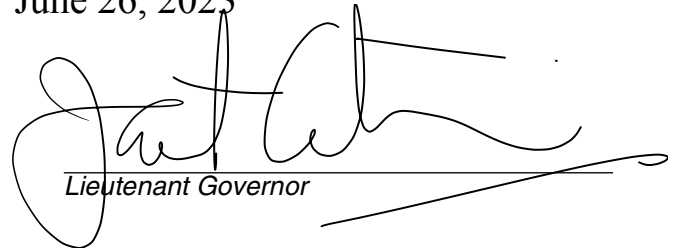


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 386

, Approved and Ordered June 26, 2023



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective July 15, 2023,

- (a) sections 18, 25, 29, 31, 34, 41, 44, 51, 62, 65 and 68 of the *Forest Amendment Act, 2021*, S.B.C. 2021, c. 38, are brought into force, and
- (b) the attached Special Purpose Areas Regulation is made.



Minister of Forests



Presiding Member of the Executive Council

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

Authority under which Order is made:

Act and section: *Forest Amendment Act, 2021*, S.B.C. 2021, c. 38, s. 75;
Forest Act, R.S.B.C. 1996, c. 157, ss. 151, 151.01, 265 to 269

Other:

SPECIAL PURPOSE AREAS REGULATION

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PART 1 – DEFINITIONS AND GENERAL PROVISIONS

Definitions

1 In this regulation:

“**Act**” means the *Forest Act*;

“**cutting permit compensation provision**” means any of the following sections of the Act:

- (a) section 241 [*compensation if special purpose area overlaps cutting permit area*];
- (b) section 242 [*compensation if special purpose area does not overlap cutting permit area*];
- (c) section 243 [*compensation for cutting permit under community forest agreement or woodlot licence*];

“**impact statement**” means the statement described in section 5 (2) (a) [*impact statements*];

“**licence compensation provision**” means any of the following sections of the Act:

- (a) section 231 [*compensation for area-based licence for deletion for access purpose*];
- (b) section 232 [*compensation for area-based licence for deletion for non-timber production purpose*];
- (c) section 233 [*compensation for area-based licence for deletion for other special purposes*];
- (d) section 234 [*compensation for non-TFL timber licence for deletion for access purpose*];
- (e) section 235 [*compensation for non-TFL timber licence for deletion for non-timber production purpose*];
- (f) section 236 [*compensation for non-TFL timber licence for deletion for other special purposes*];
- (g) section 238 [*compensation for forest licence for reduction for access purpose*];
- (h) section 239 [*compensation for forest licence for reduction for non-timber production purpose*];
- (i) section 240 [*compensation for forest licence for reduction for other special purposes*];

“**profile of timber**”, in relation to a cutting permit area, timber sale licence area or the area described in a forestry licence to cut, means the composition of timber in the area, having regard to the following factors:

- (a) the types of timber in the area;
- (b) the types of terrain in the area;
- (c) other factors that the minister considers relevant;

“special purpose area designation”, in relation to the compensation to which a person may be entitled or for which a person may be eligible under Part 16 [*Compensation in Relation to Special Purpose Areas*] of the Act, means the designation of the area, as a special purpose area, that gives rise to the person’s entitlement or eligibility;

“stumpage appraisal policies” means the policies and procedures approved by the minister under section 105 [*stumpage rate determined*] of the Act;

“timber sale licence area”, in relation to a timber sale licence, means the area described in the timber sale licence.

Rules for determining after-tax net income amounts

- 2** (1) In this section, **“income tax legislation”** means the following:
- (a) the *Income Tax Act*;
 - (b) the *Income Tax Act* (Canada);
 - (c) the regulations under the *Income Tax Act* and the *Income Tax Act* (Canada).
- (2) If a provision of this regulation requires the minister to determine after-tax net income amounts for each annual net income amount determined under a provision of Part 16 [*Compensation in Relation to Special Purpose Areas*] of the Act, the after-tax net income amounts are to be determined as follows:
- (a) for each annual net income amount, estimate the following notional amounts:
 - (i) the portion of the net income amount that would be taxable;
 - (ii) the income tax that would be payable on the taxable net income amount estimated under subparagraph (i) of this paragraph;
 - (b) for each annual net income amount, determine the after-tax net income amount by deducting, from that annual net income amount, the notional income tax amount estimated under paragraph (a) (ii) of this subsection.
- (3) A notional amount described in subsection (2) (a) (i) or (ii) must be estimated based on the income tax legislation, as that legislation reads at the start date of the remaining term of the licence or permit to which the compensation relates.

Determining present value amounts

- 3** If a provision of this regulation requires the minister to determine present value amounts for each annual after-tax net income amount determined under a provision of Part 16 [*Compensation in Relation to Special Purpose Areas*] of the Act, the present value of the after-tax net income amount for the year is to be determined using the discounted cash flow approach in accordance with the following formula:

$$\text{present value} = \frac{\text{annual net income (after tax)}}{(1 + \text{discount rate})^{\text{years}}}$$

where	
annual net income (after tax)	= the after-tax net income amount for the particular year;
discount rate	= the weighted average cost of capital, as determined using the formula set out in the stumpage appraisal policies;
years	= the number of years that have elapsed since the start of the remaining term of the licence or permit to which the compensation relates.

Rules for calculating interest

- 4** (1) In this section, “**court order interest rate**” has the same meaning as “interest rate” in Part 2 [*Post-Judgment Interest*] of the *Court Order Interest Act*.
- (2) If a provision of this regulation requires the minister to pay interest on the amount of compensation payable to the holder of a licence or permit under a provision of Part 16 [*Compensation in Relation to Special Purpose Areas*] of the Act, the following rules apply for the purposes of calculating the interest:
- (a) unless the provision of this regulation indicates otherwise, the interest must be calculated from the start date of the remaining term of the licence or permit to the date of payment;
 - (b) the interest must be calculated at the court order interest rate;
 - (c) the interest must be calculated in accordance with section 7 (3) and (4) [*interest rate*] of the *Court Order Interest Act*.

Impact statements

- 5** (1) In this section, “**applicable impact requirement**” means the following:
- (a) in relation to the holder of a cutting permit issued under a community forest agreement or woodlot licence, the requirement set out in section 16 (a) (ii) [*requirements for section 243 (1) of Act*];
 - (b) in relation to the holder of a forestry licence to cut, the requirement set out in section 43 (a) (ii) [*requirements for section 246 (1) (b) of Act*];
 - (c) in relation to the holder of a timber sale licence, the requirement set out in section 52 (a) (ii) [*requirements for section 247 (2) (b) of Act*];
 - (d) in relation to the holder of a Christmas tree permit, the requirement set out in section 63 (a) (ii) [*requirements for section 249 (1) (b) of Act*].
- (2) If the holder of a cutting permit, forestry licence to cut, timber sale licence or Christmas tree permit believes that the applicable impact requirement is met, the holder must, for the purposes of section 16 (d), 43 (d), 52 (c) or 63 (c), respectively, of this regulation, provide to the minister, in the form and manner that the minister may require,
- (a) a statement setting out why the holder considers that the applicable impact requirement is met, and
 - (b) any additional information that the minister may require.

- (3) The holder of a permit or licence referred to in subsection (2) is not eligible for compensation under the provision of Part 16 [*Compensation in Relation to Special Purpose Areas*] of the Act to which the impact requirement relates unless all of the information required under subsection (2) of this section is provided before the earlier of
- (a) the cancellation of the special purpose area designation, and
 - (b) the following date:
 - (i) in the case of a cutting permit, timber sale licence, or Christmas tree permit, the date the remaining term of the permit or licence ends;
 - (ii) in the case of a forestry licence to cut, the date the licence expires.

PART 2 – COMPENSATION FOR AREA-BASED LICENCES, NON-TFL TIMBER LICENCES AND FOREST LICENCES

Deletions under *Park Act*

- 6** (1) For the purposes of the following provisions of the Act, a previous deletion includes a deletion that occurs, under section 11 (2.3) [*minister’s power to acquire land*] of the *Park Act*, in connection with an area required for the establishment or enlargement of a park, conservancy or recreation area:
- (a) section 232 (1) (b) [*compensation for area-based licence for deletion for non-timber production purpose*];
 - (b) section 235 (1) (b) [*compensation for non-TFL timber licence for deletion for non-timber production purpose*].
- (2) For the purposes of section 239 (1) (b) [*compensation for forest licence for reduction for non-timber production purpose*] of the Act, a previous reduction includes a reduction made, under Part 18 [*Expropriations and Deletions under the Park Act*] of the Act, as a result of a deletion that occurs, under section 11 (2.3) of the *Park Act*, in connection with an area required for the establishment or enlargement of a park, conservancy or recreation area.

Duty of holder of licence to provide information to minister

- 7** (1) The holder of an area-based licence, non-TFL timber licence or forest licence must provide to the minister, on request, specified information that the minister considers may be relevant for the purposes of determining the compensation to which the holder is entitled under a licence compensation provision.
- (2) Without limiting subsection (1), the minister may request any of the following:
- (a) information related to
 - (i) net income, including revenues and costs, referred to in the formula set out in section 228 [*meaning of “net income”*] of the Act,
 - (ii) established practices, or
 - (iii) adjustments to net income to reflect notional income tax and present value;

- (b) information required to be kept or submitted under
 - (i) section 136 [*records and returns*] of the Act,
 - (ii) the stumpage appraisal policies, or
 - (iii) any other provision of the Act.
- (3) Information requested under this section must be provided in the form and manner and within the time period specified by the minister.
- (4) The minister may extend, by not more than 2 months, the time period specified under subsection (3), but an extension may be granted only once.
- (5) The minister must determine the compensation to which the holder of the licence is entitled regardless of whether the holder complies with a request for information under this section.

**Information that minister may consider
in determining compensation for licence**

- 8** (1) For the purposes of determining the compensation to which the holder of an area-based licence, non-TFL timber licence or forest licence is entitled under a licence compensation provision, the minister may consider any of the following:
- (a) relevant information that the holder provides under section 7, or otherwise provides under the Act;
 - (b) aggregated information derived from relevant information that the holder or other persons provide under the Act;
 - (c) relevant information, including statistical information, that is publicly available or is otherwise available to the minister.
- (2) The minister may refuse to consider information described in subsection (1) if, in the minister's opinion, the information is incomplete or inaccurate.

Criteria for determining relevance of information

- 9** For the purposes of determining, under a licence compensation provision, the net income amounts that would be earned during each year of the remaining term of an area-based licence, non-TFL timber licence or forest licence, and unless the minister determines otherwise, information described in section 8 is to be considered relevant if the information relates to the harvest and sale of timber harvested under cutting permits or timber sale licences that meet the following criteria:
- (a) in the case of cutting permits, the cutting permits were issued
 - (i) under the holder's licence, or
 - (ii) under other licences or agreements that the minister considers are comparable to the holder's licence;
 - (b) the cutting permit areas or timber sale licence areas have profiles of timber that the minister considers are comparable to the relevant harvest profile;
 - (c) timber harvesting under the cutting permits or timber sale licences was completed not more than 5 years before the effective date of the special purpose area designation;

- (d) the volume of timber harvested under the cutting permits or timber sale licences is sufficient to accurately indicate the net income amounts that would be earned, and the established practices that would be carried out, in relation to the harvested timber for which the holder is being compensated.

**Adjustments to licence compensation
to reflect tax and present value**

- 10**
- (1) This section sets out the adjustments that the minister must make in order to determine the compensation to which the holder of an area-based licence, non-TFL timber licence or forest licence is entitled under a licence compensation provision.
 - (2) The adjustments set out in this section are established for the purposes of
 - (a) subsection (3) of each licence compensation provision, or
 - (b) in the case of section 234 [*compensation for non-TFL timber licence for deletion for access purpose*] of the Act, subsection (4) of that section.
 - (3) After determining, under a licence compensation provision, the net income amounts that would be earned during each year of the remaining term of the licence, the minister must do the following:
 - (a) for each annual net income amount, determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
 - (b) for each annual after-tax net income amount determined under paragraph (a), determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
 - (c) determine the total amount of compensation to which the holder is entitled under the licence compensation provision by calculating the sum of the present value amounts determined under paragraph (b).

Interest payable on compensation for licence

- 11**
- (1) The minister must pay interest on the amount of compensation that the minister determines is payable under a licence compensation provision to the holder of an area-based licence, non-TFL timber licence or forest licence.
 - (2) Interest under subsection (1) is to be calculated in accordance with section 4 (2) [*rules for calculating interest*].

**Compensation if licence holder also eligible
under cutting permit compensation provision**

- 12**
- If, in relation to the designation of an area as a special purpose area, the holder of an area-based licence or forest licence is, as a result of the designation, eligible for compensation under both a licence compensation provision and a cutting permit compensation provision, the total amount of compensation for which the holder is eligible under those provisions must be determined under Part 4 [*Compensation if Holder Eligible Under Licence Compensation Provision and Cutting Permit Compensation Provision*] of this regulation.

PART 3 – COMPENSATION FOR CUTTING PERMITS

Division 1 – Definitions, Interpretation and Purpose

Definitions for Part 3

13 In this Part:

“applicable impact date”, in relation to a cutting permit compensation provision, means the following:

- (a) in the case of section 241 [*compensation if special purpose area overlaps cutting permit area*] of the Act, the effective date of, as applicable,
 - (i) the deletion referred to in subsection (1) (a) of that section, or
 - (ii) the order referred to in subsection (1) (b) or (c) of that section;
- (b) in the case of section 242 [*compensation if special purpose area does not overlap cutting permit area*] of the Act, the date on which the minister determines that all of the requirements under subsection (1) and (2) of that section are met;
- (c) in the case of section 243 [*compensation for cutting permit under community forest agreement or woodlot licence*] of the Act,
 - (i) if the special purpose area overlaps the cutting permit area, the effective date of the deletion referred to in section 16 (a) (i) [*requirements for section 243 (1) of Act*] of this regulation, or
 - (ii) if the special purpose area does not overlap the cutting permit area, the date by which both of the following have occurred:
 - (A) the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation;
 - (B) the minister is satisfied that the impact described in section 16 (a) (ii) of this regulation has occurred;

“established practices”, in relation to a cutting permit compensation provision, means practices that have been carried out previously in relation to the harvest and sale of a volume of timber that is harvested from the harvest profile specified under section 19 (a) [*matters that minister must determine in respect of cutting permit*];

“relevant timber cruise”, in relation to a cutting permit compensation provision, means the most recent timber cruise that meets both of the following criteria:

- (a) the timber cruise was conducted by the holder of the cutting permit before the effective date of the special purpose area designation;
- (b) the information provided by the timber cruise was used, in accordance with the stumpage appraisal policies, to determine, redetermine or vary the rate of stumpage for timber authorized to be harvested under the cutting permit;

“remaining term” has the meaning set out in section 14 [*meaning of “remaining term” of cutting permit*].

Meaning of “remaining term” of cutting permit

- 14** (1) The remaining term of a cutting permit, in relation to a cutting permit compensation provision, is the period that
- (a) starts on the applicable impact date, and
 - (b) ends on the expiry date of the term of the cutting permit, as at the effective date of the special purpose area designation.
- (2) If the operation of the cutting permit is, as at the effective date of the special purpose area designation, subject to a postponement under section 58.21 [*postponement of operation of cutting permits*] of the Act, the expiry date of the cutting permit is deemed to be the date on which the cutting permit would expire if the cutting permit were not subject to the postponement.

Purpose of Part 3

- 15** This Part sets out the following:
- (a) the impact and other requirements that must be met for the purposes of section 243 (1) [*compensation for cutting permit under community forest agreement or woodlot licence*] of the Act;
 - (b) the method for determining compensation under a cutting permit compensation provision.

Division 2 – Requirements for Cutting Permit Under Community Forest Agreement or Woodlot Licence

Requirements for section 243 (1) of Act

- 16** The requirements for the purposes of section 243 (1) [*compensation for cutting permit under community forest agreement or woodlot licence*] of the Act are as follows:
- (a) as a result of the special purpose area designation, the cutting permit has been impacted in one of the following ways:
 - (i) the special purpose area overlaps the cutting permit area and the area of overlap is deleted under section 194 (1) [*deletion of cutting permit area within licence area*] of the Act;
 - (ii) the special purpose area does not overlap the cutting permit area but there is no practicable means by which the holder can access the cutting permit area, or a portion of that area, for the purposes of harvesting timber in that area or portion;
 - (b) the cutting permit was issued before the effective date of the special purpose area designation;
 - (c) the rate of stumpage for timber authorized to be harvested under the cutting permit was determined, redetermined or varied using information provided by a relevant timber cruise;
 - (d) in the case of a cutting permit impacted in the way described in paragraph (a) (ii) of this section, the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation.

Division 3 – Determining Compensation for Cutting Permit

Duty to provide information under section 244 of Act

- 17 (1) For the purposes of section 244 [*duty of cutting permit holder to provide information to minister*] of the Act, and without limiting that section, the minister may request the holder of the cutting permit to provide any of the information described in section 7 (2) [*duty of holder of licence to provide information to minister*] of this regulation.
- (2) The minister may extend, by not more than 2 months, the time period specified under section 244 (2) of the Act, but an extension may be granted only once.
- (3) The minister must determine the compensation for which the holder of a cutting permit is eligible regardless of whether the holder complies with a request for information under section 244 of the Act.

Information that minister may consider in determining compensation for cutting permit

- 18 (1) For the purposes of determining the compensation for which the holder of a cutting permit is eligible under a cutting permit compensation provision, the minister may consider the following:
- (a) relevant information that the holder provides under section 244 [*duty of cutting permit holder to provide information to minister*] of the Act, or otherwise provides under the Act;
- (b) relevant information described in section 8 (1) (b) and (c) [*information that minister may consider in determining compensation for licence*] of this regulation.
- (2) The minister may refuse to consider information referred to in subsection (1) if, in the minister's opinion, the information is incomplete or inaccurate.
- (3) For the purposes of determining, under a cutting permit compensation provision, the net income amounts that would be earned during each year of the remaining term of a cutting permit, and unless the minister determines otherwise, information referred to in subsection (1) is to be considered relevant if the information relates to the harvest and sale of timber harvested under cutting permits and timber sale licences that meet the following criteria:
- (a) the criteria set out in section 9 (a), (c) and (d) [*criteria for determining relevance of information*];
- (b) the cutting permit areas or timber sale licence areas have profiles of timber that the minister considers are comparable to the harvest profile for the cutting permit area, as specified under section 19 (a).

Matters that minister must determine in respect of cutting permit

- 19 To determine the compensation for which the holder of a cutting permit is eligible under a cutting permit compensation provision, the minister must do the following:

- (a) specify the harvest profile for the cutting permit area by identifying the components of the profile of timber that the minister considers could be harvested in that area, as at the date on which the relevant timber cruise is conducted, to support the allowable annual cut of the licence or agreement to which the cutting permit relates;
- (b) determine the volume of harvestable timber that the minister considers is in the cutting permit area as at the date the relevant timber cruise is conducted;
- (c) specify the size of the impacted portion of the harvestable cutting permit area by determining the number of hectares that the minister considers
 - (i) are in the portion of the cutting permit area that is impacted as a result of the special purpose area designation, and
 - (ii) contain harvestable timber as at the applicable impact date;
- (d) specify the size of the total harvestable cutting permit area by determining the number of hectares that the minister considers
 - (i) are in the cutting permit area, and
 - (ii) contain harvestable timber as at the date the relevant timber cruise is conducted;
- (e) determine the proportion of the cutting permit area that is impacted, as a result of the special purpose area designation, by using the formula set out in section 20.

Formula for proportion of cutting permit area impacted

20 The formula for the purposes of section 19 (e) is as follows:

$$\text{proportion} = \frac{\text{impacted portion of harvestable permit area [in hectares]}}{\text{total harvestable permit area [in hectares]}}$$

where

impacted portion of harvestable permit area [in hectares]	=	the number of hectares that the minister determines under section 19 (c);
total harvestable permit area [in hectares]	=	the number of hectares that the minister determines under section 19 (d).

Compensation for cutting permit

21 Subject to the adjustments under section 23 [*adjustments to cutting permit compensation to reflect tax and present value*], the compensation for which the holder of a cutting permit is eligible under a cutting permit compensation provision is an amount determined by the minister based on the net income that would be earned on the sale of harvested timber if, during each year of the remaining term of the cutting permit,

- (a) the volume of the harvested timber were equal to the annual volume determined using the formula set out in section 22,

- (b) the timber were harvested from the harvest profile specified under section 19 (a) [*matters that minister must determine in respect of cutting permit*], and
- (c) the timber were harvested and sold in accordance with established practices.

Formula for annual volume of timber harvested under cutting permit

22 The formula for the purposes of section 21 (a) is as follows:

$$\text{annual volume} = \frac{\text{cutting permit volume}}{\text{permit term}} \times \text{proportion of area impacted}$$

where

- cutting permit volume = the volume of harvestable timber determined under section 19 (b) [*matters that minister must determine in respect of cutting permit*];
- permit term = the number of years in the remaining term of the cutting permit;
- proportion of area impacted = the proportion of the cutting permit area that is impacted as a result of the special purpose area designation, as determined under section 19 (e).

Adjustments to cutting permit compensation to reflect tax and present value

23 After determining, under section 21 [*compensation for cutting permit*], the net income amounts that would be earned during each year of the remaining term of the cutting permit, the minister must do the following:

- (a) for each annual net income amount, determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
- (b) for each annual after-tax net income amount determined under paragraph (a) of this section, determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
- (c) determine the total amount of compensation for which the holder is eligible under the cutting permit compensation provision by calculating the sum of the present value amounts determined under paragraph (b).

Interest payable on compensation for cutting permit

- 24 (1) The minister must pay interest on the amount of compensation that the minister determines is payable under a cutting permit compensation provision to the holder of a cutting permit.
- (2) Interest under subsection (1) is to be calculated in accordance with section 4 (2) [*rules for calculating interest*].

Compensation if holder also entitled under licence compensation provision

- 25** In the circumstances described in section 12 [*compensation if licence holder also eligible under cutting permit compensation provision*], the total amount of compensation for which the holder of a cutting permit issued under an area-based licence or forest licence is eligible must be determined under Part 4 [*Compensation if Holder Eligible for Compensation Under Licence Compensation Provision and Cutting Permit Compensation Provision*].

**PART 4 – COMPENSATION IF HOLDER ELIGIBLE UNDER LICENCE
COMPENSATION PROVISION AND CUTTING PERMIT COMPENSATION
PROVISION**

Division 1 – Definitions, Purpose and Compensable Volumes

Definitions for Part 4

- 26** (1) In this Part:
- “**aggregate compensable AAC volume**” means the licence volume determined under section 28 (d) [*compensable volumes*];
 - “**aggregate compensable CP volume**” means the cutting permit volume determined under section 28 (b);
 - “**annual compensable CP volume**” means the cutting permit volume specified under section 28 (a);
 - “**compensable AAC volume**” means the licence volume specified under section 28 (c).
- (2) The definitions set out in section 13 [*definitions for Part 3*] apply for the purposes of this Part.

Purpose of Part 4

- 27** This Part sets out the method for determining the total amount of compensation for which the holder of a cutting permit issued under an area-based licence or forest licence is eligible in the circumstances described in section 12 [*compensation if licence holder also eligible under cutting permit compensation provision*].

Compensable volumes

- 28** If the holder of a cutting permit issued under an area-based licence or forest licence is eligible for compensation under both a cutting permit compensation provision and a licence compensation provision, the minister must do the following:
- (a) specify the annual cutting permit volume, as determined under section 21 (a) [*compensation for cutting permit*] of this regulation, for which the holder is eligible to be compensated under the cutting permit compensation provision;

- (b) determine the aggregate cutting permit volume for which the holder is eligible to be compensated under the cutting permit compensation provision by multiplying the holder's annual compensable CP volume by the number of years in the remaining term of the cutting permit;
- (c) specify the allowable annual cut volume, as described in subsection (2) (a) of the licence compensation provision, for which the holder is entitled to be compensated under that licence compensation provision;
- (d) determine the aggregate allowable annual cut volume for which the holder is entitled to be compensated under the licence compensation provision by multiplying the holder's compensable AAC volume by the number of years in the remaining term of the licence.

Division 2 – Compensation if Aggregate Compensable CP Volume Equal To or Greater Than Aggregate Compensable AAC Volume

Application of Division 2 of Part 4

- 29** This Division applies to the holder of a cutting permit issued under an area-based licence or forest licence if the holder's aggregate compensable CP volume is equal to or greater than the holder's aggregate compensable AAC volume.

Compensation under Division 2 of Part 4

- 30** If this Division applies, the total amount of compensation for which the holder is eligible under the cutting permit compensation provision and licence compensation provision is the amount determined under the cutting permit compensation provision, in accordance with Division 3 [*Determining Compensation For Cutting Permit*] of Part 3 [*Compensation For Cutting Permits*] of this regulation.

Interest payable under Division 2 of Part 4

- 31** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 30 to the holder of a cutting permit issued under an area-based licence or forest licence.
- (2) Interest under subsection (1) is to be calculated in accordance with section 4 (2) [*rules for calculating interest*].

Division 3 – Compensation if Annual Compensable CP Volume Equal To or Greater Than Compensable AAC Volume

Application of Division 3 of Part 4

- 32** This Division applies to the holder of a cutting permit issued under an area-based licence or forest licence if
- (a) the holder's aggregate compensable CP volume is less than the holder's aggregate compensable AAC volume, and
 - (b) the holder's annual compensable CP volume is equal to or greater than the holder's compensable AAC volume.

Matters that minister must determine for remaining term of cutting permit

- 33** (1) The matters under this section must be determined for the period corresponding to the remaining term of the holder's cutting permit.
- (2) To determine the total amount of compensation for which the holder is eligible under this Division, the minister must do the following:
- (a) in accordance with section 21 [*compensation for cutting permit*], determine the net income amounts that would be earned during each year of the remaining term of the holder's cutting permit;
 - (b) for each annual net income amount determined under paragraph (a), determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
 - (c) for each annual after-tax net income amount determined under paragraph (b), determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
 - (d) calculate the sum of the present value amounts determined under paragraph (c).

Matters that minister must determine for period after cutting permit ends

- 34** (1) The matters under this section must be determined for the period that
- (a) starts when the remaining term of the holder's cutting permit ends, and
 - (b) ends when the remaining term of the holder's area-based licence or forest licence ends.
- (2) In addition to determining the matters under section 33, the minister must do the following:
- (a) in accordance with the licence compensation provision, but subject to reducing the holder's compensable AAC volume by an amount determined using the formula set out in section 35, determine the net income amounts that would be earned during each year of the period described in subsection (1) of this section;
 - (b) for each annual net income amount determined under paragraph (a), determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
 - (c) for each annual after-tax net income amount determined under paragraph (b), determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
 - (d) calculate the sum of the present value amounts determined under paragraph (c).

Formula for determining reduction amount

35 The formula for the purpose of section 34 (2) (a) is as follows:

$$\text{amount} = \frac{(\text{aggregate CP volume}) - (\text{AAC volume} \times \text{permit term})}{(\text{licence term} - \text{permit term})}$$

where

- aggregate CP volume = the holder's aggregate compensable CP volume;
- AAC volume = the holder's compensable AAC volume;
- permit term = the number of years in the remaining term of the holder's cutting permit;
- licence term = the number of years in the remaining term of the holder's area-based licence or forest licence.

Compensation under Division 3 of Part 4

- 36 (1) If this Division applies, the total amount of compensation for which the holder is eligible under the cutting permit compensation provision and licence compensation provision is an amount equal to the sum of
- (a) the amount calculated under section 33 (2) (d) [*matters that minister must determine for remaining term of cutting permit*], and
 - (b) the amount calculated under section 34 (2) (d) [*matters that minister must determine for period after cutting permit ends*].
- (2) The minister must pay interest on the amount of compensation that the minister determines is payable under subsection (1) to the holder of a cutting permit issued under an area-based licence or forest licence.
- (3) Interest under subsection (2) is to be calculated in accordance with section 4 (2) [*rules for calculating interest*].

Division 4 – Compensation if Annual Compensable CP Volume Less Than Compensable AAC Volume

Application of Division 4 of Part 4

- 37 This Division applies to the holder of a cutting permit issued under an area-based licence or forest licence if
- (a) the holder's aggregate compensable CP volume is less than the holder's aggregate compensable AAC volume, and
 - (b) the holder's annual compensable CP volume is less than the holder's compensable AAC volume.

Matters that minister must determine for portion of licence period ending when cutting permit ends

- 38 (1) The matters under this section must be determined for the period that
- (a) starts when the remaining term of the holder's area-based licence or forest licence starts, and

- (b) ends when the remaining term of the holder's cutting permit ends.
- (2) To determine the total amount of compensation for which the holder is eligible under this Division, the minister must do the following:
 - (a) in accordance with section 21 [*compensation for cutting permit*], determine the net income amounts that would be earned during each year of the remaining term of the holder's cutting permit;
 - (b) in accordance with the licence compensation provision, but subject to reducing the holder's compensable AAC volume by an amount equal to the holder's annual compensable CP volume, determine the net income amounts that would be earned during each year of the period described in subsection (1);
 - (c) for each year of the period described in subsection (1), determine the net income amount that would be earned during the year by calculating the sum of
 - (i) the net income amount for that year, as determined under paragraph (a) of this subsection, and
 - (ii) the net income amount for that year, as determined under paragraph (b) of this subsection.
- (3) After determining the net income amounts that would be earned during each year of the period described in subsection (1), the minister must do the following:
 - (a) for each annual net income amount determined under subsection (2) (c), determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
 - (b) for each annual after-tax net income amount determined under paragraph (a) of this subsection, determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
 - (c) calculate the sum of the present value amounts determined under paragraph (b) of this subsection.

**Matters that minister must determine
for remaining portion of licence period**

- 39**
- (1) The matters under this section must be determined for the period that
 - (a) starts when the remaining term of the holder's cutting permit ends, and
 - (b) ends when the remaining term of the holder's area-based licence or forest licence ends.
 - (2) In addition to determining the matters under section 38, the minister must do the following:
 - (a) in accordance with the licence compensation provision, determine the net income amounts that would be earned during each year of the period described in subsection (1) of this section;
 - (b) for each annual net income amount determined under paragraph (a), determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];

- (c) for each annual after-tax net income amount determined under paragraph (b), determine the present value of that amount in accordance with section 3 *[determining present value amounts]*;
- (d) calculate the sum of the present value amounts determined under paragraph (c).

Compensation under Division 4 of Part 4

- 40** (1) If this Division applies, the total amount of compensation for which the holder is eligible under the cutting permit compensation provision and licence compensation provision is an amount equal to the sum of
- (a) the amount calculated under section 38 (3) (c) *[matters that minister must determine for portion of licence period ending when cutting permit ends]*, and
 - (b) the amount calculated under section 39 (2) (d).
- (2) The minister must pay interest on the amount of compensation that the minister determines is payable under subsection (1) to the holder of a cutting permit issued under an area-based licence or forest licence.
- (3) Interest under subsection (2) is to be calculated in accordance with section 4 (2) *[rules for calculating interest]*.

PART 5 – COMPENSATION FOR FORESTRY LICENCES TO CUT

Definitions for Part 5

- 41** In this Part:
- “**cancellation order**”, in relation to compensation under section 246 *[compensation for forestry licence to cut]* of the Act, means the order referred to in subsection (1) (a) of that section by which rights under the licence have been cancelled;
 - “**established practices**”, in relation to compensation under section 246 of the Act, means practices that have been carried out previously in relation to the harvest and sale of a volume of timber that is harvested from the harvest profile specified under section 46 (a) *[matters that minister must determine in respect of forestry licence to cut]* of this regulation;
 - “**forestry licence to cut area**”, in relation to a forestry licence to cut, means the area described in the licence.

Purpose of Part 5

- 42** This Part set outs the following:
- (a) the requirements that must be met for the purposes of section 246 (1) (b) *[compensation for forestry licence to cut]* of the Act;
 - (b) the method for determining compensation under section 246 (2) of the Act.

Requirements for section 246 (1) (b) of Act

- 43** The requirements for the purposes of section 246 (1) (b) [*compensation for forestry licence to cut*] of the Act are as follows:
- (a) as a result of the cancellation order, harvesting rights under the forestry licence to cut have been impacted in one of the following ways:
 - (i) the holder is no longer authorized to harvest timber in the forestry licence to cut area;
 - (ii) there is no practicable means by which the holder can access the forestry licence to cut area, or a portion of that area, for the purposes of harvesting timber in that area or portion;
 - (b) the forestry licence to cut was issued before the effective date of the cancellation order;
 - (c) the forestry licence to cut does not provide for the issuance of cutting permits;
 - (d) in the case of a forestry licence to cut impacted in the way described in paragraph (a) (ii) of this section, the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation.

Duty of holder of forestry licence to cut to provide information to minister

- 44** (1) The holder of a forestry licence to cut must provide to the minister, on request, specified information the minister considers necessary for the purposes of considering or determining a matter under section 246 [*compensation for forestry licence to cut*] of the Act.
- (2) Section 7 (2) (b), (3), (4) and (5) [*duty of holder of licence to provide information to minister*] applies for the purposes of this section.

Information that minister may consider in determining compensation for forestry licence to cut

- 45** (1) To determine the compensation for which the holder of a forestry licence to cut is eligible under section 246 [*compensation for forestry licence to cut*] of the Act, the minister may consider the following:
- (a) relevant information that the holder provides under section 44 of this regulation, or otherwise provides under the Act;
 - (b) relevant information described in section 8 (1) (b) and (c) [*information that minister may consider in determining compensation for licence*] of this regulation.
- (2) The minister may refuse to consider information referred to in subsection (1) if, in the minister's opinion, the information is incomplete or inaccurate.

**Matters that minister must determine
in respect of forestry licence to cut**

- 46** To determine the compensation for which the holder of forestry licence to cut is eligible under section 246 [*compensation for forestry licence to cut*] of the Act, the minister must do the following:
- (a) specify the harvest profile for the forestry licence to cut area by identifying the components of the profile of timber that the minister considers could be harvested by the holder, in that area, to support harvesting rights under the licence as at the date immediately before the effective date of the cancellation order;
 - (b) determine the costs that the minister considers were actually and reasonably incurred by the holder, in applying for the licence, for the purposes of identifying the areas to be described in the licence;
 - (c) determine the volume of harvestable timber under the licence that, as a result of the cancellation order, the minister considers can no longer be harvested and sold in accordance with established practices;
 - (d) determine the total volume of harvestable timber that the minister considers would be harvested and sold under the licence if
 - (i) the cancellation order had not been made, and
 - (ii) the timber were harvested and sold in accordance with established practices.

Compensation for forestry licence to cut

- 47** After specifying and determining the matters under section 46, the minister must determine the compensation for which the holder of the forestry licence to cut is eligible by using the following formula:

$$\text{amount} = \text{incurred costs} \times \frac{\text{unharvested volume}}{\text{total harvestable volume}}$$

where

incurred costs = the costs determined under section 46 (b);

unharvested volume = the volume of harvestable timber determined under section 46 (c);

total harvestable volume = the total volume of harvestable timber determined under section 46 (d).

Interest payable on compensation for forestry licence to cut

- 48** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 246 (2) [*compensation for forestry licence to cut*] of the Act to the holder of a forestry licence to cut.
- (2) Interest under subsection (1) is to be calculated
- (a) from the effective date of the cancellation order to the date of payment, and
 - (b) in accordance with section 4 (2) (b) and (c) [*rules for calculating interest*].

Compensation if forestry licence to cut provides for issuance of cutting permits

- 49** (1) If a forestry licence to cut provides for the issuance of cutting permits, this Part does not apply and the compensation, if any, for which the holder is eligible must be determined under the applicable cutting permit compensation provision.
- (2) If compensation, as determined under the applicable cutting permit compensation provision, is provided to the holder of a cutting permit issued under a forestry licence to cut, the minister must reduce the volume of timber authorized to be harvested under the forestry licence to cut by an amount determined using the following formula:

$$\text{amount} = \text{cutting permit volume} \times \text{proportion of area impacted}$$

where

cutting permit volume = the volume of harvestable timber in the cutting permit area as at the date the relevant timber cruise is conducted, as determined under section 19 (b) [*matters that minister must determine in respect of cutting permit*];

proportion of area impacted = the proportion of the cutting permit area that is impacted as a result of the special purpose area designation, as determined under section 19 (e).

**PART 6 – COMPENSATION FOR
TIMBER SALE LICENCES**

Definitions for Part 6

50 In this Part:

“**applicable impact date**”, in relation to compensation under section 247 [*compensation for timber sale licence*] of the Act, means the following:

- (a) in the case of a cancellation order that results in the impact described in section 52 (a) (i) [*requirements for section 247 (2) (b) of Act*] of this regulation, the effective date of the cancellation order;
- (b) in the case of a cancellation order that results in the impact described in section 52 (a) (ii) of this regulation, the date by which both of the following have occurred:
- (i) the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation;
- (ii) the minister is satisfied that the impact has occurred;

“**cancellation order**”, in relation to a compensation under section 247 of the Act, means the order referred to in subsection (2) (a) of that section by which rights under the licence have been cancelled;

“established practices”, in relation to compensation under section 247 of the Act, means practices that have been carried out previously in relation to the harvest and sale of a volume of timber that is harvested from the harvest profile specified under section 55 (a) [*matters that minister must determine in respect of timber sale licence*] of this regulation;

“relevant timber cruise”, in relation to compensation under section 247 of the Act, means the most recent timber cruise that provided information that was used, in accordance with the stumpage appraisal policies, to determine, redetermine or vary the rate of stumpage for timber authorized to be harvested under the licence;

“remaining term”, in relation to compensation under section 247 of the Act, means the period that

- (a) starts on the applicable impact date, and
- (b) ends on the expiry date of the term of the timber sale licence, as at the effective date of the cancellation order.

Purpose of Part 6

51 This Part sets out the following:

- (a) the requirements that must be met for the purposes of section 247 (2) (b) [*compensation for timber sale licence*] of the Act;
- (b) the method for determining compensation under section 247 (3) of the Act.

Requirements for section 247 (2) (b) of Act

52 The requirements for the purposes of section 247 (2) (b) [*compensation for timber sale licence*] of the Act are as follows:

- (a) as a result of the cancellation order, harvesting rights under the timber sale licence have been impacted in one of the following ways:
 - (i) the holder is no longer authorized to harvest timber in the timber sale licence area;
 - (ii) there is no practicable means by which the holder can access the timber sale licence area, or a portion of that area, for the purposes of harvesting timber in that area or portion;
- (b) the timber sale licence was issued before the effective date of the cancellation order;
- (c) in the case of a timber sale licence impacted in the way described in paragraph (a) (ii) of this section, the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation.

Duty of holder of timber sale licence to provide information to minister

53 (1) The holder of a timber sale licence must provide to the minister, on request, specified information that the minister considers necessary for the purposes of considering or determining a matter under section 247 (2) or (3) [*compensation for timber sale licence*] of the Act.

- (2) Without limiting subsection (1), the minister may request any of the information described in section 7 (2) [*duty of licence holder to provide information to minister*].
- (3) Section 7 (3), (4) and (5) applies for the purposes of this section.

Information that minister may consider in determining compensation for timber sale licence

- 54** (1) To determine the compensation for which the holder of a timber sale licence is eligible under section 247 [*compensation for timber sale licence*] of the Act, the minister may consider the following:
- (a) relevant information that the holder provides under section 53 of this regulation, or otherwise provides under the Act;
 - (b) relevant information described in section 8 (1) (b) and (c) [*information that minister may consider in determining compensation for licence*] of this regulation.
- (2) The minister may refuse to consider information referred to in subsection (1) if, in the minister's opinion, the information is incomplete or inaccurate.
- (3) For the purposes of determining the net income amounts under section 57 [*compensation for timber sale licence*] and unless the minister determines otherwise, information referred to in subsection (1) of this section is to be considered relevant if the information relates to the harvest and sale of timber harvested under cutting permits or timber sale licences that meet the criteria set out in section 9 [*criteria for determining relevance of information*].

Matters that minister must determine in respect of timber sale licence

- 55** To determine the compensation for which the holder of a timber sale licence is eligible under section 247 [*compensation for timber sale licence*] of the Act, the minister must do the following:
- (a) specify the harvest profile for the timber sale licence area by identifying the components of the profile of timber that the minister considers could be harvested in that area, as at the date on which the relevant timber cruise is conducted, to support harvesting rights under the licence;
 - (b) determine the volume of harvestable timber that the minister considers is in the timber sale licence area as at the date the relevant timber cruise is conducted;
 - (c) specify the size of the impacted portion of the harvestable timber sale licence area by determining the number of hectares that the minister considers
 - (i) are in the portion of the timber sale licence area that is impacted as a result of the cancellation order, and
 - (ii) contain harvestable timber as at the applicable impact date;
 - (d) specify the size of the total harvestable timber sale licence area by determining the total number of hectares that the minister considers
 - (i) are in the timber sale licence area, and

- (ii) contain harvestable timber as at the date the relevant timber cruise is conducted;
- (e) determine the proportion of the timber sale licence area that is impacted, as a result of the cancellation order, by using the formula set out in section 56.

Formula for proportion of timber sale licence area impacted

56 The formula for the purposes of section 55 (e) is as follows:

$$\text{proportion} = \frac{\text{impacted portion of harvestable licence area [in hectares]}}{\text{total harvestable licence area [in hectares]}}$$

where

impacted portion of harvestable licence area [in hectares] = the number of hectares that the minister determines under section 55 (c);

total harvestable licence area [in hectares] = the number of hectares that the minister determines under section 55 (d).

Compensation for timber sale licence

57 Subject to the adjustments under section 59 [*adjustments to timber sale licence compensation to reflect tax and present value*], the compensation for which the holder of a timber sale licence is eligible under section 247 (3) [*compensation for timber sale licence*] of the Act is an amount determined by the minister based on the net income that would be earned on the sale of harvested timber if, during each year of the remaining term of the licence,

- (a) the volume of the harvested timber were equal to the annual volume determined using the formula set out in section 58 of this regulation,
- (b) the timber were harvested from the harvest profile specified under section 55 (a) [*matters that minister must determine in respect of timber sale licence*] of this regulation, and
- (c) the timber were harvested and sold in accordance with established practices.

Formula for annual volume of timber harvested under timber sale licence

58 The formula for the purposes of section 57 (a) is as follows:

$$\text{annual volume} = \frac{\text{licence volume}}{\text{licence term}} \times \text{proportion of area impacted}$$

where

licence volume = the volume of harvestable timber that is in the timber sale licence area as at the date the relevant timber cruise is conducted, as determined under section 55 (b);

licence = the number of years in the remaining term of the term timber sale licence;
proportion of area impacted = the proportion of the timber sale licence area that is impacted, as determined under section 55 (e).

Adjustments to timber sale licence compensation to reflect tax and present value

- 59** After determining, under section 57 [*compensation for timber sale licence*], the net income amounts that would be earned during each year of the remaining term of the timber sale licence, the minister must do the following:
- (a) for each annual net income amount, determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
 - (b) for each annual after-tax net income amount determined under paragraph (a) of this section, determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
 - (c) determine the total amount of compensation for which the holder is eligible under section 247 (3) [*compensation for timber sale licence*] of the Act by calculating the sum of the present value amounts determined under paragraph (b) of this section.

Interest payable on compensation for timber sale licence

- 60** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 247 (3) [*compensation for timber sale licence*] of the Act to the holder of a timber sale licence.
- (2) Interest under subsection (1) is to be calculated in accordance with section 4 (2) [*rules for calculating interest*].

PART 7 – COMPENSATION FOR CHRISTMAS TREE PERMITS

Definitions for Part 7

- 61** In this Part:
- “**applicable impact date**”, in relation to compensation under section 249 [*compensation for Christmas tree permit*] of the Act, means the following:
- (a) in the case of a cancellation order that results in the impact described in section 63 (a) (i) [*requirements for section 249 (1) (b) of Act*] of this regulation, the effective date of the cancellation order;
 - (b) in the case of a cancellation order that results in the impact described in section 63 (a) (ii) of this regulation, the date by which both of the following have occurred:

- (i) the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation;
 - (ii) the minister is satisfied that the impact has occurred;
- “cancellation order”**, in relation to compensation under section 249 of the Act, means the order referred to in subsection (1) (a) of that section by which rights under the licence have been cancelled;
- “established practices”** in relation to compensation under section 249 of the Act, means practices that
- (a) have been carried out previously in relation to the cutting and sale of trees cut from the cutting profile specified under section 67 [*cutting profile for permit area*] of this regulation, and
 - (b) are evidenced by management plans for permit areas, or by other records, that the minister considers relevant;
- “permit area”**, in relation to a Christmas tree permit, means the area described in the permit;
- “remaining term”**, in relation to compensation under section 249 of the Act, means the period that
- (a) starts on the applicable impact date, and
 - (b) ends on the expiry date of the term of the Christmas tree permit, as at the effective date of the cancellation order.

Purpose of Part 7

- 62** This Part sets out the following:
- (a) the requirements that must be met for the purposes of section 249 (1) (b) [*compensation for Christmas tree permit*] of the Act;
 - (b) the method for determining compensation under section 249 (2) of the Act.

Requirements for section 249 (1) (b) of Act

- 63** The requirements for the purposes of section 249 (1) (b) [*compensation for Christmas tree permit*] of the Act are as follows:
- (a) as a result of the cancellation order, cutting rights under the Christmas tree permit have been impacted in one of the following ways:
 - (i) the holder is no longer authorized to cut trees in the permit area;
 - (ii) there is no practicable means by which the holder can access the permit area, or a portion of that area, for the purposes of cutting trees in that area or portion;
 - (b) the Christmas tree permit was issued before the effective date of the cancellation order;
 - (c) in the case of a Christmas tree permit impacted in the way described in paragraph (a) (ii) of this section, the holder has provided an impact statement and additional information in accordance with section 5 [*impact statements*] of this regulation.

Duty of holder of Christmas tree permit to provide information to minister

- 64** (1) The holder of a Christmas tree permit must provide to the minister, on request, specified information the minister considers necessary for the purposes of considering or determining a matter under section 249 [*compensation for Christmas tree permit*] of the Act.
- (2) Without limiting subsection (1), the minister may request any of the information described in section 7 (2) [*duty of holder of licence to provide information to minister*].
- (3) Section 7 (3), (4) and (5) applies for the purposes of this section.

Information that minister may consider in determining compensation for Christmas tree permit

- 65** (1) For the purposes of determining the compensation for which the holder of a Christmas tree permit is eligible under section 249 [*compensation for Christmas tree permit*] of the Act, the minister may consider the following:
- (a) relevant information that the holder provides under section 64 of this regulation, or otherwise provides under the Act;
 - (b) relevant information described in section 8 (1) (b) and (c) [*information that minister may consider in determining compensation for licence*] of this regulation.
- (2) The minister may refuse to consider information referred to in subsection (1) if, in the minister's opinion, the information is incomplete or inaccurate.

Criteria for determining relevance of information respecting Christmas tree permit

- 66** For the purposes of determining the net income amounts under section 68 [*compensation for Christmas tree permit*] and unless the minister determines otherwise, information referred to in section 65 is to be considered relevant if the information relates to Christmas tree permits that meet the following criteria:
- (a) the permit areas have cutting profiles that the minister considers are comparable to the cutting profile specified under section 67;
 - (b) the cutting of trees under the permits was completed not more than 5 years before the effective date of the cancellation order;
 - (c) the number and height of the trees cut under the permits are sufficient to accurately indicate the net income that would be earned, and the established practices that would be carried out, in relation to the trees for which the holder is being compensated.

Cutting profile for permit area

- 67** To determine the compensation for which the holder of a Christmas tree permit is eligible under section 249 [*compensation for Christmas tree permit*] of the Act, the minister must specify a cutting profile for the permit area by identifying
- (a) the number of trees that the minister considers can no longer be cut as a result of the cancellation order, and

- (b) the height of the trees identified under paragraph (a).

Compensation for Christmas tree permit

- 68** Subject to the adjustments under section 69, the compensation for which the holder of a Christmas tree permit is eligible under section 249 [*compensation for Christmas tree permit*] of the Act is an amount determined by the minister based on the net income that would be earned on the sale of trees cut under the permit if, during each year of the remaining term of the permit,
- (a) the number of trees cut were equal to an amount determined by dividing the number of trees specified under section 67 (a) of this regulation by the number of years in the remaining term of the permit, and
 - (b) the trees were cut and sold in accordance with established practices.

Adjustments to Christmas tree permit compensation to reflect tax and present value

- 69** After determining, under section 68, the net income amounts that would be earned during each year of the remaining term of the Christmas tree permit, the minister must do the following:
- (a) for each annual net income amount, determine the after-tax net income amount in accordance with section 2 [*rules for determining after-tax net income amounts*];
 - (b) for each annual after-tax net income amount determined under paragraph (a) of this section, determine the present value of that amount in accordance with section 3 [*determining present value amounts*];
 - (c) determine the total amount of compensation for which the holder is eligible under section 249 (2) [*compensation for Christmas tree permit*] of the Act by calculating the sum of the present value amounts determined under paragraph (b) of this section.

Interest payable on compensation for Christmas tree permit

- 70** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 249 (2) [*compensation for Christmas tree permit*] of the Act to the holder of a Christmas tree permit.
- (2) Interest under subsection (1) is to be calculated in accordance with section 4 (2) [*rules for calculating interest*].

**PART 8 – COMPENSATION FOR ROADS
AND TIMBER PRODUCTION IMPROVEMENTS**

Division 1 – Definitions and Information Requests

Definitions for Part 8

- 71** In this Part:
- “**incurred costs criteria**”, in relation to compensation under any of the following provisions of the Act, means costs that were actually and reasonably incurred by

the holder of a road permit or special use permit before the effective date of the special purpose area designation:

- (a) section 252 [*compensation for road located in special purpose area*];
- (b) section 254 [*compensation for road located outside special purpose area if road associated with cutting permit*];
- (c) section 256 [*compensation in other cases if road under road permit located outside special purpose area*];
- (d) section 257 [*compensation if road under special use permit located outside special purpose area*];
- (e) section 258 [*compensation for timber production improvement located in special purpose area*];
- (f) section 259 [*compensation for timber production improvement located outside special purpose area*];

“**stumpage criteria**”, in relation to compensation under section 252, 254 or 256 of the Act, means costs that were applied, in accordance with the stumpage appraisal policies, to determine, redetermine or vary the rate of stumpage for timber authorized to be harvested under a cutting permit or timber sale licence.

Information requests under section 260 of Act

- 72**
- (1) The minister may extend by not more than 2 months the time period specified under section 260 (3) [*duty of holder of road permit or special use permit to provide information to minister*] of the Act, but an extension may be granted only once.
 - (2) The minister must determine the compensation for which the holder of a road permit or special use permit is eligible under Division 6 [*Compensation for Roads and Timber Production Improvements*] of Part 16 [*Compensation in Relation to Special Purpose Areas*] of the Act regardless of whether the holder complies with a request for information under section 260 of the Act.

Division 2 – Compensation for Road Located in Special Purpose Area

Purpose of Division 2 of Part 8

- 73**
- (1) This Division applies for the purposes of determining the compensation for which the holder of a road permit or special use permit is eligible under section 252 [*compensation for road located in special purpose area*] of the Act.
 - (2) For the purposes referred to in subsection (1), this Division sets out the following:
 - (a) section 74 sets out the licences prescribed for the purposes of section 252 (1) (b) of the Act;
 - (b) section 75 [*requirements if road associated with cutting permit or timber sale licence*] sets out requirements that must be met, for the purposes of section 252 (1) (e) of the Act, if a road permit authorizes a road associated with
 - (i) a cutting permit issued under a forest licence, timber licence, area-based licence or forestry licence to cut, or

- (ii) a timber sale licence;
- (c) sections 76 [*matters that minister must determine if road associated with cutting permit or timber sale licence*] and 77 [*compensation under section 252 (2) of Act if road associated with cutting permit or timber sale licence*] set out the method for determining the costs for which the holder of a road permit may be compensated if the road permit authorizes a road associated with a cutting permit or timber sale licence;
- (d) sections 78 [*matters that minister must determine if road not associated with cutting permit*] and 79 [*compensation under section 252 (2) of Act if road not associated with cutting permit*] set out the method for determining the costs for which the holder of a road permit may be compensated if the road permit authorizes a road that
 - (i) is associated with a forest licence, timber licence, area-based licence or forestry licence to cut, and
 - (ii) is not associated with a cutting permit;
- (e) sections 80 [*matters that minister must determine if road authorized under special use permit*] and 81 [*compensation under section 252 (2) of Act if road authorized under special use permit*] set out the method for determining the costs for which the holder a special use permit may be compensated.

**Licences prescribed
for section 252 (1) (b) of Act**

- 74** For the purposes of section 252 (1) (b) [*compensation for road located in special purpose area*] of the Act, the following licences are prescribed:
- (a) a community forest agreement;
 - (b) a first nations woodland licence;
 - (c) a woodlot licence;
 - (d) a forestry licence to cut;
 - (e) a timber sale licence.

**Requirements if road associated with cutting
permit or timber sale licence**

- 75** If a road permit authorizes a road associated with a cutting permit or timber sale licence, the requirements for the purposes of section 252 (1) (e) [*compensation for road located in special purpose area*] of the Act are as follows:
- (a) the cutting permit or timber sale licence was issued before the effective date of the special purpose area designation;
 - (b) costs to construct the road were applied, in accordance with the stumpage appraisal policies and before the effective date of the special purpose area designation, in determining, redetermining or varying the rate of stumpage for timber authorized to be harvested under the cutting permit or timber sale licence.

Matters that minister must determine if road associated with cutting permit or timber sale licence

76 To determine the costs for which the holder of a road permit may be compensated under section 252 (2) [*compensation for road located in special purpose area*] of the Act if the road permit authorizes a road associated with a cutting permit or timber sale licence, the minister must determine the following:

- (a) the portion of the costs incurred to construct the road that the minister considers meet both the incurred costs criteria and the stumpage criteria;
- (b) if the holder of the road permit has removed an ancillary road structure used in relation to the road, the amount of the costs under paragraph (a) of this section that the minister considers is attributable to the ancillary road structure;
- (c) in the case of a road permit that authorizes a road associated with a cutting permit,
 - (i) in accordance with section 19 (c) [*matters that minister must determine in respect of cutting permit*] of this regulation, the size of the impacted portion of the harvestable cutting permit area,
 - (ii) in accordance with section 19 (d) of this regulation, the size of the total harvestable cutting permit area, and
 - (iii) in accordance with section 19 (e) of this regulation, the proportion of the cutting permit area impacted as a result of the special purpose area designation;
- (d) in the case of a road permit that authorizes a road associated with a timber sale licence,
 - (i) in accordance with section 55 (c) [*matters that minister must determine in respect of timber sale licence*] of this regulation, the size of the impacted portion of the harvestable timber sale licence area,
 - (ii) in accordance with section 55 (d) of this regulation, the size of the total harvestable timber sale licence area, and
 - (iii) in accordance with section 55 (e) of this regulation, the proportion of the timber sale licence area impacted as a result of the special purpose area designation.

Compensation under section 252 (2) of Act if road associated with cutting permit or timber sale licence

77 After determining the matters under section 76, the minister must determine the portion of the costs for which the holder of the road permit may be compensated by using the following formula:

$$\text{costs} = \text{incurred costs} \times \text{proportion of area impacted}$$

where

incurred costs = the costs determined under section 76 (a) less, if applicable, the ancillary road costs determined under section 76 (b);

proportion of area impacted = the proportion of the cutting permit area or timber sale licence that is impacted as a result of the special purpose area designation, as determined under section 76 (c) (iii) or (d) (iii).

Matters that minister must determine if road not associated with cutting permit

- 78** (1) In this section, “**established practices**”,
- (a) in relation to a forest licence, timber licence or area-based licence, has the same meaning as in section 226 [*definitions for Part 16*] of the Act;
 - (b) in relation to a forestry licence to cut, has the same meaning as in section 41 [*definitions for Part 5*] of this regulation.
- (2) To determine the costs for which the holder of a road permit may be compensated under section 252 (2) [*compensation for road located in special purpose area*] of the Act if the road permit authorizes a road that is associated with a forest licence, timber licence, area-based licence or forestry licence to cut, but is not associated with a cutting permit, the minister must determine the following:
- (a) the portion of the costs incurred to construct the road that the minister considers
 - (i) meet the incurred costs criteria, and
 - (ii) if the road were associated with a cutting permit, would meet the stumpage criteria;
 - (b) if the holder of the road permit has removed an ancillary road structure used in relation to the road, the amount of the costs under paragraph (a) of this subsection that the minister considers is attributable to the ancillary road structure;
 - (c) the volume of harvestable timber under the licence that the minister considers can no longer be harvested and sold, in accordance with established practices, as a result of the special purpose area designation;
 - (d) the total volume of harvestable timber that the minister considers would be harvested and sold under the licence if
 - (i) the special purpose area designation had not been made, and
 - (ii) the timber were harvested and sold in accordance with established practices.
- (3) The minister may determine the volumes described in subsection (2) (c) and (d) based on established practices in relation to the harvest profile that the minister specifies for the purposes of this section if
- (a) in the case of a road associated with a forest licence, timber licence or area-based licence, a relevant harvest profile has not been specified by the chief forester under Part 15 [*Special Purpose Areas*] of the Act because the timber supply area or licence area does not overlap the special purpose area in which the road is located, or
 - (b) in the case of a forestry licence to cut, the minister has not, under section 46 (a) [*matters that minister must determine in respect of forestry licence to*

cut] of this regulation, specified a harvest profile for the forestry licence to cut area because rights under the licence are not exercisable in the special purpose area in which the road is located.

**Compensation under section 252 (2) of Act
if road not associated with cutting permit**

79 After determining the matters under section 78, the minister must determine the portion of the costs for which the holder of the road permit may be compensated by using the following formula:

$$\text{costs} = \text{incurred costs} \times \frac{\text{unharvested volume}}{\text{total harvestable volume}}$$

where

- | | | |
|--------------------------|---|--|
| incurred costs | = | the costs determined under section 78 (2) (a) less, if applicable, the ancillary road costs determined under section 78 (2) (b); |
| unharvested volume | = | the volume of harvestable timber determined under section 78 (2) (c); |
| total harvestable volume | = | the volume of harvestable timber determined under section 78 (2) (d). |

**Matters that minister must determine
if road authorized under special use permit**

80 To determine the costs for which the holder of a special use permit may be compensated under section 252 (2) [*compensation for road located in special purpose area*] of the Act, the minister must determine the following:

- (a) the portion of the costs incurred to construct the road that the minister considers meet the incurred costs criteria;
- (b) if the holder has removed an ancillary road structure used in relation to the road, the amount of the costs under paragraph (a) of this section that the minister considers is attributable to the ancillary road structure;
- (c) in respect of the timber production improvement to which the road provides access, the number of years in the total useful life of the timber production improvement;
- (d) the number of years remaining, as at the date the holder's rights in relation to the road were cancelled by the order referred to in section 252 (1) (c) of the Act, in the total useful life of the timber production improvement.

**Compensation under section 252 (2) of Act
if road authorized under special use permit**

81 After determining the matters under section 80, the minister must determine the portion of the costs for which the holder of the special use permit may be compensated by using the following formula:

$$\text{costs} = \text{incurred costs} \times \frac{\text{remaining useful life}}{\text{total useful life}}$$

where		
costs	=	the costs determined under section 80 (a) less, if applicable, the ancillary road structure costs determined under section 80 (b);
remaining useful life	=	the number of years remaining in the useful life of the timber production improvement, as determined under section 80 (d);
total useful life	=	the total number of years in the useful life of the timber production improvement, as determined under section 80 (c).

Interest payable on compensation under section 252 (2) of Act

- 82** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 252 (2) [*compensation for road located in special purpose area*] of the Act to the holder of road permit or special use permit.
- (2) Interest under subsection (1) is to be calculated
- from the effective date of the cancellation order referred to in section 252 (1) (c) of the Act to the date of payment, and
 - in accordance with section 4 (2) (b) and (c) [*rules for calculating interest*].

Division 3 – Compensation if Road Outside Special Purpose Area is Associated with Cutting Permit

Purpose of Division 3 of Part 8

- 83** This Division sets out the following:
- the licences prescribed for the purposes of section 254 (1) (b) [*compensation for road located outside special purpose area if road associated with cutting permit*] of the Act;
 - the method for determining the costs for which the holder of a road permit may be compensated under section 254 (2) of the Act.

Licences prescribed for section 254 (1) (b) of Act

- 84** For the purposes of section 254 (1) (b) [*compensation for road located outside special purpose area if road associated with cutting permit*] of the Act, the following licences are prescribed:
- a community forest agreement;
 - a first nations woodland licence;
 - a woodlot licence;
 - a forestry licence to cut;
 - a timber sale licence.

Compensation under section 254 (2) of Act

- 85** (1) To determine the costs for which the holder of a road permit may be compensated under section 254 (2) [*compensation for road located outside special purpose*]

area if road associated with cutting permit] of the Act, the minister must determine the matters set out in section 76 (a), (b) and (c) [*matters that minister must determine if road associated with cutting permit or timber sale licence*].

- (2) After determining the matters under subsection (1), the minister must determine the portion of the costs for which the holder may be compensated by using the formula set out in section 77 [*compensation under section 252 (2) of Act if road associated with cutting permit or timber sale licence*].

Interest payable on compensation under section 254 (2) of Act

- 86** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 254 (2) [*compensation for road located outside special purpose area if road associated with cutting permit*] of the Act to the holder of a road permit.
- (2) Interest under subsection (1) is to be calculated
- (a) from the applicable impact date to the date of payment, and
 - (b) in accordance with section 4 (2) (b) and (c) [*rules for calculating interest*].
- (3) For the purposes of subsection (2) (a), the applicable impact date is as follows:
- (a) in the case of harvesting rights impacted in the way set out in section 255 (1) [*impact requirements for road associated with cutting permit*] of the Act, the effective date of the order referred to in, as applicable, subsection (a) (i) or (ii) (A) or (B) of that section;
 - (b) in the case of harvesting rights impacted in the way set out in section 255 (2) of the Act, the date, as determined by the minister, of the occurrence of the impact described in that section.

Division 4 – Compensation in Other Road Permit Cases if Road Outside Special Purpose Area

Purpose of Division 4 of Part 8

- 87** This Division sets out the following:
- (a) the impact and other requirements that must be met for the purposes of section 256 (1) [*compensation in other cases if road under road permit located outside special purpose area*] of the Act;
 - (b) the method for determining the costs for which the holder of a road permit may be compensated under section 256 (2) of the Act.

Requirements for section 256 (1) of Act

- 88** The impact and other requirements for the purposes of section 256 (1) [*compensation in other cases if road under road permit located outside special purpose area*] of the Act are as follows:
- (a) the road permit is associated with a forest licence, timber licence, area-based licence, timber sale licence or forestry licence to cut;
 - (b) the road permit was issued before the effective date of the special purpose area designation;

- (c) as a result of the special purpose area designation, harvesting rights under the licence have been impacted in a way described in section 89 of this regulation;
- (d) the general requirements set out in section 253 [*general requirements for compensation for road*] of the Act;
- (e) costs incurred to construct the road are not compensable under section 254 [*compensation for road located outside special purpose area if road associated with cutting permit*] of the Act.

Impact requirements for section 256 (1) of Act

89 For the purposes of section 88 (c), the minister must be satisfied that the following apply:

- (a) the only purpose of the road, as it relates to the holder of the road permit, is to provide access
 - (i) to a particular area for the purpose of harvesting timber under the holder's licence, or
 - (ii) to another road that provides access to a particular area for the purpose of harvesting timber under the holder's licence;
- (b) as a result of the special purpose area designation, the holder is no longer authorized or able to obtain authorization
 - (i) to harvest timber in the particular area, or
 - (ii) to use the other road to access the particular area for the purpose of harvesting timber under the holder's licence;
- (c) in the case of the impact described in paragraph (b) (ii) of this section, there are no practicable alternative means by which the holder can access the particular area for the purpose of harvesting timber under the holder's licence.

Compensation under section 256 (2) of Act if road associated with timber sale licence

- 90** (1) To determine the costs for which the holder of a road permit may be compensated under section 256 (2) [*compensation in other cases if road under road permit located outside special purpose area*] of the Act if the road permit authorizes a road associated with a timber sale licence, the minister must determine the matters set out in section 76 (a), (b) and (d) [*matters that minister must determine if road permit associated with cutting permit or timber sale licence*] of this regulation.
- (2) After determining the matters under subsection (1), the minister must determine the portion of the costs for which the holder may be compensated by using the formula set out in section 77 [*compensation under section 252 (2) of Act if road associated with cutting permit or timber sale licence*].

Compensation under section 256 (2) of Act if road not associated with timber sale licence

- 91** (1) To determine the costs for which the holder of a road permit may be compensated under section 256 (2) [*compensation in other cases if road under road permit*]

located outside special purpose area] of the Act if the road permit authorizes a road associated with a forest licence, timber licence, area-based licence or forestry licence to cut, the minister must determine the matters set out in section 78 *[matters that minister must determine if road not associated with cutting permit]* of this regulation.

- (2) After determining the matters under subsection (1), the minister must determine the portion of the costs for which the holder may be compensated by using the formula set out in section 79 *[compensation under section 252 (2) of Act if road not associated with cutting permit]*.

Interest payable on compensation under section 256 (2) of Act

- 92** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 256 (2) *[compensation in other cases if road under road permit located outside special purpose area]* of the Act to the holder of a road permit.
- (2) Interest under subsection (1) is to be calculated
 - (a) from the applicable impact date to the date of payment, and
 - (b) in accordance with section 4 (2) (b) and (c) *[rules for calculating interest]*.
- (3) For the purposes of subsection (2) (a), the applicable impact date is the date, as determined by the minister, of the occurrence of the impact described in section 89 *[impact requirements for section 256 (1) of Act]*.

Division 5 – Amortization Agreements

Definition for Division 5 of Part 8

- 93** In this Division, “**amortization agreement**” means an agreement that
 - (a) is entered into in accordance with the stumpage appraisal policies, and
 - (b) authorizes costs incurred to construct a road to be distributed among one or more existing or proposed cutting permits for the purposes of determining, redetermining or varying stumpage.

Application of Division 5 of Part 8

- 94** (1) This Division applies in relation to the following provisions of this regulation:
 - (a) section 77 *[compensation under section 252 (2) of Act if road associated with cutting permit or timber sale licence]*;
 - (b) section 79 *[compensation under section 252 (2) of Act if road not associated with cutting permit]*;
 - (c) section 85 (2) *[compensation under section 254 (2) of Act]*;
 - (d) section 90 (2) *[compensation under section 256 (2) of Act if road associated with timber sale licence]*;
 - (e) section 91 (2) *[compensation under section 256 (2) of Act if road not associated with timber sale licence]*.
- (2) This Division applies in relation to the following provisions of the Act:
 - (a) section 252 (2) *[compensation for road located in special purpose area]*;

- (b) section 254 (2) [*compensation for road located outside special purpose area if road associated with cutting permit*];
- (c) section 256 (2) [*compensation in other cases if road under road permit located outside special purpose area*].

**Adjustments to compensation if road costs
subject to amortization agreement**

- 95** (1) Despite the provisions set out in section 94 (1), the minister may adjust the compensation for which the holder of a road permit is eligible under a road compensation provision set out in section 94 (2) if the minister considers that all of the following apply:
- (a) the holder entered into an amortization agreement before the effective date of the special purpose area designation;
 - (b) in respect of the road authorized under the road permit, the costs incurred to construct that road have not yet been fully distributed in accordance with the amortization agreement;
 - (c) as a result of the special purpose area designation, the remaining costs can no longer be fully distributed among the cutting permits and proposed cutting permits to which the amortization agreement relates;
 - (d) adjusting the compensation is just in the circumstances.

**Division 6 – Compensation Under Special Use Permit
if Road Outside Special Purpose Area**

Purpose of Division 6 of Part 8

- 96** This Division sets out the following:
- (a) the impact and other requirements that must be met for the purposes of section 257 (1) [*compensation if road under special use permit located outside special purpose area*] of the Act;
 - (b) the method for determining the costs for which the holder of a special use permit may be compensated under section 257 (2) of the Act.

Requirements for section 257 (1) of Act

- 97** The impact and other requirements for the purposes of section 257 (1) [*compensation if road under special use permit located outside special purpose area*] of the Act are as follows:
- (a) the special use permit was issued before the effective date of the special purpose area designation;
 - (b) as a result of the special purpose area designation, access to an area for a timber production purpose has been impacted in a way described in section 98 of this regulation;
 - (c) the general requirements set out in section 253 [*general requirements for compensation for road*] of the Act.

Impact requirements for section 257 (1) of Act

- 98** For the purposes of section 97 (b), the minister must be satisfied that the following apply:
- (a) the only purpose of the road, as it relates to the holder of the special use permit, is to provide access
 - (i) to a particular area that the holder uses for a timber production purpose, or
 - (ii) to another road that provides access to a particular area that the holder uses for a timber production purpose;
 - (b) as a result of the special purpose area designation, the holder is no longer authorized or able to obtain authorization
 - (i) to use the particular area for the timber production purpose, or
 - (ii) to use the other road to access the particular area for the timber production purpose;
 - (c) in the case of the impact described in paragraph (b) (ii) of this section, there are no practicable alternative means by which the holder can access that particular area for the timber production purpose.

Compensation under section 257 (2) of Act

- 99** (1) To determine the costs for which the holder of a special use permit may be compensated under section 257 (2) [*compensation if road under special use permit located outside special purpose area*] of the Act, the minister must determine the following:
- (a) the matters set out in section 80 (a) to (c) [*matters that minister must determine if road authorized under special use permit*] of this regulation;
 - (b) the date of the occurrence of the applicable impact described in section 98 of this regulation;
 - (c) the number of years remaining, as at the date determined under paragraph (b) of this subsection, in the total useful life of the timber production improvement to which the road provides access.
- (2) After determining the matters under subsection (1), the minister must determine the portion of the costs for which the holder may be compensated by using the formula set out in section 81 [*compensation under section 252 (2) of Act if road authorized under special use permit*].
- (3) In applying the formula set out in section 81 for the purposes of this section, the “remaining useful life” is the number of years determined under subsection (1) (c) of this section.

Interest payable on compensation under section 257 (2) of Act

- 100** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 257 (2) [*compensation if road under special use permit located outside special purpose area*] of the Act to the holder of a special use permit.
- (2) Interest under subsection (1) is to be calculated

- (a) from the impact date determined under section 99 (1) (b) to the date of payment, and
- (b) in accordance with section 4 (2) (b) and (c) *[rules for calculating interest]*.

Division 7 – Compensation for Timber Production Improvements

Purpose of Division 7 of Part 8

- 101** This Division sets out the method for determining the costs for which the holder of a special use permit may be compensated for the purposes of the following provisions of the Act:
- (a) section 258 (2) *[compensation for timber production improvement located in special purpose area]*;
 - (b) section 259 (2) *[compensation for timber production improvement located outside special purpose area]*.

Matters that minister must determine in respect of timber production improvement

- 102** To determine the costs for which the holder of the special use permit may be compensated under section 258 (2) *[compensation for timber production improvement located in special purpose area]* or 259 (2) *[compensation for timber production improvement located outside special purpose area]* of the Act, the minister must determine the following:
- (a) the portion of the costs incurred to construct the timber production improvement that the minister considers meet the incurred costs criteria;
 - (b) the total useful life of the timber production improvement;
 - (c) the number of years remaining, as at the date of the occurrence of the impact described in section 258 (1) (a) or 259 (1) (a) of the Act, in the useful life determined under paragraph (b) of this section.

Compensation under sections 258 (2) and 259 (2) of Act

- 103** After determining the matters under section 102, the minister must determine the portion of the costs for which the holder of the special use permit may be compensated by using the following formula:

$$\text{costs} = \text{incurred costs} \times \frac{\text{remaining useful life}}{\text{total useful life}}$$

where

- costs = the costs determined under section 102 (a);
- remaining useful life = the number of years remaining in the useful life of the timber production improvement, as determined under section 102 (c);
- total useful life = the total useful life of the timber production improvement, as determined under section 102 (b).

**Interest payable on compensation
under sections 258 (2) and 259 (2) of Act**

- 104** (1) The minister must pay interest on the amount of compensation that the minister determines is payable under section 258 (2) [*compensation for timber production improvement located in special purpose area*] or 259 (2) [*compensation for timber production improvement located outside special purpose area*] of the Act to the holder of a special use permit.
- (2) Interest under subsection (1) is to be calculated
- (a) from the applicable impact date to the date of payment, and
 - (b) in accordance with section 4 (2) (b) and (c) [*rules for calculating interest*].
- (3) For the purposes of subsection (2) (a), the applicable impact date is as follows:
- (a) in the case of compensation payable under section 258 (2) of the Act, the effective date of the order referred to in section 258 (1) (a) of the Act;
 - (b) in the case of compensation payable under section 259 (2) of the Act, the date, as determined by the minister, on and after which the access means described in section 259 (1) (a) (i) of the Act can no longer be used.