

## PDF Version

[Pre-Jan. 31, 2004 amendments]

# FOREST PRACTICES CODE OF BRITISH COLUMBIA ACT

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# FOREST PRACTICES CODE OF BRITISH COLUMBIA ACT

159

[includes 2003 Bill 76 amendments (effective Jan. 1, 2004)]

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**Preamble**

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

AND WHEREAS sustainable use includes

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

1997-48-43.

**PART 1 – Definitions****Definitions**

1. (1.) In this Act:

"**agreement under the *Forest Act***" means an agreement in the form of a licence, permit or agreement referred to in section 12 of the *Forest Act*;

"**agreement under the *Range Act***" means an agreement in the form of a licence or permit referred to in section 3 of the *Range Act*;

"**bladed trail**" means a bladed trail as defined by regulation;

"**board**" means the Forest Practices Board established under section 190;

"**botanical forest product**" means a prescribed plant or fungus that occurs naturally on Crown forest land;

"**commission**" means the Forest Appeals Commission continued under section 194;

"**community watershed**" means a community watershed under section 41 (8);

"**compacted area**" means a compacted area of soil as defined by regulation;

"**corduroyed trail**" means a corduroyed trail as defined by regulation;

"**council**" means the Forest Practices Advisory Council referred to in section 221;

"**Crown forest land**" means forest land that is Crown land;

"**cutblock**" means an area, in which timber is to be harvested or has been harvested, identified in a forest development plan, licence to cut, cutting permit, road permit or Christmas tree permit;

"**deactivate**" when used in relation to a road, means deactivation of the road as prescribed;

"**designated energy and mines official**" means a person employed in the Ministry of Energy and Mines who is designated by name or title to be a designated energy and mines official by the minister of that ministry for the purpose of a provision of this Act or the regulations that is set out in the designation;

"**designated environment official**" means a person employed in the Ministry of Environment, Lands and Parks who is designated by name or title to be a designated environment official by the minister of that ministry for the purpose of a provision of this Act or the regulations that is set out in the designation;

"**designated forest official**" means a person employed in the Ministry of Forests who is

designated by name or title to be a designated forest official by the minister of that ministry for the purpose of a provision of this Act or the regulations that is set out in the designation;

**"determination"** means any act, decision, procedure, levy, finding, order or other determination made under this Act, the regulations or the standards by a reviewer, official or senior official;

**"dispersed disturbance"** means a dispersed disturbance as defined by regulation;

**"excavated trail"** means an excavated trail as defined by regulation;

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

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

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

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

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

**"higher level plan"** means an objective

- (a) for a resource management zone,
- (b) for a landscape unit or sensitive area,
- (c) for a recreation site, recreation trail or interpretive forest site, and
- (d) [not yet in force]

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

**"livestock"** means livestock as defined under the *Range Act* and those species designated by

regulation as being livestock;

**"maintain"** , in relation to a road, means to carry out any activity related to the repair of, or physical change to, the road, but not its deactivation, and includes any modification related to the repair of the road;

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

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

**"ministers"** means the Minister of Forests, the Minister of Environment, Lands and Parks and the Minister of Energy and Mines;

**"minor salvage operation"** means minor salvage operation as defined by regulation;

**"modify"** , when used in relation to the repair of a road or to a physical change to a road, means to carry out any of the following activities:

- (a) replacing or adding a stream culvert;
- (b) replacing or adding a bridge, or providing structural repairs to a bridge or major culvert;
- (c) relocating an existing road;
- (d) re-establishing road subgrade stability;
- (e) re-establishing cut slope stability by re-sloping, buttressing or erecting a retaining structure along the cut slope;

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

**"net area to be reforested"** means

- (a) the portion of the area under a silviculture prescription that does not include
  - (i) an area occupied by permanent access structures,
  - (ii) an area of rock, wetland or other area that in its natural state is incapable of growing a stand of trees that meets the stocking requirements specified in the prescription,
  - (iii) an area of non-commercial forest cover of 4 ha or less that is indicated in the silviculture prescription as an area where the establishment of a free growing stand is not required,
  - (iv) a contiguous area of more than 4 ha that the district manager determines is composed of non-commercial forest cover, or
  - (v) an area indicated in the silviculture prescription as a reserve area where the establishment of a free growing stand is not required, and
- (b) if there is no silviculture prescription for a cutblock, the portion of the cutblock that does not include
  - (i) an area occupied by permanent access structures,
  - (ii) an area of rock, wetland or other area that in its natural state is not

- capable of supporting a stand of trees that meets the stocking requirements specified in the regulations,
- (iii) an area of non-commercial forest cover that is indicated on an operational plan or in the prescribed manner as an area in which the establishment of a free growing stand is not required, or
  - (iv) an area indicated on an operational plan or in the prescribed manner as a reserve area in which the establishment of a free growing stand is not required;

**"official"** means

- (a) a designated forest official,
- (b) a designated environment official, or
- (c) a designated energy and mines official;

**"operational plan"** means a forest development plan, logging plan, range use plan or silviculture prescription, or a site plan for a woodlot licence or for a community forest agreement;

**"permanent access structure"** means permanent access structure as defined by regulation;

**"range development"** means

- (a) if related to the management, for range purposes, of range land or livestock, a structure, excavation or constructed livestock trail, and
- (b) a practice, excluding grazing, that is designed to improve range conditions or facilitate more efficient use of range land for range purposes;

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

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

**"recreation resource"** means

- (a) a recreation feature,
- (b) a scenic or wilderness feature or setting that has recreational significance or value, or
- (c) a recreation facility;

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

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

**"reviewer"** means the person or majority of persons assigned by a review official for the purpose of a review of a determination under section 129;

**"senior official"** means

- (a) a district manager or regional manager,
- (b) a person employed in a senior position in the Ministry of Forests, who is designated by name or title to be a senior official for the purposes of this Act by the minister of that ministry,
- (c) a person employed in a senior position in the Ministry of Water, Land and Air Protection, who is designated by name or title to be a senior official for the purposes of this Act by the minister of that ministry, and
- (d) a person employed in a senior position in the Ministry of Energy and Mines, who is designated by name or title to be a senior official for the purposes of this Act by the minister of that ministry;

**"site plan"** means

- (a) in relation to
  - (i) a holder of a forest development plan other than a holder of a woodlot licence or a community forest agreement, or
  - (ii) a holder of a timber sale licence that requires its holder to prepare a site plan,a plan under section 21.1, and
- (b) in relation to a holder of a woodlot licence or a community forest agreement, a site plan prepared by the holder under a regulation made under section 217.1;

**"soil disturbance"** means

- (a) disturbance to the soil that occurs, on an area covered by a silviculture prescription or by a site plan under section 21.1, because of
  - (i) excavated or bladed trails that are of a temporary nature,
  - (ii) corduroyed trails,
  - (iii) temporary access structures,
  - (iv) compacted areas resulting from a forest practice, or
  - (v) dispersed disturbance of the soil resulting from a forest practice, and
- (b) if there is no silviculture prescription for a cutblock in a woodlot licence area or a community forest agreement area, disturbance to the soil that occurs, on an area covered by a site plan prepared by the holder of the licence or agreement, because of
  - (i) excavated or bladed trails of a temporary nature,
  - (ii) corduroyed trails,
  - (iii) compacted areas resulting from a forest practice, or
  - (iv) dispersed disturbance of the soil resulting from a forest practice;

**"standard"** means a standard established by the chief forester under section 8;

**"temporary access structure"** means temporary access structure as defined by regulation;

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

**"wildlife"** means

- (a) a vertebrate that is a mammal, bird, reptile or amphibian prescribed as wildlife



- under the *Wildlife Act*,
- (b) a fish, including
  - (i) any vertebrate of the order Petromyzoniformes (lampreys) or class Osteichthyes (bony fishes), or
  - (ii) any invertebrate of the class Crustacea (crustaceans) or class Mollusca (mollusks)
 from or in the non-tidal waters of British Columbia, and
- (c) an invertebrate or plant listed by the Minister of Water, Land and Air Protection as an endangered, threatened or vulnerable species,

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

- (2.) Words and expressions not defined in this Act have the meaning given to them in the *Forest Act* and *Range Act* except where the context indicates otherwise.
- (3.) A reference in this Act to the minister or his or her designate, or the minister or a person authorized by the minister, or any similar reference, does not mean that a reference to the minister alone requires the minister to deal with the matter personally, and a reference to the minister alone means a reference to the minister or an appropriate official of the Ministry of Forests.
- (4.) Section 14 (2) of the *Interpretation Act* does not apply to this Act.
- (5.) Sections 117, 119, 143 and 157 do not apply to the government.
- (6.) If a regulation is made under subsection (7), a district manager may, in accordance with the regulation, delegate any of the district manager's powers or duties to a person employed in the Ministry of Forests.
- (7.) The Lieutenant Governor in Council may by regulation
  - (a) authorize one or more district managers to delegate any of the district manager's powers or duties under the regulations, or under the provisions set out in subsection (8), to a person employed in the Ministry of Forests,
  - (b) limit the powers and duties that may be delegated, and
  - (c) limit the persons or classes of persons to whom the district manager may delegate.
- (8.) A regulation under subsection (7) may authorize the delegation of powers and duties under the regulations or under sections 18 (7), 19, 20 to 33, 35 to 41, 44, 48.1, 49, 50, 52, 54, 59 to 61, 63 (5) and (7), 64, 65, 69, 74, 101 (1) or (1.1), 228, 230, 232, 236, 238 or 240.
- (9.) With respect to a power or duty exercised by a delegate under subsection (6), the provisions of this Act or a regulation or standard made under this Act apply to the delegate as if the delegate were the district manager.
- (10.) For the purposes of a provision that refers to a higher level plan, an operational plan or a consent being consistent or inconsistent,
  - (a) an operational plan is consistent with a higher level plan or another operational plan if the operational plan does not materially conflict with the higher level plan or the other operational plan,
  - (b) a higher level plan is consistent with another higher level plan if the higher level plan does not materially conflict with the other higher level plan, and
  - (c) a consent is consistent with a higher level plan or an operational plan if the consent does not materially conflict with the higher level plan or the operational plan.

- (11.) In this Act, a reference to section 22 is a reference to that section as it was immediately before it was repealed and, for the purpose of a provision of this Act that refers to section 22, section 22 is deemed to continue in force despite its repeal.

1994-41-1; 1995-6-1; 1997-48-44 (parts), 45(b), 138; 1998-29-18; RS1996(Supp)-159-1; 1996-11-20; 1999-34-15; 2000-6-22(a), (c), 23, 52;

#### **Nisga'a Final Agreement**

- 1.1 (1.) In this section, "**Nisga'a Final Agreement**" has the same meaning as in the *Nisga'a Final Agreement Act*.
- (2.) Forest development plans required under the Forest Resources Chapter and Appendix H of the Nisga'a Final Agreement by the holder of a licence referred to in paragraph 5 (b) of that chapter are deemed to be forest development plans under this Act and the regulations.
- (3.) Silviculture prescriptions required under the Forest Resources Chapter and Appendix H of the Nisga'a Final Agreement by
- (a) the holder of a licence referred to in paragraph 5 (b) of that chapter, or
  - (b) the district manager
- are deemed to be silviculture prescriptions under section 22 of this Act and under the regulations.
- (4.) Section 21.1 does not apply for the purposes of the Nisga'a Final Agreement.

1999-2-39; 2002-76-5 (B.C.Reg. 349/2002).

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

**Provincial forest and a wilderness area**

- 2. (1.) Private land in a tree farm licence or in a woodlot licence and Crown land that is
  - (a) in a Provincial forest, other than Crown land in a wilderness area,
  - (b) described in an agreement under the *Range Act*, or
  - (c) described in a woodlot licence

must be managed and used in a way that is consistent with one or more of the following:

- (d) timber production, utilization and related purposes;
  - (e) forage production and grazing by livestock and wildlife and related purposes;
  - (f) recreation, scenery and wilderness purposes;
  - (g) water, fisheries, wildlife, biological diversity and cultural heritage resource purposes;
  - (h) any purpose permitted by or under the regulations.
- (2.) A wilderness area must be managed and used in a way that is consistent with one or more of the following:
    - (a) preservation of wilderness;
    - (b) preservation of biological diversity;
    - (c) subject to subsection (3), any purpose permitted by or under the regulations.
  - (3.) A person must not carry out commercial timber harvesting in a wilderness area.
  - (4.) Despite subsections (1) to (3), under the *Coal Act*, the *Geothermal Resources Act*, the *Mineral Tenure Act* or the *Petroleum and Natural Gas Act*, a person may use or occupy Crown land that is
    - (a) in a Provincial forest or in a wilderness area, if the person does so in accordance with the regulations and, if required by the regulations, with a special use permit,
    - (b) described in an agreement under the *Range Act*, or
    - (c) described in a woodlot licence.
  - (5.) A person must obtain a special use permit, if required to do so by the regulations, if the person uses or occupies Crown land that is
    - (a) in a Provincial forest or in a wilderness area,
    - (b) described in an agreement under the *Range Act*, or
    - (c) described in a woodlot licence.
  - (6.) Subsection (5) does not apply to a person who uses or occupies Crown land described in an agreement under the *Range Act* or in a woodlot licence if the use or occupation is under the *Coal Act*, the *Geothermal Resources Act*, the *Mineral Tenure Act* or the *Petroleum and Natural Gas Act*.
  - (7.) *Repealed.* [2002-26-4]

1994-41-2; 1997-48-46; 1998-29-19; 2002-26-4.

**Resource management zones and objectives**

3. (1.) The minister, in accordance with the regulations and by written order, may
  - (a) establish an area of Crown land or an area of private land in a tree farm licence or woodlot licence as a resource management zone, and
  - (b) vary the boundaries of the zone or cancel the zone.
- (2.) The minister, in accordance with the regulations and by written order, must establish objectives for a resource management zone and may vary or cancel an objective.
- (3.) Before establishing, varying or cancelling a resource management zone or objective in a way that significantly affects the public, the minister must provide for
  - (a) review, and
  - (b) commentin accordance with the regulations.
- (4.) The minister must file an order made under this section
  - (a) with an office maintained by the minister in the forest region in which the resource management zone is located, or
  - (b) in accordance with the regulations.
- (5.) The establishment, variance or cancellation of a resource management zone or objective takes effect on the date the order is made or on a later date specified in the order.
- (6.) The minister must make available to the public
  - (a) an order made under subsection (1) and, if applicable, a map showing the boundaries of the resource management zone established or varied by that order, and
  - (b) an order made under subsection (2).
- (7.) The minister may
  - (a) delegate in writing the authority to establish, vary or cancel a resource management zone or objective to a person or class of persons,
  - (b) limit or revoke a delegation made under paragraph (a), and
  - (c) provide directions respecting the establishment, variance or cancellation of a resource management zone or an objective, in respect of a delegation made under paragraph (a).
- (8.) A plan or agreement declared to be a higher level plan for the purposes of this Act by the ministers before June 15, 1997 is continued and
  - (a) the area to which the plan or agreement applies is deemed to be a resource management zone,
  - (b) the provisions of the plan or agreement are deemed to be objectives,
  - (c) the plan or agreement need not meet any content requirements or any public review requirements that are prescribed under this Act, and
  - (d) the plan or agreement remains in effect until the first to happen of the following:
    - (i) the plan or agreement expires and is not replaced under this section;
    - (ii) the plan or agreement is replaced with a resource management zone and objectives in accordance with this section.
- (9.) An order of the ministers under section 3 (1) of this Act in effect immediately before November 28, 2003 is deemed to be an order of the minister under subsection (1) of this section.
- (10.) An objective for a resource management zone in effect immediately before November 28, 2003 is deemed to be an objective ordered by the minister under subsection (2).

2002-76-6 (B.C.Reg. 349/2002).

**Landscape units and objectives**

4. (1.) The minister, in accordance with the regulations and by written order, may establish an area of Crown land or an area of private land in a tree farm licence or woodlot licence as a landscape unit and vary the boundaries of the unit or cancel the unit.
- (2.) The minister, in accordance with the regulations and by written order, must establish objectives for a landscape unit and may vary or cancel an objective.
- (3.) Before establishing, varying or cancelling a landscape unit or an objective in a way that significantly affects the public, the minister must provide for review and comment in accordance with the regulations.
- (4.) The minister must file an order made under this section
  - (a) with an office maintained by the minister in the forest region in which the landscape unit is located, or
  - (b) in accordance with the regulations.
- (5.) The establishment, variance or cancellation of a landscape unit or objective takes effect on the date the order is made or on a later date specified in the order.
- (6.) The minister must make available to the public
  - (a) an order made under subsection (1) and, if applicable, a map showing the boundaries of the landscape unit established or varied by that order, and
  - (b) an order made under subsection (2).
- (7.) The minister may
  - (a) delegate in writing the authority to establish, vary or cancel a landscape unit or objective to a person or a class of persons,
  - (b) limit or cancel a delegation made under paragraph (a), and
  - (c) provide directions respecting the establishment, variance or cancellation of a landscape unit or objective, in respect of a delegation made under paragraph (a).
- (8.) If an objective for a resource management zone is established or varied for an area that includes a landscape unit, to the extent that the objective for the landscape unit is inconsistent with the objective for the resource management zone, the objective for the resource management zone prevails.

2002-18-1.

**Sensitive areas and objectives**

5. (1.) The minister, in accordance with the regulations and by written order, may establish an area of Crown land or an area of private land in a tree farm licence or woodlot licence as a sensitive area and vary the boundaries of the area or cancel the area.
- (2.) The minister, in accordance with the regulations and by written order, must establish objectives for a sensitive area and may vary or cancel an objective.
- (3.) Before establishing, varying or cancelling a sensitive area or an objective for a sensitive area in a way that significantly affects the public, the minister must provide for
  - (a) review, and
  - (b) commentin accordance with the regulations.
- (4.) The minister must file an order made under this section
  - (a) with an office maintained by the minister in the forest region in which the sensitive area is located, or
  - (b) in accordance with the regulations.

- (5.) The establishment, variance or cancellation of a sensitive area or of an objective takes effect on the date the order is made or on a later date specified in the order.
- (6.) The minister must make available to the public
  - (a) an order made under subsection (1) and, if applicable, a map showing the boundaries of the sensitive area established or varied by that order, and
  - (b) an order made under subsection (2).
- (7.) The minister may
  - (a) delegate in writing the authority to establish, vary or cancel a sensitive area or objective to a person or class of persons,
  - (b) limit or revoke a delegation made under paragraph (a), and
  - (c) provide directions respecting the establishment, variance or cancellation of a sensitive area or objective, in respect of a delegation made under paragraph (a).
- (8.) If an objective for a resource management zone is established or varied for an area that includes a sensitive area, to the extent that the objective for the sensitive area is inconsistent with the objective for the resource management zone, the objective for the resource management zone prevails.
- (9.) An order of the district manager under section 5 (1) of this Act in effect immediately before November 28, 2003 is deemed to be an order of the minister under subsection (1) of this section.
- (10.) An objective for a landscape unit in effect immediately before November 28, 2003 is deemed to be an objective ordered by the minister under subsection (2).
- (11.) A direction of the chief forester under section 5 of this Act in effect immediately before November 28, 2003 is deemed to be a direction of the minister under subsection (7) (c) of this section.

2002-76-6 (B.C.Reg. 349/2002).

### **Interpretive forest sites, recreation sites and recreation trails**

6. (1.) In accordance with the regulations the chief forester, by written order, may establish Crown land as an interpretive forest site, recreation site or recreation trail, if the land is
  - (a) within a timber supply area, or
  - (b) subject to a tree farm licence, woodlot licence or timber licence,and may vary or cancel an establishment under this subsection.
- (2.) Before establishing, varying or cancelling an area under subsection (1), the chief forester must obtain the consent of the holder of
  - (a) a timber sale licence that does not provide for cutting permits or a licence to cut, other than a master licence to cut,
  - (b) a cutting permit, a free use permit, a Christmas tree permit, a road permit, a timber licence, a site plan, a silviculture prescription or a special use permit, or
  - (c) an interest issued or granted under the *Land Act*,if the holder's rights under the licence, permit, plan, prescription or interest would be adversely affected by the establishment, variation or cancellation.
- (3.) If the chief forester establishes an area under subsection (1), the chief forester must establish objectives for the area, in accordance with the regulations, within 6 months of the establishment.
- (3.1) The establishment of an area under subsection (1) or of an objective under subsection (3) takes effect on the date the order is made or on a later date specified in the order.

- (4.) The chief forester may vary or cancel an objective established under subsection (3).
- (5.) The chief forester may delegate in writing to an employee of the Ministry of Forests, the chief forester's authority to establish, vary or cancel an objective and may limit or cancel the delegation.

1994-41-6; 1997-48-50; 2002-76-7 (B.C.Reg. 349/2002).

**Maintenance of interpretive forest sites,  
recreation sites and recreation trails**

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

1994-41-7.

**Standards for operational plans  
and forest practices**

- 8. (1.) If authorized by the regulations and in accordance with the regulations, the chief forester may establish, vary or cancel standards that must be met
  - (a) in preparing an operational plan, or
  - (b) in carrying out a forest practice.
- (2.) In a standard under subsection (1), the chief forester may do one or more of the following:
  - (a) delegate a matter to a person;
  - (b) confer a discretion on a person;
  - (c) make different standards for different persons, places, things or transactions.
- (3.) The chief forester must file a standard with the regional manager for the area affected by the standard.
- (4.) A standard takes effect
  - (a) 6 months after it is filed with regional manager, or
  - (b) if authorized by the regulations and in accordance with the regulations, at an earlier time specified in the standard.
- (5.) The regional manager must make the standard available to the public in accordance with the regulations.
- (6.) If 2 or more standards apply to a specific area of British Columbia, the standard which provides greater protection and conservation of the environment and the forest resources prevails.
- (7.) A standard is not effective to the extent it conflicts with this Act or the regulations.

1994-41-8.

**Management plans and inventories**

- 9. (1.) If an objective, specification or measure in a management plan differs from those provided under this Act, the regulations, the standards or the objectives established under this Part, the more stringent objective, specification or measure prevails.
- (2.) *Repealed.* [1997-48-52]
- (3.) *Repealed.* [1997-48-52]
- (4.) *Repealed.* [1997-48-52]
- (5.) *Repealed.* [1997-48-52]

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

**Higher level plan transition required**

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

1997-48-53.



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

### Part 3: Division 1 – Content of Operational Plans

#### Forest development plans: content

10. (1.) Subject to subsections (2) to (5), a forest development plan must comply with the following:
  - (a) it must cover a period of at least 5 years unless otherwise prescribed;
  - (b) it must include, for the area under the plan,
    - (i) maps and schedules describing
      - (A) the approximate size, shape and location of cutblocks proposed for harvesting during the period referred to in paragraph (a), and the approximate location of existing and proposed roads that will provide access to the cutblocks, and
      - (B) in accordance with the regulations, the timing of proposed timber harvesting and related forest practices, including road construction, modification, maintenance and deactivation, and
    - (ii) matters required by regulation;
  - (c) it must specify
    - (i) in accordance with the regulations, and to the extent required by the regulations, silvicultural systems and harvesting methods that will be carried out within the cutblocks, and
    - (ii) measures to protect prescribed forest resources;
  - (d) it must
    - (i) be consistent with any higher level plan, and
    - (ii) meet the requirements of this Act, the regulations and the standards in effect 4 months before the date the plan is submitted for the district manager's approval or given effect by the district manager, unless the higher level plan or this Act, the regulations or the standards specify otherwise;
  - (e) it must be signed and sealed by a professional forester.
- (2.) Subsection (1) (d) does not apply to a cutblock to the extent provided in the regulations made under section 212.1.
- (3.) A forest development plan that proposes
  - (a) timber harvesting operations, or
  - (b) road construction and modification operationsrelating to minor salvage operations need not contain, for the minor salvage operations, the matters referred to in subsection (1) (b) (i) and (c) (i), but must otherwise comply with subsection (1).
- (4.) A forest development plan that
  - (a) at any time before the coming into force of this subsection, was approved under section 41 or given effect under section 40, and
  - (b) was in effect immediately before the coming into force of this subsectionis conclusively deemed to have complied with subsection (1) (c) (ii) as that provision

existed at the time the forest development plan was approved or was given effect.

1997-48-54 (part); 2002-76-8 (B.C.Reg. 349/2002).

### Logging plans: content

11. A logging plan must comply with the following:
  - (a) it must include, for the area of a cutblock,
    - (i) maps describing the location of
      - (A) roads that will be constructed or modified, and
      - (B) timber harvesting and related forest practices that will be carried out, and
    - (ii) matters required by regulation;
  - (b) it must specify, in detail,
    - (i) how harvesting methods will be carried out, and
    - (ii) how methods for rehabilitation will be carried out for temporary roads, landings, excavated or bladed trails and other areas where rehabilitation of soil disturbance is required;
  - (c) it must be consistent with any higher level plan in effect when the logging plan is submitted for the district manager's approval.
  - (d) *Repealed.* [1997-48-139]

1994-41-11; 1995-6-3; 1997-48-55, 139.

### Site plans: content

- 11.1 (1.) A site plan referred to in section 21.1 must
  - (a) be consistent with the forest development plan,
  - (b) conform to this Act, the regulations and the standards, and
  - (c) be signed and sealed by a professional forester.
- (2.) A site plan under subsection (1) may apply to one or more areas, including one or more cutblocks.

2002-76-9 (B.C.Reg. 349/2002).

### Silviculture prescriptions: content

12. A silviculture prescription must comply with the following:
  - (a) it must include, for the area under the prescription,
    - (i) long term management objectives set out
      - (A) in a forest development plan or, in the absence of a forest development plan, in a higher level plan, or
      - (B) in the absence of objectives set out in a forest development plan or a higher level plan, in accordance with the regulations, if any,
    - (ii) a description of the silvicultural system and post harvesting stand structure and site condition,
    - (iii) prescribed stocking requirements,
    - (iv) a map describing the approximate location of permanent access structures, temporary roads and landings,
    - (v) limits for temporary and permanent access structures and soil disturbance that may occur on the area, and
    - (vi) matters required by regulation;
  - (b) if it is a silviculture prescription referred to in section 22, it must

- (i) be consistent, at the date it is submitted for the district manager’s approval or given effect by the district manager,
    - (A) with any forest development plan that is in effect, or
    - (B) if a forest development plan is not required under this Act for the area under the prescription, with any higher level plan that is in effect, and
  - (ii) meet the requirements of this Act, the regulations and the standards in effect 4 months before the date the prescription is submitted for the district manager’s approval or given effect by the district manager, unless this Act, the regulations or the standards specify otherwise;
  - (c) *Repealed.* [2002-76-10 (B.C. Reg. 349/2002)]
  - (d) it must be signed and sealed by a professional forester.
- 1994-41-12; 1995-6-4; 1997-48-56; 2002-76-10 (B.C.Reg. 349/2002).

**Repealed**

13. *Repealed.* [2002-25-23]

**Repealed**

14. *Repealed.* [1997-48-58, retroactive to June 15, 1995]

**Repealed**

15. *Repealed.* [1997-48-59]

**Range use plans: content**

16. A range use plan must comply with the following:
- (a) it must include
    - (i) for the range land under the plan, a description of
      - (A) grazing and hay cutting activities that will be carried out on the area,
      - (B) range developments that will be constructed or carried out on the area, and
      - (C) matters required by regulation, and
    - (ii) for unfenced grazing land under the plan, a grazing schedule;
  - (b) it must be consistent with any higher level plan in effect when the range use plan is approved or given effect under Division 5 of this Part.

1994-41-16; 1995-6-6.

**Part 3: Division 2 – Operational Planning Requirements**

**General planning requirements**

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

- required by the regulations to formulate operational plans, and make the assessments, data and analyses available to the district manager.
- (2.) Without limiting subsection (1), if required by the regulations and in accordance with the regulations, the holder must do the following:
- (a) identify and classify the following:
    - (i) streams, wetlands and lakes;
    - (ii) wildlife habitat areas;
    - (iii) scenic areas;
    - (iv) recreation features;
    - (v) areas that are required by the regulations to be identified and classified;
  - (b) assess watersheds that meet the prescribed requirements to determine the impact of proposed timber harvesting and related forest practices;
  - (c) assess cultural heritage resources.
- (3.) Without limiting subsection (1), if required by the regulations and in accordance with the regulations, the holder must collect and analyze data respecting the following:
- (a) site and soil conditions;
  - (b) terrain, terrain stability and hazards associated with instability;
  - (c) forest health including pests and other forest health hazards;
  - (d) any prescribed matters.

1994-41-17; 1997-48-60.

#### **Forest development plans for small business forest enterprise program**

18. (1.) The district manager may invite applications for, or enter into, a timber sale licence that does not provide for cutting permits, only if a forest development plan identifies the cutblocks that are to be harvested under the timber sale licence during the period covered by the forest development plan.
- (2.) Subsection (1) does not apply to a timber sale licence for timber harvested under the *Park Act*.
- (3.) If a timber sale licence that is not a major licence provides for cutting permits, the holder may apply for a cutting permit only if the cutblocks to be harvested under the cutting permit are identified in a forest development plan.
- (3.1) *Repealed.* [1997-48-140]
- (4.) If a timber sale licence that is not a major licence and does not provide for cutting permits has a term that extends beyond the period covered by a forest development plan described in subsection (1), the holder of the timber sale licence must not under that licence harvest timber from an area not identified in that forest development plan unless another forest development plan is given effect that identifies the additional cutblocks to be harvested under the timber sale licence.
- (4.1) A forest development plan prepared by the district manager under this section must identify the approximate location of the following existing and proposed roads:
- (a) the forest service roads that are not required to be identified on a forest development plan prepared by the holder of
    - (i) a major licence,
    - (ii) a timber sale licence that is not a major licence and that provides for cutting permits, if the holder has prepared the forest development plan under subsection (5), or

- (iii) a woodlot licence;
  - (b) roads referred to in subsection (4.2), if the holder of a timber sale licence that is not a major licence and that provides for cutting permits does not prepare a forest development plan under subsection (5);
  - (c) the roads for which the holder of a timber sale licence that is not a major licence and that does not provide for cutting permits is responsible under a road permit, or for which the holder will be required to have a road permit.
- (4.2) If the holder of a timber sale licence, that is not a major licence, and provides for cutting permits, prepares a forest development plan, the plan must identify the approximate location of the following existing and proposed roads:
- (a) existing forest service roads that the holder uses to access cutblocks;
  - (b) existing roads for which the holder is responsible under a road permit;
  - (c) proposed roads that provide access to cutblocks or to areas that are intended to be the site of future cutblocks.
- (4.3) Subsections (1), (3), (4), (4.1) and (4.2) do not apply to a timber sale licence that authorizes minor salvage operations if, for those operations, there is in effect a forest development plan that meets the requirements of section 10 (3).
- (5.) A forest development plan for a timber sale licence that is not a major licence takes effect as follows:
- (a) if the district manager prepares the plan, on the effective date specified in the plan;
  - (b) if a holder of a timber sale licence that provides for cutting permits prepares the plan with the district manager's consent, on the date specified in the approval of the plan under Division 5 of this Part.
- (6.) A forest development plan under this section expires after a prescribed period from the date the plan takes effect.
- (7.) Before or after the expiry of a forest development plan under this section, the plan may be extended for a period or periods not exceeding a total of one year, as follows:
- (a) by the regional manager, if the plan was prepared by the district manager;
  - (b) by the district manager, if the plan was prepared by the holder of a timber sale licence and the holder requests or consents to the extension.
- (8.) *Repealed.* [2002-76-11 (a) (B.C. Reg. 349/2002)]
- (9.) Despite subsection (6), a forest development plan prepared under this section that is
- (a) in effect immediately before the coming into force of this subsection continues in effect until April 1, 2005,
  - (b) prepared by the district manager after the coming into force of this subsection
    - (i) takes effect on the date specified in the plan, and
    - (ii) continues in effect until April 1, 2005, and
  - (c) prepared by the holder of a timber sale licence under subsection (4.2) after the coming into force of this subsection
    - (i) takes effect on the date specified in the approval of the plan under Division 5 of this Part, and
    - (ii) continues in effect until April 1, 2005.
- (10.) Despite subsection (7), the district manager may not extend the term of a forest development plan referred to in subsection (9).

1994-41-18; 1997-48-61, 140; 2002-76-11 (B.C.Reg. 349/2002).

**Forest development plans for major licence or woodlot licence**

19. (1.) A holder of a major licence, community forest agreement or a woodlot licence may apply for a cutting permit, and a holder of a pulpwood agreement may apply for a forestry licence to cut, only if a forest development plan identifies the cutblocks to be harvested under the cutting permit or licence.
- (1.1) In subsection (1.2), “**old cutblock**” means an area that, before June 15, 1995,
- (a) was shown on a development plan, operating plan, pre-harvest silviculture prescription or logging plan as an area from which timber was to be harvested, and
  - (b) was the site of timber harvesting under the plan or prescription.
- (1.2) A forest development plan prepared by the holder of a major licence, community forest agreement or woodlot licence must identify the approximate location of
- (a) the following roads that provide access to cutblocks:
    - (i) existing forest service roads that the holder uses;
    - (ii) existing roads for which the holder is responsible under a road permit,
  - (b) existing roads that provide access to cutblocks or old cutblocks if the holder is responsible for the road under a cutting permit issued before June 15, 1995,
  - (c) proposed roads that provide access to cutblocks or to areas that are intended to be the site of future cutblocks, and
  - (d) roads for purposes other than timber harvesting if the holder is responsible for the road under a road permit.
- (1.3) Subsections (1) and (1.2) do not apply to a major licence, community forest agreement, woodlot licence or pulpwood agreement that authorizes minor salvage operations if, for those operations, a forest development plan meeting the requirements of section 10 (3) has been approved by the district manager.
- (2.) A forest development plan for a major licence, community forest agreement or woodlot licence takes effect on the date specified in the approval of the plan under Division 5 of this Part.
- (3.) A forest development plan under this section expires after a prescribed period from the date specified in the approval of the plan under Division 5 of this Part.
- (4.) Before or after a forest development plan under this section expires, the district manager may extend the term of the plan for a period or periods not exceeding a total of one year at the request of or with the consent of the holder of a major licence or community forest agreement who prepared the plan.
- (5.) *Repealed.* [2002-76-12 (b) (B.C. Reg. 349/2002)]
- (6.) Despite subsection (3), a forest development plan for a major licence that
- (a) was in effect immediately before the coming into force of this subsection continues in effect until April 1, 2005, or
  - (b) is approved after the coming into force of this subsection
    - (i) takes effect on the date specified in the approval, and
    - (ii) continues in effect until April 1, 2005.
- (7.) Despite subsection (4), the district manager may not extend the term of a forest development plan referred to in subsection (6).
- (8.) Despite subsection (3), if a forest development plan for a woodlot licence
- (a) was in effect immediately before the coming into force of this subsection, the plan continues in effect until the later of

- (i) April 1, 2005, and
- (ii) the date specified in the approval of the plan, or
- (b) expired at any time during the one year period that ended on the date this subsection came into force, the plan
  - (i) is deemed to have received approval under this Act immediately before that date, and
  - (ii) continues in effect until April 1, 2005.

1994-41-19; 1995-6-7; 1997-48-62, 141; 1998-29-20; 2002-76-12 (B.C.Reg. 349/2002); 2003-31-80.

### Repealed

20. *Repealed.* [1997-48-64]

### Logging plans: generally

21. The district manager may require the holder of
- (a) a road permit, unless the holder also holds a major licence, timber sale licence, community forest agreement or woodlot licence, or
  - (b) a licence to cut or a cutting permit under a master licence to cut
- to prepare and obtain the district manager's approval of a logging plan before harvesting timber under the permit or licence if the district manager determines that the logging plan is necessary to adequately manage and conserve the forest resources of the area to which it applies.

1997-48-65; 1998-29-21.

### Site plans

- 21.1 (1.) The district manager must prepare a site plan for an area of Crown land from which a person is authorized to harvest timber under a timber sale licence that is not a major licence.
- (2.) However, the district manager need not prepare a site plan under subsection (1) if the timber sale licence specifies that the holder of the licence must prepare and submit to the district manager
- (a) a silviculture prescription, or
  - (b) a site plan
- for the area to be harvested under the timber sale licence.
- (3.) A person must not harvest timber from an area referred to in
- (a) subsection (1) until the district manager prepares the site plan for the area, or
  - (b) subsection (2) until the holder of the timber sale licence prepares and submits to the district manager a site plan for the area to be harvested under the timber sale licence.
- (4.) A holder of a timber sale licence who submits a site plan under subsection (3) (b) is not required to prepare and submit a silviculture prescription for the area to be harvested under the licence, despite a requirement under the licence to do so.
- (5.) Before the holder of a major licence harvests timber under a cutting permit, the holder must prepare a site plan for the area to be harvested under the cutting permit.
- (6.) The holder of a major licence must prepare a site plan for an area in which the holder has cut, removed, damaged or destroyed Crown timber in contravention of section 96.
- (7.) Despite subsections (1) to (6), a person is not required to prepare a site plan for the

following areas:

- (a) an area that is outside a cutblock, if the area is to be used for the construction and use of a road, gravel pit or borrow pit;
  - (b) an area that is subject to a silviculture prescription that was approved before the coming into force of this subsection;
  - (c) an area that is the subject of an exemption for a silviculture prescription described in section 30.1.
- (8.) A holder of a site plan that was prepared under this section must make it publicly available at any reasonable time at the holder's place of business nearest to the area under the site plan, on request.
- (9.) For the purposes of subsection (1), Crown land does not include land that is Crown land only because the timber on the land is reserved to the government.

2002-76-13 (B.C.Reg. 349/2002).

### Repealed

22. *Repealed.* [2002-76-14 (B.C. Reg. 349/2002)]

### Existing silviculture prescriptions continued

- 22.1 (1.) Except in prescribed circumstances, and subject to subsection (2) and to sections 34 to 38 and 162.1, a silviculture prescription prepared under section 22 that is in effect immediately before the coming into force of this section remains in effect.
- (2.) A silviculture prescription prepared under section 22 (1) (b), (5) or (6) as it was immediately before the coming into force of this subsection is without effect.

2002-76-15 (B.C.Reg. 349/2002).

### Silviculture prescriptions: backlog areas

23. (1.) *Repealed.* [2002-76-16 (a) (B.C. Reg. 349/2002)]
- (2.) *Repealed.* [2002-76-16 (a) (B.C. Reg. 349/2002)]
- (3.) A silviculture prescription prepared under subsection (1) or (2) before the repeal of those subsections is without effect.

1994-41-23; 1998-29-22; 2002-76-16 (B.C.Reg. 349/2002).

### Repealed

24. *Repealed.* [2002-25-23]

### Repealed

- 24.1 *Repealed.* [2002-76-17 (B.C. Reg. 349/2002)]

### Repealed

25. *Repealed.* [1997-48-69, retroactive to June 15, 1995]

### Repealed

26. *Repealed.* [1997-48-70]



**Range use plans**

27. (1.) The holder of an agreement under the *Range Act* must prepare and obtain the district manager's approval of a range use plan before the holder
  - (a) grazes livestock, cuts hay or constructs or carries out range developments on range land to which the agreement applies, or
  - (b) grazes livestock on unfenced grazing land.
- (2.) In a notice given to the holder of an agreement under the *Range Act*, the district manager may relieve the holder of the requirement to prepare and submit a range use plan.
- (3.) If the district manager gives the holder a notice under subsection (2),
  - (a) the district manager must prepare the range use plan, and
  - (b) the holder must supply information requested by the district manager that is known to the person and is needed to prepare the range use plan.
- (4.) A range use plan takes effect as follows:
  - (a) if the district manager prepared the plan, on the effective date specified in the plan;
  - (b) if a holder of an agreement under the *Range Act* prepared the plan, on the date specified by the district manager in the approval under Division 5 of this Part.
- (5.) A range use plan expires on the earlier of
  - (a) a date, specified by the district manager in the plan or the approval of the plan, not exceeding 10 years from the effective date under subsection (4), or
  - (b) the date the land to which the range use plan applies ceases to be subject to the agreement under the *Range Act*, or to an agreement replacing that agreement.
- (6.) Before or after the expiry of a range use plan, the plan may be extended for a period or periods not exceeding a total of one year as follows:
  - (a) by a regional manager, if the range use plan was prepared by the district manager;
  - (b) by the district manager if the plan was prepared by a holder of an agreement under the *Range Act* and the holder requests or consents to the extension.
- (7.) If the term of a range use plan is extended, the person who prepared the range use plan must promptly amend it to the extent necessary to ensure compliance with current requirements, the regulations and the standards.
- (8.) Despite subsection (5), a range use plan prepared under this section and in effect immediately before the coming into force of this subsection continues in effect until the later of
  - (a) April 1, 2005, and
  - (b) the date specified in the approval of the plan.
- (9.) Despite subsection (6), the district manager may not extend the term of a range use plan referred to in subsection (8).
- (10.) Subsection (7) does not apply to a range use plan referred to in subsection (8).

1994-41-27; 1995-6-10; 1997-48-71; 2000-11-11; 2002-76-18 (B.C.Reg. 349/2002).

**Part 3: Division 3 – Exemption from Operational Planning Requirements****Exemption for forest development plans**

28. (1.) The district manager may exempt a person referred to in section 18 or 19 from the

requirement for a forest development plan if the district manager determines that

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

(2.) *Repealed.* [2002-25-23]

1994-41-28; 2002-25-23.

### **Repealed**

29. *Repealed.* [1997-48-73]

### **Exemption for site plan**

29.1 The district manager, in prescribed circumstances, may exempt a person referred to in section 21.1 from the requirement for a site plan.

2002-76-19 (B.C.Reg. 349/2002).

### **Repealed**

30. *Repealed.* [2002-76-20 (B.C. Reg. 349/2002)]

### **Exemption for a silviculture prescription continued**

30.1 An exemption in effect immediately before the date this section comes into force, from a requirement to prepare a silviculture prescription under section 22, continues in effect on and after that date unless suspended or revoked under this Act.

2002-76-21 (B.C.Reg. 349/2002).

### **Repealed**

31. *Repealed.* [2002-76-22 (B.C. Reg. 349/2002)]

### **Repealed**

32. *Repealed.* [2002-25-23]

### **Limitation on exemptions**

33. The district manager may only exempt a person from a requirement referred to in sections 28 to 29.1 if the district manager determines that the requirement is not necessary to adequately manage and conserve the forest resources of British Columbia.

1994-41-33; 2002-25-26; 2002-76-23 (B.C.Reg. 349/2002).

**Part 3: Division 4 – Amendment and Replacement of Operational Plans****Voluntary amendments**

34. (1.) A holder of an operational plan
- (a) may prepare and submit to the district manager for approval an amendment to the plan at any time, or
  - (b) if it is an operational plan to which section 42.1 (1) applies, may amend the plan at any time, in accordance with that section.
- (2.) A holder of a site plan prepared under section 21.1 may amend the plan at any time.

2002-76-24 (B.C.Reg. 349/2002).

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

35. (1.) Subject to subsection (2) and to section 162.2, the holder of a logging plan, silviculture prescription or range use plan who knows, or reasonably ought to know, that performing the operations specified in the operational plan will not ensure the achievement of the results specified in the operational plan
- (a) must submit to the district manager for his or her approval an amendment to the plan or a new operational plan, and
  - (b) must not carry out, on any parts of the plan area that would be materially affected by the proposed amendment or new plan, any operation related to the amendment or new plan, unless the plan is a range use plan, until the amendment or new plan has been approved or given effect under Division 5 of this Part.
- (2.) A holder of a silviculture prescription referred to in subsection (1) who considers that it is not practicable to amend the prescription must
- (a) report in writing to the district manager specifying the reasons, and
  - (b) prepare a site plan for the area in accordance with section 11.1.
- (2.1) Subject to subsection (2.2), if the government is required to carry out a silviculture prescription and the district manager determines that carrying it out will not ensure the achievement of the results specified in the prescription, the district manager
- (a) must prepare an amendment to the prescription, and
  - (b) must not carry out, on any parts of the plan area that would be materially affected by the proposed amendment, any operation related to the amendment until the amendment has been prepared.
- (2.2) If the government is required to carry out a silviculture prescription referred to in subsection (2.1) and the district manager considers that it is not practicable to amend the prescription, the district manager must prepare a site plan for the area in accordance with section 11.1.
- (2.3) A site plan prepared in accordance with
- (a) subsection (2) is in substitution for the silviculture prescription referred to in that subsection, or
  - (b) subsection (2.2) is in substitution for the silviculture prescription referred to in that subsection
- and the silviculture prescription ceases to have effect on the date the site plan is signed by a professional forester.

- (3.) If the district manager determines that it is desirable because of special circumstances to amend a range use plan or prepare a new one,
  - (a) if the holder prepared the range use plan, the district manager may, in writing, require the holder of the plan to submit to the district manager an amendment to the plan or a new plan that meets the approval of the district manager and the person must comply with the requirement, or
  - (b) if the district manager prepared the range use plan, the district manager may prepare an amendment to the range use plan or prepare a new range use plan.

1994-41-35; 1995-6-13; 1997-48-75; 2002-76-25 (B.C.Reg. 349/2002).

**Amendment to a silviculture prescription  
if desired result impossible**

- 36. (1.) Subject to section 162.2, a person responsible for a silviculture prescription must comply with this section if the requirements of the silviculture prescription cannot be met.
- (2.) If the person referred to in subsection (1) is the holder of a major licence or woodlot licence, the holder
  - (a) must submit to the district manager a report as to why the requirements of the silviculture prescription cannot be met and the extent to which they will not be met, and
  - (b) if an amendment is needed to ensure the requirements referred to in paragraph (a) are met, must not carry out, on any parts of the area covered by the silviculture prescription that would be materially affected by the amendment, any operation related to the amendment until an amendment to the silviculture prescription has been approved under Division 5 of this Part.
- (3.) If the government is responsible for a silviculture prescription referred to in subsection (1), the district manager
  - (a) must file a report with the regional manager in accordance with the regulations detailing why the requirements of the silviculture prescription cannot be met and the extent to which they will not be met, and
  - (b) if an amendment is needed to ensure the requirements referred to in paragraph (a) are met, must not carry out, on any parts of the area covered by the silviculture prescription that would be materially affected by the amendment, any operation related to the amendment until the amendment has been prepared.
- (4.) A holder of a silviculture prescription who considers that one or more of the requirements of the prescription cannot be complied with and that it is not practicable to amend the prescription must
  - (a) report in writing to the district manager specifying the reasons, and
  - (b) prepare a site plan for the area in accordance with section 11.1.
- (5.) A site plan prepared in accordance with subsection (4) is in substitution for the silviculture prescription referred to in that subsection and the silviculture prescription ceases to have effect on the date the site plan is signed by a professional forester.

1994-41-36; 1997-48-76; 1999-34-16; 2002-76-26 (B.C.Reg. 349/2002) .

**Holder of an outdated prescription**

- 37. (1.) By written notice to the holder of a silviculture prescription prepared under section 22 (3), the district manager may require the holder to prepare a site plan in accordance with section 11.1 or an amendment to the prescription if the holder

- (a) has not been issued a cutting permit to carry out timber harvesting on the area covered by the prescription within 3 years after the date of its approval, or
  - (b) has been issued a cutting permit to carry out timber harvesting on the area covered by the prescription, but has not begun harvesting before the expiration of the cutting permit.
- (2.) On receipt of a notice under subsection (1) that a site plan is required, the silviculture prescription is without effect.
  - (3.) Subsection (1) does not apply to a holder of a woodlot licence who also holds a silviculture prescription.

2002-76-27 (B.C.Reg. 349/2002).

### Outdated government prescription

- 38. (1.) The district manager must review a silviculture prescription prepared under section 22 (1) (a) or (1.1) if the district manager determines that
  - (a) a timber sale licence for the area covered by the prescription has not been awarded within 3 years after the date of the prescription's preparation or approval, or
  - (b) a timber sale licence for the area covered by the prescription has been awarded, but no timber harvesting has begun on the area under the prescription within 3 years after the later of
    - (i) the date the timber sale licence became effective, and
    - (ii) the date of the prescription's preparation or approval.
- (2.) After reviewing a silviculture prescription under subsection (1), the district manager may prepare, in accordance with section 11.1, a site plan or an amendment to the prescription.
- (3.) If the district manager determines that a site plan is required, the silviculture prescription for the area under the site plan is without effect.

2002-76-28 (B.C.Reg. 349/2002).

## Part 3: Division 5 – Notice and Evaluation of Operational Plans

### Review and comment

- 39. (1.) Subject to sections 42, 42.1 and 43, before a holder of a major licence, community forest agreement or woodlot licence submits an operational plan or amendment for approval, the holder must, if required by the regulations and in accordance with the regulations, make the plan or amendment available for review and comment.
- (2.) Before an operational plan or amendment prepared by the district manager is put into effect, the district manager must, if required by the regulations and in accordance with the regulations, make the plan or amendment available for review and comment, except where review and comment would not be required if the plan or amendment were the plan or amendment of a holder of an agreement under the *Forest Act* or the *Range Act*.
- (3.) Subject to sections 43 and 44, before the holder of an agreement under the *Range Act* submits a range use plan for approval, the holder must, if required by the regulations and in accordance with the regulations, make the plan available for review and comment.

1994-41-39; 1998-29-24; 2002-76-29 (B.C.Reg. 349/2002).

**Giving effect to operational plans  
prepared by district manager**

40. (1.) The district manager may only give effect to an operational plan or amendment prepared by the district manager if the plan or amendment meets the requirements of this Act, the regulations and the standards.
- (2.) *Repealed.* [2002-25-27]

1994-41-40; 2002-25-27.

**Approval of plans by district manager  
or designated environment official**

41. (1.) The district manager must approve an operational plan or amendment submitted under this Part if
- (a) the plan or amendment was prepared and submitted in accordance with this Act, the regulations and the standards, and
  - (b) the district manager is satisfied that the plan or amendment will adequately manage and conserve the forest resources of the area to which it applies.
- (2.) Before approving a plan or amendment the district manager may require the holder to submit information that the district manager reasonably requires in order to determine if the plan or amendment meets the requirements of subsection (1).
- (3.) The district manager may approve an operational plan or amendment only if it meets the requirements of subsection (1).
- (4.) Despite subsection (1), to the extent provided in the regulations a district manager may refuse to approve a logging plan or amendment that meets the requirements of that subsection, if the district manager determines that the person submitting the plan or amendment
- (a) has previously contravened this Act, the regulations or the standards, and
  - (b) has not taken all measures necessary to prevent or minimize the effects of the contravention, or rehabilitate the affected area.
- (5.) In granting approval under this section to a forest development plan or an amendment to a forest development plan, the district manager may attach conditions to the plan or to the plan as amended.
- (6.) The holder of a forest development plan must comply with the conditions, if any, attached to the plan under subsection (5).
- (6.1) *Repealed.* [2002-25-27]
- (7.) *Repealed.* [2002-25-27]
- (8.) In this section, “**community watershed**” means
- (a) the drainage area above the most downstream point of diversion on a stream for a water use that is for human consumption and that is licensed under the *Water Act* for
    - (i) a waterworks purpose, or
    - (ii) a domestic purpose if the licence is held by or is subject to the control of a water users’ community incorporated under the *Water Act* if the drainage area is not more than 500 km<sup>2</sup> and the water licence was issued before June 15, 1995, or
  - (b) an area that is designated as a community watershed under subsection (10).
- (9.) In this section “**domestic purpose**” and “**waterworks purpose**” have the meaning given to them in the *Water Act*.

- (10.) The regional manager may designate an area as a community watershed if
- (a) in the opinion of the regional manager and a designated environment official it should be designated as a community watershed,
  - (b) the area is all or part of the drainage area above the most downstream point of diversion for a water use that is for human consumption and that is licensed under the *Water Act* for a domestic purpose or a waterworks purpose, and
  - (c) the area is not an area referred to in subsection (8) (a).
- (11.) With the agreement of a designated environment official, the regional manager may by written order vary or cancel an area's status as a community watershed, whether the area is defined to be a community watershed under subsection (8) (a) or designated to be a community watershed under subsection (10).
- (12.) Before designating an area as a community watershed under subsection (10) or varying or cancelling the status of a community watershed under subsection (11), the regional manager must provide for review and comment in accordance with the regulations.
- (13.) The regional manager must make available at the regional office for the area in which the community watershed is located any order that designates, varies or cancels a community watershed.

1994-41-41; 1995-6-14; 1996-11-21; 1997-48-79(b), (c)(part); 2002-25-27; 2002-76-30 (B.C.Reg. 349/2002).

#### Approval in emergency cases

42. (1.) Despite section 41, the district manager may, in accordance with the regulations, approve or give effect to a forest development plan or amendment without the plan or amendment having been made available for review and comment, if the district manager determines that the plan or amendment
- (a) otherwise meets the requirements of this Act, the regulations and the standards, and
  - (b) is necessary to enable measures to be taken to address an emergency.
- (2.) If the district manager approves or gives effect to a forest development plan or amendment under subsection (1), the district manager may immediately approve or give effect to a silviculture prescription or amendment if the district manager determines that
- (a) the prescription or amendment complies with the regulations and the standards, and
  - (b) the timber on the area under prescription should be harvested without delay because it is in danger of being damaged, significantly reduced in value, lost or destroyed.
- (3.) *Repealed.* [2002-25-27]

1994-41-42; 1997-48-80, 142; 2002-25-27; 2002-45-11.

#### Operational plans – minor changes not requiring approval

- 42.1 (1.) Despite section 41, except in prescribed circumstances, an approval is not required to amend a forest development plan, a silviculture prescription or a site plan prepared under a regulation made under section 217.1, if the holder of the plan or prescription determines that
- (a) the proposed amendment
    - (i) otherwise conforms to this Act, the regulations and the standards, and
    - (ii) does not materially affect the likelihood of achieving the objectives or the results specified in the plan or prescription, or

- (b) the proposed amendment meets prescribed requirements.
- (2.) Subsection (1) does not apply to the holder of an operational plan who is also the holder of the timber sale licence to which the plan pertains.
- (3.) The holder of a forest development plan, other than a plan referred to in subsection (4), or of a silviculture prescription must provide the district manager with a copy of an amendment under subsection (1) as soon as practicable after it has been incorporated in the plan or prescription
  - (a) if the amendment concerns information for which there is a reporting requirement under the regulations, or
  - (b) if the district manager requests the copy.
- (4.) The holder of a
  - (a) forest development plan, or
  - (b) site plan
 that is prepared in accordance with a regulation under section 217.1 must provide the district manager with a copy of any amendment made to the plan that is permitted under subsection (1).
- (5.) The holder of a forest development plan, silviculture prescription or a site plan prepared under a regulation made under section 217.1 need not make an amendment to it to which subsection (1) applies available for
  - (a) review, and
  - (b) comment.
- (6.) The district manager may take action in accordance with the regulations if he or she considers that the determination under subsection (1) was wrongly made.

2002-76-31 (B.C.Reg. 349/2002); 2003-56-18.

#### **Approval of minor changes to range use plans**

43. (1.) Despite section 41, a district manager or a person authorized by the district manager may approve or give effect to an amendment to a range use plan where the amendment has not been made available for review and comment if the district manager or person authorized determines that the amendment
- (a) otherwise meets the requirements of this Act, the regulations and the standards,
  - (b) will adequately provide for managing and conserving the forest resources of British Columbia for the area to which it applies, and
  - (c) does not materially change the objectives or results of the plan.
- (2.) *Repealed.* [2002-25-27]

1994-41-43; 1997-48-81; 2002-25-27; 2002-76-32 (B.C.Reg. 349/2002).

#### **Approval of range use plans for temporary grazing permits**

44. Despite section 41, the district manager may approve or give effect to a range use plan or amendment that has not been made available for review and comment if the plan or amendment is for an area that is subject to a temporary grazing permit or temporary hay cutting permit and if the district manager determines that the range use plan or amendment
- (a) otherwise meets the requirements of this Act, the regulations and the standards, and



- (b) will adequately provide for managing and conserving the forest resources of British Columbia for the area to which it applies.

1994-41-44; 1999-18-23; 2002-45-12.

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

**Part 4: Division 1 – General**

**Protection of the environment**

45. (1.) A person must not carry out a forest practice that results in damage to the environment.
- (2.) Subject to subsection (3), a person does not contravene subsection (1) if, with respect to the forest practice referred to in subsection (1), the person is acting in accordance
- (a) with this Part, Part 5 and with the regulations for this Part and Part 5, and
  - (b) with any of the following:
    - (i) an operational plan or a site plan;
    - (ii) an exemption from the requirement to have an operational plan or a site plan;
    - (iii) a permit issued under this Act or the regulations.
- (3.) A person must not carry out a forest practice if he or she knows or should reasonably know that, due to weather conditions or site factors, the carrying out of the forest practice may result, directly or indirectly, in
- (a) slumping or sliding of land,
  - (b) inordinate soil disturbance, or
  - (c) other significant damage to the environment.
- (4.) A person who contravenes subsection (1) or (3) must
- (a) stop the forest practice in the area affected,
  - (b) prevent any further damage to the environment,
  - (c) promptly notify the district manager, and
  - (d) take any remedial measures that the district manager requires.
- (5.) A person who has stopped a forest practice under subsection (4) (a) may resume the forest practice when
- (a) it can be resumed without contravening subsection (1) or (3), and
  - (b) any remedial measures required under subsection (4) (d) have been carried out to the satisfaction of the district manager.
- (6.) A person does not contravene subsection (1) or (3) if the person is
- (a) acting in accordance with section 59 (1),
  - (b) carrying out fire control or suppression in accordance with this Act and the regulations, or
  - (c) carrying out a controlled burn for the purpose of range improvement, or wildlife habitat improvement, authorized by the government.

1994-41-45; 2002-76-33 (B.C.Reg. 349/2002).

**Soil conservation: permanent access**

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

1995.

- (1.1) A person carrying out a forest practice on an area under a site plan prepared under section 21.1 must not exceed the prescribed maximum proportion of the area under the site plan that may be occupied by permanent access structures.
- (2.) Subsection (1) applies despite the provisions of a logging plan or a road permit.
- (3.) A person carrying out a forest practice on an area under a silviculture prescription must not exceed the limits specified in the silviculture prescription for
  - (a) the proportion of the total area that may be occupied by haul roads, spur roads, landings, gravel pits and borrow pits, if the silviculture prescription was prepared or approved in the period from and including April 1, 1994 to and including December 15, 1995, or
  - (b) the site productivity that may be degraded by roads and landings, if the silviculture prescription was approved before April 1, 1994.
- (4.) A person who exceeds
  - (a) the amount specified under the silviculture prescription for the maximum proportion of the total area that may be occupied by permanent access structures under subsection (1),
    - (a.1) the prescribed amount referred to in subsection (1.1), or
    - (b) the limit specified under the silviculture prescription for the proportion of the total area that
      - (i) may be occupied by haul roads, spur roads, landings, gravel pits and borrow pits under subsection (3) (a), or
      - (ii) may have site productivity degraded by roads and landings under subsection (3) (b),
 must rehabilitate the disturbed portion of the area in accordance with the regulations and standards.

1994-41-46; 1995-6-15; 1997-48-83; 2002-76-34 (B.C.Reg. 349/2002).

#### **Soil conservation: net area to be reforested**

- 47. (1.) A person carrying out a forest practice on an area under a silviculture prescription must not exceed the maximum amount of soil disturbance within the net area to be reforested that is specified in the prescription.
- (2.) Despite subsection (1), a person carrying out timber harvesting operations may, in accordance with a silviculture prescription, temporarily exceed the maximum amount of soil disturbance within the net area to be reforested to the extent necessary to construct temporary access structures approved in the silviculture prescription if the silviculture prescription provides for soil rehabilitation measures to be carried out to those temporary access structures.
- (3.) Despite subsection (1), a person carrying out silviculture treatments may, in accordance with a silviculture prescription, temporarily exceed the maximum amount of soil disturbance within the net area to be reforested if the silviculture prescription provides for site rehabilitation measures to be carried out on the conclusion of silviculture treatments.
- (3.1) A person carrying out a forest practice on an area under a site plan prepared under section 21.1 must not exceed the prescribed maximum amount of soil disturbance in the net area to be reforested.
- (3.2) A person carrying out timber harvesting operations or silviculture treatments on an area under a site plan prepared under section 21.1, in prescribed circumstances, may

- temporarily exceed the prescribed maximum amount referred to in subsection (3.1).
- (4.) For greater certainty, the following types of soil disturbance contribute to the total soil disturbance amount for the net area to be reforested:
    - (a) any unrehabilitated compacted area, corduroyed trail or dispersed disturbance;
    - (b) any unrehabilitated temporary access structure that is specified as one in a site plan prepared under section 21.1 or in a silviculture prescription.
  - (5.) A person who, for an area under a site plan prepared under section 21.1 or silviculture prescription, causes soil disturbance to occur in the net area to be reforested such that the maximum amount of soil disturbance within the net area to be reforested is exceeded, must rehabilitate the area in accordance with the regulations and standards.
  - (6.) A person who constructs or modifies a road, or constructs a landing, borrow pit or gravel pit that is specified in a silviculture prescription as being of a temporary nature, must rehabilitate the area occupied by the road, landing, borrow pit or gravel pit in accordance with the regulations and standards.
  - (6.1) In prescribed circumstances and subject to section 58 (2), a person who prepares a site plan under section 21.1
    - (a) may construct or modify a temporary road, or construct a temporary landing, borrow pit or gravel pit, and
    - (b) must rehabilitate the area occupied by the road, landing, borrow pit or gravel pit.
  - (7.) A person who, within an area under a site plan prepared under section 21.1 or silviculture prescription, constructs or modifies a bladed or excavated trail or a corduroyed trail or creates a compacted area, must rehabilitate the area in accordance with the regulations and standards.

1994-41-47; 1995-6-16; 1996-11-22; 1997-48-84; 2002-76-35 (B.C.Reg. 349/2002).

### Ensuring soil rehabilitation

- 48. (1.) If the district manager determines that the area under an operational plan has sustained damage as a result of a forest practice, the district manager may, by written notice, direct the person responsible for the damage to take measures and to pay costs that are necessary to rehabilitate the area to the satisfaction of the district manager and the person must comply with the notice.
- (2.) Subsection (1) applies despite any limit for soil disturbance
  - (a) specified for an area under a silviculture prescription, or
  - (b) prescribed for an area under a site plan prepared under section 21.1.

1994-41-48; 2002-76-36 (B.C.Reg. 349/2002).

### Limitations on remedial measures that may be required

- 48.1 (1.) The district manager must not direct or require a person to take measures under section 45 (4) or 48 (1) if the person establishes that
  - (a) the person exercised due diligence to prevent the damage to the area, or
  - (b) the person's actions relevant to damage to the area were the result of an officially induced error.
- (2.) The Lieutenant Governor in Council may prescribe circumstances in which and conditions on which a person who has taken measures under section 45 (4) or 48 (1) may recover all or part of an amount reasonably incurred for the direct costs of carrying out the measures.
- (3.) This section does not apply in respect of a direction or requirement to take measures

under section 45 (4) or 48 (1) made before the coming into force of this subsection.

2002-76-37 (B.C.Reg. 349/2002).

### Exemption from rehabilitation

49. (1.) The district manager may exempt the government, or the holder of a logging plan, site plan prepared under section 21.1, silviculture prescription or timber sale licence that is not a major licence from having to rehabilitate areas under section 46 (4) or 47 (5) to (7).
- (2.) The district manager may exempt a person under subsection (1) only if the district manager is satisfied that
- (a) there is insufficient area affected or occupied to warrant treatment,
  - (b) treating the area affected or occupied is unlikely to restore soil productivity to a level necessary to achieve the results specified in the silviculture prescription for the area,
  - (c) treating the area affected or occupied will create an unacceptable risk of further damage or harm to, or impairment of, forest resource values, or
  - (d) other prescribed circumstances apply.

1994-41-49; 1997-48-86; 2002-76-38 (B.C.Reg. 349/2002).

### Use of planned fire

50. (1.) When carrying out a forest practice under an agreement under the *Forest Act* or the *Range Act*, a person must
- (a) comply with fuel management requirements established in an operational plan, and
  - (b) use fire only in accordance with this Act and the regulations.
- (2.) In accordance with the regulations and standards, a person who has carried out a planned fire that is in the nature of a broadcast burn must, after the burn, promptly
- (a) carry out an impact assessment of the site and soil condition, and
  - (b) if the assessment shows that the effects of the planned fire were more severe than specified in the silviculture prescription or the operational plan, develop a rehabilitation plan and submit it to the district manager for approval.
- (3.) If the district manager approves the rehabilitation plan, the person who submitted the plan must implement it.

1994-41-50; 1998-29-25.

### Previously unidentified resource features

51. (1.) In this section, “**resource feature**” includes the following:
- (a) a cultural heritage resource;
  - (b) a recreation feature;
  - (c) a range development that is a structure, excavation or constructed livestock trail;
  - (d) any other feature designated in the regulations.
- (2.) Except in prescribed circumstances, if a person carrying out a forest practice, other than fire control or suppression, finds a resource feature that was not identified on an approved operational plan or permit, the person carrying out the forest practice must
- (a) modify or stop any forest practice that is in the immediate vicinity of the previously unidentified resource feature to the extent necessary to refrain from threatening it, and
  - (b) promptly advise the district manager of the existence and location of the

resource feature.

1994-41-51; 1995-6-17; 1997-48-87; 2002-76-39 (B.C.Reg. 349/2002).

**Noxious weeds**

- 52. (1.) In this section, “**noxious weed**” means a noxious weed defined under the *Weed Control Act*.
- (2.) Subject to an operational plan, a person carrying out a forest practice must, in accordance with the regulations and the standards, carry out the forest practice at a time and in a manner that will limit the spread of noxious weeds to a level acceptable to the district manager.

1994-41-52.

**Part 4: Division 2 – Road Design, Construction, Maintenance, Use and Deactivation -- Sections 53 - 59 of Part 4, Division 2 --**

**Application**

- 53. This Division does not apply to roads constructed, modified or maintained under the *Highway Act, Land Act, Community Charter or Local Government Act*.

1994-41-53; 2000-7-191, Sch.; 2003-52-76.

**Use of roads on Crown land for development of natural resources**

- 54. (.1) In this section:  
**"developing natural resources other than timber"** does not include operations associated with, or necessary to carry out, operations under a consent under section 101, under an agreement under the *Range Act* or under a range use plan;

**"timber harvesting"** does not include timber harvesting in the course of carrying out activities under a consent under section 101 or under a range use plan if the timber harvesting is authorized by a regulation under section 96 (1) (g).

- (1.) A person must not use a road on Crown land for
  - (a) timber harvesting, including the transportation of the timber or associated machinery, material or personnel, or
  - (b) forest practices related to timber harvesting,

unless one of the following requirements is met:

- (c) the person is authorized to do so under a Christmas tree permit, road permit, special use permit, cutting permit or timber sale licence that does not provide for cutting permits;
- (d) the road is a forest service road, and the person is authorized to use it by a road use permit;
- (e) the road is one for which another person has a road permit, special use permit,

- cutting permit or timber sale licence that does not provide for cutting permits, and the person is authorized to use it by a road use permit.
- (1.1) *Repealed.* [1999-34-17]
- (2.) A person who is developing natural resources other than timber must not use a road on Crown land for the development of the natural resources, including the transportation of the natural resources or associated machinery, material or personnel, unless one of the following requirements is met:
- (a) the road was approved under the *Geothermal Resources Act* or the *Petroleum and Natural Gas Act*,
  - (b) the road is located inside the boundary of a claim, lease, permit or other authorization granted or issued under the *Coal Act*, the *Mineral Tenure Act*, the *Mines Act* or the *Mining Right of Way Act*, and the road was built under the authority of one of those Acts;
  - (c) the road is located outside the boundary of a claim, lease, permit or other authorization granted or issued under an Act referred to in paragraph (b), and the person is authorized to use it by a special use permit;
  - (d) the road is a forest service road, and the person is authorized to use it by a road use permit;
  - (e) the road is one for which another person has a road permit, special use permit, cutting permit or timber sale licence that does not provide for cutting permits, and the person is authorized to use it by a road use permit.
- (3.) *Repealed.* [1999-34-17]
- (3.1) Subject to subsection (3.2), subsection (1) does not apply to a person using a road on Crown land for a minor salvage operation if
- (a) the road has not been deactivated,
  - (b) the road is not modified to allow the use, and
  - (c) the road is used for a period of less than 60 days.
- (3.2) Subsection (1) applies to a person using a road as described in subsection (3.1) if the district manager notifies the person that the district manager believes that the use of the road will
- (a) materially affect the use of the road by others, or
  - (b) adversely impact forest resources.
- (3.3) A person using a road as described in subsection (3.1),
- (a) must give to any holders of road permits and road use permits for the road at least 48 hours' notice of the date on which the person will commence to use the road,
  - (b) 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 maintain the road while using it for the minor salvage operation in accordance with the maintenance requirements that under this Act are applicable to a road permit, and
  - (c) if the road is 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
    - (i) contribute a reasonable amount for the routine maintenance of the road, and
    - (ii) pay for, or repair, damage to the road caused by the person's use of the

road.

- (4.) The district manager may exempt a person from the requirement to have a road use permit, on being satisfied that the person's use of the road will not
  - (a) materially affect the use of the road by others, or
  - (b) unnecessarily disturb the natural environment or cultural heritage resources.
- (5.) The district manager may exempt a person from a requirement to have a road permit, or requirement under a regulation referred to in section 2 (5) to have a special use permit for use of a road, on being satisfied that
  - (a) the person's use of the road will not
    - (i) materially affect the use of the road by others, or
    - (ii) unnecessarily disturb the natural environment or cultural heritage resources, and
  - (b) the use of the road will be for a period of less than 60 days.
- (5.1) The district manager may make an exemption under subsections (4) and (5) subject to conditions, and the person exempted must comply with the conditions.
- (6.) A person who uses a road in accordance with this section must do so in accordance with all of the following:
  - (a) this Act, the regulations and the standards;
  - (b) any forest development plan;
  - (c) any cutting permit, road permit, road use permit, special use permit or timber sale licence that does not provide for cutting permits.

1994-41-54; 1995-6-18; 1996-11-23; 1997-48-88, 89; 1999-34-17; 2000-6-33.

#### **Use of road under road permit for uses other than development of natural resources**

- 55. (1.) Subject to this section and to regulations respecting roads made under the *Highway (Industrial) Act*, a road constructed, modified or maintained by the holder of a road permit may be used for purposes other than those referred to in section 54 (1) and (2) by any person, without charge.
- (2.) The holder of the road permit may take action under subsection (3) if
  - (a) use of the road under subsection (1) would likely cause significant damage to the road or environment or endanger life or property, or
  - (b) the presence on the road of a vehicle or animal would likely cause damage to the road or environment or endanger life or property.
- (3.) If subsection (2) applies, the holder may,
  - (a) with the prior consent of the district manager, close the road or restrict its use, or
  - (b) at the expense of the owner of a vehicle or animal, remove the vehicle or animal from the road.

1994-41-55; 1999-34-18.

#### **No payment for use of road except as provided**

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



- (3.) The holder of a road permit or road use permit may require payment from a person referred to in subsection (2) for
  - (a) a reasonable contribution to the expense of maintaining the road, and
  - (b) the reasonable expense of modifying the road to accommodate the special needs of the person.
- (4.) If the holder of the road permit or road use permit and the person referred to in subsection (2) do not agree on what constitutes a reasonable contribution or expense, the holder and the person must submit that question
  - (a) for resolution by an agreed process of dispute resolution, or
  - (b) in the absence of an agreed process under paragraph (a), to binding arbitration under the *Commercial Arbitration Act*.
- (5.) *Repealed.* [2002-76-40 (B.C. Reg. 349/2002)]

1994-41-56; 1999-34-19; 2002-76-40 (B.C.Reg. 349/2002).

**Use of forest service road for uses other than development of natural resources**

- 57. (1.) Except as set out in subsection (2), a person may use a forest service road without charge for purposes other than those referred to in section 54 (1) and (2).
- (2.) If use of a forest service road would likely cause significant damage to the road or environment, or endanger life or property, or if the presence on the road of a vehicle or animal would likely cause significant damage to the road or environment, or endanger life or property, the district manager may
  - (a) close or restrict the use of the road, or
  - (b) at the expense of its owner, remove the vehicle or animal.

1994-41-57; 1999-34-20.

**Authority required to construct or modify a road on Crown land**

- 58. (1.) A person, other than the government, who constructs or modifies a road on Crown land must comply with subsection (2) if the road
  - (a) is within a Provincial forest, or
  - (b) is outside a Provincial forest and is for the purpose of providing access to timber.
- (2.) A person to whom this subsection applies may only construct or modify the road
  - (a) if
    - (i) the road is identified in a forest development plan prepared or approved by the district manager, and
    - (ii) the construction or modification has been authorized by a road permit,
  - (b) if the road is
    - (i) authorized by a cutting permit, or timber sale licence that does not provide for cutting permits, and
    - (ii) wholly contained in an area covered by a cutting permit, or a timber sale licence that does not provide for cutting permits,
    - (iii) *Repealed.* [2002-76-41 (a) (B.C. Reg. 349/2002)]
  - (c) subject to any requirement for a special use permit under a regulation referred to in section 2 (5), if the construction or modification is authorized under the *Coal Act*, *Geothermal Resources Act*, *Mines Act*, *Mining Right of Way Act* or *Petroleum and Natural Gas Act*, or

- (d) without limiting section 2 (5), if the construction or modification is authorized under a special use permit.
- (3.) A person to whom subsection (2) (b) applies must obtain a road permit, unless the road to be constructed or modified is
  - (a) wholly contained in a cutblock or an opening that meets the prescribed requirements and is not identified on a forest development plan as providing access to more than one cutblock or opening, or
  - (b) within a woodlot licence area.

1994-41-58; 1997-48-90; 2002-76-41 (B.C.Reg. 349/2002).

#### Road construction or modification by minister

- 59. (1.) Before a road is constructed or modified on Crown land under section 121 of the *Forest Act*, the road must be identified on a forest development plan prepared or approved by the district manager, unless the road is immediately required for fire control or suppression or another emergency.
- (2.) If a road referred to in subsection (1) is constructed or modified because the road is required for an emergency and the road is not identified on a forest development plan, when the emergency is over the government must ensure that the road is maintained or deactivated in accordance with the regulations and standards.

1994-41-59; 1997-48-89; 1999-34-21.

#### -- Sections 60 - 66 of Part 4, Division 2 --

#### Road layout and design

- 60. (1.) Before the holder of a road permit, a timber sale licence that does not provide for cutting permits, a cutting permit or a special use permit constructs or modifies a road, the holder must
  - (a) prepare a road layout and design in accordance with the prescribed requirements, and
  - (b) in prescribed circumstances, obtain the district manager's approval for the road layout and design.
- (1.1) A holder of a road permit or cutting permit who is also the holder of a woodlot licence need not comply with subsection (1) unless required by regulation to obtain the district manager's approval for a road layout and design.
- (2.) Before a road is constructed or modified under section 121 of the *Forest Act*, the district manager must prepare a road layout and design in accordance with the regulations and standards, unless the road is immediately required for fire control or suppression or another emergency.
- (3.) A holder required to prepare a road layout and design under this section must
  - (a) ensure that the road layout and design is consistent with any applicable forest development plan, and
  - (b) make the road layout and design publicly available at any reasonable time at the holder's place of business nearest to the area under the road layout and design, on request.

1994-41-60; 1995-6-19; 1997-48-89.

**Repealed**

60.1 *Repealed.* [2002-76-43 (B.C. Reg. 349/2002)]

**Repealed**

60.2 *Repealed.* [2002-76-43 (B.C. Reg. 349/2002)]

**Repealed**

61. *Repealed.* [2002-76-43 (B.C. Reg. 349/2002)]

**Road construction and modification  
must comply with Act and plans**

62. (1.) A person who constructs or modifies a road on Crown land
- (a) within a Provincial forest, or
  - (b) outside a Provincial forest if the road is constructed or modified for the purpose of providing access to timber,

must do so in accordance with all of the following:

- (c) this Act, the regulations and the standards;
  - (d) any forest development plan, silviculture prescription or logging plan;
  - (e) any cutting permit, road permit or special use permit;
  - (f) any road layout and design.
  - (g) *Repealed.* [2002-76-44 (B.C. Reg. 349/2002)]
- (2.) This section does not apply to a road constructed or modified under section 121 of the *Forest Act* if the road is immediately required for fire control or suppression or another emergency.

1994-41-62; 1997-48-91, 143; 2002-76-44 (B.C.Reg. 349/2002).

**Road maintenance**

63. (1.) Subject to subsection (5) a person who uses a road under the authority of a road permit, a timber sale licence that does not provide for cutting permits, a cutting permit or a special use permit must maintain it until
- (a) the road is deactivated,
  - (a.1) the district manager notifies the person under section 64 (11.1),
  - (b) a road permit or special use permit for the road is issued to another person, or
  - (c) the road is declared a forest service road under section 115 (5) of the *Forest Act*.
- (2.) A person who is required to maintain a road under subsection (1), (5) or (7) must maintain it in accordance with the requirements of
- (a) any forest development plan,
  - (b) the Act, regulations and standards, and
  - (c) the cutting permit, road permit, timber sale licence that does not provide for cutting permits, road use permit or special use permit.
- (3.) A person who has been exempted under section 54 (5) from the requirement for a road permit or a special use permit must maintain the road for the duration of the person's use of the road in accordance with the requirements of
- (a) any forest development plan, and

- (b) the regulations and standards.
- (4.) A person who constructs or modifies a road under section 58 (2) (c) must maintain the road in accordance with the regulations and standards made under this Act until
  - (a) the road is deactivated, or
  - (b) the district manager notifies the person under section 64 (11.1).
- (5.) The district manager may require the holder of a road use permit that authorizes the use of a road for which there is an active road permit to assume all or part of the responsibility for maintaining the road.
- (6.) Subject to subsection (7), the government must maintain forest service roads in accordance with the requirements of
  - (a) any forest development plan, and
  - (b) the regulations and standards,
 until the road is deactivated under a forest development plan.
- (7.) The district manager may require the holder of a road use permit that authorizes the use of a forest service road to assume all or part of the responsibility for maintaining the road.

1994-41-63; 1995-6-20; 1997-48-89, 92; 1999-34-22; 2002-76-45 (B.C.Reg. 349/2002).

**Road deactivation**

- 64. (1.) Subject to subsection (11), a person who uses a road under the authority of a road permit, cutting permit, timber sale licence that does not provide for cutting permits or special use permit, or the government for a forest service road, must deactivate the road as required by, and in accordance with
  - (a) any forest development plan,
  - (b) this Act, the regulations and standards,
  - (c) the road permit, cutting permit, timber sale licence that does not provide for cutting permits or special use permit, and
  - (d) any road deactivation prescription.
- (1.1) If the regulations respecting road deactivation conflict with a road deactivation prescription, the regulation prevails over the prescription to the extent of the conflict.
- (2.) A person who uses a road under the authority of a road permit, cutting permit, timber sale licence that does not provide for cutting permits or special use permit, or the government for a forest service road, must ensure that the area that has been deactivated meets prescribed requirements.
- (3.) After deactivation of a road under this section, a person who used the road under the authority of a road permit associated with, or a cutting permit issued under, a tree farm licence must maintain, in accordance with the regulations, the stability of the area that was deactivated.
- (4.) After deactivation of a road under this section, other than a road referred to in subsection (3), the government must maintain, in accordance with the regulations, the stability of the area that was deactivated.
- (5.) A person must not deactivate a road unless the person
  - (a) in prescribed circumstances, prepares a road deactivation prescription for the road that conforms to prescribed requirements, and
  - (b) deactivates the road in accordance with the regulations.
- (6.) *Repealed.* [2002-76-46 (d) (B.C. Reg. 349/2002)]
- (7.) *Repealed.* [2002-76-46 (d) (B.C. Reg. 349/2002)]

- (8.) The government must not carry out a deactivation of a road unless, in accordance with the regulations, the district manager prepares a road deactivation prescription for the road.
- (9.) *Repealed.* [2002-76-46 (f) (B.C. Reg. 349/2002)]
- (10.) A road deactivation prescription must specify for the road any site specific measures necessary to minimize soil erosion.
- (11.) *Repealed.* [2002-76-46 (f) (B.C. Reg. 349/2002)]
- (11.1) Without limiting section 162.1, a person's responsibility for deactivating a road on Crown land ceases when the district manager notifies the person in writing that, in the opinion of the district manager, future use of the road by others will preclude deactivation.
- (12.) A person who constructs or modifies a road under section 58 (2) (c) must deactivate the road in accordance with the regulations and standards when the person ceases to maintain the road.

1994-41-64; 1995-6-21; 1996-11-24; 1997-48-89; 1999-34-23; 2002-76-46 (B.C.Reg. 349/2002) 2003-56-19.

#### Consent to connect

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

1994-41-65.

#### Not a public highway

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

1994-41-66.

### Part 4: Division 3 – Timber Harvesting

#### General

- 67. (1.) A person who carries out timber harvesting and related forest practices on
  - (a) Crown forest land,
  - (b) Crown range, or
  - (c) private land that is subject to a tree farm licence, community forest agreement or a woodlot licence,
 must do so in accordance with
  - (d) this Act, the regulations and standards, and
  - (e) any operational plan.
  - (f) *Repealed.* [1999-34-24]
- (2.) Without limiting subsection (1), the person must
  - (a) conduct forest practices in and around streams in accordance with the regulations and standards,
  - (b) *Repealed.* [1997-48-94 (a)]
  - (c) ensure that
    - (i) in areas that are not covered by a silviculture prescription or a site plan prepared under section 21.1, forest practices are carried out so as to minimize the area occupied by excavated or bladed trails, and

- (ii) any soil disturbance in the net area to be reforested does not prevent the requirements of the silviculture prescription from being met, and
- (d) not harvest or damage trees that are required by the silviculture prescription to be left standing or undamaged.

1994-41-67; 1997-48-94; 1998-29-26; 1999-34-24; 2002-76-47 (B.C.Reg. 349/2002).

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

68. (1.) A person must obtain the consent of the district manager before constructing an excavated or bladed trail unless the construction is authorized
- (a) by an operational plan,
  - (b) by a special use permit, or
  - (c) under the regulations.
- (2.) The district manager may attach conditions to a consent under subsection (1) that the district manager considers necessary or desirable, and the person to whom the consent is granted must comply with the conditions.
- (3.) The district manager may grant a consent under this section only if
- (a) the consent is consistent with any operational plan or higher level plan in effect for the area covered by the consent, and
  - (b) the district manager is satisfied that the construction of the excavated or bladed trail will adequately manage and conserve the forest resources of the area to which the consent applies.
- (4.) Without limiting subsection (1) or (2), an excavated or bladed trail must be constructed in accordance with
- (a) the regulations and standards, and
  - (b) any conditions attached to the consent under subsection (2).

2000-6-37.

#### **Natural range barriers**

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

1994-41-69; 1995-6-23.

### **Part 4: Division 4 – Silviculture**

#### **Reforestation for areas under a site plan**

- 69.1 (1.) In this section:

**"commencement date"** means

- (a) for a site plan under section 21.1 (1) to (5), the date when timber harvesting, excluding road and landing construction, begins on the area under the plan,
- (b) for a site plan under section 21.1 (6), the date the harvesting begins on the area, and
- (c) for a site plan required under section 35 (2) or (2.2), 36 (4) or 37 (1) or prepared under section 38 (2), the date on which a professional forester signed the site plan;

**"free growing date"** means the prescribed date by which the requirements of subsection (4) (d) must be met;

**"regeneration date"** means the prescribed date by which the requirements of subsection (4) (c) must be met;

**"well spaced trees"** means trees that meet the prescribed minimum allowable horizontal distance.

- (2.) If
  - (a) the district manager or holder of a timber sale licence is required to prepare a site plan, and
  - (b) the commencement date has passed,  
the government must establish, in accordance with the regulations and standards, a free growing stand on the net area to be reforested.
- (3.) If the holder of a major licence is required to prepare a site plan and the commencement date has passed, the holder must establish, in accordance with the regulations and standards, a free growing stand on the net area to be reforested.
- (4.) Without limiting subsection (2) and (3), the person who is required to establish a free growing stand on an area under a site plan prepared in accordance with section 11.1 must do all of the following:
  - (a) create the prescribed post harvest stand structure and prescribed site conditions;
  - (b) use seed, seedlings and vegetative propagules only in accordance with the regulations and standards;
  - (c) by the regeneration date, meet, and after that date maintain, the prescribed stocking requirements for that date;
  - (d) by the free growing date, establish a free growing stand that meets the prescribed stocking requirements;
  - (e) if the density of trees exceeds the prescribed maximum number of coniferous trees allowed per hectare, carry out a spacing treatment before the free growing date to reduce the density of trees to within the prescribed density range;
  - (f) carry out surveys at the times and in the manner specified in the regulations and standards;
  - (g) submit reports at the times and in the manner specified in the regulations and standards.
- (5.) Despite this section, if all or part of the area under a site plan has been included in a Provincial protected area referred to in section 70 (7), the district manager may cancel a site plan and impose conditions the district manager considers necessary or desirable, and the person whose site plan is cancelled must comply with the conditions.
- (6.) On cancellation of a site plan under subsection (5), the person whose site plan is cancelled is relieved of the requirement to establish a free growing stand on the area under the site plan.

2002-76-48 (B.C.Reg. 349/2002).

### **Silviculture prescriptions**

70. (1.) In this section:

**"commencement date"** means

- (a) for a silviculture prescription under section 22 (1) (a), (1.1) or (3), the date when timber harvesting, excluding road and landing construction, begins on the area under the prescription,
- (b) *Repealed.* [2002-76-49 (B.C. Reg. 349/2002)]
- (c) for a silviculture prescription under section 22 (4) to (6), the date of the district manager's approval,
- (d) *Repealed.* [2002-76-49 (B.C. Reg. 349/2002)]
- (e) for a pre-harvest silviculture prescription that was prepared or approved by the district manager and that was in effect on June 15, 1995, the date when timber harvesting, excluding road and landing construction, begins on the area under the prescription, and
- (f) for a silviculture prescription that was prepared or approved by the district manager and that was in effect on June 15, 1995, the date the district manager prepared the prescription or approved it;

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

- (a) the beginning and end of the period are measured from the commencement date, if the silviculture prescription is approved or prepared by the district manager on or after April 1, 1994;
- (b) the beginning and end of the period are the earliest and latest dates specified in a silviculture prescription for the free growing assessment measured from the commencement date, if the silviculture prescription was approved before April 1, 1994;

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

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

**"well spaced trees"** means trees that meet the minimum allowable horizontal distance specified in the prescription.

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



- on those portions of the area under the prescription that are within the net area to be reforested.
- (4.) Without limiting subsection (2) or (3), the person who is required to establish the free growing stand under the prescription must do all of the following:
- (a) create the post harvest stand structure and site conditions specified in the prescription;
  - (b) not exceed the limit for forest floor displacement specified in the prescription;
  - (c) use seed, seedlings and vegetative propagules only in accordance with the regulations and standards;
  - (d) by the regeneration date specified in the prescription meet, and after that date maintain, the stocking requirements as defined in the regulations and specified in the prescription for that date;
  - (e) within the free growing assessment period specified in the prescription, establish a free growing stand that meets the stocking requirements as defined in the regulations and specified in the prescription;
  - (f) if the density of trees exceeds the maximum number of coniferous trees allowed per hectare as specified in the prescription, carry out a spacing treatment before the end of the free growing assessment period to reduce the density of trees to within the density range specified in the prescription;
  - (g) if the quality and health of trees of a commercially valuable species fail to meet the prescribed requirements, carry out any necessary silviculture treatment before the end of the free growing assessment period to cause the quality and health of the trees to meet the prescribed requirements;
  - (h) carry out surveys at the times and in the manner specified in the regulations and standards;
  - (i) submit reports at the times and in the manner specified in the regulations and standards.
- (5.) Subsection (4) (f) does not apply to a silviculture prescription approved before April 1, 1994, unless the silviculture prescription is amended and the amendment relates to the method of regeneration.
- (6.) If a silviculture prescription was approved before April 1, 1994, the person who is required to produce a free growing stand must, if the density of lodgepole pine or drybelt Douglas fir exceeds the maximum density specified in the silviculture prescription, carry out a spacing treatment before the end of the free growing assessment period to reduce the number of trees to
- (a) the target number of healthy well spaced trees per hectare, or
  - (b) if the district manager serves written notice on the person requiring a number of healthy, well spaced trees per hectare that is greater than the target number, the number required by the district manager.
- (7.) In subsection (8), "**Provincial protected area**" means a Provincial protected area as defined by regulation.
- (8.) Despite this section, but subject to subsection (9), if all or part of the area under a silviculture prescription has been included in a Provincial protected area, the district manager
- (a) may amend the prescription to ensure that it is consistent with the protected area management goals,
  - (b) if the commencement date of the prescription has not occurred, may cancel the

- prescription, or
- (c) if the commencement date of the prescription has occurred,
    - (i) may cancel the prescription or part of the prescription that is included in the protected area if either of the following apply:
      - (A) no harvesting has taken place under the prescription;
      - (B) harvesting has taken place under the prescription, but continuing to carry out the prescription is contrary to the protected area management goals or considered undesirable by the protected area management authority, or
    - (ii) may cancel all or part of the prescription that is not included in the protected area if carrying out the prescription is contrary to protected area management goals or considered undesirable by the protected area management authority.
- (9.) Before acting under subsection (8), the district manager must obtain the consent
- (a) of a designated environment official, if the silviculture prescription was prepared under section 22 (1), or
  - (b) of a designated environment official and the holder of the silviculture prescription, if the prescription was prepared under section 22 (3) to (6).
- (10.) Part 3 does not apply to an amendment under subsection (8) (a) of this section.
- (11.) If a silviculture prescription is cancelled under subsection (8) (c), the district manager may impose conditions the district manager considers necessary or desirable, and the person whose prescription is cancelled must comply with the conditions.
- (12.) On cancellation of a silviculture prescription under subsection (8) (c), the person whose prescription is cancelled is relieved of the requirement to establish a free growing stand on the area under the prescription.

1994-41-70; 1995-6-24; 1996-11-25; 1997-48-96 (a) to (c), (e), (f); 2000-6-38; 2002-7-7; 2002-76-49 (B.C.Reg. 349/2002).

### **Silviculture prescriptions for non-replaceable licences**

71. (1.) In this section, “**holder of a prescription or site plan**” means a person
- (a) who prepared and obtained approval for a silviculture prescription or site plan after a prescribed date for an area harvested under a timber licence, non-replaceable forest licence or non-replaceable woodlot licence and who does not hold a replaceable tree farm licence or forest licence, and
  - (b) who meets prescribed requirements, if any.
- (2.) By notice given to the district manager, the holder of a prescription or site plan may request that the government assume responsibility for carrying out the prescription or site plan referred to in subsection (1).
- (3.) By notice given to a person who has made a request under subsection (2), the district manager may assume on behalf of the government the responsibility for carrying out the prescription or site plan if all of the following requirements have been met:
- (a) the holder of the prescription or site plan has completed timber harvesting on the area under the prescription or site plan and the district manager is satisfied with the way the timber harvesting has been carried out;
  - (b) the district manager is satisfied that the holder of the prescription or site plan
    - (i) is in compliance with the Act, regulations and standards with respect to the area under the prescription or site plan, or

- (ii) has remedied any contraventions of the Act, regulations or standards on the area under the silviculture prescription or site plan that the district manager required to be remedied;
- (c) the holder of the prescription or site plan has paid the government an amount that the district manager determines will pay the costs of carrying out the silviculture prescription or site plan and any other directly or indirectly associated costs;
- (d) other prescribed requirements.
- (4.) Money collected by the government under subsection (3) must be paid into the Silviculture Payments Sub-account of the Forest Stand Management Fund special account established by the *Special Accounts Appropriation and Control Act*.
- (5.) After the district manager has given notice under subsection (3) to the holder of the prescription or site plan,
  - (a) the prescription or site plan is deemed to be a silviculture prescription prepared under section 22 (1), and
  - (b) the holder of the prescription or site plan is no longer responsible for obligations under the prescription or site plan assumed by the government.
- (6.) Compensation is not payable to the government or the holder of the prescription or site plan for any difference between the amount the person who holds the prescription or site plan paid under subsection (3) and the actual costs incurred by the government both directly and indirectly to carry out the prescription or site plan.

1994-41-70.1; 1995-6-25; 1997-48-97; 2000-6-39.

### Repealed

72. *Repealed.* [2002-25-27]

### Action by government if agreement terminates

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

1994-41-72; 1999-34-25.

## Part 4: Division 5 – Range

### Range developments and brands

74. (1.) A person who grazes livestock, cuts hay or constructs, carries out or maintains a range development on range land or unfenced grazing land must do so in accordance with
- (a) this Act, the regulations and the standards, and
  - (b) any range use plan.
- (2.) Without limiting subsection (1), the holder of an agreement under the *Range Act* must, with respect to range land,

- (a) not construct or carry out a range development until the proposed development has
    - (i) been approved by the district manager in accordance with the regulations, and
    - (ii) been shown on a map of the site,
  - (b) construct, carry out or maintain range developments in accordance with the regulations and with specifications approved by the district manager, and
  - (c) remove range developments and rehabilitate areas subject to range development, if the district manager, in accordance with the regulations, directs the holder to do so.
- (3.) In subsection (4), “**registered brand**” means a brand registered under the *Livestock Identification Act*.
- (4.) The holder of an agreement under the *Range Act* that authorizes grazing must ensure that all livestock authorized to graze on Crown range under the agreement are
- (a) marked with the holder’s registered brand or marked in another manner approved by the district manager, and
  - (b) identified by a mark or tag designating them as animals pastured under the agreement, if the district manager requires it.

1994-41-73, 74; 1995-6-26, 27; 1997-14-10.

**PART 5 – Protection of Forest Resources: General****Part 5: Division 1 – Definitions****Definitions**

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

**"forest"** includes all of the following:

- (a) forest land, whether Crown land or private land;
- (b) Crown range;
- (c) Crown land or private land that is predominantly maintained in one or more
  - (i) successive stands of trees,
  - (ii) successive crops of forage, or
  - (iii) wilderness;

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

**"local government"** means the following:

- (a) the trustees of an improvement district;
- (b) the council of a municipality;
- (c) the board of a regional district;
- (d) *Repealed.* [2003-52-77]

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

1994-41-75; 1998-29-29; 2003-52-77.

**Part 5: Division 2 – Fire Use and Prevention****Use of open fires**

76. (1.) A person must not light, fuel or make use of an open fire in or within 1 km of a forest, except in compliance with
- (a) this Act and the regulations, and
  - (b) any notice or order published, broadcast or given under section 78 (1).
- (1.1) Subsection (1) applies despite any provision to the contrary in an operational plan.
- (2.) *Repealed.* [1998-29-30]
- (3.) Despite subsection (1), a person acting for the government may light, fuel or make use of an open fire if the fire is for fire control or suppression purposes.
- (4.) The Lieutenant Governor in Council may, by order, exempt an area or class of areas from subsection (1) and may, by regulation, regulate burning in the exempted area.

1994-41-76; 1998-29-30.

**Repealed**

77. *Repealed.* [1998-29-31]

**Notice or order respecting restriction, prohibition  
or extinguishment of an open fire**

78. (1.) A designated forest official, if he or she considers it necessary to limit the risk of a forest fire starting or to address a public health or safety concern,
- (a) in a notice published or broadcast, or both, in or near an area, including an area exempted under section 76 (4), may
    - (i) restrict, with or without conditions, or prohibit the lighting, fueling or use of an open fire in an area, or
    - (ii) order that a person who is lighting, fueling or making use of an open fire in an area to extinguish the fire, and
  - (b) in a notice given to a person who is lighting, fueling or making use of an open fire in an area, including an area exempted under section 76 (4), may
    - (i) restrict, with or without conditions, or prohibit the person from lighting, fueling or making use of the fire, or
    - (ii) order the person to extinguish the fire.
- (2.) An order made under this section may be different for different
- (a) types, categories or subcategories of open fires, or
  - (b) persons, places or things.

1998-29-32; 1999-34-26.

**Fire hazard assessment**

79. (1.) If required by the regulations, a person who engages in a prescribed activity related to timber harvesting must, in accordance with the regulations,
- (a) assess the fire hazard, and
  - (b) submit the results of the fire hazard assessment to a designated forest official.
- (2.) In accordance with the regulations, a designated forest official may assess whether a fire hazard exists on any land in or within 1 km of a forest, and for this purpose may enter onto private land.
- (3.) If a designated forest official makes an assessment under subsection (2), he or she must provide the results of that assessment to a person carrying out an industrial activity on the land, and, if the land is private land, the owner or any tenant.
- (4.) An assessment under subsection (1) is effective to the extent it does not conflict with an assessment under subsection (2).

1994-41-79.

**Responsibility for abatement  
and removal of fire hazard**

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

accordance with the regulations:

- (a) the landowner;
  - (b) the tenant;
  - (c) the person carrying out the activity;
  - (d) the person causing the activity to be carried out.
- (3.) In accordance with the regulations, a landowner and tenant must abate and remove a fire hazard that exists on private land as a result of insects, disease, wind, fire or other causes.
- (4.) Without limiting subsections (2) and (3), if a fire hazard exists on private land as a result of activities or conditions referred to in subsection (2) or (3), and a corporation is the landowner, tenant, person carrying out the activity or person causing the activity to be carried out, the following persons must abate and remove the fire hazard in accordance with the regulations:
- (a) the landowner;
  - (b) the tenant;
  - (c) the person carrying out the activity;
  - (d) the person causing the activity to be carried out;
  - (e) the directors and officers of the corporation;
  - (f) a person who controls the corporation;
  - (g) 2 or more persons not dealing at arm's length with each other who control the corporation.

1994-41-80.

### Repealed

81. *Repealed.* [1998-29-33]

### Order to abate or remove fire hazard

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

1994-41-82.

## Part 5: Division 3 – Fire Control and Suppression

### Definitions

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

1994-41-83.

**Restricted area**

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

1994-41-84.

**Order to leave area**

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

1994-41-85.

**General duty to report a fire**

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

1994-41-86.

**Prohibition**

87. (1.) Except for the purpose of starting a fire in accordance with this Act, a person must not drop a burning substance in or within 1 km of a forest.
- (2.) A person who contravenes subsection (1) must immediately take all reasonable steps to extinguish the burning substance.

1994-41-87.

**Obligation of person starting fire**



88. (1.) A person must take the actions required under subsection (2) if the person does any of the following things in or within 1 km of a forest:
- (a) starts or causes a fire, otherwise than as permitted by this Act and the regulations;
  - (b) starts or causes an open fire that spreads beyond the area authorized or intended for burning or that otherwise becomes out of control.
- (2.) A person to whom subsection (1) applies must
- (a) immediately take all reasonable steps to extinguish the fire, if the fire can be extinguished, and after that to report the fire, or
  - (b) if it appears the fire cannot be extinguished by the person, immediately report the fire.
- (3.) A fire is reported when it is made known to a regional manager, district manager, a designated forest official, peace officer or person answering a forest fire reporting telephone number.

1994-41-88.

#### **Government may fight fire to protect forest**

89. (1.) The government may carry out a fire control and suppression operation
- (a) on any land, wherever located, if a designated forest official determines that
    - (i) the operation is necessary to control or extinguish a fire, and
    - (ii) forest resources on Crown land or private land are threatened by the fire, or
  - (b) on land within a local government's jurisdiction if the local government or a person authorized by the local government requests that the operation be carried out.
- (2.) If the government causes fire control or suppression operations to be carried out on private land under subsection (1), the reasonable cost of the operations is a debt due the government by the owner of the land, payable on demand.

1994-41-89; 1998-29-34.

#### **Access across private land**

90. (1.) A person acting on behalf of the government may enter on private land for the purpose of carrying out fire control or suppression operations on adjoining land.
- (2.) The government must compensate the owner and any tenant for damage caused to private land by the government under subsection (1).

1994-41-90.

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

91. (1.) A person carrying out an industrial activity in or within 300 m of a forest must
- (a) do so in accordance with the regulations, and
  - (b) at all times have
    - (i) the tools and equipment in the quantity and of the type required by the regulations, and
    - (ii) the prescribed number of personnel who meet the prescribed training qualifications.
- (2.) A person engaged in a prescribed category of industrial activity must submit to a

designated forest official a fire preparedness plan that

- (a) specifies proposed fire detection and initial fire suppression for the person's area of operation, and
- (b) meets the requirements of the regulations.

1994-41-91; 1995-6-28.

#### **Fire suppression responsibilities of a person engaged in an industrial activity**

92. (1.) If a person is carrying out an industrial activity and a fire occurs in or within 1 km of the person's area of operation, that person
- (a) must report the fire to the regional manager, district manager, designated forest official or person answering a forest fire reporting telephone number, and
  - (b) carry out initial fire suppression in accordance with the regulations.
- (2.) A person is not relieved of a responsibility under subsection (1) by the government carrying out a fire control and suppression activity in the person's area of operation.

1994-41-92; 1995-6-29.

#### **Temporary employees**

93. (1.) A designated forest official may hire temporary employees for the purposes of carrying out fire suppression operations.
- (2.) The *Public Service Act* does not apply to a person hired as a temporary employee under subsection (1).
- (3.) A temporary employee hired under subsection (1) must be compensated by the government in accordance with the regulations.
- (4.) A designated forest official may, in writing, authorize a temporary employee to exercise, within the limits provided in the authorizations, the powers conferred on
- (a) a designated forest official under section 77, 78 (1) (b), 85, 89 or 94, or
  - (b) a person acting on behalf of the government under section 90 (1).

1994-41-93; 1999-34-27.

#### **Requisition of facilities, equipment and personnel**

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

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

1994-41-94.

**Compensation for fire control  
or suppression operations**

95. (1.) Subject to subsections (2), (4), (5) and (7), a person who carries out initial fire suppression under section 92 or who complies with an order issued under section 94 must be compensated by the government in an amount determined by a designated forest official in accordance with the regulations.
- (2.) Despite subsection (1), a designated forest official may make a determination that a person, or that person's employee,
- (a) caused a fire,
  - (b) failed to comply with section 92, or
  - (c) failed to comply with the regulations and that failure contributed to the cause or spread of a fire.
- (3.) If a designated forest official makes a determination under subsection (2), a designated forest official must give the person a notice of determination under section 120.
- (4.) The government is not liable to compensate a person who is determined under subsection (2) to have caused a fire or failed to comply, for an expense incurred in complying with an order issued under section 94 for
- (a) equipment brought to a forest fire from within 30 km by road of the person's area of operation, including, for example, crawlers, tractors, trucks, excavators and skidders,
  - (b) any facilities or vehicles that serve the person's area of operation including, for example, camps, first aid offices, warehouses, machine shops, trucks and crew buses,
  - (c) wages payable to employees referred to in section 94 (1) (a) (ii), and
  - (d) prescribed expenses.
- (5.) The government is not liable to compensate a person for carrying out initial fire suppression activities under section 92 if a designated forest official has determined under subsection (2) of this section that the person or the person's employee
- (a) caused the fire,
  - (b) failed to comply with section 92, or
  - (c) failed to comply with the regulations and that failure contributed to the cause or spread of the fire.
- (6.) In accordance with the regulations, the government may compensate a person who incurs expense, other than on private land owned or occupied by the person, in voluntarily attempting to control or extinguish a fire burning in or within 1 km of a forest.
- (7.) Compensation is not payable under subsection (1) or (6) to a person in respect of expenses that relate to a fire on private land that the person owns, rents or leases.

1994-41-95; 1995-6-30.

**Part 5: Division 4 – Unauthorized Timber Harvesting and Trespass**

**Unauthorized timber harvest operations**

96. (1.) A person must not cut, damage or destroy Crown timber unless authorized to do so
- (a) under an agreement under the *Forest Act* or under a provision of the *Forest Act*,
  - (b) under a grant of Crown land made under the *Land Act*,
  - (c) under the *Mineral Tenure Act* for the purpose of locating a claim or for other prescribed purposes,
  - (d) under the *Park Act*,
  - (e) by the regulations, in the course of carrying out duties as a land surveyor,
  - (f) by the regulations, in the course of fire control or suppression operations,
  - (f.1) by the regulations, for the purposes of silviculture, stand tending, forest health or any other purpose that is ancillary to the purposes of this Act, or
  - (g) by the regulations, in the course of carrying out activities
    - (i) under a range use plan or a consent under section 101 or 102, or
    - (ii) *Repealed.* [2002-76-50 (b) (B.C. Reg. 349/2002)]
    - (iii) that are incidental to or required to carry out activities authorized or approved under the *Forest Act*, the *Range Act*, this Act or another prescribed enactment.
- (2.) Without limiting subsection (1), a person must not remove Crown timber unless authorized to do so
- (a) under an agreement under the *Forest Act* or under a provision of the *Forest Act*,
  - (b) under a grant of Crown land made under the *Land Act*, or
  - (c) under the *Park Act*.
- (3.) If a person, at the direction of or on behalf of another person,
- (a) cuts, damages or destroys Crown timber contrary to subsection (1), or
  - (b) removes Crown timber contrary to subsection (2),
- that other person also contravenes subsection (1) or (2).
- (4.) Despite any other enactment or grant of land from the government, timber on private land granted by the government after April 6, 1887 and before April 29, 1888 may be harvested without the authority of the government.

1997-48-101; 2000-6-40; 2002-25-29; 2002-76-50 (B.C.Reg. 349/2002).

#### Private land adjacent to Crown land

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

1994-41-97.

#### Trespassing livestock

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

1994-41-98; 1996-11-26; 2002-76-51 (B.C.Reg. 349/2002).

**Unauthorized construction and occupation**

- 99. (1.) A person must obtain the consent of the district manager before constructing or occupying a building on Crown land in a Provincial forest unless the construction or occupation is authorized under another enactment.
- (2.) The district manager may, in a notice given to a person who contravenes subsection (1), order the person to do one or more of the following:
  - (a) remove or destroy, or both, the building or other structure;
  - (b) restore the land under the building or other structure.

1994-41-99.

**Unauthorized hay cutting, removal, damage or destruction of hay**

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

1994-41-100.

**Unauthorized hay storage or range development**

- 101. (1.) A person must obtain the consent of the district manager before
  - (a) storing hay on Crown range, or
  - (b) carrying out, constructing, modifying, maintaining, removing, damaging or destroying a range development on Crown range.
- (1.1) The district manager may
  - (a) require a person seeking consent under subsection (1) to submit the matter for which consent is sought to a review in accordance with the regulations, and for comments by interested parties during the course of the review,
  - (b) grant or refuse the consent, depending on the outcome of a review required under paragraph (a), and
  - (c) impose requirements, that the district manager considers necessary or desirable, to be met by the person seeking the consent as a condition of obtaining or retaining the consent, including, but not limited to, requiring that the person provide security.
- (1.11) The district manager may only grant a consent under this section if
  - (a) the consent is consistent with any operational plans and higher level plans in effect for the area covered by the consent, and
  - (b) the district manager is satisfied that the consent will adequately manage and conserve the forest resources of the area to which it applies.
- (1.12) If the district manager requires security under subsection (1.1) (c), the district manager must specify
  - (a) when the security must be paid,
  - (b) the amount of security that is required,
  - (c) the form of the security, and
  - (d) the circumstances under which the security may be realized.
- (1.2) A person who obtains consent under subsection (1) must comply with any conditions imposed under subsection (1.1) in respect of the consent.

- (2.) The district manager may, in a notice given to a person who contravenes subsection (1) or (1.2), order the person to do one or more of the following:
  - (a) remove or destroy, or both, the stored hay or the range development;
  - (b) restore the land under the stored hay or the range development, or both;
  - (c) repair or rehabilitate the range development.

1994-41-101; 1997-48-102.

**Unauthorized trail or recreation facility construction**

- 102. (1.) Subject to subsection (2), a person must obtain the consent of the district manager before constructing, rehabilitating or maintaining a trail or other recreation facility on Crown land.
- (2.) Subsection (1) does not apply to a person who is authorized under another enactment to construct, rehabilitate or maintain a trail or recreational facility on Crown land.
- (3.) The district manager may, in a notice given to a person who contravenes subsection (1), order the person to
  - (a) remove or destroy, or both, the trail or facility, and
  - (b) restore the land underlying the trail or facility.

1994-41-102.

**Tree spiking prohibited**

- 103. A person must not
  - (a) drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter,
  - (b) possess any nail, spike or other potentially hazardous object with the intention of driving or placing it into any timber that the person does not own or is not authorized to alter, or
  - (c) solicit funds or materials from another person with the stated intention that the funds or material will be used to enable any person to drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter.

1994-41-103.

**Part 5: Division 5 – Botanical Forest Products**

**Buying of botanical forest products**

- 104. Unless a person holds a valid botanical forest product buyer's licence, the person must not, as part of a commercial enterprise, buy a botanical forest product from a person, or otherwise engage in trade concerning a botanical forest product with a person who harvested the botanical forest product if it
  - (a) was harvested from Crown land in a Provincial forest or Crown range, and
  - (b) is designated in a regulation for the purposes of this section.

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

**Part 5: Division 6 – Recreation**

**Protection of recreation resources  
on Crown land**

105. (1.) If the district manager determines that it is necessary to protect a recreation resource or manage public recreation use on Crown land, he or she may, by written order, restrict, prohibit or attach a condition to
- (a) a non-recreational use of
    - (i) a resource management zone, landscape unit or sensitive area that was established for recreation, or
    - (ii) an interpretive forest site, recreation site or recreation trail that is on Crown land,  
except any use permitted under the *Coal Act*, *Mineral Tenure Act* or *Petroleum and Natural Gas Act*, or
  - (b) a recreational use anywhere on Crown land, except a use that is specifically permitted by or under another enactment.
- (2.) The district manager may make different orders under subsection (1) for different uses and locations.
- (3.) A district manager who makes an order under subsection (1) must post a notice of it in the area to which it applies.
- (4.) A person must not
- (a) contravene an order made under subsection (1), or
  - (b) remove, alter, destroy or deface a notice posted under subsection (3) without lawful authority.

1994-41-105.

**Part 5: Division 7 – Control of Destructive Agents****Control of insects, disease, etc.**

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

1994-41-106; 1997-48-103.

**PART 6 – Compliance and Enforcement****Part 6: Division 1 – Inspecting, Stopping and Seizing****Entry and inspection**

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

1994-41-107; 2002-76-52 (B.C.Reg. 349/2002).

**Inspection of vehicle or vessel  
carrying forest products**

108. For any purpose related to the administration and enforcement of the Acts, an official or peace officer may require a person operating a vehicle or vessel to stop the vehicle or vessel, and may carry out an inspection of a vehicle or vessel, if the official or peace officer has reasonable grounds to believe that the vehicle or vessel
- (a) contains or is transporting timber, special forest products, botanical forest products or hay, and



- (b) is under the operation or control of
  - (i) the holder of an agreement under the *Forest Act* or *Range Act*, or a product licence, or
  - (ii) any person.

1994-41-108; 1999-34-28; 2000-11-12.

#### Stopping vehicle or vessel for contravention

109. An official or peace officer may require a person operating a vehicle or vessel to stop the vehicle or vessel, and may carry out an inspection of a vehicle or vessel, if the official or peace officer has reasonable grounds to believe that the person is contravening or has contravened
- (a) this Act or the regulations or the *Forest Act* or the *Range Act* or the regulations under either Act.
  - (b) *Repealed.* [1997-48-105]

1994-41-109; 1997-48-104; 1997-48-105; 1999-34-29.

#### Production of records

110. (1.) A senior official may, by written order, require the holder of an agreement under the *Forest Act* or *Range Act*, within the time specified in the order, to produce records that are
- (a) related to an activity that requires a licence, permit, plan or approval under the Acts, and
  - (b) specified or otherwise described in the order.
- (2.) At any reasonable time, an official may enter the business premises of a holder of an agreement under the *Forest Act* or *Range Act* where records are kept, for the purpose of inspecting or copying records that are required to be kept under the Acts.

1994-41-110.

#### Obligation of an official

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

1994-41-111.

#### Obligation of person inspected

112. (1.) A person must not obstruct an official in the lawful exercise of an inspection.
- (2.) The operator of a vehicle or vessel must stop the vehicle or vessel when required to do so by an official referred to in section 108 or 109 who
- (a) is in uniform,
  - (b) displays his or her official badge, or
  - (c) is in or near a vehicle or vessel that is readily identifiable as a government vehicle.
- (3.) A person who
- (a) has apparent custody or control of the land, premises, records or other property that is being inspected,
  - (b) is in charge of the activity that is being inspected, or

- (c) is operating a vehicle or vessel that is stopped under section 108 or 109, must, on request of the official, produce
- (d) proof of identity,
- (e) a licence, permit, operational plan or site plan requested under section 107 (4) (b), and
- (f) a record requested under section 110.

1994-41-112; 2002-76-53 (B.C.Reg. 349/2002).

#### Warrant to search and seize evidence

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

1994-41-113.

#### Peace officers may accompany

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

1994-41-114.

### Part 6: Division 2 – Forfeiture

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

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

- scaled under section 94 of the *Forest Act*;
- (e) hay that has been cut, removed or damaged contrary to section 100;
  - (f) hay that has been stored contrary to section 101;
  - (g) a botanical forest product that the official has reasonable grounds to believe has been bought or traded contrary to section 104;
  - (h) a vehicle or vessel transporting timber, timber products, hay or botanical forest products to which paragraphs (a) to (g) apply.
- (2.) The regional manager may sell,
- (a) at a public auction or by private sale, Crown timber seized under subsection (1) (a), hay seized under subsection (1) (e), or botanical forest products seized under subsection (1) (g), and
  - (b) at a public auction, timber, chattels, timber products or hay seized under subsection (1) (b), (c), (d) or (f).
- (3.) If timber, chattels or timber products are sold under subsection (2) (b), notice of the public auction must be published at least 10 days in advance, in or near the area where the sale is to take place, and must
- (a) specify the time and place of the auction, and
  - (b) identify the name of the person from whom the timber, chattel or timber product was seized.
- (4.) If the money realized from the public auction exceeds the money that is payable to the government, including interest and the costs of seizure, storage and sale, the surplus must be paid to the person who possessed the property when it was seized if the property is
- (a) timber, a chattel or a timber product seized under subsection (1) (b), or
  - (b) timber seized under subsection (1) (c) (v).
- (5.) Despite subsection (4), if within 30 days after the sale a person other than the person referred to in subsection (4) serves a notice of a claim to the surplus on the regional manager, the surplus must be retained until the determination of the respective rights of persons claiming the surplus.
- (6.) The total proceeds from the sale of timber, a chattel or a timber product seized and sold under this section, other than timber, chattels or timber products referred to in subsection (4) (a) or (b), must be paid into the consolidated revenue fund.
- (7.) A vehicle or vessel seized under subsection (1) (h) must be released from seizure once the timber, chattel, timber product, hay or botanical forest product is delivered to a location specified by the official.
- (8.) If an official determines that a person has contravened section 98, the official, or person authorized by the official, may do one or more of the following:
- (a) drive the livestock from Crown range;
  - (b) round up, seize, tranquilize and hold the livestock;
  - (c) destroy the livestock if
    - (i) the safety of a person acting under this section is threatened by an animal that is being driven, rounded up, seized, tranquilized or held,
    - (ii) it is impracticable to round up the livestock, or
    - (iii) it would be humane treatment to do so.
- (9.) If livestock are held under subsection (8),
- (a) an official may return the livestock to the owner on payment of the reasonable costs of driving, rounding up, seizing, tranquilizing, holding, maintaining and

- returning the livestock or of disposing of a destroyed animal, or
- (b) the district manager may sell the livestock in accordance with the regulations.
- (10.) A district manager, an official and a person authorized by an official must take reasonable care of livestock while driving, rounding up, seizing, tranquilizing, holding, returning or selling them under this section.
- (11.) If livestock are sold under subsection (9), all of the following apply:
- (a) the purchaser acquires absolute ownership of the livestock, free of encumbrances;
- (b) the government will pay the balance of proceeds realized from the sale, after deducting the costs incurred for the driving, rounding up, seizing, holding and selling the livestock, to a person who
- (i) provides evidence satisfactory to the district manager that the person owned the livestock immediately before the sale, and
- (ii) applies in writing to the district manager for the balance within 6 months after the sale;
- (c) the balance of proceeds from the sale, if not paid under paragraph (b), must be paid to the consolidated revenue fund.

1994-41-115, 116; 1995-6-33.

#### No interference with notice

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

1994-41-116.1; 1996-11-27.

### Part 6: Division 3 – Administrative Remedies

#### Penalties

117. (1.) If a senior official determines that a person has contravened this Act, the regulations, the standards or an operational plan, the senior official may levy a penalty against the person up to the amount and in the manner prescribed.
- (2.) If a person's employee, agent or contractor, as that term is defined in section 152 of the *Forest Act*, contravenes this Act, the regulations or the standards in the course of carrying out the employment, agency or contract, the person also commits the contravention.
- (3.) If a corporation contravenes this Act, the regulations or the standards, a director or officer of it who authorized, permitted or acquiesced in the contravention also commits the contravention.
- (4.) Before the senior official levies a penalty under subsection (1) or section 119, he or she
- (a) must consider any policy established by the minister under section 122, and
- (b) subject to any policy established by the minister under section 122, may consider the following:
- (i) previous contraventions of a similar nature by the person;
- (ii) the gravity and magnitude of the contravention;
- (iii) whether the violation was repeated or continuous;
- (iv) whether the contravention was deliberate;

- (v) any economic benefit derived by the person from the contravention;
  - (vi) the person's cooperativeness and efforts to correct the contravention;
  - (vii) any other considerations that the Lieutenant Governor in Council may prescribe.
- (5.) The senior official who levies a penalty against a person under this section, section 118 (4) or (5) or 119 must give a notice of determination to the person setting out all of the following:
- (a) the nature of the contravention;
  - (b) the amount of the penalty;
  - (c) the date by which the penalty must be paid;
  - (d) the person's right to a review and appeal including the title and address of the review official to whom a request for a review may be made.
- (6.) For the purposes of subsection (1), the Lieutenant Governor in Council may prescribe penalties that vary according to
- (a) the area of land affected by the contravention,
  - (b) the volume of timber affected by the contravention,
  - (c) the number of trees affected by the contravention, or
  - (d) the number of livestock affected by the contravention.

1994-41-117.

**Not yet in force**

117.1 [Not yet in force]

**Penalty revenue to be paid into special account**

117.2 All revenue payable from penalties imposed under this Division and debts due under section 118 must be paid into the Environmental Remediation Sub-account of the Forest Stand Management Fund special account established by the *Special Accounts Appropriation and Control Act*.

2000-6-41.

**Not yet in force**

117.3 [Not yet in force]

**Remediation orders**

118. (1.) If a senior official determines that a person who is the holder of an agreement under the *Forest Act* or the *Range Act* has contravened this Act, the regulations, the standards or an operational plan, the senior official, in a notice of determination given under subsection (2), may order the person to do work to remedy the contravention
- (a) by requiring the holder to carry out a forest practice
    - (i) that is required by the Act, the regulations, the standards or an operational plan, and
    - (ii) that the holder has failed to carry out, or
  - (b) by requiring the holder to repair any damage caused by the contravention to the land on which the forest practice was carried out.

- (2.) A senior official who orders work to be done under subsection (1), a designated forest official who requires removal or abatement of a fire hazard under section 82 or a district manager who orders work to be done under section 99 (2), 101 (2), 102 (3) or 106 (1) must give a notice of determination to the person setting out all of the following that are applicable:
- (a) the nature of the contravention;
  - (b) the nature of the work to be done to remedy the contravention;
  - (c) the date by which the work must be completed;
  - (d) the person's right to a review and appeal, including the title and address of the review official to whom a request for review may be made;
  - (e) the right of the government to carry out the work and levy a penalty if the person fails to comply with the order.
- (3.) If a person fails to comply with an order under subsection (1) or section 82, 99 (2), 101 (2), 102 (3) or 106 (1) by the date specified in a notice given under subsection (2), a senior official may do one or more of the following:
- (a) in a notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
  - (b) subject to section 125, carry out the work;
  - (c) recover the sum of all direct and indirect costs the senior official determines were incurred in carrying out the work referred to in subsection (b) as a debt due the government, payable on demand;
  - (d) levy a penalty up to an amount that is twice the sum of all direct and indirect costs the senior official determines were incurred in carrying out the work referred to in paragraph (b);
  - (e) for the purpose of recovering the debt referred to in paragraph (c) and the penalty referred to in paragraph (d), realize on any security the person was required to provide under a regulation made under section 201.
- (4.) *Repealed.* [1997-48-108 (d)]
- (5.) *Repealed.* [1997-48-108 (d)]
- (6.) On completion of work carried out under subsection (3) (b), the senior official must provide the person with an accounting of expenditures relating to the work.
- (7.) If security is realized under subsection (3) (c), the person must immediately replace the security to the extent it has been realized.
- (8.) The senior official must promptly refund to the person any surplus of funds remaining from the realization of a security under subsection (3) (e) after payment of
- (a) the sum of all direct and indirect costs determined under subsection (3) (c), and
  - (b) any penalty levied under subsection (3) (d).
- (9.) If the minister considers that a person is not complying, or has not complied, with an order under this section, the minister may apply to the Supreme Court for an order under section 147.

1994-41-118; 1997-48-108(b) to (e).

### **Penalties for unauthorized timber harvesting**

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

- (a) the senior official's determination of the stumpage and bonus bid that would have been payable had the volume of timber been sold under section 20 of the *Forest Act*, and
  - (b) 2 times the senior official's determination of the market value of logs and special forest products that were, or could have been, produced from the timber.
- (2.) A penalty may not be levied under both section 117 and subsection (1).
- (3.) In addition to a penalty under section 117 or subsection (1), a senior official who determines that a person has cut, damaged, removed or destroyed Crown timber in contravention of section 96 may levy a penalty against the person up to an amount equal to the senior official's determination of
- (a) the cost that will be incurred by the government in re-establishing a free growing stand on the area, and
  - (b) the costs that were incurred by government in applying silviculture treatments to the area that were rendered ineffective because of the contravention.

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

#### **Defences in relation to administrative proceedings**

- 119.(1.) For the purposes of a determination of a senior official under section 117, 118 or 119, no person may be found to have contravened a provision of this Act, the regulations, the standards or an operational plan if the person establishes that
- (a) the person exercised due diligence to prevent the contravention,
  - (b) the person reasonably believed in the existence of facts that if true would establish that the person did not contravene the provision, or
  - (c) the person's actions relevant to the provision were the result of an officially induced error.
- (2.) Subsection (1) does not apply in respect of a determination made under section 117, 118 or 119 before the coming into force of this subsection.

2002-76-54 (B.C.Reg. 349/2002).

#### **Notice of determination that a person contributed to fire**

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

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

#### **Extension of notice of determination**

121. (1.) The district manager, designated forest official or regional manager may extend a date referred to in a notice of determination under this Division.
- (2.) Any penalty or charge is due on the date set out in the notice of determination, unless the person requests a review under section 127, in which case it is due on the date the stay under section 126 ceases to apply.

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

#### **Policies and procedures established by the minister**

122. (1.) The minister may establish, vary or rescind policies and procedures respecting penalties and remediation orders.
- (2.) Before a person levies a penalty under section 117 or 119, or makes an order under section 118, the person must consider any applicable policy or procedure established under this section.
- (3.) The policies and procedures established, varied or rescinded under subsection (1) must be made available for inspection by any person.

1994-41-122.

### Stopwork order

123. (1.) If an official considers that a person is contravening a provision of this Act, the *Forest Act* or the *Range Act*, or the regulations or the standards made under those Acts, the official, in accordance with the regulations, may order that the contravention cease, or cease to the extent specified by the order until the person has a required licence, permit, plan, prescription or approval.
- (2.) An order under this section may be made to apply generally or to one or more persons named in the order.
- (3.) If the minister considers that a person is not complying, or has not complied, with an order under this section, the minister may apply to the Supreme Court for an order under section 147.
- (4.) The official who issued an order under subsection (1) or a senior official may rescind the order if the official or the senior official determines that there were insufficient grounds for issuing the order.

1994-41-123; 1997-48-111.

### Repealed

124. *Repealed.* [1998-29-35]

### Consistency with other Acts

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

1994-41-125.

## Part 6: Division 4 – Administrative Review and Appeals -- Sections 125.1 - 132 of Part 6, Division 4 --

### Definitions

- 125.1 In this Division:

"ministries" means ministries as defined by regulation;

"review official" means

- (a) for a review other than a review referred to in paragraph (b), a person employed in any of the ministries who is designated by name or title to be a review official by the deputy minister of that ministry, or



- (b) for a review requested under section 128 (3) or (4), a person employed in the Ministry of Forests who is designated by name or title to be a review official by the deputy minister of the Ministry of Forests.

1997-48-112; 1999-34-30.

**Determination not effective  
until proceedings concluded**

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

1994-41-126.

**Person subject to a determination  
may have it reviewed**

- 127. (1.) A person who is the subject of a determination under section 41, 82, 95 (2), 99 (2), 101 (2), 102 (3), 106 (1), 117 to 120, 123 (1), 162.1 (1), 162.2 (1) or (2) or 209.1 (3) may deliver, to the review official named in the notice of determination, a written request for a review of the determination.
- (2.) The person must ensure that the request for review complies with the content requirements of the regulations.
- (3.) The person must deliver the request for review to the review official not later than 3 weeks after the date the notice of determination was given to the person.
- (4.) Before or after the time limit in subsection (3) expires, the review official may extend it.
- (5.) A person who does not deliver the request for review within the time specified loses the right to a review.

1994-41-127; 1997-48-114(parts); 2002-76-55 (B.C.Reg. 349/2002).

**Forest Practices Board may have  
determination reviewed**

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

- (3.) To obtain a review of a failure to make a determination under subsection (1) (b), the board must deliver a request for review to the review official referred to in paragraph (b) of the definition of “review official” in section 125.1, and to the person who would be subject to the determination, not later than 6 months after the occurrence of the event that would have been the subject of the determination.
- (4.) To obtain a review of a determination under subsection (1) (c), the board must deliver a request for review to the review official referred to in paragraph (b) of the definition of “review official” in section 125.1, and to the person who is the subject of the determination, not later than the prescribed period after the approval of the plan or amendment was given to the person who is the subject of the determination.
- (5.) The board must ensure that the request for review complies with the content requirements of the regulations.
- (6.) A time limit referred to in subsection (2) or (4) may be extended, before or after its expiry, by
  - (a) the regional manager, for the time limit in subsection (2), and
  - (b) the deputy minister of the Ministry of Forests, for the time limit in subsection (4).
- (7.) If the board does not deliver the request for review within the time specified, the board loses the right to a review.

1999-34-31.

## Review

129. (1.) A review official who receives a request for review must ensure that the review is conducted by one or more persons who
  - (a) are employed under the *Public Service Act*, and
  - (b) have not made the determination under review, or are not the persons who failed to make a determination, if the review is for that reason, or have not participated in an investigation on which the determination was based.
- (2.) The reviewer may decide the matter, based on one or more of the following:
  - (a) the request for review and the ministries' files;
  - (b) the request for review, the ministries' files and any other communication with persons the reviewer considers necessary to decide the matter, including communicating with the person or board requesting the review and with the person who made or failed to make the determination;
  - (c) an oral hearing.
- (3.) After a request for review is delivered under section 127 or 128,
  - (a) the person who is the subject of the determination, or who would be the subject of a determination, if made,
  - (b) the board, if, under section 128, the board requested a review, and
  - (c) the government
 must disclose the facts and law on which the person, board and government will rely at the review, if required by the regulations and in accordance with the regulations.
- (4.) If permitted by, and in accordance with, the regulations, the reviewer may refer to the commission a question of law raised in a review, if there is agreement to the referral by
  - (a) the person who is the subject of the determination or would be the subject of a determination, if made,
  - (b) the board, if, under section 128, the board requested the review, and
  - (c) the government.

- (5.) The reviewer may make a decision
  - (a) confirming, varying or rescinding the determination under review,
  - (b) referring a determination or failure to make a determination back to the person who made it or failed to make it with or without directions, or
  - (c) making a determination, if the review concerns the failure to make a determination.
- (6.) The reviewer must give a written decision to the person who is the subject of the determination or, for a review of a failure to make a determination, the person who would be the subject of a determination, if made, and the board within
  - (a) the prescribed period after the request for review was received by the review official, or
  - (b) another period agreed to by
    - (i) the person who is the subject of the determination, or who would be the subject of a determination, if made,
    - (ii) the board, if, under section 128, the board requested a review, and
    - (iii) the government.
- (7.) Despite subsection (6) (a), if the reviewer determines that the request for review does not comply with the content requirements of the regulations, or that there was a failure to disclose facts and law required under subsection (3), the prescribed period under subsection (6) (a) does not begin until a request for review is received that does comply with those requirements, or the facts and law are disclosed as required under subsection (3).

1997-48-116.

#### **Determinations that may be appealed**

- 130. (1.) Subject to subsection (3), a person who is the subject of a determination referred to in
  - (a) section 127, or
  - (b) section 129 (5) (c)
 may appeal the determination to the commission.
- (2.) Subject to subsection (3), the board may appeal to the commission
  - (a) a determination referred to in section 128 (1) (a),
  - (b) a failure to make a determination referred to in section 128 (1) (b),
  - (c) if the regulations provide and in accordance with the regulations, a determination under Division 5 of Part 3 with respect to approval of a forest development plan, range use plan or amendments to either of those plans, and
  - (d) any determination for which a review decision has been given under section 129 (6).
- (3.) No appeal may be made under subsection (1) or (2) unless the determination or failure to make a determination has first been reviewed under section 129.
- (4.) If a determination is varied by the reviewer, the appeal to the commission is from the determination as varied.
- (5.) If, as a result of a review of a failure to make a determination, the reviewer makes a determination, the appeal to the commission is from the determination made by the reviewer.

1997-48-116.

#### **Appeal**

131. (1.) To initiate an appeal under section 130, the person referred to in section 130 (1) or the board, no later than 3 weeks after receiving the review decision under section 129 (6), must deliver to the commission a notice of appeal and
- (a) in the case of a determination referred to in section 130 (1) (a) or 130 (2) (a), (c) or (d), enclose a copy of the determination, and
  - (b) in the case of the determination referred to in section 130 (1) (b) or (2) (b), enclose a copy of the reviewer's determination.
- (2.) If the appeal is from a determination as varied under section 129, the person or board bringing the appeal must include a copy of the review decision with the notice of appeal given under subsection (1).
- (3.) The person or board bringing the appeal must ensure the notice of appeal given under subsection (1) complies with the content requirements of the regulations.
- (4.) Before or after the time limit in subsection (1) expires, the chair or a member of the commission may extend it.
- (5.) If the person or the board does not deliver the notice of appeal within the time specified, the person or board loses the right to an appeal.
- (6.) On receipt of the notice of appeal, the commission must, in accordance with the regulations, give a copy of the notice of appeal to the ministers and
- (a) to the board, if the notice was delivered
    - (i) by the person who is the subject of the determination, or
    - (ii) for an appeal of a failure to make a determination, by the person who would be the subject of a determination, if made,
  - (b) to the person who is the subject of the determination, if the notice was delivered by the board, or
  - (c) for an appeal of a failure to make a determination, to the person who would be the subject of a determination, if made, if the board delivered the notice.
- (7.) The government, the board, if it so requests, and the person who is the subject of the determination or would be the subject of a determination, if made, are parties to the appeal.
- (8.) At any stage of an appeal the commission or a member of it may direct that a person who may be affected by the appeal be added as a party to the appeal.
- (9.) After a notice of appeal is delivered under subsection (1), the parties must disclose the facts and law on which they will rely at the appeal, if required by the regulations and in accordance with the regulations.
- (10.) The commission, after receiving a notice of appeal, must
- (a) promptly give the parties to an appeal a hearing, or
  - (b) hold a hearing within the prescribed period, if any.
- (11.) Despite subsection (10), if the commission determines that the notice of appeal does not comply with the content requirements of the regulations, or that there was a failure to disclose facts or law under subsection (9) or (14), the commission need not hold a hearing within the prescribed period referred to in subsection (10), but must hold a hearing within the prescribed period after a notice of appeal that does comply with the content requirements of the regulations is delivered to the commission, or the facts and law are disclosed as required under subsection (9) or (14).
- (12.) A party may
- (a) be represented by counsel,
  - (b) present evidence, including but not limited to evidence that was not presented in

- the review under section 129,
- (c) if there is an oral hearing, ask questions, and
- (d) make submissions as to facts, law and jurisdiction.
- (13.) The commission may invite or permit a person to take part in a hearing as an intervenor.
- (14.) An intervenor may take part in a hearing to the extent permitted by the commission and must disclose the facts and law on which the intervenor will rely at the appeal, if required by the regulations and in accordance with the regulations.
- (15.) A person who gives oral evidence may be questioned by the commission or the parties to the appeal.

1997-48-116.

**Referral of questions of law**

- 131.1 A hearing regarding a question of law referred under section 129 (4) must be conducted in accordance with the regulations.

1997-48-116.

**Order for written submissions**

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

1994-41-132.

**-- Sections 133 - 141 of Part 6, Division 4 --**

**Interim orders**

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

1994-41-133.

**Open hearings**

- 134. Hearings of the commission must be open to the public.

1994-41-134.

**Witnesses**

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

1994-41-135.

**Contempt**

- 136. The failure or refusal of a person

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

1994-41-136.

### Evidence

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

1994-41-137.

### Powers of commission

138. (1.) On an appeal of a determination or of the confirmation, variance or rescission of a determination, the commission may consider the findings of
- (a) the person who made the determination that is being appealed, or
  - (b) the reviewer.
- (2.) On the appeal, the commission may
- (a) confirm, vary or rescind the determination appealed from, or
  - (b) refer the matter with or without directions back to the person
    - (i) who made the initial determination, or
    - (ii) in the case of a determination made under section 129 (5) (c), the reviewer who made the determination.
- (3.) On considering a question of law referred to the commission under section 129 (4), the commission may decide the question of law and the decision is binding
- (a) on the reviewer for the purposes of the review in question, and
  - (b) on the commission for the purposes of an appeal concerning the determination or the failure to make a determination that was subject of the review in question.
- (4.) The commission may order that a party or intervenor pay another party or intervenor any or all of the actual costs in respect of the appeal.
- (5.) After filing in the court registry, an order under subsection (4) has the same effect as an order of the court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken as if it were an order of the court.

1997-48-117.

### Decision of commission

139. (1.) The commission must make a decision promptly after the hearing, and must give copies of the decision to the ministers, the parties and any intervenors.

- (2.) On the request of any of the ministers or a party, the commission must provide written reasons for the decision.
- (3.) The commission must make a decision within the prescribed period, if any.

1994-41-139; 1997-48-118.

#### Order for compliance

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

1994-41-140.

#### Appeal to court

- 141. (1.) The minister or a party to the appeal, within 3 weeks after being served with the decision of the commission, may appeal the decision of the commission to the Supreme Court on a question of law or jurisdiction.
- (2.) On an appeal under subsection (1), a judge of the Supreme Court, on terms he or she considers appropriate, may order that the decision or order of the commission be stayed in whole or in part.
- (3.) An appeal from a decision of the Supreme Court lies to the Court of Appeal with leave of a justice of the Court of Appeal.

1997-48-119.

### Part 6: Division 5 – Offences and Court Orders -- Sections 142 - 150 of Part 6, Division 5 --

#### Limitation period

- 142. (1.) The time limit for laying an information respecting an offence under this Act or the regulations is 3 years after the facts on which the information is based first came to the knowledge of a district manager, regional manager or chief forester.
- (2.) A document purporting to have been issued by the district manager, regional manager or chief forester, certifying the day on which he or she became aware of the facts on which an information is based, is admissible without proof of the signature or official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.

1994-41-142; 1995-6-38.

#### Fines

- 143. (1.) A person who contravenes section 45 (1), (3) or (4) or 96 (1) or (2), or who intentionally or recklessly causes damage to Crown forest land by starting a fire in contravention of section 76 (1) or 87 (1), commits an offence and is liable on conviction to a fine not exceeding \$1 000 000, or to imprisonment for not more than 3 years, or to both.
- (2.) A person who contravenes section 46 (4), 47 (5), (6) or (7), 48 (1), 51 (2), 58 (2) or (3), 64 (1), (2), (3), (5) or (12), 67, 68 (1), (2) or (4), 69.1 (3), 70 (3), 76 (1), 87, 88 (2) or 92 (1) commits an offence and is liable on conviction to a fine not exceeding \$500 000, or to

- imprisonment for not more than 2 years, or to both.
- (3.) A person who contravenes section 21, 21.1 (3), (5), (6) or (8), 22 (2), (3), (4), (5) or (6), 27 (1), 35 (1), 36 (2), 46 (1), (1.1) or (3), 47 (1) or (3.1), 50, 52 (2), 54 (1), (2), (3.3), (5.1) or (6), 60 (1), 74, 80, 91, 98, 99 (1), 100, 101 (1), 105 (4) (a), 106, 112, 154, 173, 248 (1) or (2), 249 or 250 (1) commits an offence and is liable on conviction to a fine not exceeding \$100 000, or to imprisonment for not more than one year, or to both.
  - (4.) A person who contravenes section 65, 79 (1), 84 (2) or (4), 85 (2), 86, 94 (2), 97, 101 (1.2), 102 (1), 104 or 105 (4) (b) commits an offence and is liable on conviction to a fine not exceeding \$5 000 or to imprisonment for not more than 6 months, or to both.
  - (5.) The maximum fine to which a person is liable on a second or subsequent conviction for the same offence under subsections (1) to (4) is double the amount set out in those subsections.
  - (6.) The Lieutenant Governor in Council may, by regulation, provide that
    - (a) a contravention of a regulation or standard is an offence, and
    - (b) a person convicted of an offence for a contravention of a regulation or standard is liable to a fine not exceeding a maximum amount, or to imprisonment not exceeding a maximum length, or to both.
  - (7.) If the maximum fine or imprisonment provided by a regulation under subsection (6) (b) is less than that provided by a provision of this Act, the regulation prevails.

1994-41-143; 1995-6-39; 1997-48-120, 145(a), (b); 1999-34-32; 2000-6-42; 2002-25-30; 2002-76-56 (B.C.Reg. 349/2002).

#### Timber spiking offence

144. (1.) A person commits an offence who drives or places any nail, spike or other potentially hazardous object into any timber that person does not own or is not authorized to alter.
- (2.) A person commits an offence who possesses, with the intention of committing an offence under subsection (1), any nail, spike or other potentially hazardous object.
- (3.) A person commits an offence who solicits funds or material from another person with the stated intention that the funds or material will be used to enable a person to commit an offence under subsection (1).
- (4.) A person convicted of an offence under subsection (1) is liable
  - (a) to a fine of not more than \$100 000, or to imprisonment for not more than 6 months, or to both,
  - (b) if the offence results in property damage in excess of \$1 000, to a fine of not more than \$100 000, or to imprisonment for not more than 1 year, or to both, or
  - (c) if the offence results in physical injury to an individual, to a fine of not more than \$250 000, or to imprisonment for not more than 3 years, or both.
- (5.) A person convicted of an offence under subsection (2) or (3) is liable to a fine of not more than \$10 000, or to imprisonment for not more than 6 months, or to both.

1994-41-144.

#### Offence of irreparable damage

145. (1.) In this section, “**irreparable damage**” means damage that results in one or more hectares of land being unable to support the growth of forage or trees of the same species, health and vigor as those that occupied the land before the damage.
- (2.) A person commits an offence who causes irreparable damage to Crown forest land or Crown range.
- (3.) A person who commits an offence under subsection (2) is liable, on conviction, to a fine



of not more than \$1 000 000 for each hectare of Crown forest land or Crown range that is irreparably damaged.

- (4.) A person does not commit an offence under subsection (2) if the person is
  - (a) acting in accordance with section 2 (4),
  - (b) building a road in accordance with an operational plan,
  - (c) acting in accordance with section 59 (1),
  - (d) carrying out fire control or suppression in accordance with this Act and the regulations, or
  - (e) acting in accordance with other prescribed requirements.

1994-41-145; 1996-11-28; 2002-76-57 (B.C.Reg. 349/2002).

**Remedies preserved**

- 146. (1.) A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.
- (2.) The provisions of this Part are in addition to the provisions of any other enactment or rule of law under which
  - (a) a remedy or right of appeal or objection is provided, or
  - (b) a procedure is provided for inquiry into or investigation of a matter, and nothing in this Act limits or affects that remedy, right, objection or procedure.
- (3.) Nothing in this section prevents a court that is determining the amount of a fine from taking into consideration the payment of an administrative penalty.

1994-41-146.

**Order for compliance**

- 147. (1.) If the minister considers that a person is not complying, or has not complied, with an order made under section 82, 99 (2), 101 (2), 102 (3), 106 (1), 118 or 123, the minister may apply to the Supreme Court for either or both of the following:
  - (a) an order directing the person to comply with the order or restraining the person from violating the order;
  - (b) an order directing the directors and officers of the person to cause the person to comply with or to cease violating the order.
- (2.) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

1994-41-147.

**Court order to comply**

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

1994-41-148.

**Restitution**

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

1994-41-149.

**Continuing offence**

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

1994-41-150; 2000-26-16.

**-- Sections 151 - 159 of Part 6, Division 5 --**

**Prosecution for unauthorized timber cutting**

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

1994-41-151; 1997-48-121.

**Prosecution for unauthorized cutting or storage of hay**

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

1994-41-152.

**Prosecution for unauthorized trail or recreational facility construction**

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

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

1994-41-153.

**Interference, non-compliance and misleading**

154. A person contravenes the Act who

- (a) without lawful excuse, intentionally interferes with,
- (b) without lawful excuse, intentionally fails to comply with a lawful requirement of, or
- (c) intentionally makes a false statement to or misleads or attempts to mislead, another person who is

  

- (d) employed under the *Public Service Act*, a member of the board, commission or council, if any, or a person retained under section 191 (2), and
- (e) exercising a power or duty under this Act, the regulations or the standards.

1994-41-154; 1997-48-122.

**Court orders**

155. If a person is convicted of an offence under this Act or the regulations, then in addition to any other punishment that may be imposed, the court may, by order, do one or more of the following:
- (a) prohibit the person from doing anything that may result in the continuation or repetition of the offence or contravention;
  - (b) direct the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;
  - (c) direct the person to publish, at the person's own cost, the facts relating to the conviction;
  - (d) direct the person to compensate the minister, in whole or in part, for the cost of any remedial or preventative action taken by or caused to be taken on behalf of the ministry as a result of the act or omission that constituted the offence;
  - (e) direct the person to pay court costs;
  - (f) direct the person to pay the costs of the investigation.

1994-41-155.

**Penalty for monetary benefit**

156. (1.) The court that convicts a person of an offence under this Act may increase a fine imposed on the person by an amount equal to the court's estimation of the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence.
- (2.) A fine under subsection (1)
- (a) applies despite any provision that provides for a maximum fine, and
  - (b) is in addition to any other fine under this Act.

1994-41-156.

**Employer liability**

157. (1.) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by the defendant's employee, agent or contractor.
- (2.) It is a defence to a prosecution under subsection (1) if the defendant establishes that the defendant exercised due diligence to prevent the commission of the offence.
- (3.) This section applies even if the employee, agent or contractor has not been identified or prosecuted for the offence.

1994-41-157; 1995-6-40; 1997-48-123.

**Defences to a prosecution**

- 157.1 Due diligence, mistake of fact and officially induced error are defences to a prosecution under this Act.

2002-76-58 (B.C.Reg. 349/2002).

**Offence by directors and officers**

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

1994-41-158.

**Section 5** *Offence Act*

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

1994-41-159.

**PART 7 – General****Part 7: Division 1 – Liability and Privilege****Liability of government**

160. (1.) The ministers, persons employed under the *Public Service Act* and any other person who acts on behalf of the government are not liable in a personal or official capacity for loss or damage suffered by another person by reason of anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty under this Act, the regulations or the standards unless the person who brings the action proves that the person acting on behalf of the government was not acting in good faith.
- (2.) Subsection (1) does not absolve the government from vicarious liability arising out of an act or omission for which it would be vicariously liable if this section were not in force.
- (3.) Without limiting subsection (1), the board, the commission, the council, if any, and their members, their employees, persons retained by them under section 191 (2), persons exercising a delegated power under section 193 and any other persons acting on behalf of any of them are persons acting on behalf of the government for the purposes of subsection (1).
- (4.) Despite subsection (2), the government is not liable in respect of any loss or damage caused or resulting, directly or indirectly, by or from,
- (a) the enactment of this Act or a regulation or standard made under this Act, or
- (b) anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty conferred under this Act, the regulations or the standards, unless the person who brings the action proves that the person exercising or performing or purporting to exercise or perform the power or duty was not acting in good faith.
- (5.) It is conclusively deemed for all purposes, including for the purposes of the *Expropriation Act*, that no expropriation or injurious affection occurs as a result of
- (a) the enactment of this Act or a regulation or standard made under this Act, or
- (b) anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty conferred under this Act, the regulations or the standards, unless the person who brings the action proves that the person exercising or performing or purporting to exercise or perform the power or duty was not acting in good faith.
- (6.) If damages or compensation is precluded by this section in respect of a matter, a person must not commence or maintain proceedings in respect of that matter
- (a) to claim damages or compensation of any kind from the government, or
- (b) to obtain a declaration that damages or compensation is payable by the government.
- (7.) This section applies despite any other enactment including the *Expropriation Act*.

1994-41-160.

**Protection against libel and slander**

161. For the purposes of any Act or law respecting libel or slander,

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

1994-41-161.

### Liability of persons to government

162. (1.) A person is liable to the government for costs incurred by the government in

- (a) controlling or suppressing a fire, and
- (b) establishing a free growing stand,

if the costs are incurred as a result, directly or indirectly, of the person's failure to comply with

- (c) the requirements of, Division 2 or 3 of Part 5,
  - (d) a requirement of a regulation or standard made under this Act respecting fire use, prevention, control or suppression, or
  - (e) *Repealed.* [1998-29-36]
  - (f) an order under section 78, 82, 84, 85, 94 or 118.
- (2.) A person is liable to the government for the value of Crown timber and other forest resources of the government or other property of the government damaged or destroyed as a result, directly or indirectly, of the person's failure to comply with a requirement or order referred to in subsection (1) (c) to (f).
- (3.) A person is liable to the government
- (a) for costs incurred by the government in controlling or disposing of insects, diseases, animals or abiotic factors, and
  - (b) the value of Crown timber damaged or destroyed, directly or indirectly, as a result of the person's failure to comply with an order under section 106.
- (4.) No person may be found to have failed to comply with a requirement or order referred to in this section if the person establishes that
- (a) the person exercised due diligence to prevent the failure to comply with the requirement or order,
  - (b) the person reasonably believed in the existence of facts that if true would establish that the person did not fail to comply with the requirement or order, or
  - (c) the person's actions relevant to the requirement or order were the result of an officially induced error.
- (5.) Subsection (4) does not apply in respect of a failure to comply referred to in subsection (1) that occurred before the coming into force of this subsection.

1994-41-162; 1998-29-36; 2002-76-59 (B.C.Reg. 349/2002).

### Limitation on liability of persons to government

- 162.1(1.) Subject to subsections (3) to (4), a holder of an agreement under the *Forest Act* is conclusively deemed to have met the specified obligations that are referred to in paragraph (d) and are obligations under this Act, the regulations or standards, or under an operational plan, a permit or another authorization, if the holder, in writing, submits to the district manager a declaration specifying all of the following:
  - (a) the cutblocks or roads affected, if any;
  - (b) the operational plans affected, if any;
  - (c) permits affected, if any;
  - (d) the obligations that have been met;
  - (e) the date of the declaration.
- (2.) The declaration must be signed by the holder who makes a declaration under subsection (1), if an individual, or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.
- (3.) If, within the prescribed period after receiving a declaration under subsection (1), the district manager gives notice in writing to the holder that an obligation specified in the declaration has not been met, then the holder remains responsible for meeting that obligation.
- (3.1) The district manager must not give written notice to the holder under subsection (3) to the effect that an obligation in respect of establishing a free growing stand on an area has not been met unless the district manager has determined that
  - (a) a free growing stand has not been established, or
  - (b) a free growing stand has been established and the following circumstances apply:
    - (i) at the time the declaration was made, the stand was under threat from
      - (A) competition from plants, shrubs or other trees established on the area, or
      - (B) forest health concerns present on the area;
    - (ii) as a result of the threats referred to in subparagraph (i), the stand is unlikely to remain a free growing stand without further treatment.
- (4.) A holder who makes a declaration under subsection (1) remains responsible for an obligation if the holder
  - (a) made a material misrepresentation or misstatement of fact in the declaration, or
  - (b) omitted information from the declaration that the holder knew or ought to have known was material to determining if the obligations referred to in the declaration had been met.
- (5.) *Repealed.* [2003-56-20(c)]
- (6.) *Repealed.* [2003-56-20]

2002-76-60 (B.C.Reg. 349/2002); 2003-56-20.

**When government may fund significant extra expense or waive obligation**

- 162.2(1.) The district manager must grant the relief described in subsection (3) to a person who, under this Act, the regulations, the standards or an operational plan, has an obligation other than
  - (a) an obligation to establish a free growing stand, or
  - (b) a prescribed obligation, and

who satisfies the district manager that

- (c) because of an event causing damage, the obligation on the area cannot be met without significant extra expense than would have been required if the damage had not occurred, and
  - (d) the person
    - (i) did not cause or contribute to the cause of the damage,
    - (ii) exercised due diligence in relation to the cause of the damage, or
    - (iii) contributed to the cause of the damage, but only as a result of an officially induced error.
- (2.) The district manager must grant
- (a) the relief described in subsection (3), or
  - (b) the funding described in subsection (4)

to a person having an obligation to establish a free growing stand if the person satisfies the district manager that

- (c) because of an event causing damage, the obligation to establish the free growing stand cannot be met without significant extra expense than would have been the case if the damage had not occurred, and
  - (d) the person
    - (i) did not cause or contribute to the cause of the damage,
    - (ii) exercised due diligence in relation to the cause of the damage, or
    - (iii) contributed to the cause of the damage but only as a result of an officially induced error.
- (3.) The relief, that must be granted under subsection (1) or that may be granted under subsection (2) (a), from an obligation by the district manager to a person is relief from
- (a) the person's obligation to the extent only that the obligation cannot be met without significant extra expense related to the damage referred to in subsection (1) or (2), or
  - (b) the person's obligation in full if the district manager considers that the remaining obligation, after taking paragraph (a) of this subsection into account, is inconsequential.
- (4.) The funding for an obligation, that may be granted under subsection (2) (b) by the district manager to a person, is funding to the extent only that is required for the purpose of restoring the stand of trees on the area affected by the event referred to in subsection (2)
- (a) to the stage the stand had reached at the time of the damage caused by the event, or
  - (b) to the stage that is consistent with the person's obligation in that regard as modified by a regulation under subsection (7).
- (5.) A decision in any proceedings, that a person having an obligation referred to in subsection (1) or (2) did or did not do any of the things referred to in subsection (1) (b) or (2) (d), is binding on the district manager.
- (6.) The district manager may not under this section grant relief or funding in respect of an



event causing damage if the event occurred before the coming into force of this subsection.

- (7.) The Lieutenant Governor in Council may make regulations
- (a) respecting the modification of an obligation referred to in subsection (2) to establish a free growing stand, and
  - (b) for the purpose of subsection (6), resolving any doubts as to
    - (i) what constitutes an event, or
    - (ii) when an event occurred.

2002-76-60 (B.C.Reg. 349/2002); 2003-56-21.

## Part 7: Division 2 – Miscellaneous

### Confidentiality and disclosure to government

163. (1.) In this section, “**person**” means
- (a) the government, the board, the commission or the council, if any,
  - (b) an employee, agent and independent contractor of the government, the board, the commission or the council, if any, and
  - (c) a member of the board, the commission or the council, if any.
- (2.) Each of the following persons must take an oath that he or she will not disclose information or records obtained under this Act, the regulations or the standards except as permitted by this section and the *Freedom of Information and Protection of Privacy Act* and the regulations under that Act:
- (a) a member of the board, commission or council, if any;
  - (b) an employee of the board, commission or council, if any;
  - (c) a person appointed to carry out an audit referred to in section 176;
  - (d) a specialist or consultant retained by the board, commission or council, if any.
- (3.) A person must not disclose any information or record obtained in exercising or performing a power, duty or function under this Act, the regulations or the standards except as required for the performance of his or her duties under this Act or the regulations or as permitted in this section or the *Freedom of Information and Protection of Privacy Act* and the regulations under that Act.
- (4.) A person may disclose to the government any information or record obtained in the exercise or performance of a power, duty or function under this Act, the regulations or the standards.
- (5.) A person may disclose information or a record in the course of a proceeding referred to in section 183.
- (6.) A person must not disclose, or be compelled to disclose, any information or record obtained in the exercise of a power, duty or function under this Act, the regulations or the standards to a court, or in a proceeding of a judicial nature, except in the following matters:
- (a) a trial of a person for perjury;
  - (b) a proceeding to enforce powers of investigation under this Act;
  - (c) a prosecution for an offence under section 154;
  - (d) a review or appeal under this Act.

1994-41-163.

**How notice may be given**

164. (1.) A notice or other document that the government, board or commission is required or permitted to give to a person under this Act, the regulations or the standards may be given by giving it, or a copy of it, to the person as follows:
- (a) if the person is an individual,
    - (i) by leaving it with the individual,
    - (ii) by leaving it at the individual's last or most usual place of residence with someone who is or appears to be at least age 16 years, or
    - (iii) by mailing it by registered mail to the individual's last known postal address;
  - (b) if the person is a corporation,
    - (i) by leaving it with
      - (A) a director, officer or manager of the corporation,
      - (B) a receptionist at a place of business of the corporation, or
      - (C) an attorney of the corporation appointed under section 304 of the *Company Act*,
    - (ii) by leaving it at the registered office of the corporation if the corporation is incorporated under the *Company Act*, or
    - (iii) by mailing it by registered mail to
      - (A) the registered office of the corporation,
      - (B) the attorney of the corporation appointed under section 304 of the *Company Act*, or
      - (C) an address provided by the corporation for service;
  - (c) if the person is a municipal corporation, regional district or other local government body, by leaving it with or sending it by registered mail to the local government corporate officer, the deputy of that officer or some similar local government officer.
- (2.) A notice or other document that is mailed to a person by registered mail under subsection (1) is conclusively deemed to be received by the person on the eighth day after it is mailed.

1994-41-164; 1998-34-253; 2000-7-191, Sch.; 2003-52-78.

**Extension of time**

165. The minister, or a person the minister authorizes in writing, may extend the time required to do anything under this Act, the regulations or the standards, other than
- (a) the time required for a review or appeal of a determination,
  - (b) the time required to commence a proceeding, or
  - (c) the prescribed period referred to in section 162.1 (3).

2002-76-61 (B.C.Reg. 349/2002).

**Evidence of designation or delegation**

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

as evidence of the delegation without proof of the signature or official character of the district manager purporting to have signed the document.

1994-41-165.1; 1996-11-29.

### **Powers cumulative**

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

1994-41-166.

### **Amendment or remedial action does not affect offences or penalties**

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

1994-41-167, 168.

### **Right of proceeding**

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

1994-41-169.

### **Power to enter into agreements**

170. (1.) The government may enter into agreements to assist in ensuring that forest resources are properly managed and conserved.
- (2.) Without limiting subsection (1), on behalf of the government,
- (a) the chief forester may enter into agreements for the growing and disposing of seeds, seedlings and vegetative propagules,
  - (b) a designated forest official may enter into agreements for the control and disposal of insects, diseases, animals and abiotic factors on forest land and for sharing costs of control and disposal,
  - (c) the minister or a designated forest official may enter into agreements under which the government provides forest protection, forest health services, or fire control or suppression services, or
  - (d) a designated forest official may enter into an agreement with a person to develop, expand, maintain, repair or close an interpretive forest site, recreation site or recreation trail.
- (3.) An amount equal to any money paid to the government under an agreement referred to in subsection (2) (c) for a purpose specified in that subsection
- (a) is appropriated for that purpose,
  - (b) is in addition to any other amount appropriated for that purpose, and

- (c) is to be paid out of the consolidated revenue fund without any other appropriation other than this subsection.

1994-41-170.

**Appropriation for fire fighting**

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

1994-41-171.

**Property in trees**

- 172. Trees established on Crown land under section 69.1 or 70 are the property of the government.

1994-41-172; 2002-76-62 (B.C.Reg. 349/2002).

**Whistle-blower protection**

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

1994-41-173.

**Cost of performing obligations**

- 174. (1.) If this Act, a regulation or a standard requires a person to perform an obligation or otherwise comply with this Act, the regulations or the standards, the person must do so at the person's own expense unless another provision of this Act or the regulations specifically provides otherwise.
- (2.) If a person is required under the Act, the regulations or the standards to submit an operational plan or any other plan for approval to a person acting on behalf of the government, any implementation of the plan or prescription is at the person's own expense.

1994-41-174.

**PART 8 – Forest Practices Board**

**Part 8: Division 1 – Definition**

**Definition of “party”**

175. In this Part and the regulations related to this Part, "**party**" means
- (a) the government,
  - (b) the holder of an agreement under the *Forest Act*,
  - (c) the holder of an agreement under the *Range Act*, or
  - (d) persons referred to in section 176 (2).

2003-56-22.

**Part 8: Division 2 – Complaints and Audits**

**Audits and special investigations**

176. (1.) In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine
- (a) compliance with the requirements of Parts 3 to 5 and the regulations and standards made in relation to those Parts by a party, and
  - (b) the appropriateness of government enforcement under Part 6.
- (2.) If, while carrying out under subsection (1) (a) an audit or investigation of a party,
- (a) the board finds that the party complied with the requirements audited or investigated, and
  - (b) the only reason for that finding was that
    - (i) the party exercised due diligence to prevent non-compliance,
    - (ii) the party reasonably believed in the existence of facts that if true would establish that the person complied with the requirement, or
    - (iii) the party's actions relevant to the requirement were the result of an officially induced error,
- the board may audit or investigate whether a person other than that party did not comply with the requirements, in the course of acting for or at the direction of the party.

1994-41-176; 2003-56-23.

**Complaints from public**

177. (1.) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to this Act.
- (2.) Despite subsection (1), the board may refuse to investigate a complaint, or may stop investigating a complaint, if, in the opinion of the chair, any of the following applies:
- (a) the complainant knew or ought to have known of the determination to which his or her complaint relates, more than one year before the complaint was received by the board;
  - (b) the law or existing administrative procedure provides a remedy adequate in the circumstances for the person aggrieved and, if the person aggrieved has not

- taken advantage of the remedy, there is no reasonable justification for the failure to do so;
- (c) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
  - (d) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;
  - (e) in the circumstances, investigation would not benefit the complainant.
- (3.) The board must promptly notify, in writing, the complainant and the party of its decision and the reasons for it and may indicate any other recourse that may be available to the complainant if it decides
- (a) to not investigate or further investigate a complaint, or
  - (b) that the complaint has not been substantiated.

1994-41-177.

### **Powers of investigation**

178. (1.) Without limiting sections 176 and 177, for the purposes of those sections the board may investigate a determination.
- (2.) The board may conduct an audit or special investigation or complaint investigation despite a provision to the effect that a determination is final and whether or not there is a right of appeal.
- (3.) The board may not investigate conduct occurring before the commencement of this Act.
- (4.) If a question arises as to the board's jurisdiction to investigate a case or class of cases, the chair may apply to the Supreme Court for a declaratory order determining the question.

1994-41-178.

### **Power to obtain information**

179. (1.) The board may require a party to provide information or records related to an audit, a special investigation or a complaint investigation.
- (2.) The board may require the party to provide the information in the form and manner the board considers appropriate.
- (3.) The party must comply with a requirement of the board under subsection (1) or (2).
- (4.) Without restricting subsection (1), the board may do all of the following:
- (a) at any reasonable time enter and inspect business premises occupied by a party, speak in private with any person there and otherwise investigate matters within the board's jurisdiction;
  - (b) require a person to provide information or produce a record or thing in his or her possession or control that relates to an investigation at a time and place the board specifies;
  - (c) make copies of information provided or a record or thing produced under this section.
- (5.) If the board obtains a record or thing under subsection (4) and the person from whom it was obtained requests its return, the board must, within 48 hours after receiving the request, return it to the person, but the board may again require its production in accordance with this section.
- (6.) In conducting an audit, a special investigation or a complaint investigation, the board members have the powers given to a commissioner by sections 15 and 16 of the *Inquiry*

*Act.*

1994-41-179.

**Power to obtain information limited**

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

1994-41-180.

**Board must notify and consult party**

181. (1.) If the board conducts an audit or investigation, the board must notify the party affected and any other person the board considers appropriate.
- (2.) The board must consult with a party if the board receives a request for consultation from the party before the board has made its report under section 185.

1994-41-181.

**Opportunity to make representations**

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

1994-41-182.

**Evidence not admissible**

183. Evidence given by a person in proceedings before the board and evidence of the existence of the proceedings are inadmissible against the person in a court or in any other proceeding of a judicial nature except for the following:
- (a) the trial of a person for perjury;
  - (b) the trial of a person for an offence under section 154;
  - (c) an application for judicial review or an appeal from a decision with respect to that application.

1994-41-183.

**Person may be reimbursed for expenses**

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

1994-41-184.

**Part 8: Division 3 – Remedies**

**Report and recommendations**

185. (1.) Subject to subsection (1.1), after completing an audit or investigation, the board must report its conclusions, with reasons, to any complainant, to the party and, if the government is not the party affected by the audit or investigation, to the ministers.
- (1.1) If an audit or investigation referred to in subsection (1) includes more than one party, the board may report its overall conclusions without reporting on compliance by each party.
- (2.) If the board makes a report under subsection (1), it may make recommendations it considers appropriate.
- (3.) Without limiting subsection (2), the board may make any of the following recommendations:
- (a) a matter be referred to the appropriate party for further consideration;
  - (b) an act be remedied;
  - (c) an omission or delay be rectified;
  - (d) a decision or recommendation be cancelled or varied;
  - (e) reasons be given;
  - (f) a practice, procedure or course of conduct be altered;
  - (g) an enactment or other rule of law be reconsidered;
  - (h) any other steps be taken.
- (4.) Without limiting subsection (1), the chair may, if the regulations provide and in the manner they provide, make an application under section 128 for a review of a determination or failure to make a determination.

1994-41-185; 2003-56-24.

**Party to notify board of steps taken**

186. (1.) If the board makes a recommendation under section 185 the board may request that the party notify it within a specified time
- (a) of the steps that have been or are proposed to be taken to give effect to its recommendation, or
  - (b) if no steps have been or are proposed to be taken, of the reasons for not following the recommendation.
- (2.) If, after considering a response made by a party, the board believes it advisable to modify or further modify its recommendation, the board must notify the party and the complainant of its recommendation as modified and may request that the party notify it
- (a) of the steps that have been or are proposed to be taken to give effect to the modified recommendation, or
  - (b) if no steps have been or are proposed to be taken, of the reasons for not following the modified recommendation.
- (3.) The party must respond promptly to the board's request under subsection (1) or (2).

1994-41-186.

**Report of board if no suitable action taken**

187. (1.) If, within a reasonable time after a request by the board under section 186, no action is taken that the board believes adequate or appropriate, the chair may, after considering any reasons given by the party,
- (a) submit a report on the matter to the ministers, and
  - (b) after submitting a report under paragraph (a), make a report to the Lieutenant Governor in Council respecting the matter.



- (2.) The chair
  - (a) must attach to the report a copy of the board's recommendation and any response made to the board under section 186,
  - (b) must delete from his or her recommendation and from the response any material that would unreasonably invade any person's privacy, and
  - (c) may in his or her discretion delete material revealing the identity of a member, officer or employee of a party.

1994-41-187.

**Complainant to be informed**

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

1994-41-188.

**Annual and special reports**

- 189. (1.) In accordance with the regulations, the chair must report annually on the affairs of the board to the ministers.
- (2.) The minister must promptly table the report with the Legislative Assembly.
- (3.) If the chair considers it to be in the public interest, he or she may make a special report to the ministers or comment publicly respecting a matter relating generally to the exercise of the board's duties under this Act or to a particular case investigated by the board.

1994-41-189.

**Part 8: Division 4 – General**

**Establishment of the Forest Practices Board**

- 190. (1.) The Lieutenant Governor in Council must establish a Forest Practices Board.
- (2.) The board consists of a chair, one or more vice chairs and other members the Lieutenant Governor in Council may appoint.
- (3.) Appointments under subsection (2) may be for a term of up to 3 years.
- (4.) The Lieutenant Governor in Council may
  - (a) appoint a person as a temporary member to deal with a matter before the board, or for a specified period or during specified circumstances, and
  - (b) designate a temporary member as chair.
- (5.) A temporary member has all the powers and may perform all the duties of a member of the board during the period or under the circumstances or for the purpose of the appointment.
- (6.) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of
  - (a) the chair, vice chair and other members of the board, and
  - (b) persons appointed under the regulations to carry out audits.

1994-41-190.

**Panels of the Board**

190. (1.) The board may organize itself into panels, each comprised of one or more members.
- (2.) The members of the board may sit as a board or as a panel of the board, and 2 or more panels may sit at the same time.
- (3.) A panel of the board has the jurisdiction of the board and may exercise and perform the powers and duties of the board.
- (4.) A report, recommendation or action of a panel of the board is a report, recommendation or action of the board.

1999-34-33.

**Board staff**

191. (1.) Employees necessary to carry out the powers and duties of the board may be appointed under the *Public Service Act*.
- (2.) In accordance with the regulations, the board may engage or retain specialists, consultants and auditors that the board considers necessary to carry out the powers and duties of the office and may determine their remuneration.
- (3.) The *Public Service Act* does not apply to the retention, engagement or remuneration of specialists, consultants and auditors retained under subsection (2).

1994-41-191.

**No hearing as of right**

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

1994-41-192.

**Delegation of powers**

193. (1.) The chair may in writing delegate to a person or class of persons any of the board's powers or duties under this Act, except the power
  - (a) of delegation under this section, or
  - (b) to make a report under this Act.
- (2.) A delegation under this section is revocable and does not prevent the board exercising a delegated power.
- (3.) A delegation may be made subject to terms the chair considers appropriate.
- (4.) If the chair makes a delegation and then ceases to hold office, the delegation continues in effect as long as the delegate continues in office or until revoked by a succeeding chair.
- (5.) A person purporting to exercise a power of the board by virtue of a delegation under this section must, when requested to do so, produce evidence of his or her authority to exercise the power.

1994-41-193; 1995-6-41.

## PART 9 – Forest Appeals Commission

### Establishment of a Forest Appeals Commission

194. (1.) The Forest Appeals Commission is continued.
- (1.1) The commission is to hear appeals under
- (a) Division 4 of Part 6, and
  - (b) the *Forest Act* and *Range Act* and, in relation to appeals under those Acts, the commission has the powers given to it by those Acts.
- (2.) The commission consists of a chair, one or more vice chairs and other members the Lieutenant Governor in Council may appoint.
- (3.) Appointments under subsection (2) may be for a term of up to 3 years.
- (4.) The Lieutenant Governor in Council may
- (a) appoint a person as a temporary member to deal with a matter before the commission, or for a specified period or during specified circumstances, and
  - (b) designate a temporary member as chair.
- (5.) A temporary member has all the powers and may perform all the duties of a member of the commission during the period, under the circumstances or for the purpose of the appointment.
- (6.) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of the members of the commission.

1994-41-194; 1997-48-125.

### Organization of the commission

195. (1.) The chair may organize the commission into panels, each comprised of one or more members.
- (2.) The members of the commission may sit
- (a) as a commission, or
  - (b) as a panel of the commission
- and 2 or more panels may sit at the same time.
- (3.) If members of the commission sit as a panel,
- (a) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the commission, and
  - (b) an order, decision or action of the panel is an order, decision or action of the commission.

1994-41-195.

### Application of other sections

196. Sections 191 and 193 apply to the commission.

1994-41-196.

### Mandate of the commission

197. (1.) In accordance with the regulations, the commission must
- (a) hear appeals under Division 4 of Part 6 and under the *Forest Act* and the *Range Act*,

- (b) provide
    - (i) the ministers with an annual evaluation of the manner in which reviews and appeals under this Act and the regulations are functioning and identify problems that may have arisen under their provisions, and
    - (ii) the Minister of Forests with an annual evaluation of the manner in which reviews and appeals under the *Forest Act* and the *Range Act* and the regulations relating to those reviews and appeals are functioning and identify problems that may have arisen under their provisions, and
  - (c) annually, and at other times it considers appropriate, make recommendations
    - (i) to the ministers concerning the need for amendments to this Act and the regulations respecting reviews and appeals,
    - (ii) to the Minister of Forests concerning the need for amendments to the *Forest Act* and the *Range Act* and related regulations respecting reviews and appeals under those Acts, and
  - (d) perform other functions required by the regulations.
- (2.) The chair must give to the ministers an annual report concerning the commission's activities.
- (3.) The ministers must promptly lay the report before the Legislative Assembly.

1994-41-197; 1999-34-34.

**PART 10 – Regulations -- Sections 198 - 210 of Part 10 --****Power to make regulations**

198. (1.) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2.) The Lieutenant Governor in Council may make regulations respecting matters that are
- (a) referred to in a provision of this Act as having to be in accordance with the regulations, or
  - (b) indicated by a provision of this Act as being a matter for a regulation.
- (3.) The Lieutenant Governor in Council may make a regulation defining a word or expression used in the Act.
- (4.) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) delegate a matter to a person;
  - (b) confer a discretion on a person;
  - (c) make different regulations for different persons, places, things or transactions.

1994-41-198; 1995-6-42.

**Forms and information**

199. (1.) The Lieutenant Governor in Council may prescribe forms for this Act.
- (2.) The Lieutenant Governor in Council may make regulations respecting the furnishing of information, to the minister or to an employee in the Ministry of Forests, including but not limited to regulations concerning matters related to
- (a) agreements under the *Forest Act*,
  - (b) agreements under the *Range Act*, and
  - (c) obligations under this Act, the regulations and the standards.
- (3.) Without limiting subsections (1) and (2) the Lieutenant Governor in Council may make regulations respecting the furnishing of information
- (a) on request or at specified times, and
  - (b) in a specified format, including electronically.

2002-76-63 (B.C.Reg. 349/2002).

**Fees**

200. (1.) The Lieutenant Governor in Council may make regulations respecting fees for the provision, under this Act or the regulations or standards, of a service by the government, the board, the commission or the council, if any, to any person.
- (2.) Without limiting subsection (1), the preparation of a logging plan, a range use plan or an amendment to either of them by the district manager is a service by the government.

1994-41-200.

**Security**

201. (1.) The Lieutenant Governor in Council may make regulations requiring security of any kind, including money, to be provided by the holder of an agreement under the *Forest Act* or an agreement under the *Range Act* to ensure the performance of an obligation arising under this Act or the regulations, the *Forest Act* or the regulations under that Act, the

*Range Act* or the regulations under that Act or an agreement entered into under any of those Acts or regulations.

- (2.) Without limiting subsection (1) the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the type of security that is acceptable or not acceptable;
  - (b) the form and content of the security;
  - (c) the circumstances under which the security may be realized.

1994-41-201.

### **Recovery of money**

202. The Lieutenant Governor in Council may make regulations respecting the recovery of money that is required to be paid to the government under this Act or the regulations.

1994-41-202.

### **Exemptions**

203. (1.) The Lieutenant Governor in Council may make regulations respecting the exemption of a person, place, thing or transaction from a provision of this Act, the regulations or the standards.
- (2.) In making a regulation under subsection (1), the Lieutenant Governor in Council may make the exemption subject to conditions.
- (3.) The Lieutenant Governor in Council may make regulations restricting the district manager's authority to exempt a person from a provision under this Act, the regulations or the standards.
- (4.) The Lieutenant Governor in Council may not make a regulation under this section unless satisfied that the forest resources will be properly managed and conserved.

1994-41-203.

### **Criteria for exercise of discretionary powers**

204. (1.) The Lieutenant Governor in Council may make regulations respecting the criteria that a person must use in exercising a discretionary power conferred on the person under this Act.
- (2.) Criteria prescribed under subsection (1) are in addition to any criteria required by this Act.

1994-41-203.1; 1995-6-43.

### **Provincial forest**

205. (1.) The Lieutenant Governor in Council may make regulations respecting the use of a wilderness area or other Crown land in a Provincial forest or a portion of a Provincial forest.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the issuance of permits to control or prohibit the use of a wilderness area or other Crown land in a Provincial forest or a portion of a Provincial forest.

1994-41-204.

### **Interpretive forest sites, recreation**

**sites and recreation trails**

206. The Lieutenant Governor in Council may make regulations respecting interpretive forest sites, recreation sites and recreation trails, including regulations that restrict, prohibit or attach a condition to the use of an interpretive forest site, recreation site or recreation trail.

1994-41-205; 1995-6-44.

**Authorizing chief forester  
to establish standards**

207. (1.) For the purposes of section 8, the Lieutenant Governor in Council may make regulations authorizing the chief forester to establish standards for operational planning and forest practices respecting all of the following:
- (a) biological diversity;
  - (b) forest practices in resource management zones, landscape units and sensitive areas;
  - (c) timber quality standards for wood produced on areas that have been previously harvested;
  - (d) soil conservation;
  - (e) silvicultural systems;
  - (f) roads to which this Act applies, including the location, survey, design, construction, maintenance and deactivation standards for various types of roads;
  - (g) timber harvesting, including
    - (i) felling and bucking,
    - (ii) yarding and skidding,
    - (iii) area marking,
    - (iv) density, location, design, construction and rehabilitation of logging trails, landings and fireguards,
    - (v) debris disposal, and
    - (vi) utilization standards;
  - (h) silviculture, including vegetation management, seed, seedlings and propagule transfer and silviculture surveys;
  - (i) forest health;
  - (j) botanical forest products;
  - (k) range management, including range use, range development and weed control;
  - (l) recreation, visual landscape and wilderness management, including recreation use and resource enhancement and protection;
  - (m) fire use, prevention, control and suppression;
  - (n) the performance of surveys and assessments.
- (2.) The Lieutenant Governor in Council may make regulations limiting the circumstances in which a standard may be set under subsection (1), and regulating the practice and procedure for setting the standards.

1994-41-206.

**Operational plans**

208. (1.) The Lieutenant Governor in Council may make regulations respecting operational plans.
- (2.) Without limiting subsection (1), for operational plans the Lieutenant Governor in Council may make regulations respecting the following:

- (a) form and content;
- (b) the manner of, and time for, submitting an operational plan for approval;
- (c) the making and timing of assessments;
- (d) the carrying out of surveys;
- (e) the making and submitting of reports;
- (f) *[not yet in force]*
- (g) the retention of an operational plan, road layout and design, road deactivation prescription, assessment, survey, report or any record required to be prepared under the Act or the regulations.

1994-41-207; 1997-48-126(a); 1999-34-35.

**Review and comment**

- 209. The Lieutenant Governor in Council may make regulations to provide for review and comment on a matter dealt with in this Act or the regulations.

1994-41-208.

**Silviculture stocking and soil conservation performance standards**

- 209. (1.) The Lieutenant Governor in Council may make regulations respecting silviculture stocking standards and soil conservation standards.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
  - (a) stocking requirements,
  - (b) regeneration date,
  - (c) free growing date,
  - (d) minimum survey and reporting requirements for areas where a free growing stand is required to be established,
  - (e) the maximum proportion of the area within a cutblock that may be occupied by soil disturbance, and
  - (f) the maximum proportion of the area within a cutblock that may be occupied by permanent access structures.
- (3.) The district manager may exempt a person who consents to the exemption from all or part of a regulation made under subsection (1) or (2), subject to conditions or alternative requirements the district manager may specify.

2002-76-64 (B.C.Reg. 349/2002).

**Silvicultural systems and silviculture treatments**

- 210. (1.) The Lieutenant Governor in Council may make regulations respecting silvicultural systems and silviculture treatments.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
  - (a) clearcutting, including limiting or prohibiting clearcutting,
  - (b) silviculture treatments, including limiting or prohibiting various types of silviculture treatments,
  - (c) collection, drying, processing, registration, transportation, purchase, sale, disposition and standards of quality of tree cones, tree seeds, vegetative



- (d) propagules and vegetative material, and  
rehabilitation of harvested areas.

1994-41-209; 1995-6-45; 2002-76-65 (B.C.Reg. 349/2002).

**-- Sections 211 - 221 of Part 10 --****Timber harvesting practices and methods**

211. The Lieutenant Governor in Council may make regulations respecting timber harvesting practices and methods, including limiting or prohibiting a timber harvesting practice or method.

1998-29-37.

**Forest resources**

- 211.1 The Lieutenant Governor in Council may make regulations respecting the protection of forest resources.

1998-29-38.

**Cutblocks**

212. (1.) The Lieutenant Governor in Council may make regulations respecting cutblocks.  
 (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the size, including the maximum allowable size of a cutblock;
  - (b) the shape of a cutblock;
  - (c) the spatial distribution of cutblocks, including green-up.

1994-41-211.

**Phased approval of cutblocks for purposes of operational plan approval**

212. (1.) The Lieutenant Governor in Council may make regulations respecting the phased approval of cutblocks or roads for the purpose of approving or giving effect to an operational plan or amendment under section 40 or 41.  
 (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
- (a) the requirements of this Act and the regulations that a cutblock or road must meet to be identified as reaching a phase for the purpose of giving effect to an operational plan or amendment under section 40 or approving an operational plan or amendment under section 41,
  - (b) the extent to which a requirement of this Act and the regulations, having been met in order for a cutblock or road to reach a phase
    - (i) must be, may be or must not be, reconsidered under section 40 or 41, and
    - (ii) need not be met for that cutblock or road in a subsequent plan, and
  - (c) the extent to which a higher level plan, or a change to this Act or the regulations, affects an operational plan or amendment with respect to that portion of the plan or amendment that is composed of a cutblock or road that has reached a prescribed phase.
- (3.) A regulation made under this section may provide that it applies despite a provision of this Act or the regulations.

1997-48-127(part); 2002-45-15.

**Roads and rights of way**

213. (1.) The Lieutenant Governor in Council may make regulations respecting the following:
- (a) the use of roads and rights of way;
  - (b) the regulation or prohibition of the use and operation of vehicles or classes of vehicles on roads or rights of way;
  - (c) the regulation or prohibition of road construction, maintenance or deactivation.
- (2.) A district manager may exempt a person from all or part of a regulation made under subsection (1) (a) or (b) in respect of a road that is a forest service road, subject to conditions or alternative requirements the district manager may specify.

1994-41-212; 1996-11-30; 2003-56-25.

**Use of Crown range and range developments**

214. (1.) The Lieutenant Governor in Council may make regulations respecting the use of Crown range and range developments.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the use of Crown range for grazing, hay cutting and other purposes;
  - (b) the identification of livestock pastured on Crown range;
  - (c) range developments and the payment of costs for range developments.

1994-41-213.

**Fire use, prevention, control and suppression**

215. (1.) The Lieutenant Governor in Council may make regulations respecting fire use, prevention, control and suppression related to a forest as defined in section 75, including
- (a) fire precautions to be taken in relation to plants, machinery and equipment in or near forests and in relation to railways and utilities,
  - (a.1) regulating or prohibiting burning, and
  - (b) site rehabilitation.
- (2.) A designated forest official may exempt a person from all or part of a regulation made under subsection (1), subject to conditions or alternative requirements the designated forest official may specify.

1994-41-214; 1995-6-46; 1998-29-39.

**Botanical forest products**

216. (1.) In this section, “**licence**” means a botanical forest product buyer’s licence referred to in section 104.
- (2.) The Lieutenant Governor in Council may make regulations respecting the following:
- (a) establishing a licensing scheme for the purposes of section 104;
  - (b) issuing, amending, renewing, suspending or cancelling licences;
  - (c) applications for licences;
  - (d) fees for licences and applications;
  - (e) inspectors and inspections for the purposes of enforcing licensing;
  - (f) appeals.

1994-41-215; 1995-6-47.

**Repealed**

217. *Repealed.* [1999-11-17 (B.C. Reg. 318/99)]

**Forest practices and planning applicable to community forest agreements and woodlot licences**

- 217.(1.) The Lieutenant Governor in Council may make regulations respecting
- (a) woodlot licences, woodlot licence areas and holders of woodlot licences, and
  - (b) community forest agreements, community forest agreement areas and holders of community forest agreements.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) establishing requirements and restrictions regarding the results that must be achieved through the carrying out of planning and forest practices, including the establishment of a free growing stand on a community forest agreement area or woodlot licence area;
  - (b) establishing conditions that must be complied with by the holder of a community forest agreement or woodlot licence before, during and after forest practices;
  - (c) requiring site plans to be prepared by the holder of a community forest agreement or woodlot licence and approved by the district manager before forest practices are carried out on the community forest agreement area or woodlot licence area;
  - (d) requiring that authority to carry out a forest practice on a community forest agreement area or woodlot licence area be obtained before the forest practice begins.
- (3.) The expression “regeneration date”, defined in section 70 of this Act in relation to silviculture prescriptions, may be defined differently by a regulation under this section in relation to community forest agreements or in relation to woodlot licences.

1997-48-127; 2000-6-44.

**Administrative remedies**

218. (1.) The Lieutenant Governor in Council may make regulations respecting administrative remedies.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting fees, charges and penalties in cases where there is a failure to comply with the requirements of
- (a) this Act, the regulations or the standards,
  - (b) an operational plan under this Act or the regulations, or
  - (c) a permit or licence issued under this Act or the regulations.

1994-41-217.

**Forest Practices Board**

219. (1.) The Lieutenant Governor in Council may make regulations respecting the Forest Practices Board.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) audits referred to in section 176, including, without limitation, auditors, specialists and consultants, the manner of conducting an audit and the dissemination of audit results;
  - (b) complaints to the board, including
    - (i) the manner of making a complaint,

- (ii) specifying which complaints may be heard,
- (iii) the manner of dealing with complaints, and
- (iv) the nature and extent of investigations which may be taken in relation to a complaint;
- (c) procedures for notifying the board of determinations or reviews;
- (d) reports made by the board;
- (e) the qualifications of board members;
- (f) fees with respect to complaint investigations.

1994-41-218.

### Reviews, appeals and the commission

220. (1.) The Lieutenant Governor in Council may make regulations respecting reviews, appeals and the commission.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the circumstances in which a review or appeal may be made;
  - (b) the practice, procedure and forms for reviews and appeals and for referrals to the commission of questions of law;
  - (c) the content of a request for review or a notice of appeal;
  - (c.1) the circumstances under which a review or appeal may be dismissed on the basis that the request for review or notice of appeal does not meet the content requirements of the regulations, or that there was a failure to disclose facts and law as required by the regulations;
  - (d) the costs of reviews and appeals and the apportionment of those costs between parties;
  - (e) fees and deposits respecting applications for reviews and appeals;
  - (f) the number of members that constitutes a quorum of the commission or a panel;
  - (f.1) the period in which the commission must hold a hearing after receiving a notice of appeal;
  - (f.2) the period in which the commission must deliver a decision after holding a hearing;
  - (g) annual reports made by the commission.

1994-41-219; 1997-48-129.

### Forest Practices Advisory Council

221. (1.) The Lieutenant Governor in Council may, by regulation, establish a Forest Practices Advisory Council to undertake periodic reviews of the requirements that apply to operational planning and forest practices under this Act, the regulations and the standards and make recommendations to the ministers on any specific matter relevant to this Act that is referred to the council by the ministers.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the membership of the council, including
    - (i) the maximum number of persons that may be appointed to the council,
    - (ii) the qualifications of council members,
    - (iii) the terms of appointed members, and
    - (iv) the removal and replacement of members;

- (b) the annual report that must be prepared by the council;
- (c) the application of sections 191 and 193 to the council.

1994-41-220.

**PART 10.1 – Pilot Projects to Improve the Regulatory Framework for Forest Practices****Pilot projects**

- 221.(1.) The Lieutenant Governor in Council may make regulations respecting pilot projects to experiment with ways to improve the regulatory framework for forest practices.
- (2.) Without limiting subsection (1), the Lieutenant Governor in Council, for the purposes of a pilot project, may order by regulation that provisions pertaining to specified subject matter, or specified provisions, of this Act, the regulations made under this Act, the *Forest Act*, the regulations made under that Act, the *Range Act* or the regulations made under that Act do not apply
- (a) in relation to the small business forest enterprise program, to a district manager or the government, or
- (b) to the holder of an agreement under the *Forest Act* or the *Range Act*.
- (3.) The Lieutenant Governor in Council may make a regulation under this section, including a regulation made under a regulation making power referred to in subsection (8), only if satisfied that the regulation is for the purposes of a pilot project and
- (a) the district manager, or if the holder of an agreement under the *Forest Act* or the *Range Act* proposes the pilot project, the holder of the agreement,
- (i) has subjected the proposed pilot project to public review and comment, and
- (ii) has submitted to the ministers a summary of the comments received and any actions taken or proposed to address issues raised in the comments,
- (b) in accordance with subsection (3.1), the Lieutenant Governor in Council considers that the proposed pilot project
- (i) will provide at least the equivalent protection for forest resources and resource features as that provided by this Act and the regulations made under this Act,
- (ii) will be consistent with the preamble to this Act, and
- (iii) will provide for adequate management and conservation of forest resources,
- (c) the regulations adequately provide for public review and comment respecting forest practices to be carried out under the proposed pilot project,
- (d) the regulations adequately provide for monitoring and for evaluation criteria of the proposed pilot project,
- (e) the role of the board as set out in section 128 and Part 8 is maintained with respect to the proposed pilot project, and
- (f) under the regulations, there is public access to the following, except in circumstances in which the Lieutenant Governor in Council considers that such public access would jeopardize cultural heritage resources:
- (i) planning documents and assessments used in the proposed pilot project;
- (ii) records that the regulations require to be prepared for the proposed pilot project.
- (3.1) The Lieutenant Governor in Council may consider that a proposed pilot project meets the

- requirements of subsection (3) (b) (i), if
- (a) the Lieutenant Governor in Council makes that determination, or
  - (b) the minister notifies the Lieutenant Governor in Council in writing that the minister considers that the planning processes provided for in the proposed pilot project, once completed, will provide at least the equivalent protection for forest resources and resource features as that provided by this Act and the regulations made under this Act.
- (4.) All pilot projects, in a forest region, must not account for more than
- (a) 10% of the total of all allowable annual cuts in effect in the forest region on the coming into force of this section, and
  - (b) 10% of the total of all animal unit months in effect in the forest region on the coming into force of this section.
- (5.) A pilot project may be established only in an area that is subject to a higher level plan, or an area subject to a regulation made under subsection (7) (f) for balancing competing values and interests.
- (6.) For a pilot project, the ministers may establish a committee, to be known as a local public advisory committee, to do the following in accordance with the ministers' directions:
- (a) to review comments made by the public under subsection (3) (a) (i);
  - (b) to review the summary of the comments and actions taken or proposed under subsection (3) (a) (ii);
  - (c) to report to the ministers as to the public acceptability of the proposed pilot project.
- (7.) Without limiting subsection (1), the Lieutenant Governor in Council, for the purposes of a pilot project, may make regulations respecting the following:
- (a) conditions, including providing that all or part of a regulation made under subsection (2) is subject to a condition and requiring that a person to whom the regulation applies comply with the condition;
  - (b) the suspension or cancellation of a pilot project;
  - (c) the regulation or prohibition of forest practices;
  - (d) the protection of forest resources and of resource features;
  - (e) compliance and enforcement;
  - (f) the balancing of competing values and interests for the purposes of subsection (5);
  - (g) planning;
  - (h) monitoring and evaluation of pilot projects;
  - (i) public review and comment related to pilot projects;
  - (j) public access to
    - (i) planning documents and assessments used in the pilot project, and
    - (ii) records that the regulations require to be prepared for the pilot project.
- (8.) Without limiting subsection (1), the Lieutenant Governor in Council may exercise all the regulation making powers in this Act, the *Forest Act* and the *Range Act* for the purposes of a pilot project, and may make regulations that are contrary to a provision of those Acts if that provision is inapplicable because of a regulation made under subsection (2).
- (9.) A regulation under subsection (7) (f) may be made only with the consent of the ministers.
- (10.) A regulation under this Part with respect to a pilot project does not apply to a holder of an agreement under the *Forest Act* or the *Range Act* until the holder has consented to take



part in the pilot project.

- (11.) If a regulation under subsection (2) provides that, for the purposes of a pilot project, a provision of an Act does not apply to a district manager or to the holder of an agreement under the *Forest Act* or the *Range Act*, the provision is also inapplicable, for the purposes of the pilot project, to their
  - (a) employees or agents, or
  - (b) contractors, as defined in section 152 of the *Forest Act*.

1999-34-36; 2003-56-26.

**Annual reports**

- 221.2 In accordance with the regulations
  - (a) the holder of an agreement under the *Forest Act* or the *Range Act* who is the subject of a pilot project must report annually to the ministers on the pilot project,
  - (b) the district manager must report annually to the ministers on any pilot project in the district manager's district that is not referred to in paragraph (a), and
  - (c) the ministers must make the reports publicly available.

1999-34-36.

**Penalty revenue to be paid in accordance with section 117.2**

- 221.3 All revenue payable from penalties imposed under this Part must be paid in accordance with section 117.2.

1999-34-36.

## PART 11 – Transitional Provisions

### Part 11: Division 1 – Application of this Act

#### Immediate application

222. Unless otherwise provided in this Part, this Act, the regulations and the standards apply to an agreement under the *Forest Act* or *Range Act*, a burning permit or a special use permit, whether or not the agreement or permit was entered into or issued before or after the coming into force of this section.

1994-41-222.

#### Enactment overrides agreement

223. Section 222 applies despite any wording in the agreement or permit to the contrary.

1994-41-223.

### Part 11: Division 2 – Grandparented Plans

#### Grandparented plans

224. (1.) This Division applies to the following plans:
- (a) a development plan or 5 year development plan prepared by the holder of an agreement under the *Forest Act* that was approved by the district manager and is in effect on June 15, 1995;
  - (b) any plan for development of areas subject to timber sale licences other than major licences that was prepared by the district manager and is in effect on June 15, 1995;
  - (c) an operating plan prepared by the holder of a timber licence that was approved by the district manager and is in effect on June 15, 1995;
  - (d) a logging plan prepared by the holder of an agreement under the *Forest Act* that was approved by the district manager, or other authorized person, and is in effect on June 15, 1995;
  - (e) a logging plan prepared by the district manager, or other authorized person, for a timber sale licence other than a major licence, that is in effect on June 15, 1995;
  - (f) a preharvest silviculture prescription or silviculture prescription that was prepared or approved by the district manager and is in effect on June 15, 1995;
  - (g) a tenure management plan prepared or approved under the *Range Act*, or a plan approved as part of an agreement under the *Range Act* respecting the use and development of Crown range, that is in effect on June 15, 1995.
- (2.) A plan referred to in subsection (1) (a), (b) or (c) is deemed to be a forest development plan under this Act and remains in effect until the first to happen of the following:
- (a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated;
  - (b) the plan is replaced with a forest development plan prepared in accordance with this Act;

- (c) June 15, 1997.
- (3.) A plan referred to in subsection (1) (d) or (e) is deemed to be a logging plan under this Act and remains in effect until the first to happen of the following:
  - (a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated;
  - (b) the forest practices required on the area under the plan are completed to the satisfaction of the district manager;
  - (c) the plan is replaced with a logging plan prepared in accordance with this Act.
- (4.) A prescription referred to in subsection (1) (f) is deemed to be a silviculture prescription under this Act and remains in effect until the first to happen of the following:
  - (a) a free growing stand is produced on the area under the prescription;
  - (b) the prescription is replaced with a silviculture prescription prepared in accordance with this Act.
- (5.) A plan referred to in subsection (1) (g) is deemed to be a range use plan under this Act and remains in effect until the first to happen of the following:
  - (a) the agreement for which the plan was prepared expires or is cancelled, surrendered or otherwise terminated;
  - (b) the plan is replaced with a range use plan prepared in accordance with this Act;
  - (c) June 15, 1997.
- (6.) An operational plan referred to in subsections (2) to (5) does not have to meet the content requirements or any public review requirements that are prescribed under this Act.
- (7.) *Repealed.* [1997-48-130]

1994-41-224; 1995-6-48; 1997-48-130.

#### **Review of cutblocks by holder of a major licence or woodlot licence**

225. (1.) On or before December 15, 1995, the holder of a major licence or woodlot licence must, in accordance with this section and the regulations, submit a report to the district manager regarding
- (a) cutblocks identified in a cutting permit issued, or an application for a cutting permit submitted, before the coming into force of this Act,
  - (b) cutblocks identified on a forest development plan referred to in section 224 (2) for which
    - (i) the holder may apply for a cutting permit, or
    - (ii) the holder of a pulpwood agreement may apply for a timber sale licence, and
  - (c) roads to be constructed under a road permit, cutting permit or timber sale licence under a pulpwood agreement associated with the holder's agreement.
- (2.) The holder must assess the cutblocks referred to in subsection (1) for conformity with the regulations and standards respecting cutblock size and green-up.
- (3.) The holder must assess the cutblocks and roads referred to in subsection (1) for conformity with the regulations and standards respecting the following:
- (a) the location of the cutblocks and roads relative to high value fish bearing streams as identified by a designated environment official;
  - (b) community watersheds;
  - (c) terrain hazard assessment;

- (d) other matters required by regulation.
- (4.) The report submitted by the holder must indicate the cutblocks and roads that
  - (a) conform with the regulations and standards referred to in subsections (2) and (3), and
  - (b) do not conform and the reasons they do not conform.
- (5.) After reviewing the report, the district manager, in a notice given to the holder, must
  - (a) identify, in accordance with policies and procedures established by the minister under section 227,
    - (i) cutting permits and road permits that require amendment, and
    - (ii) operational plans referred to in section 224 that the holder must amend to satisfy the district manager that the cutblocks and roads will be consistent with conservation and good management of the forest resources, and
  - (b) specify the date by which the amendments referred to in paragraph (a) (ii) must be prepared to the satisfaction of the district manager.
- (6.) The holder who receives a notice under subsection (5) must prepare and submit any amendments to operational plans required in the notice.
- (7.) If a holder fails to submit a report as required under subsection (4), or fails to comply with a notice under subsection (5), the district manager may suspend, in whole or in part, the rights of the holder in accordance with section 76 of the *Forest Act*.
- (8.) The district manager may amend any cutting permit or road permit in accordance with the notice.

1994-41-225; 1995-6-49.

#### **Review of cutblocks by government**

- 226. (1.) On or before December 15, 1995, the district manager must, in accordance with this section and the regulations, submit a report to the regional manager regarding
  - (a) cutblocks under timber sale licences that are not major licences, advertised or entered into before the coming into force of this Act, and
  - (b) roads proposed to be constructed to provide access to the cutblocks referred to in paragraph (a).
- (2.) The district manager must assess the cutblocks referred to in subsection (1) for conformity with the regulations and standards respecting cutblock size and green-up.
- (3.) The district manager must assess the cutblocks and roads referred to in subsection (1) for conformity with the regulations and standards respecting the following:
  - (a) the location of the cutblocks and roads relative to high value fish bearing streams identified by a designated environment official;
  - (b) community watersheds;
  - (c) terrain hazard assessment;
  - (d) other matters required by regulation.
- (4.) The report prepared by the district manager must
  - (a) indicate those cutblocks or roads that the district manager has determined conform with the requirements of the regulations and standards referred to in subsections (2) and (3) and those that do not conform, and
  - (b) include a plan specifying how cutblocks or roads that do not comply with the requirements of the regulations and standards referred to in subsections (2) and (3) will be made to comply with those requirements.

- (5.) If directed by the regional manager, the district manager must amend operational plans referred to in section 224 that were prepared by the district manager to the extent required to implement the plan referred to in subsection (4) (b).
- (6.) If the district manager amends an operational plan under subsection (5), he or she may amend timber sale licences referred to in subsection (1) (a) to the extent necessary to comply with the amended operational plan.
- (7.) In making an amendment under subsection (5) or (6), the district manager must do so in accordance with
  - (a) any directions of the regional manager, and
  - (b) policies and procedures established by the minister under section 227.

1994-41-226.

**Policies and procedures  
established by the minister**

- 227. (1.) For the purposes of section 225 or 226, the minister may establish, vary or rescind policies and procedures respecting amendments to
  - (a) cutting permits,
  - (b) road permits,
  - (c) timber sale licences that do not provide for cutting permits, and
  - (d) operational plans.
- (2.) The policies and procedures established, varied or rescinded under subsection (1) must be made available for inspection by any person.

1994-41-227.

**Amendments to grandparented plans**

- 228. (1.) An amendment to an operational plan referred to in section 224, other than a silviculture prescription,
  - (a) prepared or approved by the district manager on or before December 15, 1995, need not comply with the content and review and comment requirements of this Act and the regulations but must, at a minimum, meet the requirements that applied to the operational plan under the agreement for which it was prepared, and
  - (b) prepared or approved by the district manager after December 15, 1995 must
    - (i) meet the review and comment requirements of this Act and the regulations,
    - (ii) substantially meet the other requirements of this Act, the regulations and the standards, and
    - (iii) meet the requirements of the agreement for which it was prepared, to the extent the agreement is consistent with this Act, the regulations and the standards.
- (2.) Despite subsection (1) (a), if the district manager determines that an amendment referred to in that subsection regarding cutblocks or roads does not conform with the regulations and standards referred to in section 225 (2) and (3), the district manager may require a modification to the amendment to the extent necessary to satisfy the district manager that the cutblocks and roads will be consistent with conservation and good management of the forest resources.
- (3.) An amendment to an operational plan referred to in section 225 (5) or 226 (5) is not

required to meet the content requirements or the review and comment requirements of the Act and the regulations, but must meet the notice requirements of section 225 or 226, as the case may be.

- (4.) If a silviculture prescription referred to in section 224 (4) is amended, section 232 applies.
- (5.) *Repealed.* [2002-76-66 (B.C. Reg. 349/2002)]

1994-41-228; 2002-76-66 (B.C.Reg. 349/2002).

### Part 11: Division 3 – Operational Plans During Transitional Period

#### Repealed

229. *Repealed.* [1997-48-130]

#### Forest development plans

- 230. (1.) Despite section 18 or 19, if the district manager prepares a forest development plan or amendment or approves a forest development plan or amendment submitted by the holder of an agreement under the *Forest Act* on or before December 15, 1995, the plan or amendment
  - (a) need not comply with the content and review and comment requirements of this Act and the regulations, and
  - (b) must, at a minimum, meet the requirements that, immediately before June 15, 1995, applied to a forest development plan under
    - (i) the agreement of the holder who submitted the plan, or
    - (ii) the policies or guidelines of the government for the plans referred to in section 224 (1) (b).
- (2.) Despite subsection (1), if the district manager determines that a forest development plan or amendment referred to in that subsection regarding cutblocks or roads does not conform with the regulations and standards referred to in section 225 (2) and (3), the district manager may require a modification to the plan or amendment to the extent necessary to satisfy the district manager that the cutblocks and roads will be consistent with conservation and good management of the forest resources.
- (3.) Despite section 18 or 19, during the 18 month period that begins on December 15, 1995, if the district manager prepares or approves a forest development plan or an amendment to a forest development plan, the plan or amendment must
  - (a) meet the review and comment requirements of this Act and the regulations,
  - (b) substantially meet the other requirements of this Act, the regulations and the standards, and
  - (c) meet the requirements of the agreement for which it was prepared, to the extent the agreement is consistent with this Act, the regulations and the standards.

1994-41-229; 1996-11-32; 1997-48-131; 2002-76-67 (B.C.Reg. 349/2002).

#### Logging plans

- 231. Despite sections 20 and 21, if the district manager approves a logging plan or an amendment to a logging plan on or before December 15, 1995, the plan or the amendment need not comply with the content and review and comment requirements of

this Act and the regulations but must, at a minimum, meet any requirements that, immediately before June 15, 1995, applied to it under the agreement of the person who submitted the plan.

1994-41-230.

### Silviculture prescriptions

232. (1.) Despite section 22 (3) or (4), if on or before December 15, 1995, the district manager approves a silviculture prescription or an amendment to a silviculture prescription, the prescription or amendment need not comply with the requirements of this Act and the regulations but must, at a minimum, comply with the requirements of sections 10 to 14 of the Silviculture Practices Regulation, B.C. Reg. 42/94, as it was immediately before June 15, 1995.
- (2.) Despite section 22 (1), if on or before December 15, 1995, the district manager prepares a silviculture prescription or an amendment to a silviculture prescription, the prescription or amendment
- (a) need not comply with the requirements of this Act and the regulations, and
  - (b) must, at a minimum, comply with the requirements of sections 10 to 14 of the Silviculture Practices Regulation, B.C. Reg. 42/94, as it was immediately before June 15, 1995.
- (3.) Without limiting subsections (1) and (2), if
- (a) more than 6 months after June 15, 1995
    - (i) the district manager approves a silviculture prescription or an amendment to a silviculture prescription, or
    - (ii) the district manager prepares a silviculture prescription or an amendment to a silviculture prescription, and
  - (b) a forest development plan in effect for the area for which the prescription applies has not been the subject of review and comment under the regulations, the person who submitted the silviculture prescription or amendment for approval or the district manager who prepared the prescription must make the prescription or any amendment to the prescription that the district manager determines would affect the public in a material way, available for review and comment in accordance with sections 12 to 14 of the Silviculture Practices Regulation, B.C. Reg. 42/94, as it was immediately before June 15, 1995.
- (4.) *Repealed.* [1997-48-132, retroactive to June 15, 1995]

1994-41-231; 1995-6-51; 1997-48-132.

### Repealed

233. *Repealed.* [2002-76-68 (B.C. Reg. 349/2002)]

### Repealed

234. *Repealed.* [2002-76-68 (B.C. Reg. 349/2002)]

### Repealed

235. *Repealed.* [1997-48-132, retroactive to June 15, 1995]

**Repealed**

236. *Repealed.* [1997-48-132]

**Range use plans**

237. (1.) Despite section 27, if on or before June 15, 1996,
- (a) the district manager approves a range use plan or an amendment to a range use plan, or
  - (b) a district manager prepares a range use plan or an amendment to a range use plan,
- the plan or amendment need not meet the content and review and comment requirements of this Act and the regulations.
- (2.) Despite section 27, if during the 18 month period that begins June 15, 1996 the district manager prepares or approves a range use plan or an amendment to a range use plan, the plan or amendment must
- (a) meet the review and comment requirements of this Act and the regulations, and
  - (b) be in substantial compliance with the other requirements of this Act and the regulations.
- (3.) Despite section 27, a range use plan approved under subsections (1) and (2) may be for a term less than that specified in section 27.

1994-41-236; 1995-6-52.

**Part 11: Division 4 – Grandparenting Permits and Permits During the Transitional Period****Road permits and road use permits**

238. (1.) A road permit granted under the *Forest Act* before the coming into force of this Act terminates on the happening of the earlier of the following:
- (a) the date on which it expires, is surrendered, cancelled or otherwise terminated;
  - (b) June 15, 1997.
- (2.) The holder of a road permit referred to in subsection (1) that, except for subsection (1) would have extended beyond June 15, 1997, may apply for a replacement road permit or road use permit, as the case may be, and subject to subsection (3) and section 225 (7), the district manager must issue the permit providing the applicant with substantially the same rights as were contained in the original road permit.
- (3.) If the district manager determines that, at the time of the application under subsection (2), the applicant was in contravention of the conditions of the original road permit, the district manager may
- (a) refuse to issue the road permit or road use permit, or
  - (b) specify any additional conditions in the permit that the district manager determines to be reasonable and appropriate.
- (4.) A road permit or road use permit issued under subsection (2) or (3) must comply with the requirements of the *Forest Act*.

1994-41-237.

**Repealed**

239. *Repealed.* [1997-48-133]



**Special use permits**

240. (1.) Every special use permit issued under the *Forest Act* and regulations that is in effect on June 15, 1995 is deemed to be a special use permit under this Act and the regulations.
- (2.) A permit referred to in subsection (1) does not have to comply with the content requirements of this Act, the regulations or the standards.
- (3.) Subject to subsection (2), a holder of a permit referred to in subsection (1) must comply with this Act, the regulations and the standards.
- (4.) Despite subsection (2), if the district manager determines that a permit referred to in subsection (1) does not conform with the requirements of the regulations and the standards, the district manager may
- (a) amend the permit to the extent necessary to comply with the requirements of the regulations or standards, or
  - (b) cancel the permit.

1998-29-41.

**Part 11: Division 5 – Timber Sale Licences, Licences to Cut and Free Use Permits****Timber sale licences that do not provide for cutting permits**

241. (1.) This section applies to a timber sale licence, that does not provide for cutting permits, advertised or entered into before June 15, 1995.
- (2.) Despite a provision in a timber sale licence referred to in subsection (1), if an area of land has been approved for harvesting under the timber sale licence before June 15, 1995, the district manager may amend the size, configuration or location of the area of land to the extent necessary to ensure consistency with resource management zone objectives, landscape unit objectives, sensitive area objectives and this Act, the regulations and standards, provided the volume authorized for harvest under the timber sale licence, as amended, based on a cruise of the timber before it is cut, does not exceed the volume of timber that, but for the amendment, would have been authorized for harvest under the timber sale licence.
- (3.) Despite a provision in a timber sale licence referred to in subsection (1), the district manager is not required under the agreement to approve an area of land for harvesting, unless its size, configuration and location is consistent with any resource management zone objectives, landscape unit objectives, sensitive area objectives and this Act, the regulations and standards.
- (4.) Despite section 11 of the *Forest Act*, if, as a result of the district manager exercising powers under subsection (2) or (3) or section 226 (6), the total cruised volume of timber on the area of land designated for harvest under the timber sale licence is less than the cruised volume of timber on the area of land designated for harvest before the exercise of these powers, the district manager may, by way of compensation, amend the timber sale licence to grant the right to harvest an additional area of land, provided the total cruised volume of timber on the area of land designated for harvest under the amended timber sale licence does not exceed the total cruised volume of timber on the area of land designated for harvest before the exercise of the powers under subsection (2) or (3) or section 226 (6).
- (5.) Subsection (4) does not apply to a timber sale licence entered into under a pulpwood

agreement.

1994-41-240; 1995-6-53, 54; 1997-48-134.

#### Licences to cut and free use permits

242. (1.) A licence to cut or free use permit granted under the *Forest Act* before June 15, 1995 terminates on the happening of the earlier of the following:
- (a) the date on which it expires or is surrendered;
  - (b) June 15, 1997.
- (2.) Despite subsection (1), if the district manager determines that a licence or permit referred to in subsection (1) does not conform with the requirements of this Act, the regulations and the standards, the district manager may
- (a) amend the licence or permit to the extent necessary to comply with the requirements of this Act, the regulations and the standards, or
  - (b) cancel the licence or permit.

1994-41-241.

### Part 11: Division 6

#### Repealed

243. *Repealed.* [RS1996-159-243(4)]

### Part 11: Division 7 – Incorporation of Access Management Plans into Forest Development Plans

#### Access management plans continued

244. (1.) An access management plan that is in effect before January 5, 1998 remains in effect until the earlier of
- (a) the date that road information in the access management plan is included in a forest development plan in accordance with sections 18 (4.1) and (4.2) and 19 (1.2), and
  - (b) June 15, 1999.
- (2.) The law respecting access management plans as it was immediately before January 5, 1998 including, without limitation, the law respecting offences and administrative remedies, continues to apply to an access management plan that is in effect before January 5, 1998, subject to any procedural changes to the law.

1997-48-136.

#### Forest development plans

245. Subject to section 230, if a forest development plan is in effect before January 5, 1998
- (a) sections 18 (1) (b), (3) (b) and (4) (b) and 19 (1) as they were immediately before January 1, 1998 apply to that plan until it expires, and
  - (b) sections 18 (4.1) and (4.2) and 19 (1.2) do not apply to that plan.

1997-48-136.

### Part 11: Division 8 – Logging Plans and Silviculture Prescriptions

**Logging plans continued**

246. (1.) Subject to subsection (2), if a logging plan is approved or put into effect by the district manager before June 15, 1998, the logging plan remains in effect until the first to happen of the following:
- (a) the agreement under the *Forest Act* for which the plan was prepared expires and is not replaced, or is cancelled, surrendered or otherwise terminated;
  - (b) the district manager notifies the holder of the logging plan that the forest practices required on the area under the plan have been completed to the satisfaction of the district manager.
- (2.) A logging plan continues to be a requirement for an area if
- (a) before June 15, 1998
    - (i) a silviculture prescription is submitted for the approval of the district manager or is approved by the district manager or, in the case of a silviculture prescription that must be prepared by the district manager, the silviculture prescription is signed and sealed by a registered professional forester or is given effect by the district manager, or
    - (ii) the district manager exempts a person from the requirement for a silviculture prescription for the area, and
  - (b) the law in effect immediately before June 15, 1998 requires a logging plan.
- (3.) The law as it was immediately before June 15, 1998 with respect to logging plans, including, without limitation, the law respecting offences and administrative remedies related to logging plans, continues to apply to a logging plan referred to in subsection (1) or (2), except that
- (a) the provisions set out in sections 106 to 119 of the *Forests Statutes Amendment Act, 1997*, apply when brought into force,
  - (b) a regulation made pursuant to the provisions referred to in paragraph (a) or under the authority of a regulation making power referred to in section 128 or 129 of the *Forests Statutes Amendment Act, 1997*, applies, and
  - (c) an enactment that is made to apply explicitly or by necessary implication, applies.

1997-48-136; 1998-29-42.

**Repealed**

247. *Repealed.* [2000-6-48]

**Part 11: Division 9 – Riparian and Terrain Stability Requirements on and after June 15, 1997****Compliance by operational plans**

248. (1.) Despite any provision of an operational plan approved or put into effect by the district manager before June 15, 1997, on and after that date, a person must not remove trees from, or modify trees in, an area under the plan that is in a riparian reserve zone set out under Part 10 of the Operational Planning Regulation unless the removal or modification
- (a) before the coming into force of this section was approved in the operational plan for one or more of the following purposes:
    - (i) recovery of trees that have been windthrown or that have been damaged

- by fire, insects, disease or other causes;
  - (ii) sanitation treatments;
  - (iii) undertaking recreational facility management;
  - (iv) managing fisheries and wildlife values;
  - (v) establishing a free growing stand in accordance with a silviculture prescription, this Act and the regulations on an area harvested before June 15, 1997, or
  - (vi) *Repealed.* [2002-76-69 (B.C. Reg. 349/2002)]
- (b) is necessary for one or more of the following purposes:
- (i) removal of trees felled before June 15, 1997;
  - (ii) removal of trees for approved stream crossings;
  - (iii) removal of trees for the construction or modification of a road under an approved road layout and design;
  - (iv) full suspension yarding corridors;
  - (v) removal of danger trees;
  - (vi) reducing windthrow potential by topping or pruning;
  - (vii) carrying out, constructing, modifying or maintaining a range development, or
- (2.) Despite any provision of an operational plan, referred to in subsection (1), on and after June 15, 1997, the holder of an agreement under the *Forest Act* must not, outside a community watershed, clearcut an area under the plan that has a high likelihood of landslides, unless
- (a) the district manager determines that the clearcutting will adequately manage and conserve the forest resources of the area, or
  - (b) timber harvesting of the area began before June 15, 1997.

1997-48-136; 2002-76-69 (B.C.Reg. 349/2002).

### Compliance by cutting permits

249. Despite any provision of a cutting permit that is in effect on June 15, 1997, a person must not, on and after that date,
- (a) remove trees from, or modify trees in, an area under the cutting permit that is in a riparian reserve zone set out under Part 10 of the Operational Planning Regulation, unless the removal or modification
    - (i) is approved in an operational plan for one or more of the purposes referred to in section 248 (1) (a), or
    - (ii) is necessary for one or more of the purposes referred to in section 248 (1) (b), or
  - (b) outside a community watershed, clearcut an area under the cutting permit that has a high likelihood of landslides, unless
    - (i) the district manager determines that clearcutting will adequately manage and conserve the forest resources of the area, or
    - (ii) timber harvesting of the area began before June 15, 1997.

1997-48-136.

### Compliance by timber sale licences without cutting permits

250. (1.) Despite any provision of a timber sale licence that does not provide for cutting permits, if

- the licence is advertised on or before June 15, 1997, or is in effect on June 15, 1997, a person must not, on and after that date,
- (a) remove trees from, or modify trees in, an area under an operational plan for the licence that is in a riparian reserve zone set out under Part 10 of the Operational Planning Regulation, unless the removal or modification
    - (i) is approved in an operational plan for one or more of the purposes referred to in section 248 (1) (a), or
    - (ii) is necessary for one or more of the purposes referred to in section 248 (1) (b), or
  - (b) outside a community watershed, clearcut on an area under the licence that has a high likelihood of landslides, unless
    - (i) the district manager determines that clearcutting will adequately manage and conserve the forest resources of the area, or
    - (ii) timber harvesting of the area began before June 15, 1997.
- (2.) Subsections (3) to (5) apply to a timber sale licence that does not provide for cutting permits,
- (a) if the licence was advertised on or before June 15, 1997 or entered into before June 15, 1997, or
  - (b) if an operational plan for a cutblock under the licence was prepared before June 15, 1997.
- (3.) Despite a provision in a timber sale licence respecting an area in a cutblock referred to in subsection (2) (b), the district manager may amend the size, configuration and location of the cutblock to ensure consistency with this section.
- (4.) Section 241 (2) and (3) applies to a timber sale licence referred to in subsection (2) of this section.
- (5.) Section 241 (4) and (5) applies to the exercise of powers by a district manager under subsection (3) of this section.

1997-48-136.

#### Meaning of “fish stream”

251. For the purpose of determining the width of a riparian zone referred to in sections 248 to 250, “**fish stream**” has the meaning defined in the Operational Planning Regulation as it was on June 15, 1997.

1997-48-136.

#### Amendment of plans, cutting permits and timber sale licences

252. (1.) If an amendment to a timber sale licence that does not provide for cutting permits, an operational plan or a cutting permit results from sections 248 to 251,
- (a) the holder of the plan, permit or licence must submit the amendment to the district manager for approval as soon as practicable and not later than the end of September 30, 1997, if the plan was prepared and submitted to the district manager by the licensee for approval,
  - (b) the amendment must be prepared by the district manager as soon as practicable and not later than the end of September 30, 1997, if the plan was put into effect by the district manager,
  - (c) sections 2 to 5 of the Operational Planning Regulation do not apply to the

- amendment, and
- (d) timber harvesting may take place under the licence, plan or permit before it is amended, to the extent that the harvesting does not conflict with this Division.
- (2.) This Division does not require an amendment to a timber sale licence that does not provide for cutting permits, an operational plan or a cutting permit except an amendment resulting from sections 248 to 251.

1997-48-136.