

Forests Statutes Amendment Act, 2021

Bill 23

Presentation to Coast OIF

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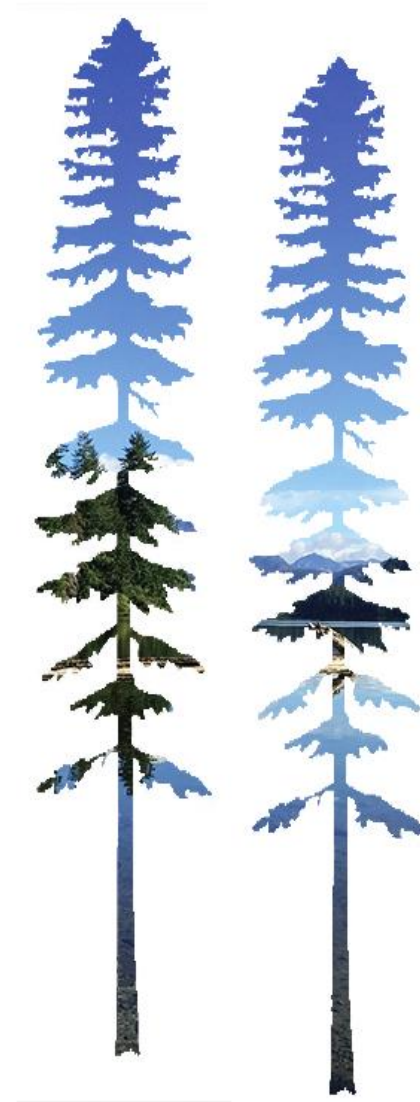


Ministry of
Forests, Lands, Natural
Resource Operations
and Rural Development

**CHANGING LEGISLATION AND REGULATION DEPENDS UPON NUMEROUS REVIEWS AND APPROVALS, CULMINATING IN THE APPROVAL OF ELECTED OFFICIALS IN CABINET FOR REGULATION, AND IN THE LEGISLATURE FOR LEGISLATION. AS SUCH, LEGISLATIVE ENACTMENTS ARE NEVER CERTAIN UNTIL FULLY ENACTED.*

OUTLINE

- Background
- Bill 21 Summary & FOM update
- Bill 23 Summary & Forest Landscape Plan Framework Overview
- Bill 23 alignment with the Declaration Act
- Regulatory work related to Bill 21 and Bill 23



BACKGROUND

In fall 2018, Cabinet approved a multi-year process for FRPA improvement:

- Phase 1: Initial amendments introduced in April 2019 – Bill 21
 - regulations forthcoming
- Phase 2: Transformative amendments introduced November 2021 – Bill 23

In summer 2021, Government released its intentions related to Modernizing Forest Policy, including moving forward with introduction of Forest Landscape Planning.

BILL 21 SUMMARY

The *Forest and Range Practices Amendment Act, 2019* (Bill 21) was intended as a first step to improve the administration and transparency of forest stewardship planning (FSP) by enabling initial legislative and regulatory changes including:

- Requirement for a new Forest Operations Map (FOM) depicting the approximate geographic location of proposed cutblocks and roads
- Replacement requirement for FSPs (5 years) and new prescribed circumstances to extend a plan
- New circumstances for mandatory amendments to a FSP and reduced time to submit an amendment
- New authority to require amendment for catastrophic timber damage
- Expanded definition of wildlife to align with other legislation
- Ensuring recreation sites and trails since introduction of FRPA have protection from forest practices that may impact them
- New authority to identify ecological communities at risk and establish general measures for their protection

FOREST OPERATIONS MAP - UPDATE

Regulatory package and work associated with Bill 21, including Forest Operations Map regulations, has been initiated. If the regulatory package is approved there will be a transition period for the FOM

Development of the FOM software began January 2021

A soft launch where a select group of volunteers will use the software on a Cutting Permit/Road Permit or Timber Sales License basis (small scale) will commence in January 2022

If the soft launch is successful, the program will be made available for more voluntary users to ensure FOM readiness

Implementation and information campaign on the program will be deployed prior to the FOM becoming a legal requirement

Please send all FOM specific questions to Julius.Huhs@gov.bc.ca

BILL 23 SUMMARY

The *Forests Statutes Amendment Act* – Bill 23 includes a wide array of changes to forest and range management in the province. Below is a summary of changes:

- Improved FSP tools
- Wildfire
- Road management
- Compliance and Enforcement
- Introduction of the Forest Landscape Planning (FLP) Framework, Forest Operations Plans (FOP), Forest Development Schedule
- Transition from FSP to FLP
- Alignment with *Declaration on the Rights of Indigenous Peoples Act*

BILL 23 - NEW TOOLS & AUTHORITIES

NEW TOOLS & AUTHORITIES

KEY BILL REFERENCES

FRPA s.168.1
FRPA s. 31.1
FRPA s. 107(1.1)
FRPA s. 156.1
FRPA s. 56

Brought in force through
regulation

- As the new Forest Landscape Plan framework will take time to implement, the following amendments will improve the existing Forest Stewardship Plan framework:
 - Authority for the Minister to request additional Forest Stewardship Plan content.
 - Authority for the Chief Forester to specify stocking standards in prescribed circumstances.
 - New mandatory requirements to declare achievement of a free growing stand (applies to both FSP and FLP frameworks).
 - New authority to make regulations respecting forest practices.
 - Discretionary authority to establish new trail-based recreation areas.

WILDFIRE MANAGEMENT

KEY BILL REFERENCES

FRPA s. 149(1)

FRPA s. 156.1

FRPA s. 156.1(2)

FRPA s. 108.2 to s.108.5

Brought in force through
regulation

- Improvements are being made to support management of wildfire risk and response to wildfire damage:
 - Introduce new objective for wildfire (under FSP framework).
 - New authority to establish forest practices to manage wildfire risk (applies to both FSP and FLP frameworks).
 - Ability to designate an area as a Wildland Urban Interface Area.
 - Provide additional options & flexibility to fund or waive obligations resulting from wildfire damage (FRPA s. 108).

ROAD MANAGEMENT

KEY BILL REFERENCES

FRPA s. 21.1

Road Use

FRPA s. 22.12

FRPA s. 22.2

FRPA s. 22.3

FRPA s. 23.1

FRPA s. 155(1)

Road Deactivation

FRPA s. 2.39(2)

FRPA s. 23.2

FRPA s. 108.1

FRPA s. 155(1)

Section 21.1 and (some) 23.1
[significant road work] brought in
force through regulation. All
others are brought in force upon
Royal Assent.

- New road management provisions will apply across forested Crown lands (including but not limited to the Forest Stewardship Plan and Forest Landscape Plan frameworks).
- Amendments will enhance road management to protect public safety and the environment:
 - Road use rules will apply to forest service roads and forest resource roads to promote safety (e.g., duty of a driver at an accident, careless driving, drunk driving, etc.)
 - New process for establishing forest service roads (e.g., forest service roads must now be declared)
 - New authority to prohibit significant road work on forest service roads & resource roads unless authorized
 - Rules will ensure the timely deactivation within-cutblock roads
 - Circumstances for deactivation of road permit roads clarified
 - Timing may be specified in the road permit
 - Deactivation may be required by order or exempted by minister
 - Cost of deactivation may be refunded in some circumstances

COMPLIANCE & ENFORCEMENT

KEY BILL REFERENCES

FRPA s. 103.1

FRPA s. 110.1

FRPA s. 71

FRPA s. 80(1) and s. 87, s. 108.1 to 108.6

FRPA s. 110.1 [complete and accurate information] is brought in force upon Royal Assent. All other sections brought in force through OIC.

- Improvements are being made to the compliance and enforcement framework:
 - Enable government to publicly disclose details of a conviction, contravention or penalty under the *Forest and Range Practices Act*, the *Forest Act* or the *Range Act*.
 - Require licensees to submit complete & accurate information to reduce workload associated with incomplete applications or submissions.
 - Clarify that persons cannot avoid administrative penalties by claiming that their agent, employee or contractor contravened the provision.
 - Introduce 12 new fines & 9 increased fines

BILL 23 - FOREST LANDSCAPE PLANNING

FOREST LANDSCAPE PLANNING FRAMEWORK

KEY BILL REFERENCES

FRPA s. 2.2 to 2.21

FRPA s. 2.23 to s. 2.25

FRPA s. 2.28 to 2.31

Brought in force through OIC

- The new Forest Landscape Planning (FLP) framework includes forest landscape plans, accompanying forest operation plans, forest development plans, and site level plans.
- FLPs will replace all Forest Stewardship Plans within a management unit over time.
- New 10-yr plan introduced – **“forest landscape plan”**
 - Sets landscape-level expectations for forest management
 - Established, by order, by the Chief Forester
 - Could apply to Timber Supply Areas, Tree Farm Licenses, and Community Forest Agreements & First Nations Woodland Licenses of a certain size. Woodlots and small CFAs and FNWLs are exempt.
 - Developed in partnership with Indigenous Nations, with engagement from licensees, and input from stakeholders & local communities
 - Requirement to report to the public on plan performance every 5 years.

FIVE OBJECTIVES TO CONSIDER IN PREPARING A FLP

- Supporting the production and supply of timber in the forest landscape area
- Supporting the protection and conservation of the environment
- Managing the values placed on forest ecosystems by Indigenous peoples
- Managing the values placed on forest ecosystems by local communities
- Preventing, mitigating and adapting to impacts caused by significant disturbances to forests and forest health, including wildfire, insects, disease and drought

*There is no hierarchy associated with these objectives [FRPA s. 2.22]

FOREST LANDSCAPE PLANNING FRAMEWORK CONTINUED

KEY BILL REFERENCES

FRPA s. 2.35 to s. 2.45
FRPA s. 2.46

Brought in force through
regulation

- Once the FLP is established, a new 5-yr operational plan is required – **“forest operations plan”**
- Developed by forest licensees and TSM and guided by the FLP.
 - Includes approximate location of proposed roads and blocks
 - Specifies the legal obligations of the licensee and TSM e.g.: forest practices, silviculture system, stocking standards (planning guidelines)
 - Approved by statutory decision maker
 - Must be consistent with FLP or have a rationale that is approved by a statutory decision maker
 - Intended activities for each year to be published through the Forest Development Schedule (for information sharing only)
 - Regulations will be developed to detail the requirements

Forest Landscape Planning: where does it fit?

Legal objectives established under 93.4 of the *Land Act*.

- Defines key values and sets objectives

Forest Landscape Plans (*established by Govt—Replace FSPs*)

- Translates Land Use Planning direction not addressed by legal orders
- Specifies measurable outcomes and planning guidelines

Forest Operations Plans (*developed by licensees/TSMs and approved by Govt*)

Approximate location of blocks and roads for plan term

Either adopts FLP planning guidelines or specifies alternate planning guidelines with rationales to meet the FLP outcomes

Site level (*issued by Govt*)

- Cutting and Road Permits

FOREST STEWARDSHIP PLAN TRANSITION

KEY BILL REFERENCES

FRPA s. 2.48

Brought in force through
regulation

- There is no specific legislated timeframe for a transition to Forest Landscape Plans.
- In areas where an FLP has yet to be established, a licensee will continue to require a Forest Stewardship Plan for operations.
- Once an FLP is established, there is a 6-month to 1-year transition time for licensees to prepare and have their Forest Operations Plan approved.
- During the transition, Forest Landscape Plan and Forest Stewardship Plan frameworks will not overlap geographically.

**BILL 23 - ALIGNMENT WITH
THE DECLARATION ON THE RIGHTS OF INDIGENOUS
PEOPLES ACT**

INDIGENOUS CONSULTATION & COOPERATION

- Bill 23 includes amendments intended to strengthen the role of Indigenous Nations in forest planning and decision-making and to support the right of Indigenous self-determination.
- Before establishing a Forest Landscape Plan, the Chief Forester is required to work in consultation and cooperation with Indigenous peoples whose rights may be impacted.
- This requirement is broad and may encompass a range of government-to-government decision-making processes.

SHARED DECISION-MAKING

KEY BILL REFERENCES

FRPA s. 2.24 to s. 2.25

FRPA s. 2.5 to s. 2.54

FRPA s. 2.26 to 2.27

Brought in force through
regulation

- Bill 23 enables the implementation of joint or consent decision-making agreements negotiated under s. 7 of the *Declaration Act* in relation to key decisions associated with the Forest Landscape Plan framework.
- Where a s. 7 agreement is not in place, the Chief Forester must consult and cooperate with an Indigenous Governing Body by agreement or via the legislated process before establishing a Forest Landscape Plan.
- Dispute resolution may be triggered by either the Chief Forester or an Indigenous Governing Body where a notice of lack of consent is provided.

ADDITIONAL REGULATORY DEVELOPMENT NEEDED

REGULATIONS FOR FRPA IMPROVEMENT INITIATIVE

- Staff across Ministry are committed to a substantial volume of regulatory work and supporting policy documents
- Regulatory development associated with Bill 21 have been initiated (e.g., Forest Operations Map, etc.)
- Regulations associated with Bill 23 will be developed in phases due in part to priority/importance and availability of human resources

QUESTIONS/DISCUSSION