

Forest Practices Code

Advice to Statutory Decision Makers and Their Staff from Compliance & Enforcement Branch

Number 6

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Measuring Compliance with Soil Disturbance Limits

Introduction

This bulletin has been prepared to assist district managers making determinations on exceeding soil disturbance limits.

Issue

Section 47 of the *Forest Practices Code of British Columbia Act* (Act) requires a person to not exceed the maximum soil disturbance specified in the silviculture prescription. Unless the prescription specifies otherwise, the unit of measurement under section 47 is the entire net area to be reforested (NAR). There is no legislated requirement that soil disturbance values must be specified by standards unit or for areas within a standards unit. However, the unit of measurement could be the standards unit or areas within the standards unit if specified in the prescription by the prescribing forester. Stratification down to one hectare as specified in the soil conservation surveys guidebook can only be applied to section 47 of the Act if the silviculture prescription specifies likewise.

Section 48 of the Act provides authority for the district manager to direct a person to take measures and pay costs where they have determined that an area under an operational plan has been damaged as a result of a forest practice. The ability to issue a notice under section 48 is subject to interpreting the term "damage as a result of a forest practice". Damage can be determined for any area within the cutblock as section 48 is not limited on areas or by limits specified for soil disturbance in a prescription. The person must comply with any notice under this section and it may not be reviewed or appealed except through the courts by way of a judicial review. A bulletin is currently being prepared to provide information on determining when damage has occurred.

Recommendations

When making determinations under section 47 the standard of measurement is the cutblock unless otherwise stated in the approved silviculture prescription (e.g. 10 % for standards unit "A" or will not exceed 10% on any given ha).

Consider using provisions under section 48 when soil disturbance has been exceeded for areas within the entire NAR if damage has occurred.

When approving soil disturbance limits in a silviculture prescription consider if the proposed limits meets the requirement for providing site specific information under section 6 of the Operational Planning regulation or the test of adequately "manage and conserve" under section 41 (1)(b).

More Information

A copy of the legal opinion that formed the basis for this bulletin is provided in PDF format. Please note that the contents of this legal opinion are not to be disseminated to anyone other than government personnel without the express written consent of the writer.

[Measuring Compliance with Soil Disturbance Limits on Areas Smaller Than a Standards Unit](#)

A review of the policy implications of the current wording of the legislation in light of this legal opinion is being conducted by Forest Practices Branch in conjunction with Operations Division's Legislation and Policy Committee.

Contact

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