> or less,
  - (b) the holder is exempt under section 44 (3) of this regulation, or
  - (c) the holder is the holder of a community salvage licence.
- (2) For section 10 (1) of the Act, a prescribed circumstance, in which the holder of a forest stewardship plan need not prepare a site plan in accordance with section 10 (1) (b) of the Act, is that timber harvesting associated with a road referred to in that provision is limited to removal of timber to improve safety for road users by
- (a) eliminating a safety hazard,
  - (b) improving visibility, or
  - (c) increasing the number of pullouts or the size of existing pullouts.

**30 Section 35 is amended**

- (a) *by repealing subsection (2),*
- (b) *by repealing subsection (5) (c) (ii) and substituting the following:*
  - (ii) not create an unacceptable risk of further damage or harm to, or impairment of, forest resource values related to one or more of the subjects listed in section 149 (1) of the Act., *and*
- (c) *by repealing subsection (7) and substituting the following:*
  - (7) If an agreement holder rehabilitates an area under subsection (4) or (5) and erosion of exposed soil from the area would cause sediment to enter a stream, wetland or lake, or a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act, the agreement holder, unless placing debris or revegetation would not materially reduce the likelihood of erosion, must
    - (a) place woody debris on the exposed soils, or
    - (b) revegetate the exposed mineral soils.

**31 Sections 36 to 40 are repealed and the following substituted:**

**Permanent access structure limits**

- 36** (1) An agreement holder must ensure that the area in a cutblock that is occupied by permanent access structures built by the holder or used by the holder does not exceed 7% of the cutblock, unless
- (a) there is no other practicable option on that cutblock, having regard to
    - (i) the size, topography and engineering constraints of the cutblock,
    - (ii) in the case of a road, the safety of road users, or

- (iii) the requirement in selection harvesting systems for excavated or bladed trails or other logging trails, or
- (b) additional permanent access structures are necessary to provide access beyond the cutblock.
- (2) If an agreement holder exceeds the limit for permanent access structures described in subsection (1) for either of the reasons set out in that subsection, the holder must ensure that the limit is exceeded as little as practicable.
- (3) An agreement holder may rehabilitate an area occupied by permanent access structures in accordance with the results or strategies specified in the forest stewardship plan or by
  - (a) removing or redistributing woody materials that are exposed on the surface of the area and are concentrating subsurface moisture, as necessary to limit the concentration of subsurface moisture on the area,
  - (b) de-compacting compacted soils, and
  - (c) returning displaced surface soils, retrievable side-cast and berm materials.
- (4) If an agreement holder rehabilitates an area under subsection (3) (a) and erosion of exposed soil from the area would cause sediment to enter a stream, wetland or lake, or a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act, the agreement holder, unless placing debris or revegetation would not materially reduce the likelihood of erosion, must
  - (a) place woody debris on the exposed soils, or
  - (b) revegetate the exposed mineral soils.

#### **Landslides**

- 37** An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not cause a landslide that has a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act.

#### **Gully processes**

- 38** An authorized person who carries out a primary forest activity on the Coast must ensure that the primary forest activity does not cause a gully process that has a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act.

#### **Natural surface drainage patterns**

- 39** (1) If an authorized person constructs a temporary access structure or a permanent access structure on an area, the person must maintain natural surface drainage patterns on the area both during and after construction.
- (2) Despite subsection (1), if it is not practicable for an authorized person to maintain natural surface drainage patterns during the construction of a temporary access structure or permanent access structure, the person must ensure that the altered surface drainage pattern is compatible with the original natural surface drainage pattern by the earlier of
- (a) the end of the construction, and

- (b) the next freshet.

#### **Revegetation**

- 40** An authorized person who constructs or deactivates a road must ensure that soil exposed by the construction or deactivation is revegetated within two years after the construction or deactivation is completed if it is reasonably foreseeable that
- (a) the erosion of the soil would cause
    - (i) sediment to enter a stream, wetland or lake, or
    - (ii) a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act, and
  - (b) revegetation would materially reduce the likelihood of erosion.

**32** *Sections 41 and 42 are repealed and the following substituted:*

#### **Modification of insect behaviour**

- 41** An agreement holder or a timber sales manager who uses trap trees or pheromones to concentrate insect populations must ensure that the insect brood is destroyed before the insects emerge.

#### **Use of livestock**

- 42** If a person required to establish a free growing stand uses livestock for site preparation or brush control, the person must ensure that all necessary measures are taken to
- (a) control the location and movement of the livestock to minimize conflict with wildlife that could prey on the livestock,
  - (b) prevent the transmission of disease from the livestock to wildlife, and
  - (c) maintain the health of the livestock.

**33** *Section 44 (1) is amended by striking out “Unless exempted under section 91 (2) [minister may grant exemptions] a person” and substituting “A person”.*

**34** *Section 46 is repealed and the following substituted:*

#### **Free growing stand – forestry licence to cut**

- 46** (1) Subject to subsection (3), if
- (a) a cutblock is harvested under a forestry licence to cut that is not a major licence or a minor tenure, and
  - (b) 500 m<sup>3</sup> or more of timber is harvested from the cutblock,
- the minister must establish a free growing stand in the net area to be reforested that
- (c) conforms to the applicable stocking standards by the applicable regeneration date, and
  - (d) conforms to the applicable stocking standards and free growing height, by the applicable free growing date.



- (2) Unless otherwise specified by the minister, the applicable stocking standards and applicable regeneration and free growing dates referred to in subsection (1) are those specified for that silviculture system and that biogeoclimatic ecosystem classification in the Ministry of Forests' publication, Reference Guide for Forest Development Plan Stocking Standards, as amended from time to time.
- (3) The minister is not required to establish a free growing stand under subsection (1) if the silvicultural system used on the area
  - (a) is clearcutting and the harvested area, if taken together with adjoining clearcut areas that are not occupied by free growing stands, does not exceed 1 ha, or
  - (b) is other than clearcutting and, at the completion of harvest, the trees retained on the harvested area conform to the specifications
    - (i) of the minister, if any, or
    - (ii) for the applicable silvicultural system and biogeoclimatic ecosystem classification in the Ministry of Forests' publication, Reference Guide for Forest Development Plan Stocking Standards, as amended from time to time.
- (4) The minister must consider the matters set out in section 26 (3) when making a decision respecting the applicable stocking standards and applicable regeneration and free growing dates under subsection (2).
- (5) The minister must consider the matters set out in section 26 (4) when making a decision respecting the specifications described in subsection (3) (b) (i).

**35     *The following sections are added to Division 2 of Part 4:***

**Free growing stands: community salvage licence**

- 46.1** (1) A holder of a community salvage licence who harvests timber from an area must ensure that, for a period of 12 months after completion of harvest, the area on which timber harvesting was carried out conforms to
- (a) stocking standards authorized by the minister, or
  - (b) if the minister has not authorized stocking standards under paragraph (a), the specifications for the applicable silvicultural system and biogeoclimatic ecosystem classification in the Ministry of Forests' publication, Reference Guide for Forest Development Plan Stocking Standards, as amended from time to time.
- (2) Subject to subsection (3), if a holder of a community salvage licence does not ensure that an area described in subsection (1) conforms to the requirements of that subsection, the holder must establish a free growing stand in the net area to be reforested that
- (a) conforms to the applicable stocking standards by the applicable regeneration date, and
  - (b) conforms to the applicable stocking standards and free growing height, by the applicable free growing date.

- (3) Unless otherwise specified by the minister, the applicable stocking standards and applicable regeneration and free growing dates referred to in subsection (2) are those specified for that silvicultural system and that biogeoclimatic ecosystem classification in the Ministry of Forests' publication, Reference Guide for Forest Development Plan Stocking Standards, as amended from time to time.
- (4) The minister must consider the matters set out in section 26 (3) when making a decision respecting
  - (a) the stocking standards described in subsection (1) (a), and
  - (b) the applicable stocking standards and applicable regeneration and free growing dates under subsection (3).

**Requirements if free growing stand cannot be established**

- 46.2** (1) Subject to section 108 of the Act, a person who
- (a) is required to establish a free growing stand under section 44 to 46.1 of this regulation, and
  - (b) knows that the requirements of section 44 to 46.1 of this regulation, as applicable, cannot be met,
- must
- (c) give notice to the minister that the requirements to establish a free growing stand cannot be met, giving the reasons, and
  - (d) submit to the minister a proposal for establishing a free growing stand on the area, including the stocking standards, the free growing height and the latest date by which the stocking standards and free growing height will be achieved.
- (2) The minister must approve a proposal submitted under subsection (1) if the minister considers that the proposal is consistent with section 26 (3).
  - (3) The minister must give notice to the person who submitted the proposal if the proposal has been approved or rejected and, if rejected, must provide written reasons.
  - (4) A rejection under subsection (3) is reviewable as set out in sections 80 and 81 of the Act and those sections and sections 82 to 84 of the Act apply in respect of the review.
  - (5) A person who is notified under subsection (3) that the proposal has been approved, must ensure that a free growing stand is established that conforms to the approved proposal.

**36     *Section 47 (4) to (6) are repealed and the following substituted:***

- (4) Subject to subsections (5) and (6), for each riparian class of stream, the minimum riparian management area width, riparian reserve zone width and riparian management zone width, on each side of the stream, are as follows:

<b>Riparian Class</b>	<b>Riparian Management Area (metres)</b>	<b>Riparian Reserve Zone (metres)</b>	<b>Riparian Management Zone (metres)</b>
S1-A	100	0	100
S1-B	70	50	20
S2	50	30	20
S3	40	20	20
S4	30	0	30
S5	30	0	30
S6	20	0	20

- (5) If the width of the active flood plain of a stream exceeds the specified width for the riparian management zone, the width of the riparian management zone extends to the outer edge of the active flood plain.
- (6) The minister may specify a riparian reserve zone for a stream with a riparian class of S1-A if the minister considers that a riparian reserve zone is required.

**37 Section 48 (3) to (5) is repealed and the following substituted:**

- (3) Subject to subsections (5) and (6), for each riparian class of wetland, the minimum riparian management area width, riparian reserve zone width and riparian management zone width for the wetland are as follows:

<b>Riparian Class</b>	<b>Riparian Management Area (metres)</b>	<b>Riparian Reserve Zone (metres)</b>	<b>Riparian Management Zone (metres)</b>
W1	50	10	40
W2	30	10	20
W3	30	0	30
W4	30	0	30
W5	50	10	40

- (4) No riparian reserve zone or riparian management zone extends onto any enclosed upland areas in a W1 wetland if the wetland is
- located in a boreal, subboreal or hyper-maritime climate, and
  - greater than 1 000 ha in size.

- (5) If the minister considers it necessary for a riparian reserve zone or riparian management zone to extend onto an enclosed upland area, the minister may require either or both of the following:
- (a) a riparian reserve zone of a width of 10 m or less;
  - (b) a riparian management zone of a width of 40 m or less.

**38 Section 49 (2) and (3) are repealed and the following substituted:**

- (2) For each riparian class of lake, the minimum riparian management area width, riparian reserve zone width and riparian management zone width are as follows:

<b>Riparian Class</b>	<b>Riparian Management Area (metres)</b>	<b>Riparian Reserve Zone (metres)</b>	<b>Riparian Management Zone (metres)</b>
L1-A	0	0	0
L1-B	10	10	0
L2	30	10	20
L3	30	0	30
L4	30	0	30

- (3) If the minister considers it necessary, the minister may specify a riparian management area and a riparian reserve zone for a lake with a riparian class of L1-A.

**39 Section 52 (2) is repealed and the following substituted:**

- (2) An authorized person who cuts, modifies or removes trees in a riparian management zone for an S4, S5 or S6 stream that has trees that contribute significantly to the maintenance of stream bank or channel stability must retain enough trees adjacent to the stream to maintain the stream bank or channel stability, if the stream
- (a) is a direct tributary to an S1, S2 or S3 stream,
  - (b) flows directly into the ocean, at a point near to or where one or more of the following is located:
    - (i) a herring spawning area;
    - (ii) a shellfish bed;
    - (iii) a saltwater marsh area;
    - (iv) an aquaculture site;
    - (v) a juvenile salmonid rearing area or an adult salmon holding area, or
  - (c) flows directly into the ocean at a point near to the location of an area referred to in paragraph (b) and failure to maintain stream bank or channel stability will have a material adverse impact on that area.

**40     *Sections 53 to 58 are repealed and the following substituted:***

**Temperature sensitive streams**

- 53**     An authorized person who fells, modifies or removes trees in a riparian management area adjacent to a temperature sensitive stream, or a stream that is a direct tributary to a temperature sensitive stream, must retain either or both of the following in an amount sufficient to prevent the temperature of the temperature sensitive stream from increasing to an extent that would have a material adverse impact on fish:
- (a) streamside trees whose crowns provide shade to the stream;
  - (b) understory vegetation that provides shade to the stream.

**Fan destabilization**

- 54**     An authorized person who carries out a primary forest activity on the Coast must ensure that the primary forest activity does not cause fan destabilization that has a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act.

**Stream crossings**

- 55**     (1) An authorized person who builds a stream crossing as part of a temporary access structure or permanent access structure must locate, build and use the crossing in a manner that
- (a) protects the stream channel and stream bank immediately above and below the stream crossing, and
  - (b) mitigates disturbance to the stream channel and stream bank at the crossing.
- (2) An authorized person who builds a stream crossing as part of a temporary access structure must remove the crossing when it is no longer required by the person.

**Fish passage**

- 56**     (1) An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not have a material adverse effect on fish passage in a fish stream.
- (2) An authorized person who maintains a fish stream crossing built after June 15, 1995, must ensure that the crossing does not have a material adverse effect on fish passage.
- (3) Despite subsections (1) and (2), an authorized person may temporarily allow a material adverse effect on fish passage to construct, maintain or deactivate a road, including a stream crossing, if
- (a) fish are not migrating or spawning, and
  - (b) the source of the material adverse effect is removed immediately on completion of the construction, maintenance or deactivation.

**Protection of fish and fish habitat**

- 57**     An authorized person who carries out a primary forest activity must conduct the primary forest activity at a time and in a manner that is unlikely to harm fish or destroy, damage or harmfully alter fish habitat.

#### **Use of livestock in riparian areas**

- 58** An agreement holder who uses livestock for site preparation or brush control for the purpose of carrying out a silviculture treatment must not
- (a) construct a livestock corral
    - (i) in a riparian management area,
    - (ii) on an area that drains directly into a fish stream or a fish-bearing wetland or lake, or
    - (iii) on an area in a community watershed that drains directly into a potable water source, or
  - (b) use the livestock in a riparian management area that is in a community watershed.

#### **41     *Sections 59 to 63 are repealed and the following substituted:***

##### **Protecting water quality**

- 59** An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not cause material that is harmful to human health to be deposited in, or transported to, water that is diverted for human consumption by a licensed waterworks.

##### **Licensed waterworks**

- 60** (1) An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not damage a licensed waterworks.
- (2) An authorized person must not harvest timber or construct a road in a community watershed if the timber harvesting or road construction is within a 100 m radius upslope of a licensed waterworks where the water is diverted for human consumption, unless the timber harvesting or road construction will not increase sediment delivery to the intake.

##### **Excavated or bladed trails**

- 61** An agreement holder who
- (a) carries out timber harvesting, and
  - (b) constructs an excavated or bladed trail in a community watershed
- must ensure that doing so does not cause sediment that is harmful to human health to enter a stream, wetland or lake from which water is being diverted for human consumption by a licensed waterworks.

##### **Roads in a community watershed**

- 62** (1) To prevent interference with the subsurface flow path of a drainage area that contributes to a spring that is a source of water for a licensed waterworks, the minister may
- (a) identify a spring in a community watershed,
  - (b) specify a distance from the spring within which a person who constructs a road must not locate the road, and

- (c) permit a person who constructs a road to locate the road closer to the spring than the distance specified under paragraph (b).
- (2) If the minister does not specify a distance under subsection (1) (b), a person who constructs a road must not locate the road closer than a 100 m radius upslope of the spring identified under subsection (1) (a), unless the construction does not interfere with the subsurface flow path of a drainage area that contributes to the spring.

#### **Use of fertilizers**

- 63** (1) An authorized person who applies fertilizer in a community watershed for the purpose of carrying out a silviculture treatment must not apply fertilizer
- (a) closer than a 100 m radius upslope of a licensed waterworks, or
  - (b) within 10 m of a perennial stream that is observable from an aircraft used to apply the fertilizer,
- if the application of the fertilizer results in
- (c) nitrate nitrogen levels in the stream exceeding 10 parts per million if measured immediately below the area where the fertilizer is applied, or
  - (d) chlorophyll levels in the stream exceeding
    - (i) two micrograms per litre in a lake into which the stream drains, or
    - (ii) 50 milligrams per square metre in the stream.
- (2) Subsection (1) does not apply if the use of fertilizer is restricted to spot applications.
- 42** *Section 64 (1) is amended by striking out everything before paragraph (a) and substituting “If an agreement holder other than a holder of a minor tenure harvests timber in a cutblock, the holder must ensure that the size of the net area to be reforested for the cutblock does not exceed”.*
- 43** *Section 65 (2) is amended by striking out everything before paragraph (a) and substituting “An agreement holder other than a holder of a minor tenure must not harvest timber on a new cutblock, unless”.*
- 44** *Section 66 is repealed and the following substituted:*

#### **Wildlife tree retention**

- 66** (1) If an agreement holder completes harvesting in one or more cutblocks during the any 12 month period beginning on April 1 of any calendar year, the holder must ensure that, at the end of that 12 month period, the total area covered by wildlife tree retention areas that relate to the cutblocks is a minimum of 7% of the total area of the cutblocks.
- (2) An agreement holder who harvests timber in a cutblock must ensure that, at the completion of harvesting, the total amount of wildlife tree retention areas that relates to the cutblock is a minimum of 3.5% of the cutblock.

- (3) For the purposes of subsection (1) and (2), a wildlife tree retention area may relate to more than one cutblock if all of the cutblocks that relate to the wildlife tree retention area collectively meet the applicable requirements of this section.

**45     *Sections 67 to 70 are repealed and the following substituted:***

**Restriction on harvesting**

- 67**     An agreement holder must not harvest timber from a wildlife tree retention area unless the trees on the net area to be reforested of the cutblock to which the wildlife tree retention area relates have developed attributes that are consistent with a mature seral condition.

**Coarse woody debris**

- 68**     (1) An agreement holder who carries out timber harvesting must retain at least the following logs on a cutblock:
- (a) if the area is on the Coast, a minimum of 4 logs per hectare, each being a minimum of 5 m in length and 30 cm in diameter at one end;
  - (b) if the area is in the Interior, a minimum of 4 logs per hectare, each being a minimum of 2 m in length and 7.5 cm in diameter at one end.
- (2) An agreement holder is exempt from subsection (1) if
- (a) the holder's agreement or an enactment requires the holder to act in a manner contrary to that set out in subsection (1), or
  - (b) the holder carries out on the cutblock a controlled burn that is authorized under an enactment.

**General wildlife measures**

- 69**     An authorized person who carries out primary forest activities on an area must comply with each general wildlife measure that applies to the area.

**Resource features and wildlife habitat features**

- 70**     (1) An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not damage or render ineffective a resource feature.
- (2) An authorized person who carries out a primary forest activity must ensure that the primary forest activity does not damage or render ineffective a wildlife habitat feature.

**46     *Sections 72, 73, 75 and 76 are amended by striking out "Unless exempted under section 91 (1) [minister may grant exemptions], a person" and substituting "A person".***

**47     *Section 78 is amended by striking out everything before paragraph (a) and substituting "A person who constructs or maintains a road must ensure clearing widths are at least the minimum width necessary to accommodate the road, having regard to all of the following:".***



**48 Section 79 is amended**

(a) *in subsection (2) by striking out* “Unless exempted under section 91 (1) [minister may grant exemptions], a person” *and substituting* “A person”, *and*

(b) *by repealing subsection (5).*

**49 The following section is added:**

**Exemptions from section 22.1 of the Act**

**79.1** (1) In this section, “**minor salvage operation**” means harvesting of

(a) timber that

(i) is dead, infested with pests or otherwise damaged or that is required to be harvested to facilitate the removal of the dead, infested or damaged timber, or

(ii) is required as part of a sanitations treatment, and

is of a total volume not exceeding 2 000 m<sup>3</sup>, excluding the volume harvested from any road clearing width, if the road is required to facilitate the removal of timber referred to in subparagraph (i) or (ii), or

(b) special forest products.

(2) Subject to subsection (3), section 22.1 (1) of the Act does not apply to a person using a road on Crown land for a minor salvage operation if the person does not carry out in a stream, or on, in or near a stream bank, any maintenance of the road other than to the road surface.

(3) However, section 22.1 (1) of the Act applies to a person using a road as described in subsection (2) if the minister notifies the person that the minister believes that the use of the road will

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

(b) adversely impact forest resources.

(4) A person using a road as described in subsection (2) must give to any holders of timber sale licences that do not provide for cutting permits, of road permits, of road use permits, of special use permits, or of cutting permits, at least 5 days notice before the date on which the person will

(a) begin use of the road, or

(b) re-start use of the road after an inactive period of 3 months or more.

(5) A person using a road as described in subsection (2), if the road is not subject to a road permit, road use permit, special use permit, cutting permit or timber sale licence that does not provide for cutting permits, must

(a) maintain the road, while using it for the minor salvage operation, in accordance with the provisions of this regulation respecting maintenance of a road, including those provisions that refer to carrying out a primary forest activity, to the extent that those provisions relate to road maintenance, and

(b) as soon as is practicable after completion of use of the road, must ensure that the condition of the road surface and road drainage, including ditches, is

compatible with the condition of the road surface and drainage as they were immediately before the commencement of the use.

- (6) A person using a road as described in subsection (2), if
  - (a) the road is subject to a timber sale licence that does not provide for cutting permits, to a road permit, to a road use permit, to a special use permit, to a cutting permit,
  - (b) the person receives a notice under subsection (7),is liable to the holder of the permit or licence who gave the notice for payment of the amount determined in accordance with subsection (8).
- (7) By written notice, the holder of a permit or licence referred to in subsection (6) (a) may require payment, within the limits referred to in section 22.3 of the Act, from a person using a road as described in subsection (2) of this section.
- (8) Section 22.3 (2) and (3) of the Act apply in respect of the payment required by notice under subsection (7) of this section.
- (9) A person who is exempted under section 22.1 (4) of the Act must comply with the provisions of this regulation respecting maintenance of a road, including those provisions that refer to carrying out a primary forest activity to the extent that those provisions relate to road maintenance.

**50     *Section 80 is repealed.***

**51     *The following section is added:***

**Exemption from requirement to give notice of use**

- 80.1**     (1) For the purpose of section 22.1 (7) (b) (ii) of the Act, a person who intends to use a forest service road under section 22.1 (1) (d) or (e) or (2) (d) or (e) of the Act must first give to the person who is required to maintain the forest service road 5 clear days' notice of the date on which the person will begin using the road.
- (2) A person who gives notice under subsection (1) is exempt from the requirement under section 22.1 (7) (b) (i) of the Act to also give notice to the minister.

**52     *Section 82 (1) (d) is repealed and the following substituted:***

- (d) stabilize the road prism or the clearing width of the road if the stabilization is necessary to reduce the likelihood of a material adverse effect in relation to one or more of the subjects listed in section 149 (1) of the Act, .

**53     *Sections 83 and 84 are repealed and the following substituted:***

**Hazard warning**

- 83**     At all times while a road is being deactivated, a person must have a sign posted that warns users of the deactivation.

**Notice – road in community watershed**

- 84** At least 48 hours before commencement of road construction or deactivation in a community watershed, a person must notify affected water licensees or affected water purveyors.

**54** *Section 85 (1) is repealed and the following substituted:*

- (1) An agreement holder must notify the district manager before
  - (a) beginning
    - (i) timber harvesting in a cutblock that comprises more than one hectare, or
    - (ii) construction of a road that is a permanent access structure, and
  - (b) re-starting the activities described in paragraph (a) (i) and (ii) in a cutblock that comprises more than one hectare after an inactive period of 3 months or more.

**55** *Section 86 is repealed and the following sections are substituted:*

**Annual reports**

- 86** (1) In this section and in section 86.1,
- “location”** means the approximate location;
  - “reporting period”**, in respect of the year in which the report referred to in subsection (2) is to be furnished, means the 12 month period beginning on April 1 of the immediately preceding calendar year;
  - “road construction”** means the construction of a road, and includes bridges and major culverts;
  - “road construction during the reporting period”** means road construction, that is carried on during any number of days in the reporting period, of a road that
    - (a) is the subject of a road permit and is not in a cutblock,
    - (b) is a forest service road,
    - (c) is a permanent access structure under paragraph (a) of the definition in section 1 (1) of this regulation, or
    - (d) is a permanent access structure under paragraph (b) of the definition in section 1 (1) of this regulation and is longer than 500 m and connected to a road that provides access to the cutblockwhether the construction started before or during that period.
- (2) Before September 1 of each year, an agreement holder must report to the district manager
- (a) the following information about road construction during the reporting period on the land to which the agreement pertains:
    - (i) the location of the road;
    - (ii) the location, type and overall length of any bridges;

- (iii) the location and the diameter or span of any major culverts and of any fish-stream culverts;
    - (iv) the stream crossing identifiers for bridges and culverts referred to in subparagraphs (ii) and (iii);
    - (v) the location of engineered structures other than bridges, culverts or fords;
    - (vi) the location of road sections containing stumps, roots and embedded logs left or placed
      - (A) under the road fill within the road prism width, if the road is located on landslide prone terrain, or
      - (B) under the travelled portion of the road fill for other road locations, and
  - (b) the location on the land to which the agreement pertains of any road that was deactivated during the reporting period if the road at the time of its construction was
    - (i) the subject of a road permit and is not in a cutblock,
    - (ii) a forest service road,
    - (iii) a permanent access structure under paragraph (a) of the definition in section 1 (1) of this regulation, or
    - (iv) a permanent access structure under paragraph (b) of the definition in section 1 (1) of this regulation and is longer than 500 m and connected to a road that provides access to the cutblock.
- (3) Before June 1 of each year, an agreement holder must report to the district manager
- (a) for each area in which timber harvesting was completed during the reporting period and to which section 29 of the Act applies, the following information:
    - (i) the area in which the harvesting occurred;
    - (ii) the amount of area that was harvested;
    - (iii) an update of the forest cover inventory;
    - (iv) the location and approximate size of all associated wildlife tree retention areas,
  - (b) the location of any resource feature or wildlife habitat feature in or contiguous to a cutblock or road of which feature the holder is aware during the reporting period if
    - (i) the holder has not, in a previous reporting period, reported the resource feature or wildlife habitat feature, and
    - (ii) the order establishing the resource feature or wildlife habitat feature requires the location of the resource feature or wildlife habitat feature to be reported under this section,
  - (c) the pertinent information about seeds used during the reporting period to grow seedlings planted by the holder in cutblocks on the land to which the agreement pertains,

- (d) an update of the forest cover inventory for each area in which during the reporting period
    - (i) the requirements for the regeneration date have been met,
    - (ii) the requirements for the regeneration date have not been met but the regeneration date has passed,
    - (iii) a free growing stand has been declared under section 97 of this regulation, or
    - (iv) a free growing stand has not been established, but the free growing date has passed, and
  - (e) a summary of any silviculture treatments that were carried out during the reporting period.
- (4) Before September 1 of each year, a timber sales manager must report to the district manager
- (a) the following information about road construction during the reporting period by the holder of a timber sale licence or of a road permit granted under section 3 (2) (b) of the Act or by the timber sales manager under section 3 (2) (c) of the Act:
    - (i) the location of the road;
    - (ii) the location, type and overall length of any bridges;
    - (iii) the location and the diameter or span of any major culverts and of any fish-stream culverts;
    - (iv) the stream crossing identifiers for bridges and culverts referred to in subparagraphs (ii) and (iii);
    - (v) the location of engineered structures other than bridges, culverts or fords;
    - (vi) the location of road sections containing stumps, roots and embedded logs left or placed
      - (A) under the road fill within the road prism width, if the road is located on landslide prone terrain, or
      - (B) under the travelled portion of the road fill for other road locations, and
  - (b) the location of any road that was constructed
    - (i) by the holder of a timber sale licence or of a road permit granted under section 3 (2) (b) of the Act or by the timber sales manager under section 3 (2) (c) of the Act, and
    - (ii) deactivated during the reporting period.
- (5) Before June 1 of each year, a timber sales manager must report to the district manager
- (a) for areas harvested during the reporting period under
    - (i) a timber sale licence entered into under the *Forest Act* between the timber sales manager and its holder, or
    - (ii) a forestry licence to cut entered into under the *Forest Act* between the timber sales manager and its holder,

- the information referred to in subsection (3) (a) and (b) of this section, and
- (b) for areas in which the timber sales manager establishes free growing stands as required under section 29 (2) of the Act, the information referred to in subsection (3) (c), (d) and (e) of this section.
- (6) Information required under this section must be reported in a form and manner that is satisfactory to the minister.

#### **Exceptions respecting the annual reports**

- 86.1**
- (1) Despite section 86, information as to an update of the forest cover inventory need not be reported in accordance with subsections (3) (d) and (5) of that section if that information has previously been furnished under section 97.
  - (2) Despite section 86, information about road construction and deactivation that is to be reported in 2004 and 2005 need not be reported under subsections (2) and (4) of that section until after December 31, 2005.
  - (3) However,
    - (a) an agreement holder must furnish to the district manager before December 31, 2005, without regard to a reporting period under section 86, the information about road construction and deactivation that
      - (i) is referred to in subsection (2) of section 86, and
      - (ii) has not been previously reported under section 112, and
    - (b) the timber sales manager must furnish to the district manager before December 31, 2005, without regard to a reporting period under section 86, the information about road construction and deactivation that
      - (i) is referred to in subsection (4) of section 86, and
      - (ii) has not been previously reported under section 112.
  - (4) Section 86 (3) (a) and (5) (a) does not apply to a cutblock of less than 1 ha unless
    - (a) the cutblock is immediately adjacent to another cutblock of less than 1 ha, and
    - (b) the combined area of both cutblocks exceeds 1 ha.

#### **Annual report requirements inapplicable to certain agreements**

- 86.2** Section 86 does not apply to the holder of
- (a) a timber sales licence,
  - (b) a forestry licence to cut, or
  - (c) a road permit
- entered into under the *Forest Act* between the timber sales manager and the holder of the licence or permit.

#### **56     *Section 87 is repealed and the following substituted***

##### **Site specific standards**

- 87**
- (1) On or before furnishing a report referred to in section 86 (3) (a) for an area to which section 29 (1) of the Act applies, an agreement holder must submit to the

district manager a map indicating standards units and the standards that apply to them.

- (2) On or before furnishing a report referred to in section 86 (3) (a) for an area to which section 29 (2) of the Act applies, a timber sales manager must submit to the district manager a map indicating standards units and the standards that apply to them.
- (3) If, after submitting a map referred to in subsection (1) or (2), a timber sales manager or an agreement holder changes
  - (a) a standards unit, or
  - (b) the standards that relate to the standards unit,the timber sales manager or holder must prepare and submit to the district manager on the applicable date under subsection (4) a further map describing the changes.
- (4) For the purposes of subsection (3), the applicable date
  - (a) for changes made before planting seedlings is the date on which information described in section 86 (3) (c) is to be furnished,
  - (b) for changes made after planting seedlings but before the regeneration date, is the date on which information described in section 86 (3) (d) (i) or (ii), is to be furnished, and
  - (c) for changes made after the regeneration date but before the free growing date, is the date on which information described in section 86 (3) (d) (iii) or (iv) is to be furnished.
- (5) For cutblocks in which the minister must establish a free growing stand under section 46, the minister must prepare and retain a map indicating standards units and the different standards that apply to them, including any changes to them.

**57     *Section 88 is amended***

***(a) by repealing subsection (1) (a) and substituting the following:***

- (a) 15 months after a declaration has been made under section 97 of this regulation in respect of a free growing stand being established on the area, and, ***and***

***(b) by adding the following:***

- (3) If the minister carries out a silviculture treatment on an area to which section 46 applies, the minister must maintain records of the silviculture treatment until a free growing stand is established on the area.

**58     *Section 89 is repealed.***

**59     *Sections 91 and 92 are repealed and the following substituted:***

### **Minister may grant exemptions**

- 91** (1) If the minister is satisfied that it is not practicable, given the circumstances or conditions applicable to a particular area, the minister may exempt
- (a) a person from
    - (i) one or more of the following sections of the Act: 10; 29; 29.1, or
    - (ii) one or more of the following sections of this regulation: 41; 42; 46; 46.1; 50 (2) or (3); 51; 55 to 63; 68; 70 (1); 72; 73; 75; 76; 78; 79; 83 to 85 (1),
  - (b) a holder of any form of minor tenure from one or more specified provisions of this regulation, and may restrict the exemption to a holder of a minor tenure located in a particular forest region, forest district or other area of British Columbia, and
  - (c) a holder of a forestry licence to cut, other than a major licence or a minor tenure, from one or more of sections 35, 36, 47 to 52 and 64 to 67.
- (2) The minister may exempt an agreement holder from section 67 if the minister is satisfied that the holder has specified one or more wildlife tree retention areas that provide an area, number of trees or habitat that is equivalent to the portion of the wildlife tree retention area from which the timber is being harvested.

### **Exemptions by minister responsible for *Wildlife Act***

- 92** (1) The minister responsible for the *Wildlife Act* may exempt a person from section 69 of this regulation in relation to a general wildlife measure, if satisfied that
- (a) the intent of the general wildlife measure will be achieved, or
  - (b) compliance with that provision is not practicable, given the circumstances or conditions applicable to a particular area.
- (2) The minister responsible for the *Wildlife Act* may exempt a person from section 70 (2) of this regulation if satisfied that compliance with that provision is not practicable, given the circumstances or conditions applicable to a particular area.

### **Exemptions resulting from an established objective**

- 92.1** (1) Subject to subsection (2), if the minister responsible for the *Forest Act* approves a result or strategy in a forest stewardship plan in respect of an established objective that conflicts with a requirement of Part 4 or 5, the minister must exempt the holder of the plan from the requirement that conflicts with the established objective.
- (2) If an exemption referred to in subsection (1) is
- (a) in relation to section 69 or 70 (2), the minister responsible for the *Wildlife Act* may attach conditions to the exemption he or she considers necessary to address the conflict, and
  - (b) in relation to a provision of this regulation other than section 69 or 70 (2), the minister responsible for the *Forest Act* may attach conditions to the exemption that he or she considers necessary to address the conflict.



- (3) An exemption under this section does not affect any of the following that are in effect on the date the result or strategy referred to in that subsection is approved:
  - (a) a timber sale licence;
  - (b) a cutting permit;
  - (c) a road permit;
  - (d) a road use permit;
  - (e) a declared area.

**60     *Section 94 is repealed and the following substituted:***

**Transfer of obligations**

- 94**     (1) For the purpose of section 29.1 (1) (b) or (3) (b) of the Act, a person may transfer an obligation to establish a free growing stand if the minister is satisfied that the person to whom the obligation is to be transferred
- (a) is likely to meet the obligation, and
  - (b) has provided security to the minister in a form and in an amount specified by the minister.
- (2) If the minister approves an agreement under section 29.1 (1) (c) or (3) (c) of the Act, the minister must return to the person who transferred the obligation any security deposit provided by that person specifically for that obligation.
- (3) Subject to subsection (4) and (5), the stocking standards referred to in section 29.1 (5) of the Act are the stocking standards that were in effect for the transferred obligation immediately before the transfer became effective.
- (4) The minister may approve stocking standards other than those referred to in subsection (3) if satisfied that the stocking standards are consistent with section 26.
- (5) A person to whom an obligation is transferred under section 29.1 (5) of the Act may change, without the minister's approval, the regeneration date, free growing date, free growing height or stocking standards that apply to an area if the change does not result in a significant departure from the dates, heights or standards originally approved under section 16 of the Act.
- (6) In fulfilling an obligation transferred under section 29.1 of the Act to a person, the person must comply with
- (a) sections 42 to 46.1, as applicable, sections 58, 63, 86 (3) (b) to (d), 87 (3) and 88 of this regulation, and
  - (b) every other provision of this regulation that regulates silviculture treatments, either specifically or by reference to a primary forest activity.

**61     *Section 96 is amended***

**(a) *by repealing subsection (1) and substituting the following:***

- (1) For the purpose of section 108 (1) (b) of the Act, the minister must not relieve an agreement holder from the requirements of sections 37 to 40, 46, 46.1 or 74 of

this regulation unless satisfied that extraordinary circumstances exist which, due to their nature, would make it unjust if the agreement holder were not relieved.

- (1.1) For the purpose of section 108 of the Act, “**an event causing damage**”, in relation to an area in which a person has an obligation to establish a free growing stand, means

- (a) an occurrence of wildfire,
- (b) an outbreak of *Dothistroma*, or
- (c) another event that renders the area ill-suited for the establishment of a free growing stand. ,

***(b) by repealing subsection (3) (b) and substituting the following:***

- (b) determine whether or not to provide the funds necessary for the proposal under subsection (2) (b), or , ***and***

***(c) by adding the following subsection:***

- (4) During the period of one year described in subsection (3), a person who makes a request is not required to meet a requirement of the Act or this regulation that relates to the request.

**62     *Section 97 is repealed and the following substituted:***

**Declarations of agreement holders and others as to fulfillment of obligations**

- 97**     (1) In this section, “**treatments**” means silviculture treatments that
- (a) are brushing treatments or juvenile spacing treatments, and
  - (b) were carried out during the 16th or any subsequent year after the applicable commencement date.
- (2) For the purposes of section 107 (4) (a) of the Act, the prescribed period is 15 months.
- (3) A person may make a written declaration under section 107 of the Act for a cutblock to which section 44 (4) or 46.1 (2) of this regulation applies no earlier than 12 months after the completion of harvesting on the area of the cutblock.
- (4) A person who makes a written declaration under section 107 of the Act in respect of the establishment of a free growing stand is exempt from the requirements of subsection (5) of that section.
- (5) Subject to subsection (3) of this section, and without limiting section 107 of the Act, a person who is required to establish a free growing stand under
- (a) section 44, 45, 46.1 (2) or 46.2 (5) of this regulation, or
  - (b) section 29.1 of the Act
- may make a written declaration under section 107 of the Act that a free growing stand has been established on a cutblock at any time after the applicable free growing height and stocking standards have been met.
- (6) A stand on an area that is the subject of a written declaration under section 107 of the Act is not free growing on the date of the declaration, if

- (a) it is more likely than not that 20 years after the applicable commencement date, the stand
  - (i) will not conform to the applicable stocking standards, or
  - (ii) will be impeded in its growth because of adverse effects on the area because of the effect on the area of forest health factors or competition from plants, shrubs or other trees, or
- (b) it is more likely than not that 5 years after completion of the last of the brushing or spacing treatments on the stand that were carried out more than 15 years after the applicable commencement date the stand
  - (i) will not conform to the applicable stocking standards, or
  - (ii) will be impeded in its growth by competition from plants, shrubs or other trees
 because those treatments were ineffective or had an adverse effect on the stand.
- (7) A written declaration under section 107 of the Act to the effect that the requirements for the regeneration date or free growing date on an area have been met in respect of an area must include or incorporate by reference a current forest cover inventory for the area.

**63**     *Sections 98, 99 and 101 are repealed.*

**64**     *Sections 102 and 103 are repealed and the following substituted:*

**Offences generally**

- 102**     (1) A person who contravenes section 35 (3), 37, 38, 44 (1), (2) or (4), 45 (1) or (2), 46.1 (1) or (2), 46.2 (5), 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 (2), 63 (1), 66, 67, 69, 72, 73, 74, 75, 76, 77 (1) (a), 79 (8), 82 (1) (a), (b) or (c) or 83 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.
- (2) A person who contravenes section 39, 40, 41, 64, 65 (2), 70, 77 (1) (b) or (c) or (3), 79 (2), (3), (5) or (6), 80 or 82 (1) (d) or (4) or 106.2 (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.
- (3) A person who contravenes section 35 (6) or (7), 36, 42, 43 (4) or (7) (b), 68 (1), 77 (2), 78, 79 (1) or (7), 84 or 85 (1) 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.

**Offences respecting alternative results or strategies**

- 103**     If the holder of a forest stewardship plan that specifies intended results and strategies included in accordance with any of sections 12.2 to 12.5 does not ensure that the intended results are achieved and the strategies are carried out, the holder commits an offence and is liable, on conviction, to the fine or imprisonment, or both, applicable

to the provision from which the holder became exempt on receiving the minister's approval to the plan.

**65**     *Section 104 and Part 9 is repealed.*

**66**     *The following Part is added:*

## **PART 9.1 – MISCELLANEOUS**

### **Process respecting orders and exemptions**

- 106.1**    (1) An order or an exemption under this regulation must
- (a) be in writing,
  - (b) specify the matter to which it relates,
  - (c) specify when the order or exemption comes into effect,
  - (d) be delivered to the person to whom the order or exemption applies, and
  - (e) be filed with the district office for the forest district in which the area or thing to which the order or exemption applies is located.
- (2) An order or exemption under subsection (1) takes effect on
- (a) a date agreed to by the person making the order or granting the exemption and the person to whom the exemption applies, or
  - (b) subject to paragraph (a), the later of the date
    - (i) specified in the order or exemption, and
    - (ii) the order or exemption is received by the person to whom the order or exemption applies.

### **Requirements specific to timber sale licences**

- 106.2**    (1) A holder of a timber sale licence who carries out a primary forest activity on an area that is in a forest development unit of a forest stewardship plan prepared by a timber sales manager must ensure that the activity is consistent with
- (a) the intended results or strategies that are identified by the timber sales manager and that
    - (i) relate to the area,
    - (ii) apply to the area in the manner that under section 10 (2) (c) of the Act is identified in the site plan for the area, and
    - (iii) are contained in the forest stewardship plan, and
  - (b) the establishment of a free growing stand on areas referred to in section 29 (2) of the Act.
- (2) If the timber sales manager
- (a) has prepared a forest stewardship plan for which he or she has received the minister's approval, and
  - (b) is exempt, for that plan, under sections 12.2 to 12.5, from particular provisions of this regulation, as set out in those sections,

the holder of a timber sale licence for an area to which the plan pertains is exempt for that area from those particular provisions.

- (3) A holder of a timber sale licence who carries out a primary forest activity on an area that is in a forest development unit of a forest stewardship plan prepared by a timber sales manager must not apply for an exemption under section 91 or 92 without the consent of the timber sales manager.

#### **Requirements for multiple holders of forest stewardship plan**

- 106.3** (1) In this section, “**co-holder of a plan**” means a person who is one of the holders of a forest stewardship plan that is held by more than one person.
- (2) A co-holder of a plan other than a timber sales manager is exempt from section 21 of the Act in respect of
- (a) an intended result specified in the plan, or
  - (b) a strategy described in the plan
- to the extent that the result or strategy applies to an area that is subject to
- (c) a cutting permit or road permit held by another co-holder, or
  - (d) a timber sale licence or road permit issued by the timber sales manager.
- (3) A timber sales manager who is a co-holder of a plan is exempt from section 21 of the Act in respect of
- (a) an intended result specified in the plan, or
  - (b) a strategy described in the plan
- to the extent that the result or strategy applies to an area that is subject to a cutting permit or road permit held by another co-holder.

**67** *Section 107 is repealed.*

**68** *The following sections are added:*

#### **Preparing a forest development plan for a transitional period after December 31, 2004**

- 107.1** (1) Despite section 3 of the Act, during the period beginning on January 1, 2005 and ending on December 31, 2005, a timber sales manager or a holder of an agreement under the *Forest Act* may prepare and submit for the district manager’s approval a forest development plan or an amendment to one.
- (2) Section 188 (2) to (5) of the Act apply in respect of a forest development plan referred to in subsection (1) of this section.

#### **Applying for cutting permits and road permits for a transitional period after December 31, 2005**

- 107.2** (1) If
- (a) a forest development plan ceases to have effect on December 31, 2005 under section 187 (1) (c) or 188 (4) (c) of the Act, and

- (b) the former holder of the plan continues to be an agreement holder under section 195 (1) (a) of the Act
- then,
- (c) the former holder of the plan may apply after that date and before January 1, 2007 for a cutting permit, road permit or licence to cut, or for an amendment or extension to any of them and
  - (d) the *Forest Act*, the Code and the Code regulations, apply in respect of that application
- as if the plan were still in effect.
- (2) If a forest development plan held by the district manager or a timber sales manager ceases to have effect on December 31, 2005 under section 187 (1) (c) or 188 (4) (c) of the Act, the timber sales manager may
    - (a) invite applications for, or enter into, a timber sale licence to which section 195 (1) of the Act does not apply, and
    - (b) issue a road permit,
 after that date and before January 1, 2007, as if the plan were still in effect.
  - (3) A person who
    - (a) harvests timber, or
    - (b) constructs a road
 under a cutting permit, road permit, licence to cut or timber sale licence referred to in subsection (1) or (2) must comply with the requirements of the Code and the Code regulations.
  - (4) For the purposes of subsection (3), the specifications that were applicable under a forest development plan described in subsection (1) or (2) immediately before December 31, 2005 continue to be applicable.

#### **Assessments under section 196 (1) of the Act**

- 110** For the purpose of section 196 (1) of the Act, a cutblock for which a site plan has been prepared under section 21.1 of the Code must be considered to have received the minister's approval under section 16 (1) of the Act if
- (a) the cutblock has been identified in a forest development plan, and
  - (b) the requirements of section 36.1 of the Operational and Site Planning Regulation have been met.

#### **Amalgamating obligations to establish a free growing stand**

- 111** (1) Subject to subsections (2) to (4), the minister must exempt the holder of an agreement or the timber sales manager from an obligation under Part 11 of the Act to establish a free growing stand on an area in accordance with section 69.1 or 70 of the Code if
- (a) the person proposes to manage, under a consolidated site level plan, an area that
    - (i) is subject to 2 or more site level plans, or
    - (ii) is comprised of

- (A) one or more site level plans, and
  - (B) an area without a site level plan, and
- (b) the minister is satisfied that the exemption is warranted, given the circumstances or conditions applicable to the area.
- (2) A person exempted under subsection (1), must
  - (a) prepare a consolidated site level plan for the area referred to in that subsection, and
  - (b) ensure that the consolidated site level plan conforms to the requirements of
    - (i) a site plan under the Bark Beetle Regulation B.C. Reg. 286/2001, as it was immediately before its repeal, if that regulation will apply to any timber harvesting proposed for the area under the plan, and
    - (ii) a site plan under the Operational and Site Planning Regulation, B.C. Reg. 107/98, as it was immediately before its repeal, if the Bark Beetle Regulation will not apply to any timber harvesting proposed for the area under the plan.
- (3) A holder of a consolidated site level plan described in subsection (2) (b) (i) must
  - (a) establish a free growing stand on the net area to be reforested in accordance with the requirements of the Code and the Bark Beetle Regulation, and
  - (b) otherwise comply with the Code and the Code regulations in respect of forest practices and associated record and reporting requirements.
- (4) A holder of a consolidated site level plan described in subsection (2) (b) (ii) must
  - (a) establish a free growing stand on the net area to be reforested in accordance with the requirements of the Code and the Timber Harvesting and Silviculture Practices Regulation, B.C. Reg. 352/2002, as it was immediately before its repeal, and
  - (b) otherwise comply with the Code and the Code regulations.
- (5) If the district manager determines that timber harvesting on an area subject to a consolidated site level plan is proposed to address an incidence of blowdown, beetle infestation or other forest health factor, the district manager may
  - (a) establish a commencement date for the purpose of subsection (4) that is later than the commencement date described in section 1 of the Bark Beetle Regulation, or
  - (b) establish a commencement date for the purpose of subsection (5) that is later than the commencement date described in section 69.1 or 70 of the Code.
- (6) An exemption under subsection (2) does not become effective until the person who is the subject of the exemption has complied with the requirements of subsection (3).
- (7) A consolidated site level plan is an operational plan for the purposes of section 106.1 of the Act.

### **Reporting requirements for roads**

- 112** (1) In this section, “**reporting period**”, in respect of the year in which the report referred to in subsection (2) is to be prepared or submitted, means the period extending from April 1 of the previous year to March 31 of that year.
- (2) An agreement holder and the timber sales manager who, under Part 11 of the Act, have an obligation to construct, maintain or deactivate a road in accordance with the Code and the Code regulations are exempt from the requirements of section 8 (3) of the Forest Road Regulation, B.C. Reg. 351/2002, as it was immediately before its repeal.
- (3) An agreement holder must comply with the requirements of section 86 (2) and 86.1 (2) and (3) (a).
- (4) A timber sales manager must comply with the requirements of section 86 (4) and 86.1 (2) and (3) (b).
- (5) Information required under this section must be prepared in a form and manner satisfactory to the minister.
- (6) Nothing in this section requires a person to submit road deactivation information if that information has already been included in a forest development plan.

### **Annual report requirements inapplicable to certain agreements**

- 113** Section 112 does not apply to the holder of
- (a) a timber sales licence if eligibility was restricted to one or more categories of BCTS enterprises, or
  - (b) a road permit associated with a timber sale licence entered into under the *Forest Act* between
  - (c) the district manager and its holder, or
  - (d) the timber sale manager and its holder.

### **Road deactivation by holders of timber sale licences**

- 114** A holder of
- (a) a timber sale licence that is in effect on the coming into force of this section, or
  - (b) a road permit associated with the timber sale licence
- who is required under section 63 (1) (a) of the *Forest Practices Code of British Columbia Act* to maintain a road that is subject to the licence or the permit until the road is deactivated must deactivate the road in accordance with section 64 of that Act before the expiry of the timber sale licence.

### **69 Section 2 (a) of the Schedule entitled “Factors” is repealed and the following substituted:**

- (a) the type of management regime that is required for a riparian area, having regard to



- (i) the need to buffer the aquatic ecosystem of a stream, wetland or lake from the introduction of materials that are deleterious to water quality or fish habitat,
- (ii) the role played by trees and understory vegetation in conserving water quality, fish habitat, wildlife habitat and biodiversity,
- (iii) the need to maintain stream bank and stream channel integrity, and
- (iv) the relative importance and sensitivity of different riparian classes of streams, wetlands and lakes in conserving water quality, fish habitat, wildlife habitat and biodiversity; .