



Administrative Bulletin

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Guide to Approving Forest Operational Plans after June 15, 1998

*This guide is provided for the information of Forest Service staff, primarily district managers. While every effort has been made to ensure accuracy, the guide is only intended to provide an overview of the administrative requirements pertaining to operational plan approvals. It should **not** be interpreted as ministry policy, or legal advice, and it should **not** be used in place of the Forest Practices Code of British Columbia Act (Act), the Forest Act, their associated regulations or in place of advice of your solicitor.*

Introduction

The *Forest Practices Code of British Columbia Act* (the FPC) identifies five operational plans:

1. Forest Development Plans (FDPs)
2. Logging Plans (LPs)
3. Silviculture Prescriptions (SPs)
4. Stand Management Prescriptions (SMPs) and
5. Range Use Plans (RUPs).

This bulletin provides information to evaluate FDPs and SPs with some mention of LPs, SMPs and RUPs. It provides details on approval of operational plans after June 15, 1998 that reflect recent revisions to the FPC and the following four regulations which were deposited April 2, 1998 (see Section 14 - Transition):

1. Operational Planning Regulation
2. Timber Harvesting Practices Regulation
3. Forest Road Regulation
4. Silviculture Practices Regulation.

This administrative bulletin replaces the [Guide to Approving Forest Operational Plans after June 15, 1997](#), which is dated August 15, 1997.

1.0 Information Needs

Communication of Information

Evaluation of operational plans to meet legislated requirements is a complicated process requiring continual communication between the Statutory Decision Maker (SDM) and the plan proponent. While the guidance contained in this administrative bulletin will assist SDMs in making their determinations, it is critical that there be well-established communication with the plan proponent throughout all stages of the approval and implementation process.

SDMs may wish to communicate to all parties including the proponent, government agencies, the public and interest groups, throughout the review process that they are open to varying and contrary points of view. These views are expected and welcomed during the review process for consideration in plan approval. However, SDMs have the responsibility for making the final decision on operational plan approval.

It is essential that the proponent of the plan has all relevant information necessary to develop an operational plan. If the proponent believes they are lacking information, they should follow up as needed. Some planning requirements are contingent on government providing information to the proponent within a certain timeline or on the district manager (DM) requesting that certain assessments be completed prior to plan submission.

What is "Known" Information?

A feature, objective or other thing becomes "known" information, for the purposes of the Operational Planning Regulation (OPR), when it is made available only by the DM or designated environment official (DEO) at least four months before an operational plan is submitted for approval, or if it is identified in a higher level plan (HLP) that is in effect at the time of submission. Other staff do not have the authority to make information known. As a cautionary note, this definition only applies to items referred to in the OPR as being "known". "Known" has similar but not identical definitions in the Timber Harvesting Practices and Forest Road Regulations.

Observation

All available information is not necessarily "known" information. Known information is limited to a feature, objective or other thing referred to in the OPR. For example, guidebooks are not known information. It is important that if the DM or DEO make something known, they communicate that information to each other and the plan proponent, in a way that respects the authority of the SDM(s). This means that in joint approval areas the DM and DEO should jointly sign off known information or otherwise agree on a procedure for effectively communicating known information to the proponent. In non-joint approval areas where there is a sole SDM it is recommended that all information be provided to the proponent via the SDM to ensure good communication between all parties.

Example: Using "Known" for Wildlife Habitat Areas

Wildlife Habitat Areas (WHAs) and General Wildlife Measures (GWMs) are defined in the OPR. They are made "known", as it is defined in the OPR, when they are made

available by the DM or DEO at least four months before an operational plan is submitted for approval. Once this is done, WHAs must be included in future SPs and FDPs submitted for approval four months after the date the WHAs were made known.

The Timber Harvesting Practices Regulation (THPR) requires operations in known WHAs to be carried out in accordance with GWMs that are written for the specific WHA. "Known" in the THPR means included for a proposed category A cutblock in an FDP or in an SP. This is the authority requiring the holders of SPs or FDPs containing WHAs to conduct their operations (practices) in accordance with the applicable GWMs.

Note: Information made known after the 4 month period could be incorporated into the FDP voluntarily and may have some influence on the DM's determination of "adequately manage and conserve" under FPC41. There is no requirement or ability to amend an FDP where the SP incorporates more "known" information. The SP can still be consistent with an FDP without being identical to it.

What is "Best Information Available"?

Plan proponents are required, when preparing a plan, to use the most comprehensive and accurate information available to them. Where there is uncertainty about what information is in fact the most comprehensive and accurate, it is up to the SDM to determine. For example, two reports on the same topic may be available and they may contain different and conflicting recommendations. The SDM must then decide which information from the two reports the proponent is to use (he or she should also be prepared to provide a rationale on the decision).

Observation

The SDM may wish to provide an annually updated information package available to the proponent for consideration in preparing the new plan. While there is no obligation to "remind" proponents of information requirements already made available, it does improve communication and information can be tracked in one document. The SDM should really only have to communicate new information needs as the proponent should know and be responsible for what has been communicated previously.

Summary of Information Needs

The following is a list of information the SDM may wish to provide to the proponent in order to prepare an operational plan regarding their specific interpretations and needs.

1. Information required to meet FPC41(1) of the FPC.
2. The area to be included in the plan.
3. The SDM's expected timelines of the approval process - what is required by when.
4. The assessments required before submission of the FDP, SP and CP application.
5. Known information.

6. A listing of the most comprehensive and accurate information available.
7. The effect of any HLP on the plan.
8. The relevant guidebooks and how they affect the plan.
9. Any additional requirements in accordance with FPC41(2).
10. An explanation as to what would constitute an amendment approved under FPC41 versus FPC42 or 43 and how the amendments will be processed.
11. How "consistency" between plans will be applied based on the new definition in the OPR.
12. A list of tenure related requirements, if any.
13. A strategy, if one is in place, for addressing review and comments, including those stemming from referrals required by the SDM.
14. The term of the FDP.
15. The recommended format for operational plans (template).

2.0 Plan Preparation

Based on communication with the SDM(s) during the information phase, the proponent should be able to proceed with some comfort regarding the scope and requirements for review of the plan as it proceeds through the approval process. For plans prepared by the district, the DM should provide details of the expectations regarding the plans to assist staff in the preparation of operational plans. It is not possible to specify a provincial or regional timeline that would apply to all operational plans, but districts can and should determine critical timelines based on individual FDP replacement dates while recognizing operational logistics in the district.

Plan for Operational Flexibility

Operational planning should reflect the need for operational flexibility in achieving regulated forest practices. This flexibility is important to provide for operational realities while not reducing enforceability of practice standards. Where plans are too restrictive, amendments to several plans may be required to reflect changes at the time of harvesting that could have been provided for in the original plan submission.

Use of Operational Plan Templates

Templates are standardized operational plan formats for submitting both text and map information and can consist of information on paper (word documents and maps), a combination of digital and paper, or be fully digital with links between the text and map files. Currently, there are FDP and SP templates available for use by licensees and the Small Business Forest Enterprise Program (SBFEP). While the use of templates is voluntary, they are recommended by the Ministry because the standard format used for presenting information should reduce plan approval time. As the templates are "code ready", i.e., they comply with the most recent requirements of the acts and regulations,

they are useful to industry as a means of ensuring all mandatory operational plan information requirements have been met. They may also reduce preparation time as industry will not have to submit FDPs to more than one standard.

In the future, fully digital submissions will allow for the use of Graphic Information Systems (GIS) and viewer business applications and will allow for the consolidation of multiple FDPs on a landscape level to facilitate landscape unit and biodiversity planning and reporting.

Assessments

Important Regulation change: Effective June 15, 1998 (see Section 14 - Transition) assessments will no longer be part of an operational plan. Instead certain assessments will be required to be completed by the proponent before submission of the operational plan for approval. In addition, the timing of when certain assessments are required has changed. For example, if required, an archaeological impact assessment must now be completed prior to the submission of an SP rather than the FDP.

Note: While assessments are not submitted with the FDP and SP, OPR26 authorizes the DM or DEO to request that a copy of the assessments be provided with the FDP or CP application (these are the assessments required under OPR13 to 17). Under OPR27, if an assessment required under OPR13 to 17 is completed, the proponent of the plan must provide an opportunity for the review of the assessment, on the request of the person conducting the review. OPR37 allows the DM (only the DM) to request assessments that must be prepared prior to SP approval. The DM can also request any of this information under FPC41(2) if it passes the test for reasonableness - see Section 4.0 of this bulletin - FPC41(2) - Submission of additional information.

Assessments Required before Submission of FDP	
Where the assessment is required	Assessments required
Area under the FDP	Forest Health Assessment - OPR13 - if required by the DM
For watersheds listed in OPR14(1) that are within the area of the FDP	Watershed Assessment - OPR14
Areas referred to in FPC41(6) - joint approval areas within an FDP - that are in or adjacent to a proposed cutblock or could directly impact on or be impacted by a proposed road	Riparian Assessment - OPR15
Assessments Required before CP Application	
Where the assessment is required	Assessments required
Areas referred to in FPC41(6) where there is a high or moderate likelihood of landslides, unstable or potentially unstable terrain, slope gradient >60	Terrain Stability Field Assessment - OPR16

percent, or where a DM or DEO require it	
Areas other than those referred to in FPC41(6) of the FPC where there is a high likelihood of landslides, unstable terrain, or a slope gradient >70 percent	Terrain Stability Field Assessment - OPR17

Note 1: Under OPR16 there are certain areas where, if the proposed operation is an emergency or expedited major salvage operation, a terrain stability field assessment may not be required before a CP is applied for.

Note 2: If a terrain stability field assessment is required under OPR16 or 17 the licensee may not apply for a CP unless the cutblock is a Category A cutblock in an approved FDP and the FDP contains a statement that it is consistent with the assessment's results and recommendations (in addition to other conditions - see OPR20(3)).

Assessments Required before Submission of SP	
Where the assessment is required	Assessments required (OPR37)
Cutblocks in known scenic areas	Visual Impact Assessment - 37(1)(a)
Cutblocks referred to in OPR16(3) but where the assessment was not required at the FDP stage because the operations proposed were emergency or expedited major salvage	Terrain Stability Field Assessment - 37(1)(b)
Cutblocks other than those referred to in FPC41(6) where there is a moderate likelihood of landslides, potentially unstable, terrain, a slope gradient >60 percent and less than or equal to 70 percent	Terrain Stability Field Assessment - 37(1)(b)
Cutblocks identified by the DM as requiring a terrain stability field assessment	Terrain Stability Field Assessment - 37(1)(b)
Cutblocks where indicators of potential slope instability in the cutblocks are identified in carrying out field work for the SP	Terrain Stability Field Assessment - 37(1)(b)
Gullies in cutblocks on the coast if harvesting in the gullies is proposed	Gully Assessment - 37(1)(c)
Cutblocks if required by the DM to determine the nature and extent of forest health factors	Pest Incidence Survey - 37(1)(d)

Within the area of the SP where the DM determines it is required to manage and conserve archaeological sites	Archaeological Impact Assessment - 37(1)(e)
In and adjacent to the area within the SP	Riparian Assessment - 37(1)(f)

Note 1: A visual impact assessment is not required if the operations are minor salvage or expedited major salvage, unless requested by the DM.

Note 2: For emergency operations, no assessments are required prior to submission of the SP unless the DM requests that a terrain stability field assessment is required.

Note 3: SPs must be consistent with the results or recommendations of any assessments required under OPR37.

Note 4: Refer to OPR37(2) for exceptions to the requirement for a terrain stability field assessment.

Assessments Required Prior to Road Construction, Modification or Deactivation	
Area where the assessment is required	Assessment required
<ol style="list-style-type: none"> 1. Areas where there is a moderate or high likelihood of landslides based on terrain stability hazard maps 2. Unstable or potentially unstable terrain, based on reconnaissance terrain stability maps, if no terrain stability hazard mapping has been done 3. Slope gradients greater than 60 percent, if no terrain stability hazard mapping or reconnaissance terrain stability mapping has been carried out 4. There are indicators of slope instability 5. Has been identified by the DM as requiring a terrain 	Terrain stability field assessment - FRR4(5)

stability field assessment	
Streams, wetlands and lakes that may be affected by the proposed road or road work	Riparian assessment - FRR4(6)(a)
Community watersheds	Fish stream identification - FRR4(6)(b)
Community watersheds (<i>Note: This assessment is not required if soil erosion potential mapping carried out under section 12 of the OPR (terrain mapping in community watersheds) indicates that the area does not have a high or very high soil erosion potential.</i>)	Soil erosion field assessment - FRR5
Known scenic areas with established Visual Quality Objectives (VQOs)	Visual impact assessment - FRR4(7)
Areas for which the DM is satisfied that the assessment is necessary to adequately manage and conserve potential archaeological sites in the area affected by the road or road work	Archaeological impact assessment - FRR4(8)

Note 1: FRR3 requires a person who submits a road layout and design to forward any assessments related to the road layout and design to resource agencies upon request if the DM has identified them as a referral agency. The DM may also request copies of the assessments under FPC41(2).

Note 2: The only assessment required for deactivation purposes is the terrain stability field assessment.

Additional assessments at the discretion of the DM

In the above tables some of the assessments are required at the discretion of the SDM and require some advance notification to the plan proponent. Discretionary assessments include: archaeological impact assessments; certain terrain stability field assessments; certain watershed assessments and forest health assessments. Notification for these types of assessments is required at an earlier stage, as discussed under Section 2 - Plan Preparation.

Assessments in general require sufficient notice to complete field work and may necessitate hiring consultants. It is recommended that sufficient notice be provided prior to review to ensure an assessment request can be satisfied. By providing this information to proponents before they prepare the plan, the requirement for amendments to the FDP can be reduced.

There is now a greater reliance on professional accountability given that assessments are no longer part of the plan and therefore not submitted for approval. Assessments are required as noted above. The responsibilities vary with the type of assessment - OPR 13 to 17 and 37 and FRR4 and 5 should be reviewed.

3.0 Notice, Review and Comment

Of the five operational plans identified, only FDPs and RUPs require notice, review and comment. OPR36, 47 and 51 provide DM discretion to require referral for LPs, SPs and SMPs respectively.

Notice

Before an FDP is submitted for approval, or in the case of the SBFEP, before the DM puts an FDP into effect, the proponent must publish a notice in a newspaper, in a form acceptable to the DM, stating the FDP is available for review and comment (OPR25).

Review

The review stage is the main opportunity for the public to provide comments on how the forest resources will be managed. A key part of the SDM's determination is balancing fairness between the public's right to review and comment versus the proponent's right to timely harvest approvals. With respect to resource agencies, the review stage of the plan approval process has both legislated timelines and policy timelines under a memorandum of understanding (MOU). By gathering detailed information during the "information needs" portion of the planning stage, the review should focus on:

1. Has the SDM's guidance been captured in the plan ?
2. Were the stakeholders notified and information solicited ?
3. Were the public's comments captured ?
Was it clear what the public's role was and how they should have responded ?
For example, there is no public opportunity to comment on approved category A cutblocks. The review should focus on the proposed category A cutblocks and roads. The approved blocks are included to allow viewers a complete view of planned development.

The legislated period for review for an FDP approval or amendment is 60 days from the date of first publication. For an FDP that is solely proposing an expedited major salvage operation or amendments to an FDP that are solely proposing an expedited major salvage operation, the review period is for at least ten days. Minor changes to an FDP under FPC43 do not require notice or review (refer to Section 10.0 - Amendments for further information). Under OPR27, there is no requirement to provide for a review if harvesting is an emergency operation as defined under FPC42 and there is not enough time for a review of at least ten days. If a review is not required, a notice must be published by the person preparing the amendment allowing five clear days prior to implementing operations (OPR27(7)).

Note: The review period includes the time to review and comment on a plan. There is no "comment period". Comments from the review must be submitted during the 60 or ten days (plus) allowed for the review period.

Observation

Plans submitted for review may be retained on file in the event that the approved plan, which should be kept, is challenged or complaints are brought forward. This does create an administrative volume of paper and it is recommended that the SDM recognize this and make a decision based on the history and specifics of the plan.

Referral

DMs have discretion to require referral of any operational plan to resource agencies that do not have statutory authority to approve, other government agencies or to any person that may be materially affected by the proposed operational plan or amendment (OPR7). This must be communicated via a formal notice. The provision for referral requires the consideration by the plan proponent of comments received during the referral period. A copy of all comments received during the referral period must be submitted with the proposed plan or amendment along with a summary of all revisions made to the proposed plan or amendment as a result of the comments.

A Memorandum of Understanding (MOU) between the Ministry of Forests, Ministry of Environment, Lands and Parks and the former Ministry of Energy and Mines and Petroleum Resources was developed to facilitate inter-ministry communication and co-ordination for the implementation of the FPC (Memorandum of Understanding Among the Three Principal Ministries Regarding Joint Administration of the Forest Practices Code). One of the key components of this document is the section on Referrals and Approvals - it should be consulted at this stage of the plan approval process, particularly in relation to time lines. This MOU also provides for development of regional agreements and district action plans that further define the commitments contained in the provincial document. The MOU, regional agreement and district action plan should all be consulted at the review stage to ensure direction in these documents is being followed.

Note: OPR7 is the authority to require plan referral. At the information requirements meeting with the licence holder, it is important to identify all parties to whom the operational plans should be referred.

Comments

The legislation obligates the plan proponent to provide copies of comments received during the review period to the SDM and to indicate how concerns were addressed in the FDP. Once the review is completed, all concerns should be identified and there should not be any surprises at the final submission stage. Resource agencies and the public forward their comments to the proponent. For the SBFEP FDPs, the comments go to the DM or the district contact as specified in the review notice.

If comments are provided to the SDM instead of the proponent, the comments must be forwarded to the proponent for consideration and inclusion into the plan. Where

comments are received after the review period has ended and the plan has not been submitted for approval, the comments should still be forwarded to the proponent.

Late Comments

Any information coming to the SDM is relevant information that could have a potential impact on the approval. Late information is still knowledge that the SDM must consider when approving a plan; however, he or she has the discretion to determine if plan approval should be delayed or not, based on the new information. Comments received after approval of the plan must be referred to and retained by the proponent for consideration in future plan submissions or amendments.

If comments are received after the plan has been submitted for approval, but the plan has not yet been approved, the proponent can consider if it is a valid concern and decide how to incorporate it into the plan. The rights of the proponent may be affected if the DM considers a submission without advising the proponent or if the DM sends a submission and the plan back to the proponent. The proponent may well be in a position to challenge the DM on the grounds that the DM has exceeded the review provisions of the regulation. While the proponent can not be forced to deal with the submission of late comments in a legal sense, this action may result in the FDP not being approved. If the DM considers the comment important enough and feels it should not have to wait until the next FDP, discretion can be exercised by refusing to approve the FDP without more information. Otherwise, the DM could be challenged for ignoring relevant considerations under FPC41 if he or she fails to consider the submission. Alternatively, the DM can wait until the SP comes in - at that point the information can be considered in the SP approval. This may, however, result in a need to amend the FDP.

Note: Only comments relating to Category A cutblocks and roads must be considered if received during the review. Comments on Category I cutblocks and roads and previously approved cutblocks and roads are not required to be considered. It is also important that the public be informed as to the type and nature of comments being solicited. Despite the appropriateness of the comments, all must be submitted with the plan along with any revisions made to the proposed plan or amendment.

Observation 1

Incorrectly submitted comments or late submissions should be clearly documented, and the rationale (if prepared) should consider how the late or incorrectly submitted comments were incorporated into the approval.

Observation 2

It should be recognized that the advertised plan may vary from the approved plan. The plan does not have to go through review for every change. However, any change or revisions should be based on the comments received. Plans revised as a result of the review are generally not required to be re-advertised for further comment.

Categories of Cutblocks and Roads for FDP Review

Forest Development Plans

Beginning October 15, 1998 (please refer to Section 14 - Transition), FDPs submitted for approval will contain both general information relating to the entire FDP and information relating specifically to proposed cutblocks and roads. In addition to FPC10 (FDP Content), the general information requirements for the FDP are listed in OPR18 (map and information requirements for all FDPs). These information requirements include the approximate location of proposed road construction and road modification operations, the location of cutblocks proposed as category A cutblocks and the location of cutblocks that have been approved in previous plans.

Category A Cutblocks

A cutblock proposed as a category A cutblock must include the information in OPR20(1). Once the plan in which the block is proposed has been approved, the block is a category A block and is provided limited protection from reconsideration - OPR21 (limited protection).

Category I Cutblocks and Roads

Beginning October 15, 1998, FDPs submitted for approval may also include category I blocks (OPR19) which are blocks that do not meet the requirements of a category A block and are for information purposes only. These blocks are not part of the FDP and therefore do not contribute to the proposed harvesting in the period of the plan. Roads may also be shown for information purposes only. The "I" category is meant to provide an opportunity to reviewers of the plans to identify any concerns they may have prior to the start of more detailed work on the cutblocks and roads.

Transition

The transition provision in OPR23 provides for certain cutblocks that were included in plans submitted for approval or given effect prior to October 15, 1998 to be deemed category A blocks. These cutblocks must either have a cutting permit issued, an SP approved or been exempted from the requirement to prepare an SP or have met certain requirements as listed in OPR23. If the cutblock does not meet either of these tests, the cutblock will need to be reconsidered as a proposed category A cutblock in the first submission of a forest development plan on or after October 15, 1998.

4.0 Approval of an Operational Plan

Approval of an operational plan is a mandatory determination if the operational plan meets the required tests in FPC41 (see section FPC41(1)). In making a mandatory determination, the same principles apply that were detailed in the training course titled, "Making Effective Determinations (E404)". This training material is of particular interest to persons with delegated authority under the delegation regulation. In addition, it is important that the SDM and support staff both clearly understand their respective roles in operational plan approval. The SDM and support staff should be familiar with the content of Compliance and Enforcement Branch's course, "Risk Management and the Art of Decision Making". SDMs in both agencies need to take this training so they clearly understand administrative law and exercise their discretionary decision making properly.

Text amendments to proposed FDPs can be accomplished by clearly identifying changes as amendments in the written text portion of the FDP. Changes in mapping can be made on a highlighted photocopy rather than preparing completely new maps. Photocopies should be of the same scale as the map in terms of accurately reflecting the boundaries. If changes are made to the original map, both parties should sign it off and date it. The same applies for text changes.

Observation 1

Decisions surrounding forest management are very complex and seldom black and white and as such discretion is necessary in making the most appropriate decisions. The FPC has given this power to SDMs who in turn must put their minds to decisions and support them with good reasoning. Discretion recognizes individual judgment in making decisions. Discretion is important when applying the law as it allows for consideration of individual circumstances and factors. In exercising discretion properly it is critical that the principles of administrative law are followed. Compliance and Enforcement branch has prepared training courses and interpretation guidance for SDMs - this should be consulted for additional detail.

Observation 2

In granting approval of an operational plan ask yourself "have I fettered myself in this decision by unquestioningly following policy, procedures or the wishes of a resource agency or other person, or the proponent?" It is important that decision makers come to their own conclusions regarding information provided to them. Of course, this doesn't mean you cannot consider the advice of your staff. However, the decision cannot be based solely on recommendations of staff or government policy. You must believe that recommendations of staff or government policies are appropriate in this particular case. If you strongly believe they are not appropriate to this particular case, you must not follow them. Decision makers are accountable for their decisions and are expected to follow some sort of due process that results in a documented rationale of the decision.

For example, where there is conflicting information, the decision maker will be expected to bring his / her own judgment to bear to reach a decision and also include that reasoning in a rationale.

Term of an Operational Plan

The term of a plan is the length of time over which a plan remains in effect, while the period of the plan is the required length of time over which planning information has to be included in a proposed plan. The term of FDPs for major licences or for SBFEP is one to two years. For a TSL (not considered a major licence) which provides for CPs and woodlot licence FDPs, a term of up to five years may be specified. The term starts from the effective date of the plan identified in the approval letter. Before or after an FDP expires, the DM may, at the request of or with the consent of the plan proponent, extend the term of the plan for a length of time not exceeding one year. This is true regardless of the length of the original term (two year FDPs can be extended for a further year).

An SP has a term lasting until the free growing obligations are achieved, unless a new prescription is required under FPC37 / 38 (outdated prescription).

The period covered by an FDP is five years. There are exceptions to the period of the FDP under OPR3(3).

Observation

SDMs may wish to utilize approval of FDP terms to stagger replacement submissions so the approval workload is spread over the entire calendar year. This is recommended during this first year of replacement plans. Another method for reducing staff workloads is to approve plans for a two-year term. With woodlot licences, the SDMs may want to consider if shorter terms are more appropriate than the five-year time period available.

Limited Protection

Once an FDP in which a category A block is proposed has been approved, that block is protected from being reconsidered except in limited circumstances. If any of the circumstances listed in OPR21 occur, the cutblock may be reconsidered in a future plan approval. However, the reason for refusing to approve the plan must be limited to the circumstance which allowed reconsideration of the block. For example, if a wildlife habitat area is established over any area of the proposed plan and the chief forester and Deputy Minister of Environment, Lands and Parks have specified that the cutblock cannot be harvested as planned, the DM, or the DM and DEO, as the case may be, may refuse to approve the plan based on those grounds and not for any other reasons.

FPC40 - Act Giving Effect to Operational Plans Prepared by a DM

The administrative law principles that apply to an approval under FPC41 also apply when a DM gives effect to an operational plan under FPC40. The wording difference is required to address the dual role of the DM in being responsible for preparing the plan and giving it effect. FPC40 does not have a subsection (1)(b) identical to FPC41 because Section 4 of the Ministry of Forests Act already requires the DM to manage and conserve the forest resources.

FPC 41 - Approvals of Plans by DM or DEO

SDMs approve operational plans under this section for major licensees and woodlot licensees.

Observation

The SDM approves the plan based on his/her determination that the plan meets the FPC and regulations and adequately manages and conserves the forest resources. Once approved, it does not become the SDM's plan. It is the proponent's plan and remains the proponent's plan to the end. For FDPs, cutblocks or roads that will not form part of the final plan must be deleted or listed as a category I block or road by the proponent and not the SDM. Such amendments can be accomplished by simple administrative memos from the proponent to the DM to provide notification and documentation on file. They must, however, still be signed and sealed by an R P F. Please note

that it is very important to be able to distinguish between the plan that was submitted for review and the plan that was submitted for approval.

FPC41(1) - When a DM Must Approve an Operational Plan

The DM must approve an operational plan or amendment submitted under this part, if the two requirements set out in FPC41(1)(a) and (b) are met. From an administrative law perspective, FPC41(1)(a) is a mandatory decision and FPC41(1)(b) is discretionary in the first part, then once satisfied becomes a mandatory decision. There is an important cross-reference to FPC41(3) that prohibits approval if the plan does not meet standards.

FPC41(1)(a) - Operational Plans Prepared and Submitted in Accordance with the FPC and Regulations

FPC41(1)(a) requires the SDM to determine if the operational plan was prepared and submitted in accordance with the FPC and regulations.

FPC41(1)(b) - Adequately Manage and Conserve

FPC41(1)(b) requires the SDM to determine if the plan will adequately manage and conserve the forest resources. In terms of adequately, it means just that and not optimally or maximally. With respect to conserve, this is meant to be sustainable wise use and not preservation. FPC41(1)(b) is an additional requirement over and above the requirement that the plan comply with the FPC and regulations and is meant to catch the gaps in FPC41(1)(a) and be a final look versus a carte blanche opportunity to ask for new information.

Observation

Examples of when a DM may refuse approval based on FPC41(1)(b) are:

- where a terrain stability field assessment was not required in accordance with the FPC and regulations (i.e. slopes less than 60 percent) but the SDM has concerns about instability, **or**
- as a result of a pest incidence survey, a licensee has determined that there is a forest health problem, and has proposed management strategies to reduce risks of timber loss. Although these strategies may meet the requirements of FPC41(1)(a), if the DM believes that the management measures are inadequate, the DM could not approve the plan under FPC41(1)(b).

Information that may be of assistance in determining adequate management and conservation includes comments from the review, guidebooks, policy and procedures. However, these inputs must be used in a manner that does not fetter the discretion of the decision maker. This statutory decision is that of the decision maker alone; the decision maker is not bound by any of the above information. For more information please refer Section 6.0, Guidebooks, on the next page.

FPC41(2) - Submission of Additional Information

If the DM is not satisfied that he or she has the necessary information to determine if the plan will adequately manage and conserve the forest resources, additional information

may be requested to assist in the determination under this section. Examples of additional information may include higher resolution maps or more detailed related site information. The intent is information requested under this authority be reasonable and limited in its scope; however, the main test is "does the DM reasonably require the information?" If the answer is yes, he or she is not limited in what can be requested.

FPC41(3) - Approval Only if Plan Meets 41(1)

To fully understand this section, it is best to read FPC41(3) in the context of the two subsections which precede it. FPC41(1) provides that the DM must approve the operational plan and amendment if the two threshold tests in FPC41(1)(a) AND (b) are met. If the DM determines that either (a) or (b) are not met, FPC41(2) authorizes the DM to seek and obtain the additional information from the licensee that the DM requires in order to make the decision in FPC43(1). FPC41(3) then directs the DM to embark again on the analysis in FPC41(1) and to approve only if the additional information is such that the DM is now satisfied that the two threshold tests are met.

FPC41(4) - Right to Refuse Approval or Amendments to LP

This is a performance based harvesting provision that provides the SDM with authority to withhold approval of an LP or amendment if the applicant has not taken all measures necessary to prevent or minimize the effects of a previous contravention of the FPC or regulations. Section 81 of the Forest Act provides authority for refusing, or placing special conditions on, a cutting permit.

Note: In accordance with the new FPC21, the DM may require only the following persons to obtain DM approval of an LP prior to harvesting:

- the holder of a road permit (unless they hold a major licence, timber sale licence (TSL) or woodlot licence (WL),
- the holder of a licence to cut,
- the holder of a CP under a master licence to cut.

Existing LPs continue until they expire.

FPC41(5) - Approval of FDP Subject to a Condition

The DM only may approve an FDP or amendment subject to a condition. However, FPC41(3) requires that all the requirements of the FPC and regulations be met and that the DM be satisfied that the plan or amendment adequately manages and conserves forest resources before the approval with conditions is issued. Therefore, the DM may find there are few situations when a conditional approval is appropriate. This practice should be limited to situations where valid concerns identified during the review process were addressed, but still may require some simple clarification to ensure that the intended action is clearly identified or conveyed.

Note: This provision must not be used to get around the protection provisions of the new OPR.

Observation

An example of an approval with a condition would be: In response to a MELP referral which has identified a trapline in a proposed development area, a licensee has agreed to inform the affected trapper when harvesting activities will take place to allow him sufficient time to remove any equipment that is in place. To add clarity to this matter, the following condition was attached to the FDP approval: The FDP is approved with the condition that written notice is to be provided to Mr. Smith at least 30 days prior to harvesting commencing in the trapline area.

FPC41(6) - Joint Approval

This section requires the approval of the DEO in addition to the approval of the DM for that portion of the FDP that is contained within a community watershed or that meets prescribed requirements as detailed in the OPR. In addition, OPR2 provides that the requirement for joint approval may be established in a higher level plan or if the DM and DEO agree that joint approval is appropriate in the circumstances. The SDM, in making decisions on non-joint approval areas, should ensure that the results of his or her decisions don't affect the management of adjacent joint approval areas.

FPC41(6.1)

This section provides the authority for the DM to approve any part of an FDP, or any part of an amendment that does not require joint approval.

FPC41(7) - DEO Approval

This section requires the DEO to approve an FDP or amendment under FPC41(6) if it meets the requirements of FPC41(1) and the DEO is satisfied that it will adequately manage and conserve the forest resources.

Observation

Joint approval requires additional co-ordination with the proponent to identify guidance of the two SDMs and to ensure that required assessments are completed in time for making a determination. The letter of approval for portions of an FDP by a DEO may be included in a joint approval document or a separate document. In either case it is still a separate determination. In the event that a joint approval document is issued it is recommended that a separate rationale supporting the individual determinations be provided by each decision maker. The decision as to which type of letter is chosen often depends on the working relationship the SDMs have with one another and their supporting filing system.

FPC41(8) to (13)

These sections establish an administrative framework around the definition, designation, cancellation and amendment of operational plans in community watersheds.

Observation

Before the designation of a community watershed is established, varied or canceled, the regional manager must provide for review under FPC 41(12).

FPC42 - Approval in Emergency Cases

It is up to the DM to first determine that there is an emergency; this would be a joint decision with the DEO if it is an area referred to in FPC41(6). Once it has been determined that there is an emergency, the FDP may be approved without review, the SP and LP can be approved if they comply with the regulations and standards, and the timber should be harvested without delay because it is in danger of being damaged, significantly reduced in value, lost or destroyed. This damage should be imminent such that not having a review period or less than full content FDP is absolutely required and no other mechanisms, such as expedited major salvage, can address the need. Please note, some review provisions may still apply subject to the DM's determination.

Observation

The final decision on whether an emergency exists is up to the SDM(s), but the FPC appears to contemplate that an emergency exists when the timber is in danger of being damaged, significantly reduced in value, lost or destroyed and there is not sufficient time available for public review. This section should not be used to deal with wood supply issues resulting from inadequate or late submission of plans.

Important Regulation change: An important change in the OPR is the addition of provisions for "expedited major salvage operation." Refer to Section 12.0 - Salvage Operation.

FPC43 - Minor Amendments

Minor changes to operational plans are permitted under FPC43. The amendment must achieve all of the following conditions:

- meets the requirement of the FPC and regulations;
- adequately manages and conserves the forest resources;
- does not materially change the objectives or results of the plan.

If all three conditions are met, then the SDM or designate may approve the amendment without review. While the process for determining a minor amendment does not vary, the decision must be made based on the particular set of circumstances for the request.

Observation 1

As with the first two tests the DM alone must put his mind to the third test. Upon receiving an amendment request the DM will be directed to a particular section of the FDP for which the amendment is requested. For that section, the original objectives or results of the plan should be stated. Only then can the test be made to determine if the original objectives or results will be changed in a material way should the amendment be approved. Following are amendments that may materially change the objectives or results of the plan:

- adding a new road or cutblock to the FDP

- substantially affecting an environmental attribute that was not affected in the original plan
- substantially increasing the risk of negative environmental consequences

As with the previous third test, the rationale should identify how the test for "materially change" was determined.

Observation 2

When the SDM has delegated authority to a person under this section, then that person becomes the sole SDM and no one, including the original SDM, may fetter the decision of the designate. It is recommended that adequate training and support be provided to designated authorities. The DM may revoke the delegation of a decision-making authority but may not vary or rescind a decision made by the designate.

Observation 3

Amendments should only be considered when changes will occur on the ground. For example, there would not be an amendment considered for improvements in information such as a higher standard of accuracy measurement in the cutblock area as a result of a re-calculation using a global positioning system (GPS) or correcting an error of "net area to be reforested." However, the Licensee should notify the district of the changes because of the need for records to be accurate for their use for compliance and enforcement purposes.

5.0 Higher Level Plans

FDPs must be consistent with higher level plans (HLPs) in effect four months before the date the FDP is submitted for approval, unless the HLP or this Act specify otherwise. SPs and LPs must only be consistent with the HLP when there is no FDP in place. Otherwise they must be consistent with the approved FDP. In addition there may be phase-in provisions included in the HLP which may temporarily exclude an area under the plan or an objective from coming into effect for a specified period to enable a smooth transition from the pre- to post-HLP requirements. In considering any HLP, the key item for the SDM is to determine what the plan means in terms of forest practices delivered on the ground. The HLP document should provide clearly defined objectives; however, there will almost always be areas where **SDMs must interpret** what the plan means.

Draft or interim plans or standards are not legally binding on SDMs and have no formal standing under the statute, but they may be important information that the SDM may want to consider for the purposes of FPC41(1)(b). SDMs may wish to develop district policy relating to the use of draft or interim plans or guidelines as some care must be taken given their non-legal status. Any district policy should be available to plan proponents with sufficient advance notice prior to plan preparation and the district should

make it clear that the policy will not fetter statutory decision making. In other words, the decision maker will ignore the policy if the decision maker considers the policy inappropriate in a particular circumstance.

Observation

In approving an FDP where an HLP is in effect, DMs, and DEOs where applicable, will need to put their minds to the interpretation of the requirements of the HLP. The proponent of the plan should be made aware of the HLP requirements and the SDM's interpretation as early as possible in the process (see point 7 in the Summary of information needs list on page 3). The SDMs may rely on interpretative documents developed by other staff, but must put their minds to the various resources at their disposal and not let others dictate their decision through interpretative documents.

6.0 Guidebooks

Guidebooks should be treated as *key reference material* and not treated as if they have the force of law. They have and continue to be prepared by knowledgeable experts and they should assist SDMs in suggesting appropriate ways of addressing forest management issues affecting operational plans.

Caution: Cited guidebooks can prove to be problematic unless very careful thought and consideration has been given as to what the specific application of the citation means to forestry practices.

Guidebooks are never enforceable as stand alone guidebooks, even when they are mentioned in a general way in the legislation. However, following are three ways to potentially incorporate information from guidebooks into binding requirements of the FPC and regulations or the harvest authority:

1. Higher Level Plans

HLP declaration may cite specific sections of guidebooks, thereby making them binding. SDMs will need to ensure they know of any linkage between the HLP and the sections of guidebooks incorporated by reference.

2. Regulation

The regulations cite the following guidebooks. Portions of these guidebooks are binding on the proponent of the plan with respect to specific definitions:

- Establishment to Free Growing
- Hazard Assessment Keys for Evaluating Site Sensitivity to Soil Degrading Process
- Mapping and Assessing Terrain Stability
- Seed and Vegetation Material
- Fish Stream Identification

- Interior Watershed Assessment
- Coastal Watershed Assessment

3. Harvest Authority

Harvest authorities may also incorporate portions of guidebooks. It is important to realize that citing a guidebook within a regulation or harvesting authority does not make the entire guidebook legally binding but only the part that is cited. That part then becomes enforceable not as a guidebook, but as part of the regulation or harvest authority.

7.0 Policy

"Policies" are the general principles that guide government administration in the management of public affairs and normally do not have the force of law. Policy cannot restrict the SDM's discretion unless clearly provided for in the legislation.

FPC Act or Regulations

The FPC provides for two kinds of policies to be binding on DMs. The first policy is one that DMs **must** follow in exercising their statutory obligations. This authority is provided to the chief forester under FPC1(1), FPC4(1&4) and FPC5(1&4). This policy is in the *Higher Level Plans: Policy and Procedures* document dated June 15, 1996, as amended by the chief forester on December 1, 1996. **Directions** of the chief forester contained in this policy must be followed by the DMs pursuant to their responsibilities under Part 2 of the FPC - Strategic Planning, Objectives and Standards.

A second policy is provided for under FPC122; this is a policy that must be considered by the DM in exercising his or her authority. At the present time there is no policy approved under FPC122.

Forest Act

Section 105(1) of the *Forest Act* provides authority for the appraisal policy set by the minister that SDMs must follow.

SDM Policy

Where an SDM must repeatedly make complex decisions weighing a range of facts, the SDM may create his or her own policy to communicate guidance or limitations that would apply to approvals of operational plans. A DM's policy is a very useful tool to communicate the DM's expectations for plan approvals where interpretations and application of standards are clear. However, a DM's policy must allow for consideration of new information that may not have been available when the DM approved the policy.

If a policy is developed and used by the SDM, it must be made available to other parties to which the standard would apply. Extreme caution is required in drafting any DM policy. The following reminders may be helpful:

- An SDM is not bound to policy that is not provided for in legislation. At best, it may be a tool for the decision maker to use in exercising his or her discretion in addition to other types of information available for their use.
- Policy drafted by SDMs that does not provide adequate consideration of the particular facts in an individual plan approval would not be viewed by the courts as fair policy and the SDM may be found to have abrogated their statutory authority.
- Policy must be made public if it is to be considered as a factor in the approval process.
- It is important to remember that the law treats policy and procedures very differently. While a policy can not bind the ability of the SDM to exercise discretion, a procedure is binding upon the SDM with respect to the steps required prior to the SDM making the decision (e.g. before an FDP can be submitted for approval procedures may state it must be made available to certain persons).

Note: Courts do not recognize policy not provided for by legislation; in fact, they are often seen as fettering. For example, the CF's letter on biodiversity is very important information and is information an SDM considers but they do not have to follow it.

8.0 Linkage to Approvals Under the Forest Act

Under FPC18 and 19, a major licensee may only apply for a CP, or in the case of the DM, may invite application or enter into a TSL, if the approved FDP identifies the cutblocks to be harvested and the location of existing and the approximate location of proposed roads. The FDP does not have to be in effect for the life of the CP, only at the time of issuance. The area applied for under the CP must be the same as the area shown on the FDP. The actual issuance of the CP is controlled by the licence document - the FPC has no influence. The licence document contains a clause requiring the approval of applicable operational plans before harvest can occur. It is important to note that even if all approved operational plans are in place, actual harvesting cannot occur until the CP is issued.

Observation

While a CP or RP can remain in effect even if the FDP expires, it may be worthwhile to extend the FDP in order to provide authority for amendments such as salvage operations that may be required.

The licence documents for tree farm licences and forest licences are replaced every five years; therefore some are pre-code while others are post-code. Depending on whether a pre-code or post-code document is in effect, the licensee is granted a different CP.

For example, for pre-code licences, there is a "codified" CP. In approving operational plans the authorities granted by the tenure documents need to be recognized. Licensees may have obligations under the Forest Act that could be confused with operational plan approvals under the FPC. An example is a licence that limits harvesting to a problem forest type. The information provided with the FDP may indicate the harvesting will meet

the FPC. However, the data accompanying a CP application (e.g., cruise data) may provide new details that indicate the area is not of the type provided for in the licence agreement - this would prevent issuance of a CP under the licence agreement.

Observation

The FPC does not obligate the DM to approve a CP, even if the planning requirements have been achieved. The licence provision will govern issuance of a CP, for example a CP can not be issued if it interferes with an aboriginal right. Section 81 of the Forest Act provides authority for the DM to refuse issuance of a cutting permit or attach special conditions (See Performance Based Harvesting Regulation). It is recommended that multi-block CPs proceed through the categories with the same status.

It is recommended that the FDP clearly identify CPs already in effect. Including a schedule was previously required by the licence document, but is now covered under FPC10(1)(b)(i)(B) and OPR18(1)(r).

Approval of a block for harvesting or a road for construction outside the term of the plan does not give approval for issuance of a harvesting authority. A licensee submitting an application for a harvesting authority where approval for road construction or harvesting is not contained within the term of the plan should seek an amendment to the FDP under FPC41 or 43.

Note: The Forest Act permits the delegation of issuance of CPs to a forest officer authorized by the DM, which would make the forest officer the SDM.

Observation

The SDM may wish to separate a Forest Act issue from plan approvals under the FPC by placing conditional approvals in the operational plan. An example of this would be the STI agreements DMs have with the various licensees. It is recommended that plan proponents be informed of the links between the term of the plan, issuance of harvesting authorities and the DM's expectations regarding submission of operational plans and CP applications.

Approval of Cutblocks Where Terrain Stability Assessments Required

On or after October 15, 1998, a cutting permit application may not be submitted for cutblocks in an FDP for the following areas:

1. Areas with a high likelihood of landslides, unstable terrain or with slope gradients greater than 70%,
2. Joint approval areas where there is a moderate likelihood of landslides, potentially unstable terrain, a slope gradient greater than 60%, **or**

3. An area within a joint approval area identified by the DM or DEO as requiring a terrain stability field assessment, unless, the following requirements have been met:
 - The cutblock is approved as a category A block in an FDP, **and**
 - A terrain stability field assessment for the cutblock has been completed. Exemptions to this requirement are provided for in OPR16. (i.e., emergency approvals under FPC42, or for operations that are expedited major salvage operations), **and**
 - The FDP contains a statement that it is consistent with the assessment results and recommendations, that it does not conflict with THR 8(3) and 8(4) and that it either, meets the requirements of section 7(2) and (3) and 8(4) of the Timber Harvesting Practices Regulation if the block is within a community watershed or the requirements of section 8(2) and (3) if the block is outside of a community watershed. If the FDP does not meet those requirements the statement must indicate the reason why the requirements have not been met and the reason the person believes the forest development plan should be approved in spite of the failure to meet the requirements. This statement may be submitted with the FDP in which the cutblock is approved as a category A block or in a subsequent FDP submission or amendment.

Observation

The DM may want to consider requesting terrain stability assessments where an environmental risk has been identified during review of the FDP or if the proposed harvesting activity is uncommon in the operating area.

9.0 Exemptions

Exemptions from the need to prepare operational plans are contained in FPC28-32. The DM may only exempt a person from the requirement to prepare an operational plan if the DM determines that the plan is not necessary to adequately manage and conserve the forest resources (FPC33).

The DM cannot initiate an exemption except for plans he or she has prepared. Exemptions must be at the request of the licence holder. The DM should not approve blanket exemptions and must make a determination for each exemption request on its own merits. It is possible to "batch" the exemptions together for administrative ease such as one covering letter and have the individual exemptions attached.

Conditions - OPR40 allows the DM to attach conditions to his exemption for the requirement to prepare a silviculture prescription. The DM does not have this ability for FDPs and LPs.

Exemptions for an SP may be provided for individual areas up to one hectare in size or 500m³ (FPC30).

Observation

An exemption decision is a determination under the Code and as such, the rationale should be documented in writing and supported with reasons for the purpose of defending the determination if it is challenged. The DM may also find it useful to express to the proponents what he or she considers important in assessing whether the exemption adequately manages and conserves the forest resources.

10.0 Amendments

Operational plans are amended for six reasons under the FPC:

1. Voluntary amendments requested by the licensee (FPC34).
2. Where a person knows that operations specified in the plan will not succeed (FPC35).
3. If the requirements of an SP can not be met (FPC36)
4. Outdated SP for industry (FPC37)
5. Outdated SP for government (FPC38) and,
6. FDP extensions requested after a regulation change changes the content requirements of the FDP and before the extension is granted

Any changes made to an approved operational plan must be made via an amendment proposed by the proponent. If the proponent considers that the change to the plan does not materially change the objectives or results of the plan, the amendment is not advertised for review and comment but submitted directly to the SDM(s) for approval under FPC43 as a minor amendment.

If there **is** a material change to the objectives or results of the plan, the amendment is advertised, is made available for review for a 60 day period and then submitted to the SDM(s) for approval under FPC41. If the change is to an FDP for expedited major salvage operations only, the review is for at least 10 days versus the full 60.

If the proposed change to an operational plan is an emergency as defined under FPC42, it may be approved under the conditions described in that section.

It is the responsibility of the SDM, as the approver of the amendment, to approve the amendment as proposed or re-classify it as minor, non-minor or an emergency. If a minor amendment has been applied for and the SDM feels it does not meet the criteria defined in FPC43, the SDM will refuse to approve it under that section.

Example: In the event an area outside of a cutblock is to be harvested, there must be an amendment to the approved operational plans to reflect the new cutblock boundaries before harvesting can commence - this may be a material change and if so, the amendment will require a 60 day review period prior to submission for SDM(s) approval. If the area of the cutblock is to be reduced in size but is still contained within the

approved area, this is probably not a material change and no review is required prior to submission to SDM(s) for approval as a minor amendment.

Note 1: The proponent must determine if a change to a plan is a material change but the SDM must also put his or her mind to this as part of the amendment approval process.

Note 2: The SDM should ensure that the amended operational plan remains consistent with any higher level plans and other operational plans and assessments that were in place before the amendment was approved. Please note that the definition of consistency in the OPR ("not in material conflict") does not mean, "identical to".

While there are situations where amendments are unavoidable, minimizing the number of amendments processed pays off in administrative efficiency. See Section 2.0 of this bulletin, Plan for Operational Flexibility.

Observation

Amendments under FPC34 to 38 cannot be required, they must be proposed by the proponent of the plan. However, failure to propose amendments when amendments are required by the FPC is a contravention of the FPC.

Legislative Amendment: Effective July 30, 1997, for all operational plans (FDP, LP, SP, SMP & RUP) operators are only prohibited from carrying out any operation on the **areas of proposed amendment** until the amendment is approved. Previously, operators were prohibited from working on the entire area until the amendment was approved.

11.0 Extensions

Under FPC18 and 19, the DM may extend the term of an FDP for a period not exceeding one year, either before or after the FDP expires. If the FDP does not comply with the current requirements of FPC41(1), then the holder who prepared the plan must amend the plan to the extent necessary in accordance with FPC18(8) and 19(5). Joint approval would be required if any amendments to the plan affecting a joint approval area were necessary, however, joint approval would not be required for the extension itself.

If the DM prepares the plan, only the regional manager has the authority to extend it. Regional managers will require documentation on the original plan approval rationale (if utilized) as well as details on the specific request for extension.

Observation

In determining if an FDP extension should be approved, the SDM should determine whether or not new higher level plan requirements or new legislated requirements, such as the new definition for "known information", have taken effect since the date of the FDP originally approved. While the onus is on the proponent to propose the required amendment, the approval lies with the SDM.

12.0 Salvage Operations

Minor Salvage

Under the definition, the allowable volume to be harvested has increased to 2000 m³ per

opening. This volume does not include any harvest from right-of-ways associated with the minor salvage operation.

Note: It is recommended that a single timber mark be used for timber to be harvested from the minor salvage area and associated right-of-way, however, it is important to maintain a separate accounting of any wood harvested from the right-of-way as it does not contribute to the 2000 m³ maximum allowed for in the minor salvage operation.

OPR18(1) lists the information requirements of an FDP. OPR18(2) indicates that a person does not have to meet the FDP information requirements if the operation is for minor salvage. So if the minor salvage is within the FDP area the content requirements are likely addressed. However there is no minimum standard, therefore, the DM must issue a notice up front with the requirements of the FDP, otherwise there is a risk that the FDP for minor salvage will not have any content requirements.

A person may not carry out minor salvage in the following areas unless an SP has been approved or if the SP is exempted, the DM has specified in writing the terms and conditions of the minor salvage operation (THPR28):

- a. riparian management zones;
- b. known forest ecosystem networks;
- c. wildlife tree patches;
- d. known old growth management areas;
- e. known ungulate winter ranges.

Observation

The DM in granting FDP or SP exemptions should consider the potential lack of content issue and express content needs in the terms and conditions. In addition, the terms and conditions should identify to the persons carrying out the harvesting the locations of the 5 items listed above because they are very site specific and would have been shown in an operational plan.

Special Forest Products

Special forest products are defined in the Forest Act as, "... poles, posts, pilings, shakes, shingle bolts, Christmas trees and other similar forest products designated by regulation as special forest products." The FPC allows the DM to exempt persons harvesting only special forest products from the requirement to prepare LPs and SPs.

The OPR specifies that the harvesting of special forest products is considered a "minor salvage operation" with the exception that there is no 2,000 m³ upper limit.

Expedited Major Salvage Operation

This is defined as harvesting salvage materials or carrying out sanitation treatments where the volume to be harvested is greater than 2000 m³ per opening and the operations must be expedited to prevent the spread of insects or to harvest timber that is

deteriorating in quality and value. This volume does not include any harvest from right-of-ways associated with the salvage operation. This level of harvesting requires an FDP or an amendment to an existing FDP.

Generally, all the requirements of an FDP are required of an amendment to an FDP for expedited major salvage. One exception is the review period. Proposed expedited major salvage requires a notice in a newspaper and a review period of at least 10 days (instead of 60).

13.0 Woodlot Program

Amendments to the FPC provide the regulation making authority to create a simplified Woodlot Licence Forest Management Regulation (yet to be finalized) that is tailored to the needs of woodlot licences. When this regulation is brought into force, the OPR, SPR, THPR and FRR will not apply to woodlot licences. The last section of the new OPR states that the rules of the old OPR continue to apply to woodlot licences. There will be no changes to operational planning requirements for woodlot licences until the Woodlot Licence Forest Management Regulation comes into force.

The current Forest Act requirement to produce a management plan (MP) and a CP will be maintained, however it is anticipated that the MP will focus on AAC related matters.

14.0 Transition

The operational planning regulation, the forest road regulation, the timber harvesting practices regulation and the silviculture practices which were deposited April 2, 1998 will become effective June 15, 1998. For SPs, the four month rule in FPC12(b)(ii) does not apply which means that any SP submitted for approval on or after June 15, 1998 must meet the new requirements in the OPR. The four month rule in FPC10(1)(d)(ii) which relates to forest development plans, does apply. This means that FDPs submitted on or after June 15, 1998 but before October 15, 1998 must meet the requirements in the OPR that was in effect prior to June 15, 1998. On or after October 15, 1998, FDPs submitted for approval must meet the requirements in the new OPR.

On or after June 15, 1998 logging plans will **not** be required by statute, except for those cutblocks where a silviculture prescription was put into effect or approved before June 15, 1998, or where an exemption from the requirement for a silviculture prescription was given before June 15, 1998. In those cases, if a logging plan was required prior to June 15, 1998, it continues to be required and is to be prepared in accordance with the Operational Planning Regulation that was in effect before June 15, 1998.

Note: The transition provision does not capture those silviculture prescriptions submitted for approval before June 15, 1998 but not approved before June 15, 1998. Therefore a logging plan is not required after June 15, 1998 on those blocks where a silviculture prescription was submitted for approval but not approved before June 15, 1998. It is recommended the district send a letter advising plan proponents on how the transition for no longer requiring logging plans will be handled.

On or after October 15, 1998, cutblocks that were approved under the previous OPR requirements for FDPs are deemed to be approved category A cutblocks if the cutblocks have an approved SP, an SP that has been submitted and meets the requirements of OPR18(1)(t) to (x) or have an approved CP.

15.0 Contacts

For any questions regarding this administrative bulletin, please contact your **regional tenures officer** or one of the following:

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