BRITISH COLUMBIA

What's New in *FRPA* (2005)

FRPA Training
Presenter Materials

Overheads and Speaking Notes

BRITISH COLUMBIA
Ministry of Sustainable Resource Management

BRITISH COLUMBIA
Ministry of Water, Land and Air Protection

March 2005

NOTE TO PRESENTER: this topic is the slides and notes for the Host to deliver

Introduce yourself.

Welcome participants:

Welcome to the What's New in *FRPA* (2005) Module—a 1 day session covering the changes to the legal requirements under the *Forest and Range Practices Act* (*FRPA*) arising from:

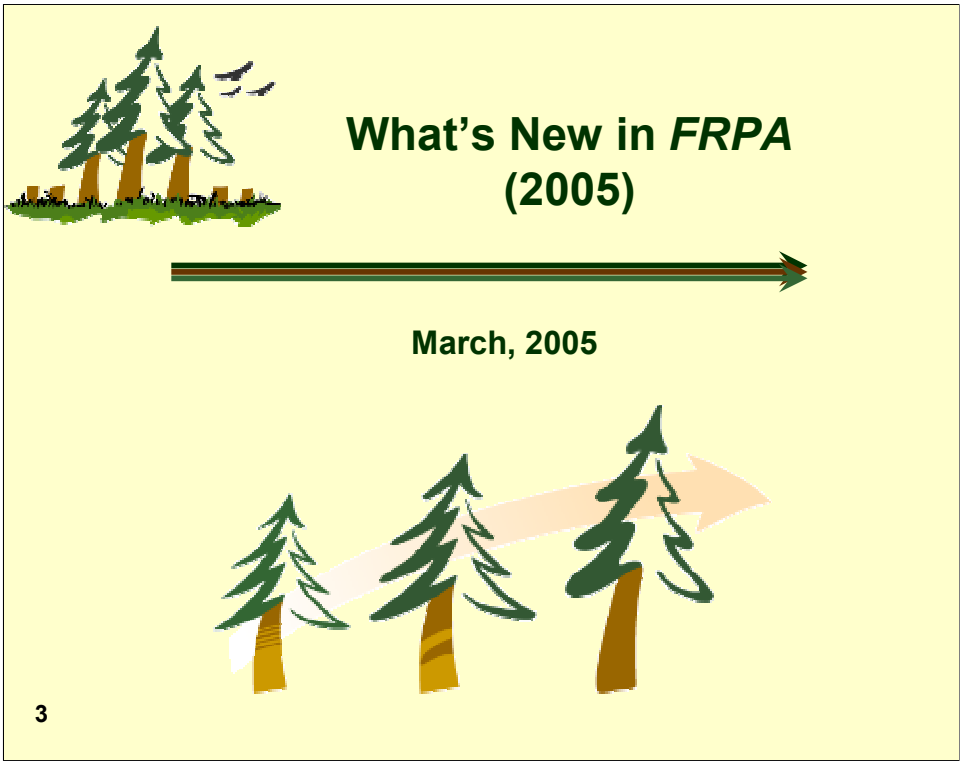
- Bill 33 amendments to *FRPA*, passed in May 2004;
- *FRPA* regulations in force as of December;
- Bill 3 amendments to *FRPA* passed in February, 2005;
- Regulation amendments passed in February, 2005; and,
- Other new *FRPA* components brought in since January 2004.

This session will be delivered by policy, legislation and implementation specialists from industry, agencies and the professionals associations. We have assembled a very strong and knowledgeable team of presenters to explain and address your questions on the intent of the recent changes that impact the development and approval of Forest Stewardship Plans.

Introduce presentation team members with affiliation.

Introduce the day's session with the following key points:

- *FRPA* amended
  - Since *FRPA* came into force in January 2004, initial implementation efforts revealed a number of gaps in the regulatory requirements. Over the past year, a team of policy and legislation specialists have worked to revise *FRPA* and the regulations to address these items.
  - As you will hear today, the amended *FRPA* remains consistent with the government's commitment to streamline the Forest Practices Code to establish a workable, results-based code with tough penalties for non-compliance
  - We haven't raised or lower the standards for environmental stewardship—merely addressed some of the administrative inefficiencies of the FPC
- Partnership
  - The development of the legislation and the delivery of this training has been done as a partnership between the various resource agencies, industry and the professional associations
  - Many positive outcomes have resulted from the various organizations working together to develop these products.
- Shift to implementation
  - The process of developing and amending *FRPA* is now done
  - The focus shifts to implementation. There is general agreement with Industry that *FRPA* is now ready to use.
  - Aside from a few minor housekeeping changes, we anticipate a stable policy environment until 2006
  - The charge to everyone in the room is to move forward with *FRPA* implementation in the spirit of *FRPA* partnership. There are many benefits in the *FRPA*—including reduced costs and processes along with increased opportunities for innovation and flexibility. By working together, we can realize these benefits sooner and to a greater extent. I encourage you to embrace this new, more efficient way of doing business and move forward with the new model

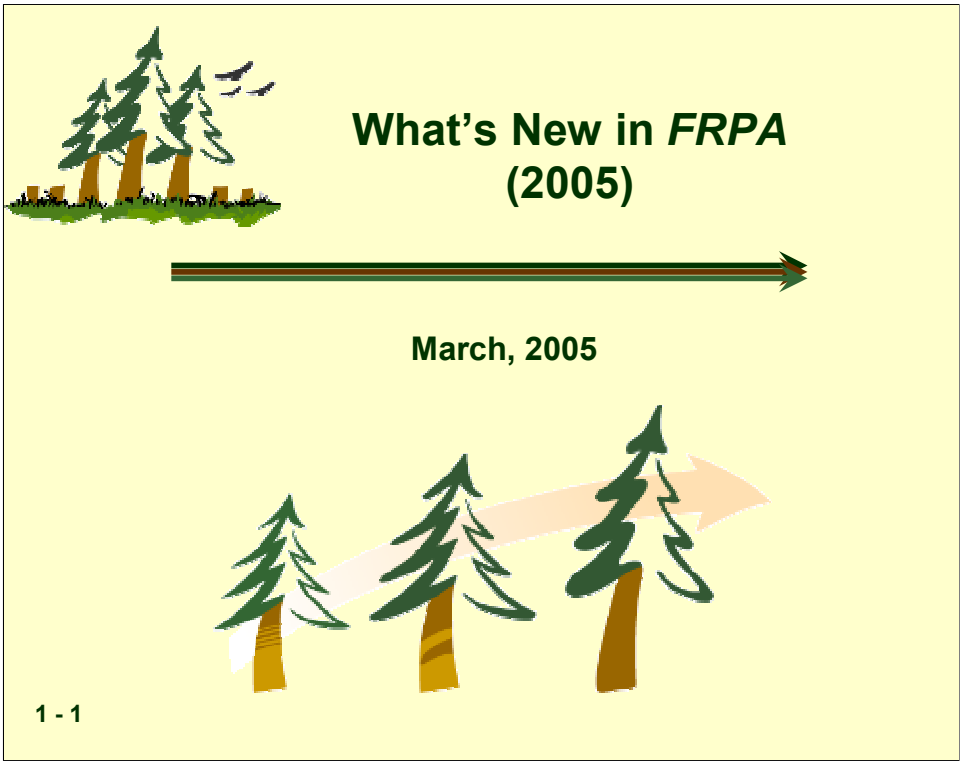


Close your introduction by stating:

I encourage everyone in the room to take full advantage of the knowledge and expertise of the presenters. Listen closely to the changes and use the question and answer sessions to clarify your understanding.

Thank the presenters for coming to this location and delivering the training

Introduce the first presenter (Facilitator) and hand the floor over to them to begin the training.



Welcome to the What's New in *FRPA* (2005) Training

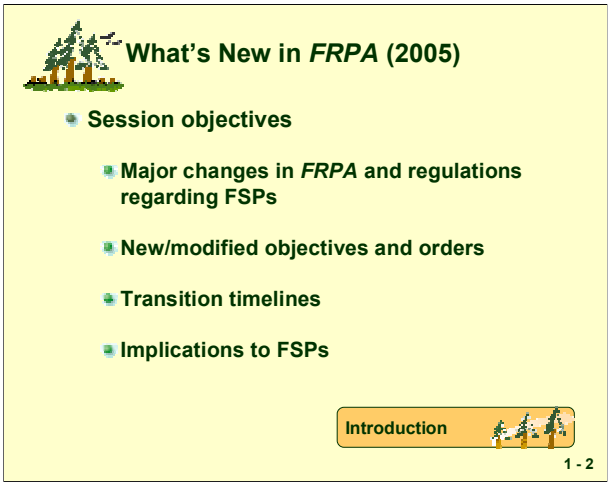
Thank you for attending. Introduce yourself and the rest of presenters.

Explain the logistics of the day:

- coffee breaks and lunch (1 hr.);
- Housekeeping – washrooms, phones etc.; and
- Ask participants to turn off cell phones and mute blackberries (On the main screen, scroll down through the icons until you reach the airplane. The text on the bottom of the screen will say 'Turn Wireless Off'. Click on the airplane icon to turn off your Blackberry. The icon will turn into an antenna).

Provide basic safety information:

- location of PRIMARY exits, AND AN ALTERNATE EXIT (in case primary is blocked);
- location of fire extinguishers and alarm pull stations (usually near exits); and
- where they should assemble outside (away from arriving Fire Apparatus) so they can be given "further instructions".



The What's New in *FRPA* (2005) module is designed to cover the changes to Forest Stewardship Plan requirements under the *Forest and Range Practices Act* (*FRPA*). These changes arise from:

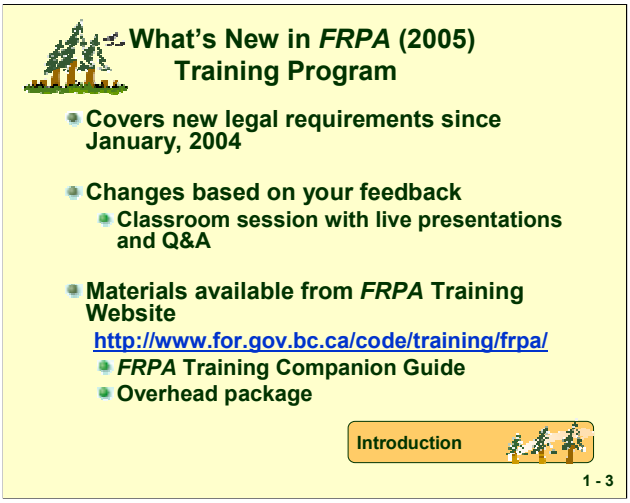
- Bill 33 (May, 2004),
- Bill 3 (February, 2005),
- *FRPA* regulations which were brought into in force as of December 2004, and
- Minor changes in the *FRPA* regulations expected in Spring, 2005.

Specifically, this session addresses the following:

- the major changes to the *FRPA*, Forest Planning and Practices Regulation (FPPR) and Government Actions Regulation (GAR);
- the objectives and orders brought into force including objectives for visual quality and non-spatial old growth and the provisions in place for delivering wildlife conservation (e.g., notices for species at risk, notices for section 7 of FPPR containing information on the area, distribution and attributes of areas for conserving habitat). Not all these objectives have been brought under the *FRPA*—for example, the Provincial non-spatial old growth order was brought in under the FPC;
- the new transition timelines; and
- the implications of the changes for developing, reviewing, approving and implementing Forest Stewardship Plans (FSP).

NOTE: this training session covers the major changes to *FRPA* and regulations impacting FSPs

- This training program is one of many training programs on the implementation of *FRPA*. This program is not a replacement for other training but is designed to link to other programs (e.g., DDM workshops, AGFSP workshops, wildlife training by COFI/WLAP)
- Other changes such as changes to woodlots and range plans and practices are not covered in this training program.

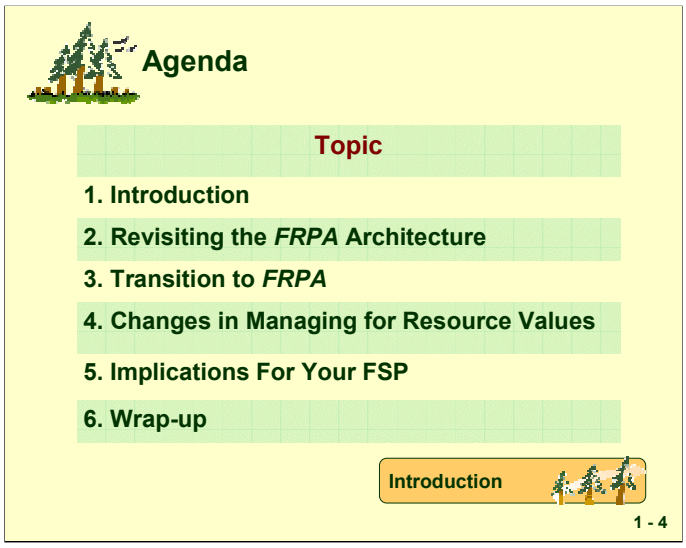


The What's New in *FRPA* (2005) training program has been changed based on your feedback over the past year. Today's session includes:

- Classroom session—a 1 day session delivered live by policy experts, and others involved in the implementation of *FRPA,* who can explain the changes and address your questions direct without you having to submit questions to a Q&A website.
- Updated *FRPA* Training Companion Guide—the Companion Guide from the February 2004 training has been updated:
  - to reflect the changes in legislation and new orders brought into force. These changes are shown in red in your book
  - Summary pages have been added at start of each chapter listing major changes relevant to that chapter
  - Some chapters have an "implications" page listing the impact of the changes on your operations (e.g., what do the changes mean to an FSP already submitted)
- Overhead package—containing copies of the overheads for you to follow the session and make notes

NOTE to presenter:

- Check participants received materials.
- the materials may not be printed in time to hand out at the session. All materials will be available from the *FRPA* website.
- Point out to participants—all training materials are available from the *FRPA* Training Website including copies of the Companion Guide and overhead package
- The *FRPA* Training Companion Guide contains the major changes to *FRPA* and regulations. We encourage you to review the summary of changes pages at the start of each chapter. Changes are also highlighted in red throughout the Guide. However, the Guide is only a guide. You need to review the *FRPA* and regulations for a full understanding of the changes and requirements.

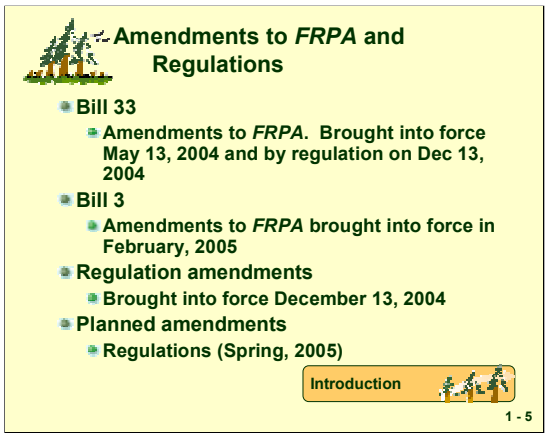


Review the Agenda for the session

1. Following my introduction to the session…
2. [Name of Presenter] will revisit the *FRPA* architecture and provide a short review of the key components of *FRPA* to ensure we have a common foundation from which we can explain the changes that have occurred over the past year
3. [Name of Presenter] will discuss the major changes in the transition provisions
4. [Name of Presenter(s)] will follow with an outline of the major changes in how we manage for resource values—such as the new objectives established in regulation and through orders and notices
5. Next, [name of presenter(s)] will discuss the implications of these changes to FSPs you may be starting or have drafted. These changes include the new professional certification provisions and changes to the provisions around results and/or strategies. We will also cover a discussion on lessons learned over the past year based on feedback from our industry partners and their experience developing FSPs
6. Finally, I will wrap-up the session with a summary and opportunity to provide feedback on the session

- There will be opportunities for questions at the end of topics 3, 4 and 5. Since we have a lot of material to cover, I'd ask you to please hold your questions until the end of each segment.

Questions?



NOTE TO PRESENTER: the overhead has changed from the participant material. The third and fourth bullets on Bill 3 were added. The second last bullet stating "*FRPA* (Spring, 2005)" was deleted.

Discuss how the change to *FRPA* were made.

The legislation was amended through several vehicles and timeframes:

- Bill 33 amended the *FRPA*. Some of these amendments were brought into force on May 13, 2004 and some on December 13, 2004
- Bill 3 amended *FRPA* in February, 2005 to extend transition dates by one year.
- The regulations are being amended through two packages—December 13, 2004 and Spring 2005 (planned)

Regulations amended and brought into force December 13, 2004 include:

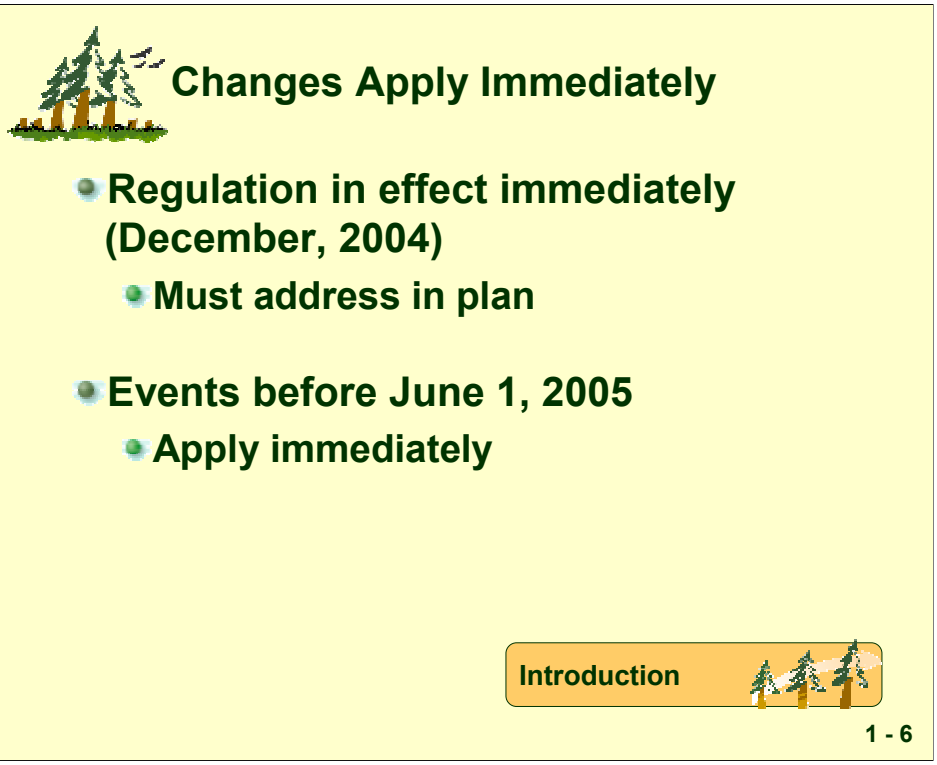
- Amendments to the Forest Planning and Practices Regulation including changes to the FPPR to add objectives for community watersheds and fisheries sensitive watersheds (brought into force February 23, 2005)
- A new version of the Government Actions Regulation with similar provisions and a slightly different process and test for new orders
- Amendments to four other *FRPA* regulations

Planned amendments for 2005 (that we will not cover in detail today) include the following. NOTE to Presenter—if these changes are introduced by the time of delivery, add details on the date of the amendment

- Minor changes to the Woodlot Planning and Practices Regulation, Range Planning and Practices Regulation, Administrative Orders and Remedies Regulation, and Fort St. John Pilot Project Regulation are planned for Spring, 2005

NOTE to Presenter:

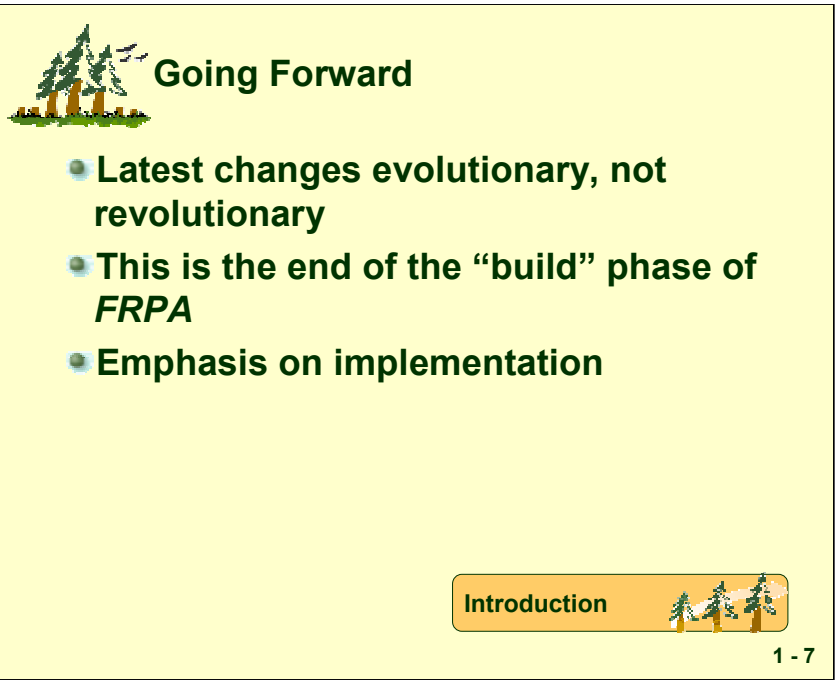
- If asked about the four other regulations amended on December 13, 2004, they are as follows:
  - Securities for Forest Practices Liability Regulation
  - Administrative Remedies Regulation
  - Woodlot Planning and Practices Regulation
  - Ft St John Pilot Project Regulation



NOTE TO Presenter: This overhead has changed from the participant material. The last two bullets from the overhead have been removed to reduce the amount of detail presented in the introduction topic.

- The FPPR came into effect immediately (December 13, 2004). All the requirements such as new objectives in FPPR for visual quality must be addressed in forest stewardship plans.

- Events that take place before June 1, 2005 take effect immediately (e.g., any objective or standard made under parts 2 and 3 of the FPPR) and must be addressed in the FSP (section 2(4) of FPPR). Plans already under development, including advertised and submitted for review, must be consistent with these changes.



The changes to *FRPA* and regulations we are covering today follow the same principles we used to create *FRPA*

There is general agreement with industry on the need to stabilize the legislation and regulations for a period of time so that any further amendments can be made with the benefit of some real-world experience

Our expectation is that there will be no further amendments to *FRPA* or regulations in the foreseeable future (other than the full extension of transition timeframes planned for Spring, 2005). Amendments will be made if "fatal errors" were found and needed to be fixed as soon as possible

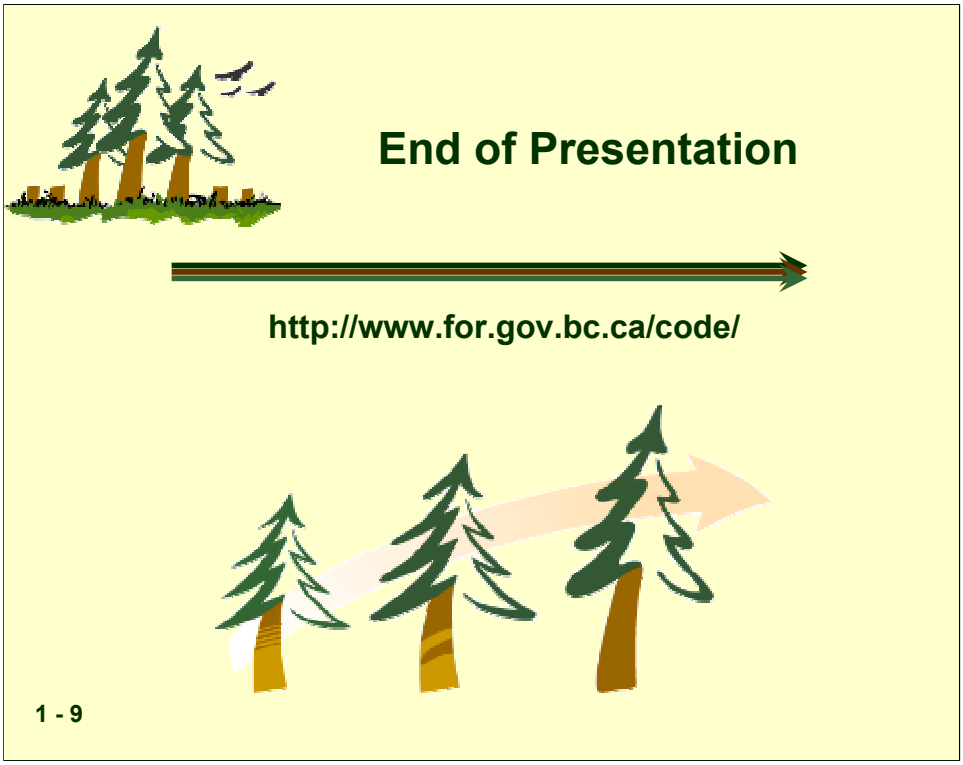
NOTE TO PRESENTER: this overhead has changed from the participant material. The phrase "Clearly signal and partially" was deleted from the first bullet.

The changes to *FRPA* and regulations remains consistent with the government's New Era commitment to streamline the Forest Practices Code to establish a workable, results-base code with tough penalties for non-compliance.

We have not raised or lowered the bar regarding environmental protection. These changes were made to the original legislative package to:

- Provide a one year extension to transition period as few licensees and BCTS had moved to *FRPA* during 2004 while the final wording of regulations were in flux.
- Allow government to put in place more robust resource management objectives to guide FSP content
- Resolve some inefficient regulatory requirements that came to light during the initial implementation period in 2004.
- Provide authority for resource professionals to "certify" that certain FSP content elements meet legislated approval tests

In summary, the cut-off dates for transition have all shifted by one year (e.g., FDPs now expire in December, 2006)

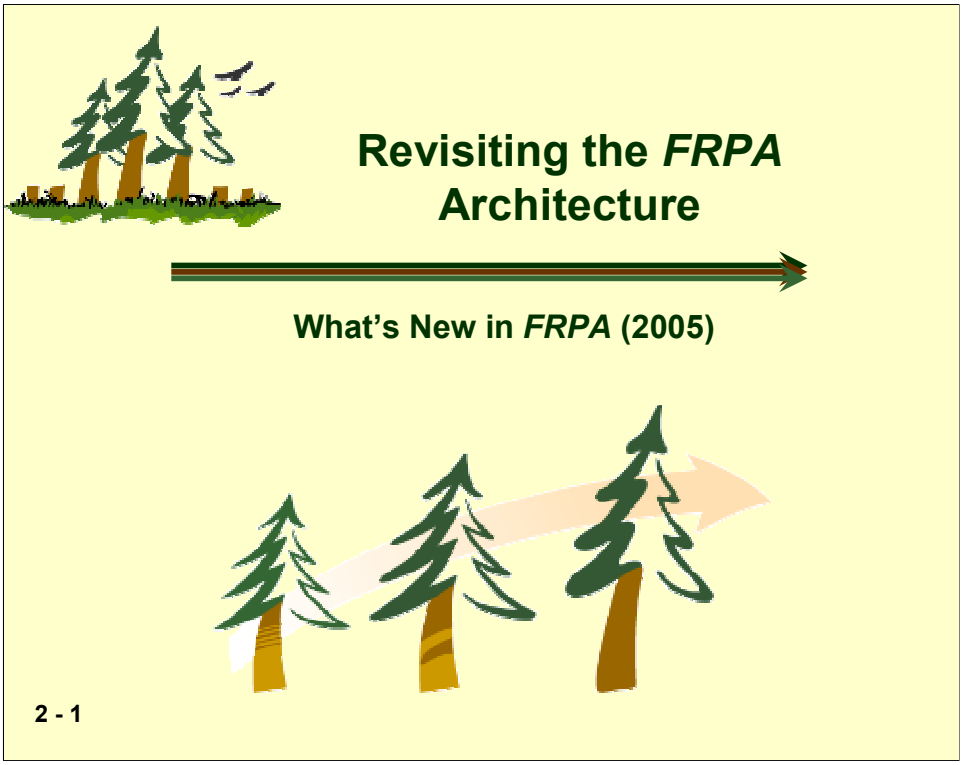


Point out the URL for the *FRPA* website shown on the overhead and other overheads in this training.

This URL is the central point for the training materials and other information on *FRPA* such as orders and reference material. A linkage will be available to the PFIT implementation website containing the Objectives Matrix, Administrative Guide for FSPs (AGFSP) and other information to assist forest practitioners implement the *FRPA*. This implementation website is expected to be available to everyone very soon (if not already by the time the training is delivered).

NOTE to Presenter:

- Introduce the next presenter and hand the floor over to them to begin Topic 2: Revisiting the *FRPA* Architecture.

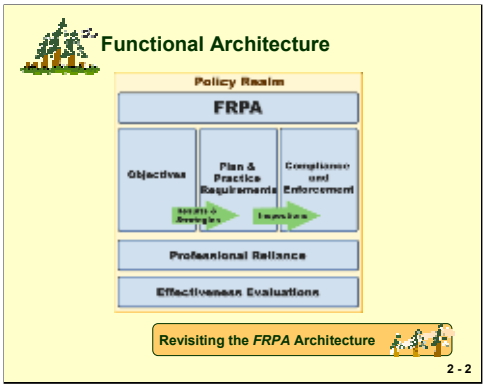


Before we go into what has changed, let review the key concepts of *FRPA* for the benefits of participants who may not have had any further exposure to *FRPA* since the training in February, 2004. First, the highlights of the *FRPA* architecture and the elements related to Forest Stewardship Plans.

Please hold your questions until the end of the topic(s) in order to ensure we can cover all the material

NOTE TO PRESENTER(S):

- Refrain from quoting section numbers of the *FRPA* and regulations unless asked by participants. The section numbers have been included in the speaking notes for your benefit should you wish to read the legislation corresponding to the overhead

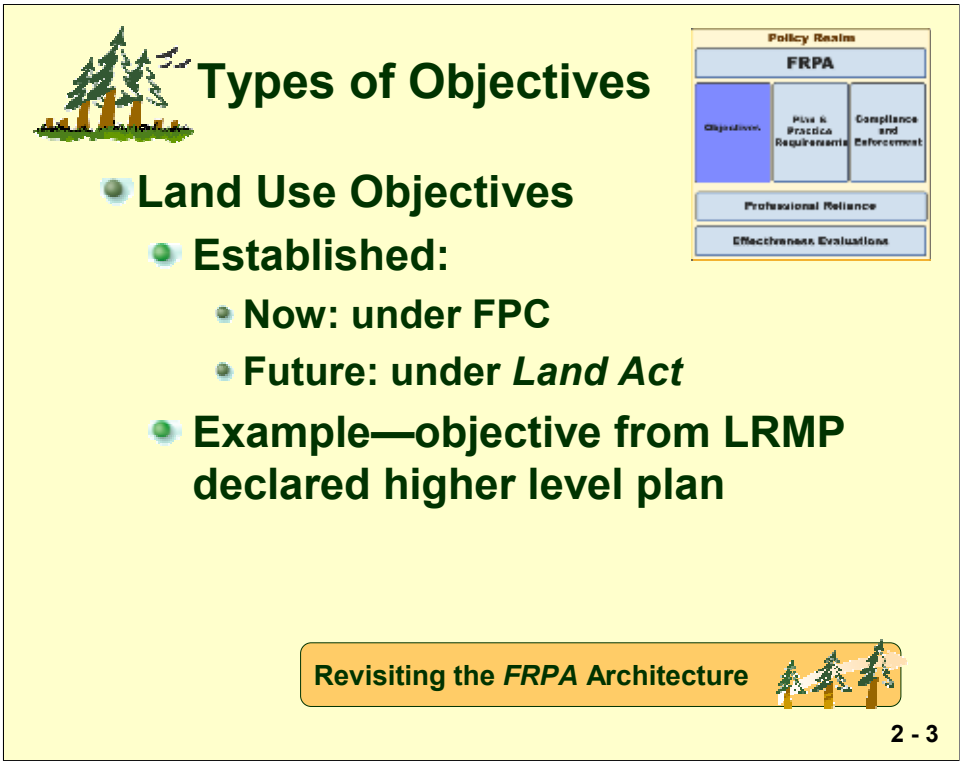


As you may recall from the last training, the Functional Architecture of *FRPA* includes three pillars:

- **Objectives**—government establishes objectives for conserving, managing and/or protecting *FRPA* values.
  - Government objectives can be land use objectives (a wide range of objectives depending on the Land Use Objective Regulation), objectives in regulation (finite number of objectives) and objectives enabled by regulation such as the Government Actions Regulation (GAR)
  - Government objectives are fundamental to the *FRPA* model. A full suite of objectives needs to be in place for the model to be most effective.
  - Not all objectives are in place. Over the past year, government has established the minimum level of objectives to get *FRPA* working.
  - Government is continuing to establish objectives.
- **Plan and Practice Requirements**—those conducting practices must meet requirements in both approved operational plans and in the regulations.
  - Operational plans such as the FSP must contain results and/or strategies consistent with government established objectives. Operational plans must also contain measures to address requirements in the *FRPA*. The Forest Stewardship Plan (FSP), one type of operational plan, must also contain stocking standards
  - Additional practice requirements in the *FRPA* and regulations must be met by everyone when conducting harvesting, road building and silviculture activities regardless of whether they are required to prepare an operational plan or not.
  - Most practice requirements can be changed either in the FSP or by application to the responsible Minister. Practice requirements that can be changed are identified in sections 12.1-12.5 of FPPR (alternative results and/or strategies) and sections 91 and 92 of FPPR (exemptions by ministers)
- **Compliance and Enforcement**—government will inspect activities for compliance with approved operational plans and other practice requirements in *FRPA* and the regulations.

The three pillars are supported by:

- **Professional Reliance—**the judgement of professionals will be incorporated into the management of Crown land subject to the regulations and other requirements including provisions of the professional associations. We will talk more about this in a topic later today.
- **Effectiveness Evaluations—**government will evaluate effectiveness of the *FRPA* model in a qualitative and quantitative way to see if desired outcomes for conserving *FRPA* values are being achieved. Effectiveness evaluations will not be covered in today's training. Effectiveness evaluations are a MOF service delivery program delivered in partnership with Industry and are an important feedback loop for assessing the delivery of objectives on the land base.



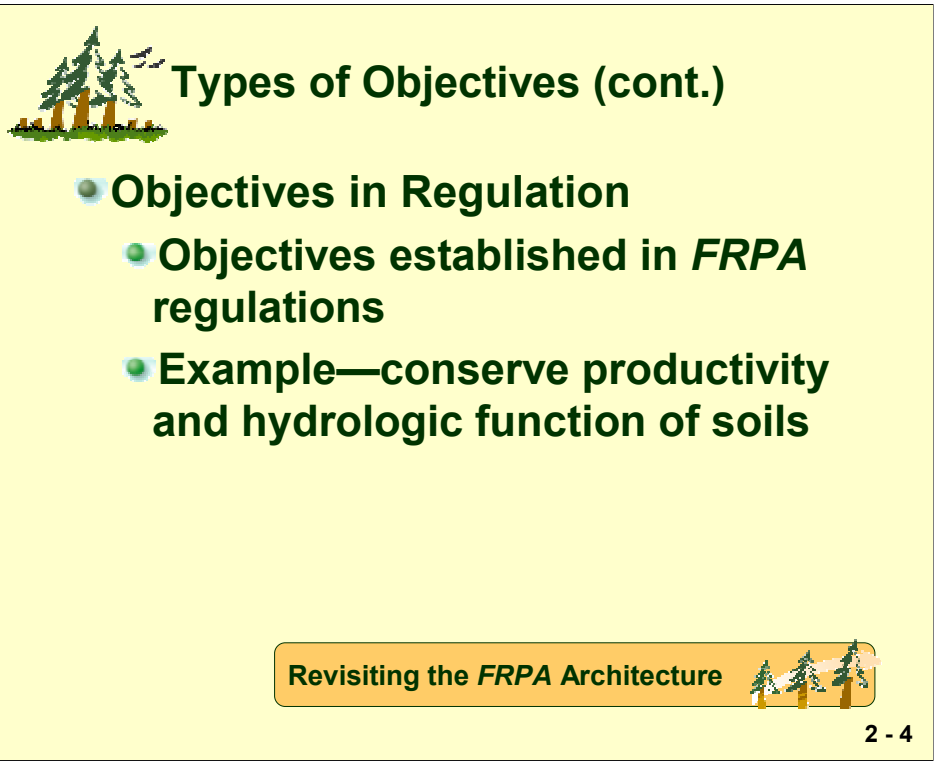
The first type of objective government can establish are Land Use Objectives:

What are they:

- Land use objectives are those in higher level plans established or continued under s. 3-4 of *Forest Practices Code of BC Act.*
- In the future, they will be established under the *Land Act* once amendments to the *Land Act* and Land Use Objectives Regulation (LUOR) are brought into effect (anticipated to be later this year)
- Minister of MSRM establishes land use objectives through Orders (once *Land Act* and regulations in effect)

Example:

- Objectives from regional land use plans, LRMPs and landscape unit plans that are declared higher level plans by government. Objectives in plans such as policy LRMPs that are not declared higher level plans are not land use objectives. The MSRM is preparing a backgrounder with additional information on policy LRMPs.



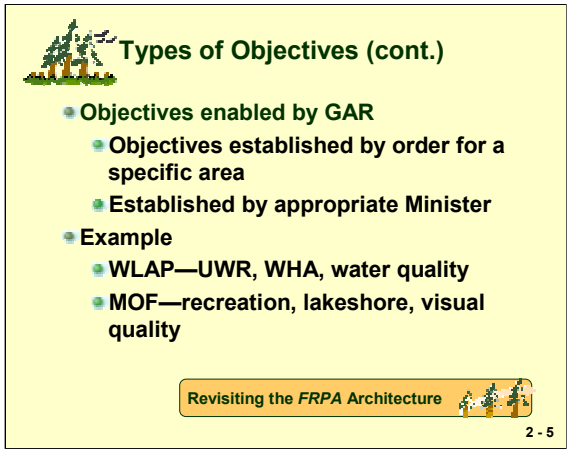
The second type of objective the government can establish are those objectives contained in the regulations.

What are they:

- Objectives in Regulation such as the FPPR for FSPs, WLPPR for WLP and RPPR for range operational plans
- They apply province-wide, and are the most general type of objectives.

Example:

- The FPPR contains 10 objectives in the regulation (including objectives established or amended in December 2004 and February 2005 that we will cover later this morning)
- The objective in FPPR for soils is to conserve the productivity and the hydrologic function of soils without unduly reducing the supply of timber



NOTE TO PRESENTER: the overhead has changed from the participant's handout. The first bullet has changed from "Objectives Enabled by Regulation" to "Objectives Enabled by GAR".

Regulations enable the government to establish the third type of objective. We will cover these in more detail in Topic 4—Changes in Managing Resource Values

What are they:

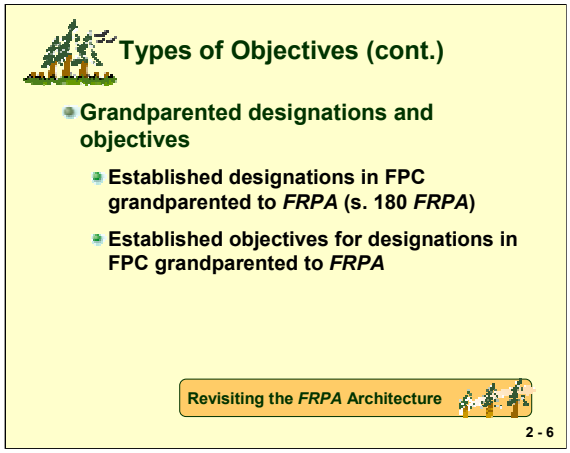
- Objectives enabled by the Government Actions Regulation (GAR) are established by Order under the authority of the appropriate Minister for a specified area.
- These objectives are not stated in the GAR, but the legislation gives authority to ministers to:
  - Designate an area
  - Establish an objective for the designated area

Establishment:

- The various ministers may designate areas and establish objectives enabled by GAR for these areas. Objectives can only be established if protection is not otherwise provided for elsewhere (e.g., consistency test with previously established objectives, timber supply test)

Example:

- WLAP—may designate areas and establish objectives for ungulate winter range, wildlife habitat areas, fisheries sensitive watersheds. The Minister of WLAP may also establish water quality objectives for community watersheds (s. 149.1, 150, of *FRPA*).
- MOF—may establish lakeshore management zones and objectives; and Visual Quality Objectives for scenic areas. MOF also has authority to establish interpretive forest sites, recreation sites and recreation trails and objectives for them (s. 150.2, 150.3, 56 of *FRPA*).
- NOTE: MSMR may designate scenic areas and community watersheds (s. 150, 150.3 of *FRPA*)



NOTE TO PRESENTER—this overhead replaces the version in the participant's material.

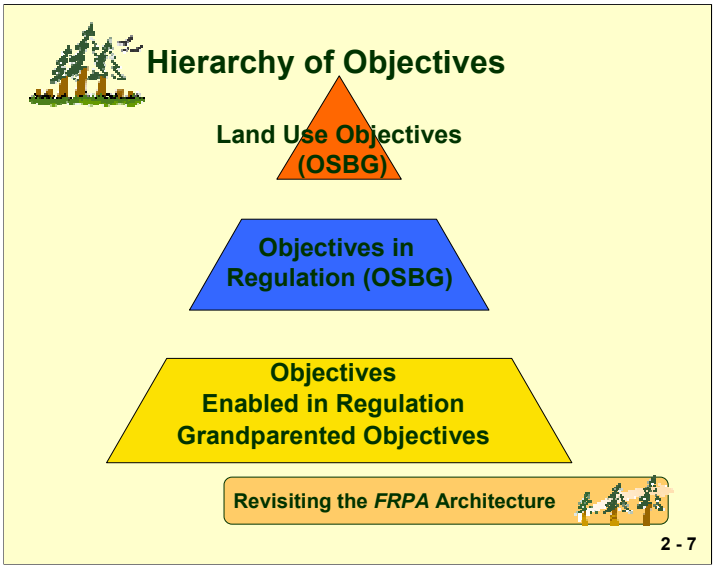
Continued from previous slide….

Grandparented Objectives

- Established designations in FPC were grandparented to *FRPA* (s. 180 of *FRPA*)
- Objectives for established designations in FPC have also been grandparented to *FRPA* to ensure continuation of objectives established under FPC into the *FRPA* world (s. 181 of *FRPA*)

NOTE TO PRESENTER:

- If asked for examples of grandparented objectives--not many objectives existed in FPC world. Those that qualified under section 181 of *FRPA* were grandparented into *FRPA* world. These are not land use objectives that were grandparented under sections 3-4 of FPC



Hierarchy of objectives

- In the event of inconsistency, there is a hierarchy of objectives. This hierarchy is intended to help clarify, for licensees and DDMs, how the various objectives apply to the land under a Forest Stewardship Plan.

Overriding Objectives

- Objectives from other statutes can work as *FRPA* objectives (e.g., a water quality objective established under the *Drinking Water Protection Act* can be a higher level plan and become objectives under *FRPA*).

Land Use Objectives (OSBG) —s. 3-5 of FPC

- These objectives will always prevail over other objectives, to the extent that other objectives are inconsistent with the land use objectives. These objectives will soon be established under the *Land Act*.

Objectives in Regulation (OSBG)—s. 149 of *FRPA*, sections 5-10 of FPPR

- These objectives are broad and generalized, and apply provincially.

Objectives Enabled by Regulation--s. 56, 149.1-150.3 of *FRPA*, s. 5-15 of GAR

- These objectives, established by the appropriate ministers, will typically apply to specific types of areas.
- They must "be consistent" with the more general objectives set out in regulation, and also with government's land use objectives.

Grandparented Objectives—s. 181 of *FRPA*

- Objectives for specified items under the FPC are grandparented into *FRPA* as objectives

NOTE TO PRESENTER: this overhead has changed from the participant's material. The URL for the link to the Objectives Matrix was added.

The Objectives Matrix contains more information on objectives that apply in an area:

- Land use objectives
- Objectives in regulation (FPPR)
- Objectives enabled by regulation
- Grandparented objectives

Tool to support the pre-FSP information gathering process by licensees and BCTS

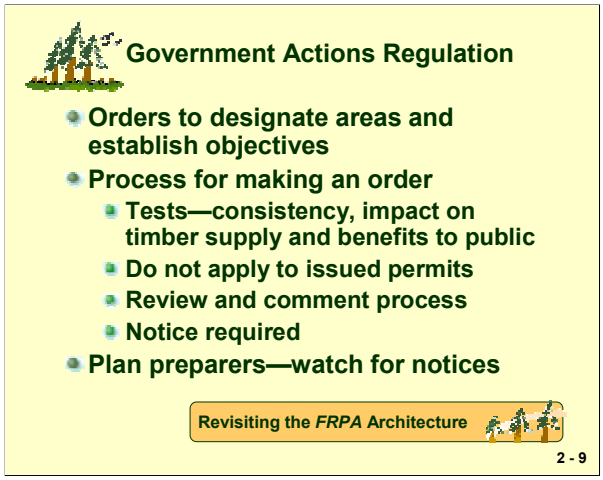
- The Objectives Matrix is not part of the FSP nor does it address other requirements of the FSP.
- It is not static or stable—check on a regular basis
- Created under the Provincial *FRPA* Implementation Team

The Objectives Matrix will be available on the Provincial *FRPA* Implementation Team (PFIT) website. The PFIT website will have a link from the *FRPA* website

- http://www.for.gov.bc.ca/code/

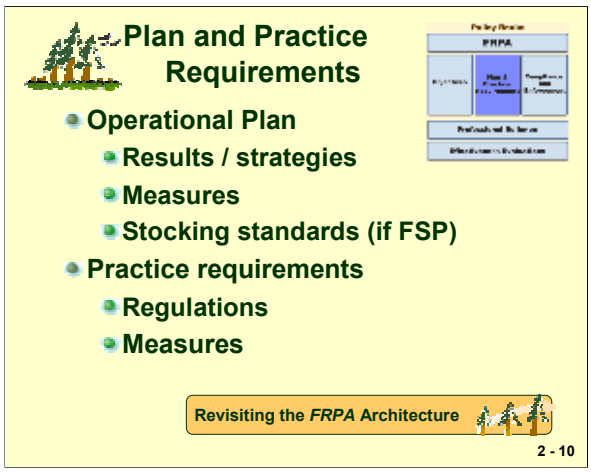
NOTE TO PRESENTER:

- If the PFIT website is available at time of delivery—provide participants with the URL



- **The Government Orders Regulation (GAR) has been repealed and replaced with a new GAR (effective December 13, 2004).**
  - GAR covers the orders that Ministers can make to designate areas and establish objectives (e.g., objectives for visual quality, water quality, lakeshore management zone)—section 5-15
  - The enabled objectives that used to be under s. 11 of FPPR have been moved under GAR so they are all in one place
  - GAR contains provisions for grandparenting designations and objectives from FPC to *FRPA* (s. 16-19)
- **GAR also contains provisions for the process of making an order. Those putting orders in place must run through these tests. The tests have been changed and made more specific:**
  - The Minister will conduct a test involving:
    - Consistency—order must be consistent with established objectives
    - Timber supply—order not unduly reduce the timber supply from BC forests
    - Benefit to public—outweighs any material adverse impact on delivered wood costs and any undue constraint on the ability of agreement holder's rights to access and harvest timber under an agreement
  - Orders do not apply to issued permits (CP/RP TSL's,), declared areas, roll over cutblocks from FDP's
  - There is a review and comment period before objectives are established
    - Opportunity for review and comment applies to agreement holders. The minister must consult with any licensee for whom the order may have a material adverse effect.
    - There is no public review and comment requirement
  - Notices communicating the orders will be posted on the ministry web site, published in the Gazette, and publically available at the MOF regional office.

- **An important note to agreement holders—**when you receive an opportunity to review and comment on a draft designation or objective (under the GAR process), make sure you look at it. The opportunities are important and may have a time period associated with them. If you delay in reviewing the draft order, you may miss the opportunity to review/comment.



The second pillar in the *FRPA* functional architecture is the plan and practice requirements that must be consistent with government objectives.

Plan and practice requirements include:

- **Requirements for operational plans (such as FSPs). Plans must contain:**
  - results and/or strategies that are consistent with the government objectives that apply to the plan area. There are "default" practice requirements in regulations such as FPPR for some of the government objectives. These "defaults" are deemed to be consistent with the corresponding objective. Licensees can choose to use these defaults or propose alternatives. NOTE: not all objectives in FPPR have "default" practice requirements
  - Measures such as for preventing the introduction or spread of invasive plants and mitigating the impact of the removal of natural range barriers
  - Stocking standards, if a FSP

- **Other Practice requirements**
  - Other practice requirements in regulation apply to everybody including those exempt from having to prepare an operational plan. Exemptions from some practice requirements may be granted by the applicable minister or through alternative results and/or strategies in the FSP
  - Measures: regulations contain measures in the practice requirements. For example, the FPPR requires requirements to comply with general wildlife measures (GWM) and forest health measures.

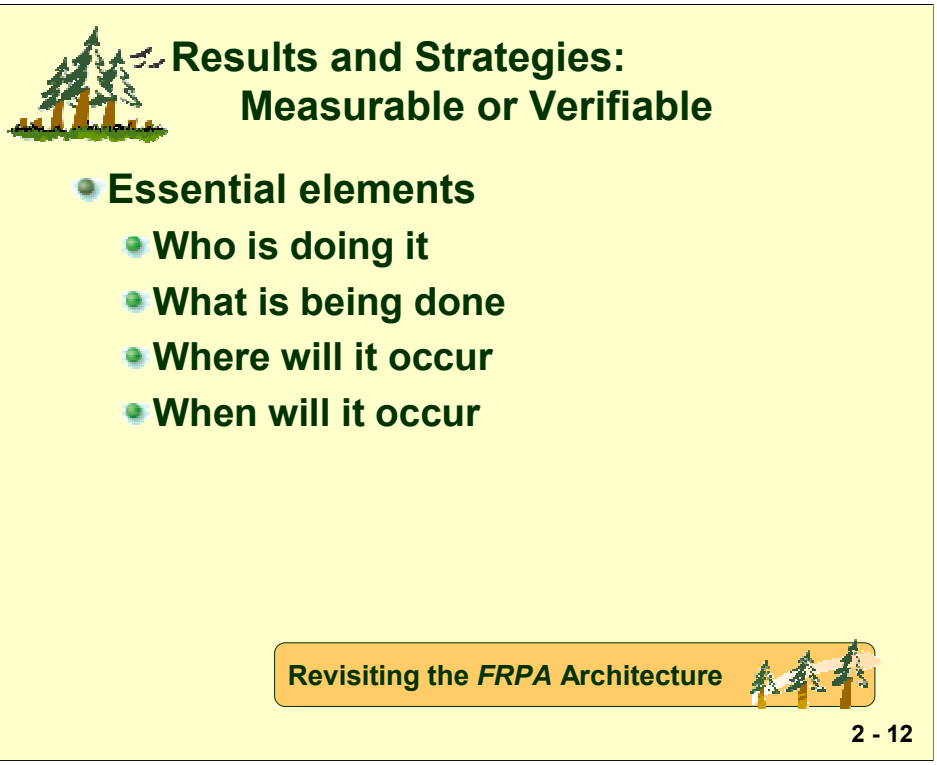
Plan and Practice Requirements

- Results and strategies
  - Measurable
  - Verifiable
  - Circumstances where apply

Revisiting the *FRPA* Architecture

2 - 11

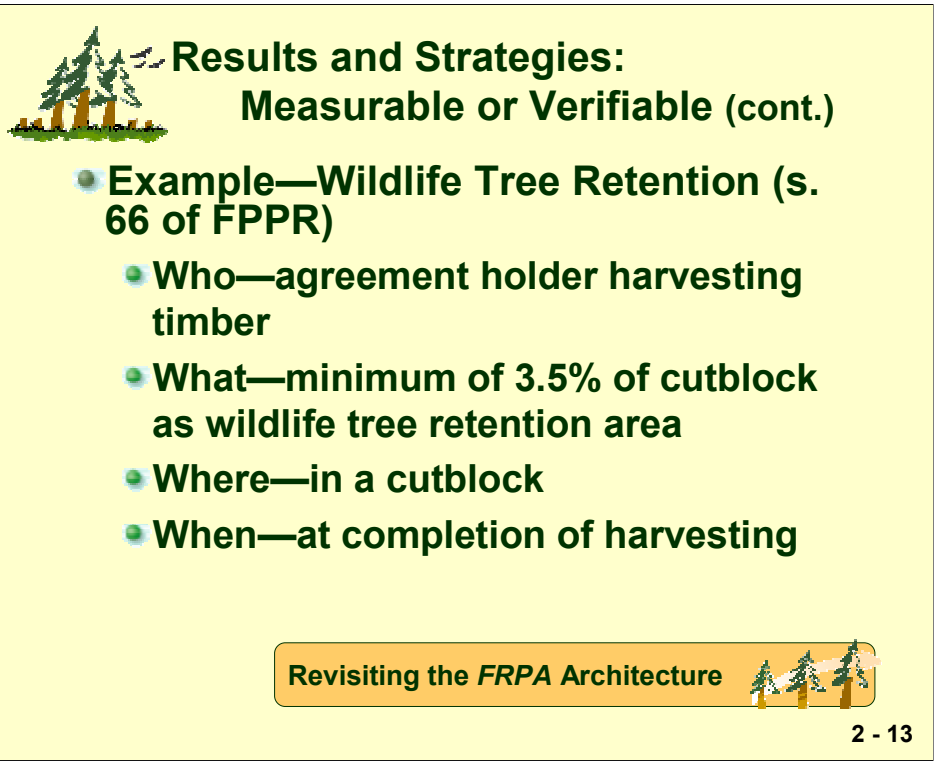
Results and strategies must be consistent with government objectives. They must be measurable, verifiable and describe the circumstances where they apply



To draft a result and/or strategy that is measurable or verifiable, you should address the following essential elements with additional information that can be used to determine if the outcome has been achieved (e.g., may involve numbers for an end result that can be examined or demonstrated).

The essential elements include:

- Who is doing it
- What is being done
- Where will it occur
- When will it occur

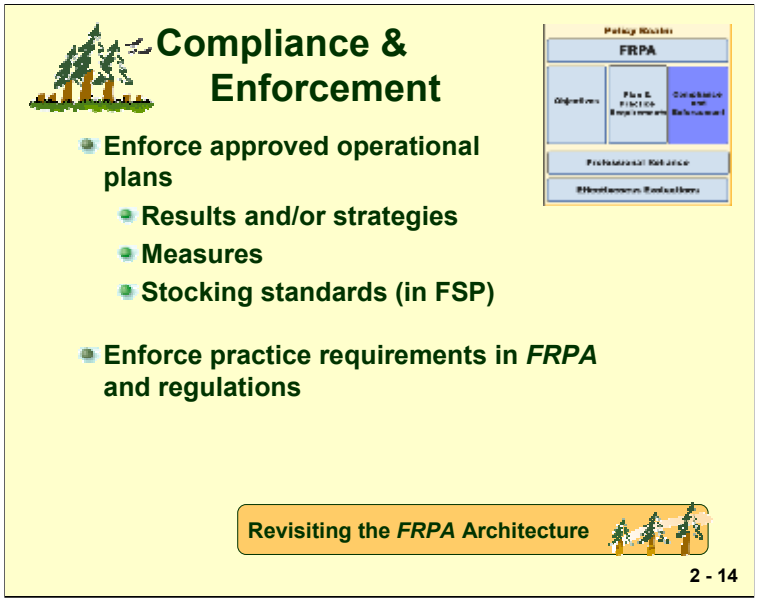


An example of a measurable or verifiable result is the "default" practice requirement for wildlife tree retention listed in section 66 of FPPR:

- "an agreement holder who harvests timber in a cutblock must ensure that, at the completion of harvesting, the total amount of wildlife tree retention areas that relates to the cutblock is a minimum of 3.5% of the cutblock

We can dissect this "default" practice requirement into the essential elements:

- Who is doing it—an agreement holder who harvests timber
- What is being done—reserve a minimum of 3.5% of cutblock as wildlife tree retention area
- Where will it occur—in a cutblock
- When will it occur –at the completion of harvesting



The third pillar of the *FRPA* functional architecture is compliance and enforcement:

C&E personnel will enforce practice requirements

- C&E activities will focus on determining whether results are being delivered and/or strategies are being carried out. C&E personnel do not enforce the objectives in the acts and regulations—rather the results and/or strategies in approved operational plans which are designed to be consistent with objectives
- C&E will also enforce measures and stocking standards (in FSP)
- C&E also inspects and enforces other practice requirements in *FRPA* and regulations

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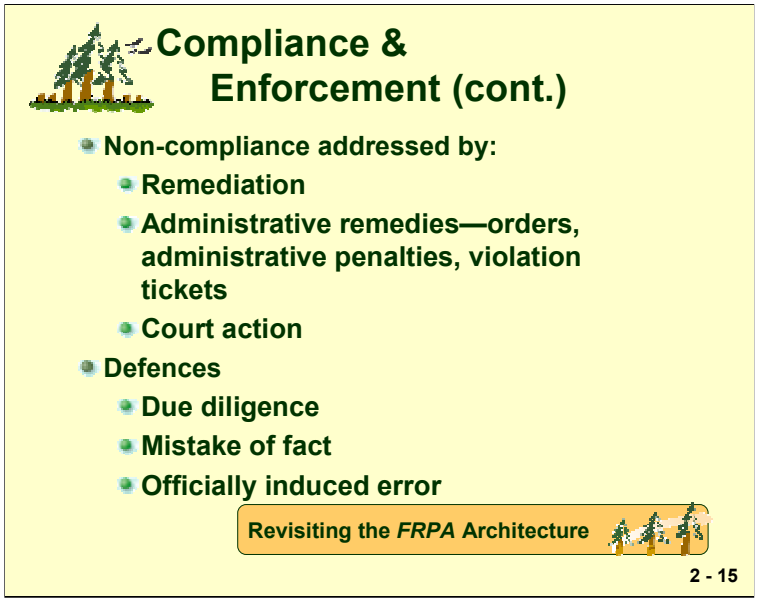

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Non-compliance

- Non-compliance will be addressed through:
  - Remediation orders, or
  - administrative remedies such as stop work orders, administrative penalties and violation tickets; or
  - possibly court action.

Defenses under *FRPA* include:

- Due diligence
- Mistake of fact
- Officially induced error

NOTE TO PRESENTER: the overhead has changed from the participant material. The second bullet was clarified by adding "the Minister can" to the start of the bullet.

Powers of Intervention

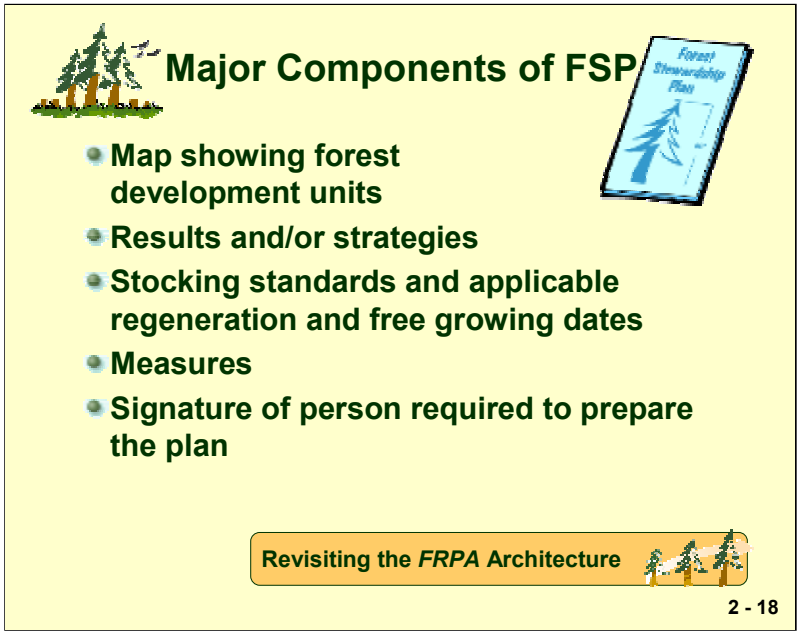
- ***FRPA* contains provisions that enable the Minister of Forests (can be delegated to DDM) to intervene and stop, mitigate or remedy any activity before occurring if it will contravene the acts and cause (s. 77 of *FRPA*):**
  - a catastrophic impact on public health or safety;
  - a free growing stand to not be established; or
  - an adverse impact on the environment.

- **Only the Minister can intervene if a practice may impact on aboriginal rights or title that was not know at the time the operational plan was approved (s.77.1 of *FRPA*).**

NOTE TO PRESENTER: the overhead has changed from the participant's package to add "up to" 5 year term on the last bullet.

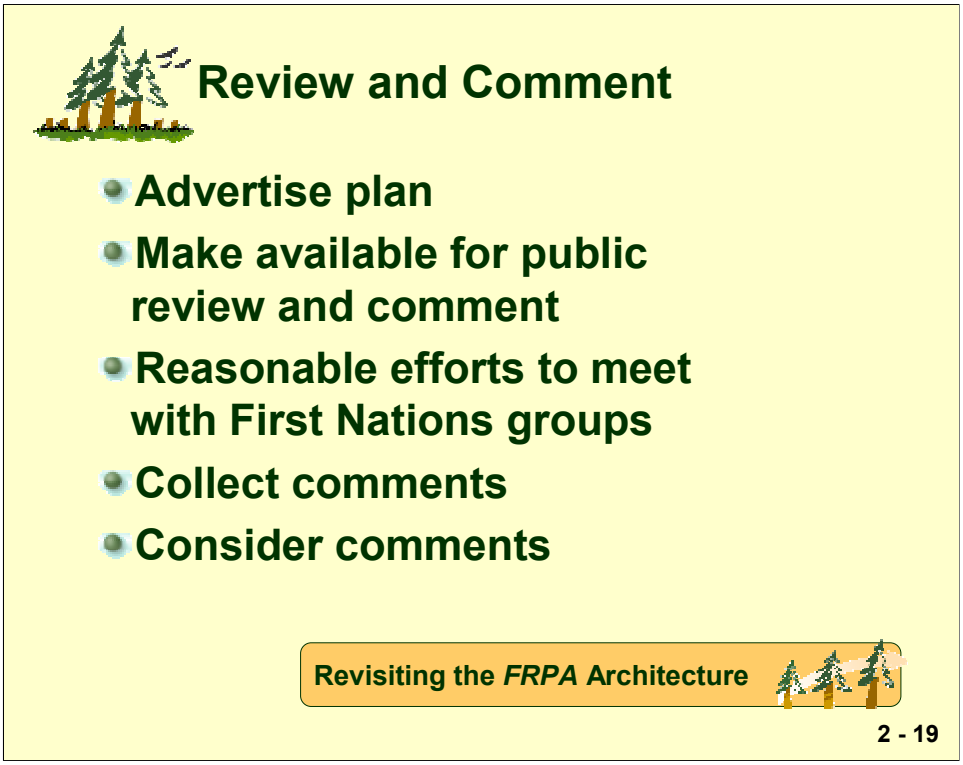
The FSP represents a dramatic departure from past planning.

- The FSP is now the only operational plan that must be submitted for Ministry review and approval and now applies to most forest agreement holders under the *Forest Act*.
- FSP describes areas within which harvesting and road building may occur and specifies what will be the outcomes of activities
- cutting or road permits cannot be issued until a FSP is approved by Government. Timber Sales Managers (TSM) must prepare and get approval of a FSP before inviting applications for Timber Sale Licensees or constructing road/structures on Forest Service Roads.
- The FSP has a term of up to five years (as specified by licensee) and can be renewed for up to an additional 5 years.



The major components of an FSP include the following:

- a FSP map showing the:
  - approximate outer boundary of forest development units (FDUs) within which areas of harvesting and road activities may be proposed, and
  - other mapable land designations specified in section 14.3 of the FPPR (e.g., WHA, UWR, declared areas)
- results and/or strategies that are consistent with government objectives which come from numerous sources (e.g., GAR, land use objectives, objectives in regulation, grandparented). Under specified conditions, exemptions for providing results and/or strategies for four objectives in FPPR can be obtained if you accept the applicable practice requirement in FPPR. We will cover this more in Topic 5: Implications For Your FSP.
- silviculture obligations for establishing free growing stands including the regeneration and free growing dates and corresponding stocking standards (s. 16, 26, 44-46.2 of FPPR).
- measures required by the Act—specifically, measures to prevent the introduction or spread of invasive plants and mitigate the impact of harvesting on natural range barriers
- Signature of the person required to prepare the plan



Similar to FDPs under the Code, FSPs must undergo a Public Review and Comment phase including Licensees:

- advertising the plan is available for review and comment
- making the plan available for review and comment commensurate with the nature and extent to which a person's rights may be affected
- making reasonable efforts to meet with First Nations groups affected by the plan to discuss the plan. This may be part of the consultation process but does not replace the government's consultation obligations
- Collecting written comments
- Considering the written comments relevant to the plan

The FSP approval process involves the Minister, or their DDM, undertaking the following:

- Conducting First Nations consultations as required as per the Government's First Nations consultation policy. This consultation may involve FSPs prepared by either forest tenure holders or timber sales managers. NOTE: the Information Sharing bulletin jointly developed by industry and government covers the information sharing aspect of FSPs and First Nations. This bulletin will be available from the Provincial *FRPA* Implementation Team (PFIT) website. As soon as the site is publicly available, the PFIT website will be linked on the *FRPA* website at http://www.for.gov.bc.ca/code/
- FDUs, cutting and road permits, timber sales licences and declared areas that are already in effect are deemed approved. Parts of an FSP, such as FDUs, have limited protection and must be updated if incompatible with any new legislation, objectives established by government or if the timber has suffered catastrophic damage at least four months prior to plan being submitted (s. 23 of FPPR)
- Conducting the approval tests (s. 16 of *FRPA*) including consideration of "certified" content by a professional, if any
- Requesting information from the licensee, or timber sales manager, if required to complete the approval tests. (s. 16 of *FRPA*)
- Balancing the objectives, results, strategies or other plan content when conducting the approval tests—upon request of the person submitting the plan for approval (s. 27 of FPPR).
- Approving the plan, or rejecting it with a rationale (s. 16 of *FRPA*). The rationale will document what information was considered and how it was considered.

The Minister of Forests is responsible for approving FSPs and other decisions authorized in the *FRPA* to the "Minister"

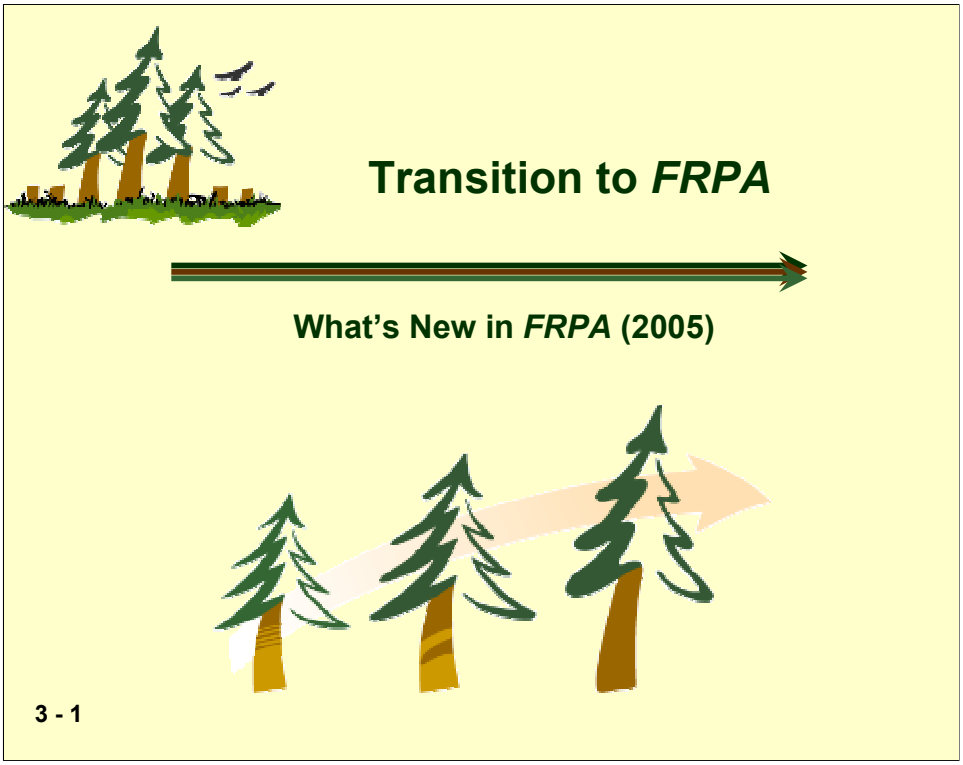
- The Minister means the Minister or an appropriate official of the Ministry of Forests (s. 2 of *FRPA*)
- For example, the approval of FSPs has been delegated to district managers.
- The MOF Delegation Matrix will help to identify the appropriate officials for decisions authority to the Minister of Forests.

The ministers of MOF, WLAP and MSRM can delegate authority provided under the *FRPA* to persons employed within a Ministry or to an agent of the Crown.

- For example, most WLAP decisions under the GAR are delegated to the Deputy Minister

NOTE to Presenter:

- Introduce the next presenter and hand the floor over to them to begin Topic 3—What's new in the transition to *FRPA*.

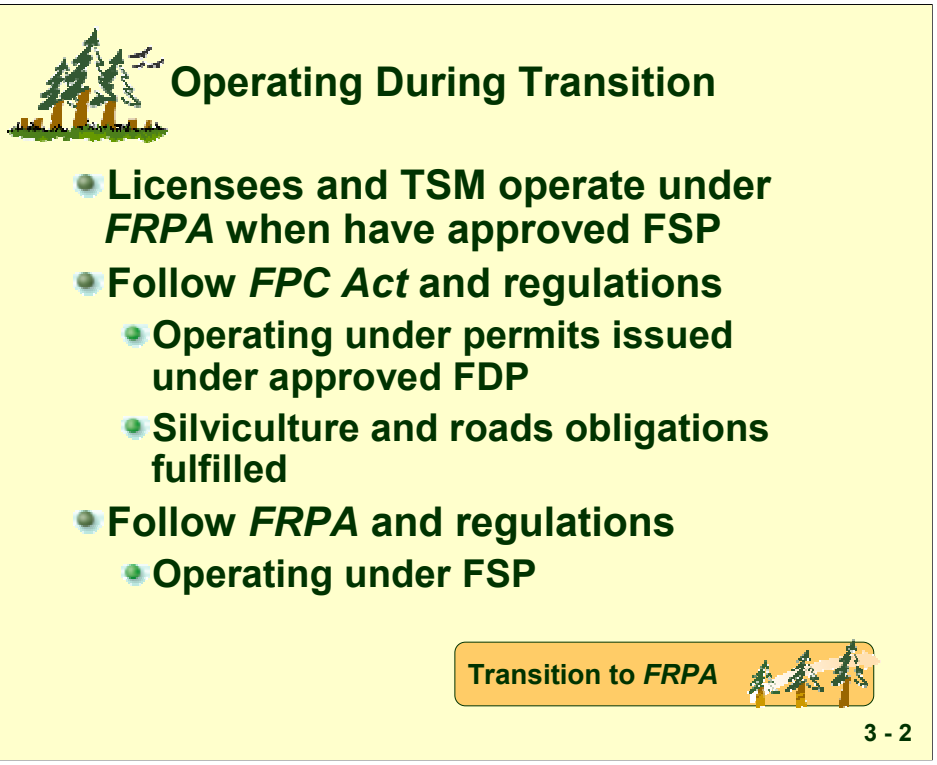


In this topic, I will cover the major changes in the transition to *FRPA* and how industry can operate during the transition period.

Please hold your questions until the end of the topic(s) in order to ensure we can cover all the material

NOTE TO PRESENTER(S):

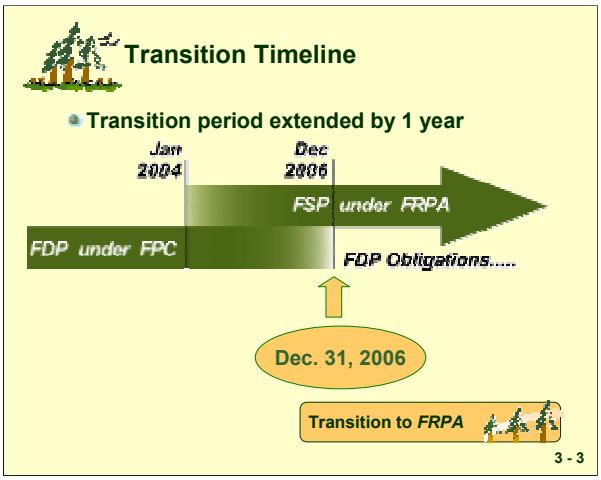
- Refrain from quoting section numbers of the *FRPA* and regulations unless asked by participants. The section numbers have been included in the speaking notes for your benefit should you wish to read the legislation corresponding to the overhead



NOTE TO PRESENTER: This overhead has changed from the participant's materials. The middle bullet "Operating under FDP" was changed to "Operating under permits issued under approved FDP".

As you recall from last year's training, the transition provisions for licensees and timber sales managers operating in the transition period from FPC to *FRPA are:*

- Licensees and Timber Sales Managers (TSM) will operate under the *FRPA* when the FSP is approved.
- Licensees, Timber Sales Managers and government personnel follow the regulations in FPC:
  - if operating under a cutting permit or road permit issued under an approved Forest Development Plan (FDP), and/or
  - silviculture prescriptions/site plans until free-growing obligations under FPC are reached.
- Licensees, Timber Sales Managers and government personnel follow the regulations of *FRPA* if operating under a Forest Stewardship Plan (FSP).



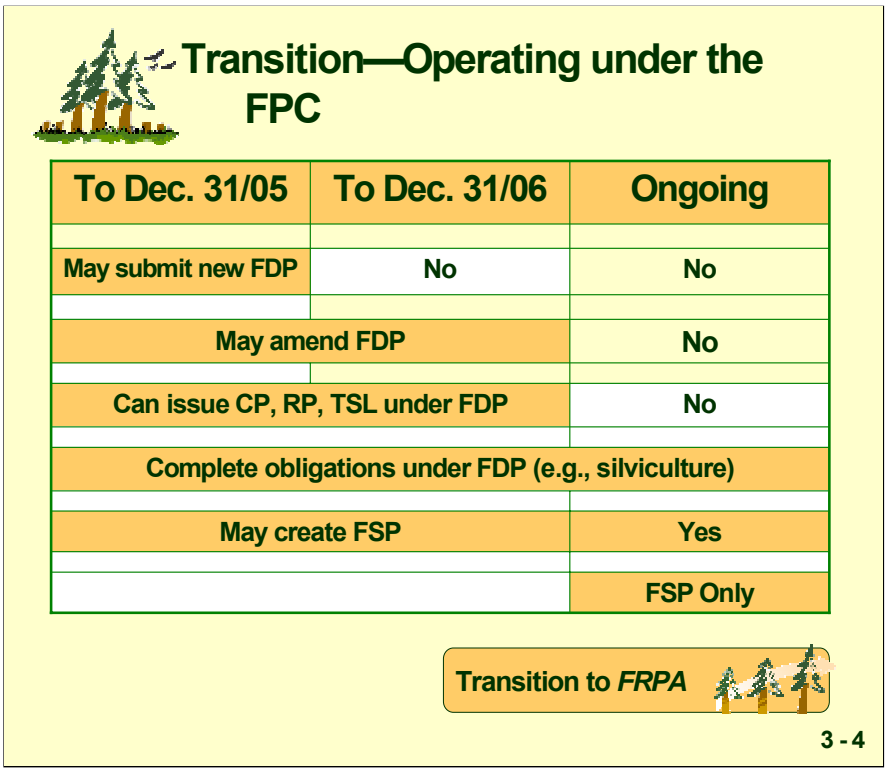
NOTE to PRESENTER: this overhead has changed from the participant's materials. The date for transition starting was changed from Dec. 2003 to Jan 2004 and the phrase "FDP Obligations…" was added to clarify that obligations in a FDP may continue past December 31, 2006 (e.g., roads, free growing stands)

The major changes in the transition to the *FRPA* world is the extension of the transition period from the Forest Practices Code to *FRPA* that now runs until December 31, 2006

The key messages regarding the transition timeline are:

- Transition is extended by 1 year
- The FPPR provisions regarding submitting FDPs in 2005 and obtaining permits from expired FDPs (sections 107.1 and 107.2 of FPPR) are temporary. These provisions will be repealed shortly, now that the dates in the *Act* have been amended
- Even though there will be no FPC plans after December, 2006, some tenures will see the FPC rules continue to apply to cut blocks. Operations under the FPC may continue after 2006 under cutting permits, road permits, timber sales licences issued prior to December 31, 2006

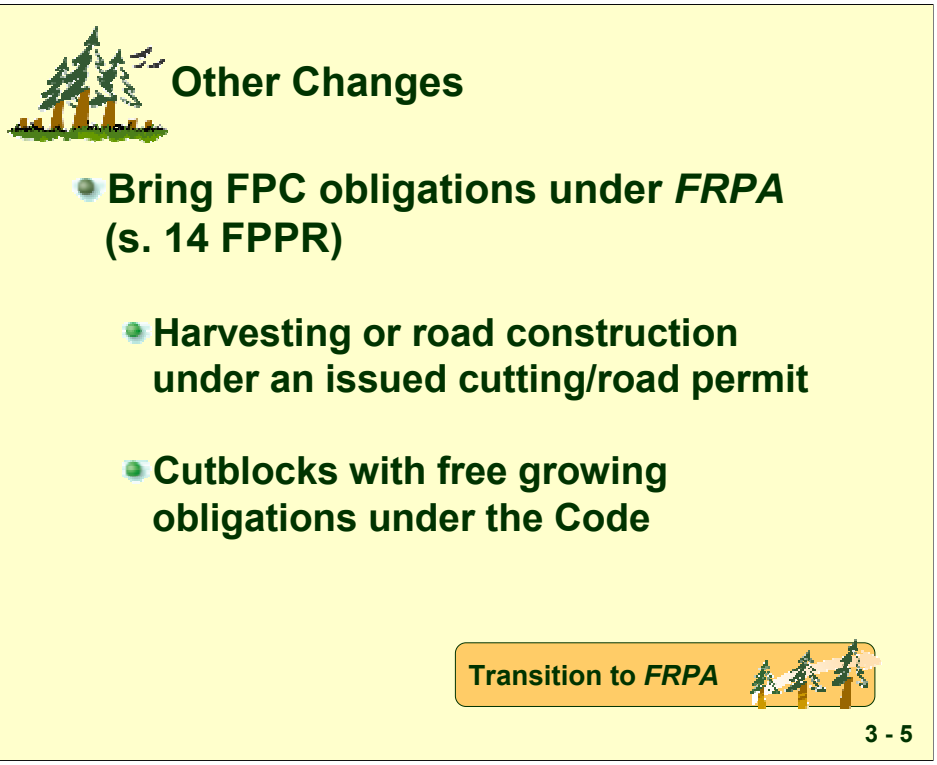
The rationale for the changes to **FPPR transition** are to send a clear message that the transition period is extended by one year. Legislatively, this change is complete now that the *Act* is amended (Feb., 2005).



NOTE TO PRESENTER—the overhead has changed from the presenter's package. The dates for when "May amend FDP" have been extended from Dec. 31/05 to Dec. 31/06

During the transition period, a licensee can undertake the following under FPC

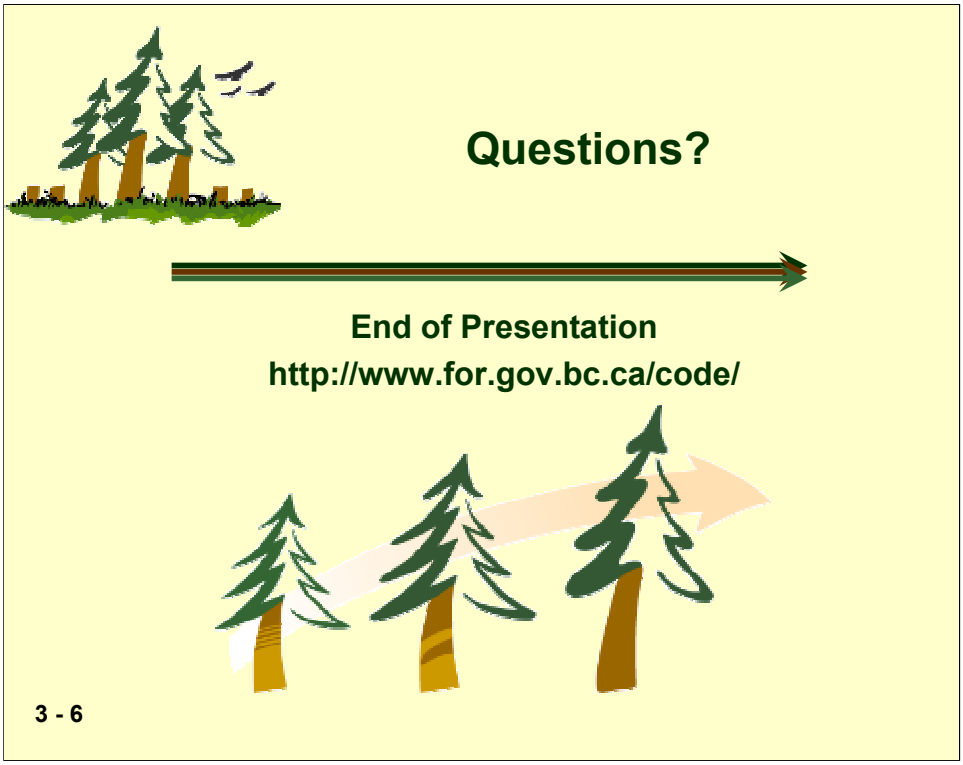
- Submit a new FDP until December 31, 2005
- Amend a FDP until December 31, 2006
- Cutting and road permits and timber sale licences can be issued under an approved FDP until December 31, 2006. NOTE: After December 31, 2006, you can only obtain cutting permits, road permits and timber sale licences under an FSP
- Complete obligations in the FDP including obligations to establish a free growing stand—**unless rolled over into a Forest Stewardship Plan (FSP). Free growing obligations under the Forest Practices Code can be brought under FSP standards if the licensee identifies this in a FSP and the DDM approves it**



NOTE TO PRESENTER: This overhead has changed from the participant's materials. The second bullet was changed from "Harvesting or road construction started under FDP" to "Harvesting or road construction under an issued cutting/road permit".

FPPR contains two new provisions that enable agreement holders to bring FPC obligations, cutblocks and roads into the *FRPA* world:

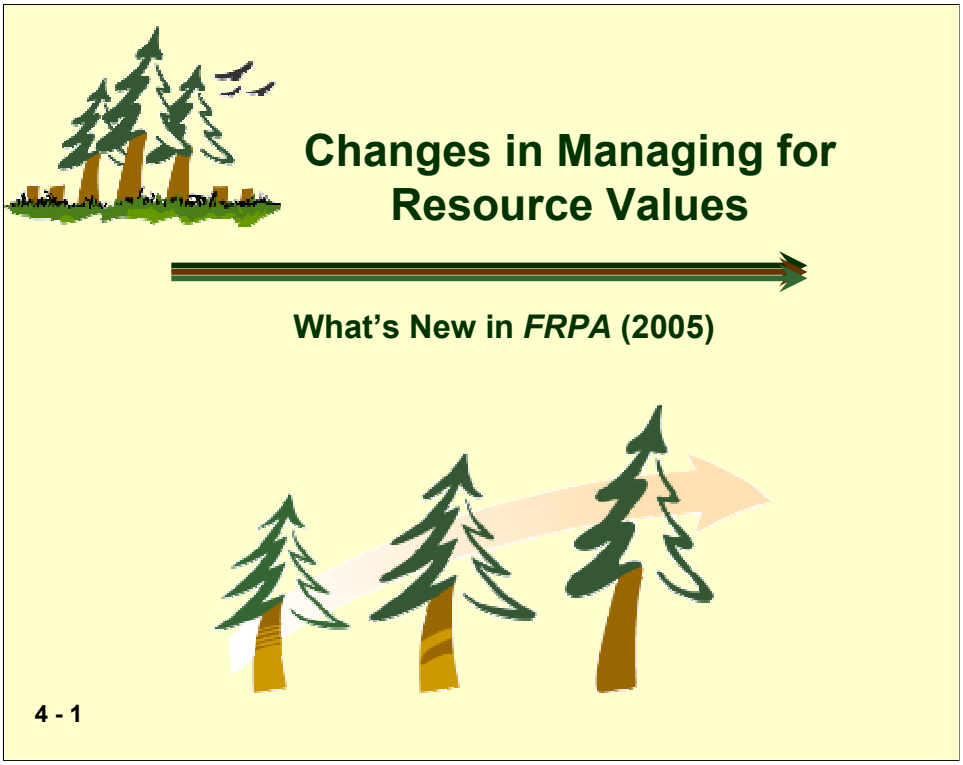
- Areas for which a cutting permit or road permit has been issued under an approved FDP can be rolled into a FSP by including these areas in the FDU—regardless of whether an activity has begun or not. Results and/or strategies in the FSP would then apply to these areas (s. 197(4) or (7) of *FRPA,* s. 14 of FPPR). NOTE: areas and items not added to the FDU/FSP will continue to follow the requirements of the FPC. Your plan must be clear on which items you are rolling into the FSP.
- cutblocks under an approved FDP where harvesting has begun and the plan holder is required to establish a free growing stand can be rolled into a FSP by including these areas in the FDU. Stocking standards in the FSP would then apply to these cutblocks. (s. 197(5) of *FRPA,* s. 14 of FPPR)



Questions?

NOTE to Presenter:

- When complete the question component, introduce the next presenter(s) and hand the floor over to them to begin Topic 4: Changes in Managing for Resource Values.



In this topic, I will cover the major changes how we manage, conserve and protect resource values under *FRPA* including objectives set by government and orders under GAR, and in the case of the provincial non-spatial old growth order, objectives established under s. 4 of FPC. I will also explain the implications to FSPs drafted and approved.

- Please hold your questions until the end of each speaker (e.g., timber, wildlife) in order to ensure we can cover all the material

NOTE TO PRESENTER(S):

- Refrain from quoting section numbers of the *FRPA* and regulations unless asked by participants. The section numbers have been included in the speaking notes for your benefit should you wish to read the legislation corresponding to the overhead

Changes in Managing Resource Values

- Timber
- Visual quality
- Biodiversity
- Wildlife and other environmental values

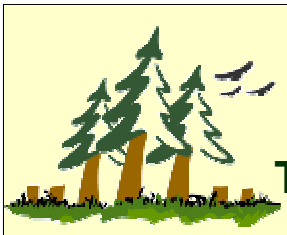
Changes in Managing for Resource Values

4 - 2

Changes in managing for resource values includes major changes to further enable objectives and provisions in the following values that affect your FSP:

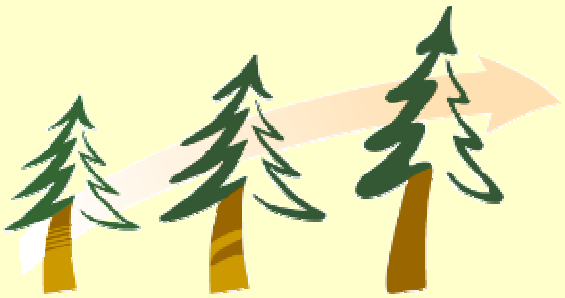
- Timber—the timber objective in regulation was amended and some changes in stocking standards
- Visual quality—new objectives in regulation and objectives established under order
- Biodiversity:
  - an old growth objective established under the provincial non-spatial old growth order
  - changes to the wildlife and biodiversity objectives in FPPR
- Wildlife—the objective in regulation was "brought to life" through FPPR section 7 notices listing:
  - species at risk and specified ungulate species;
  - indicators of the amount, distribution and attributes of habitat for those species

Today's session only covers changes in these four resource values. The other values such as soils, riparian areas and cultural heritage resources have not changed and still must be addressed in the FSP. We will not be reviewing the requirements for these values in today's session. They are covered in Chapter 4 of the *FRPA* Training Companion Guide and in the *FRPA* and the FPPR.



Timber Regime under *FRPA*

What's New in *FRPA* (2005)



4 - 3

Changes in Timber

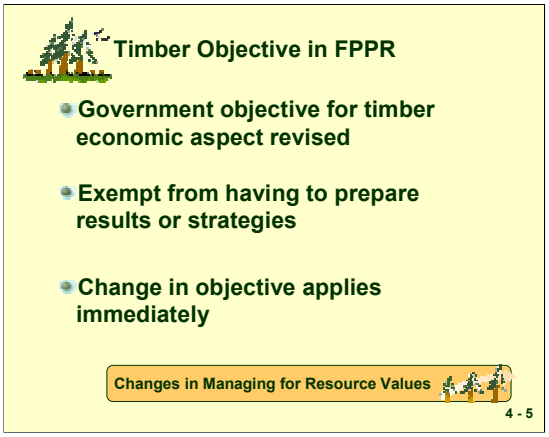
- Objectives in FPPR (s. 6 FPPR)
- Stocking standards

Changes in Managing for Resource Values

4 - 4

Changes in managing timber under *FRPA* occurred in the :

- Objectives in FPPR (s. 6 of FPPR)
- Stocking standards



Objectives in FPPR for timber (s. 6 of FPPR)

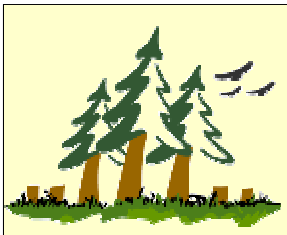
- the economic aspect of government's objective for timber in FPPR was modified to include a consideration that delivered wood costs are competitive relative to other jurisdictions. NOTE: further direction on "other jurisdictions" is coming. Delivered wood costs are defined in FPPR as the costs associated with accessing and harvesting timber and delivering it to a timber processing facility. This modification removes the previous reference to a "vigorous, efficient and world competitive" statement in the original objective and replaces with a more quantifiable objective for delivered wood costs
- The objectives set by government for timber are now—section 6 of FPPR (paraphrased):
  - Maintain timber supply from BC's forests;
  - Ensure delivered wood costs are competitive with other jurisdictions; and
  - Avoid unduly constraining the agreement holder's rights to access and harvest under a *Forest Act* agreement
- A plan holder is exempt from having to prepare results or strategies consistent with this objective. However, licensees may choose to draft a result or strategy for this timber objective.
- A timber objective is required to give equal footing to other objectives and may be used in the balancing objectives activity of the FSP approval test and when new objectives are being established (e.g., consistency with established objectives test)
- This revised objective is effective immediately (as of December 13, 2004)

NOTE to Presenter (extra information if asked:

- The part of the old timber objective (section 6a of FPPR) that dealt with stocking standards was moved into the appropriate stocking standards section of the FPPR (s. 16 of FPPR)

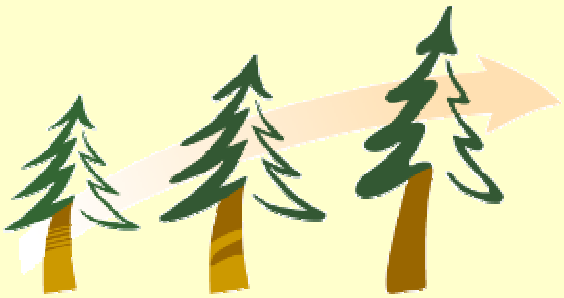
The changes in stocking standard include the following:

- If the stand was harvested under a forestry licence to cut that is not a major licence or a minor tenure, and 500 m3 or more is harvested from the cut block, the government will undertake obligations to ensure the stand conforms to the applicable standards in the MOF Reference Guide for FDP Stocking Standards or other standards specified by the Minister (s. 46 of FPPR)
- community salvage licence holders must ensure the area conforms to the stocking standards authorized by the Minister or as specified in the MOF Reference Guide for FDP Stocking Standards for a period of 12 months after completion of harvesting. If not, the holder must establish a free growing stand on the net area to be reforested.



Visual Quality Regime under *FRPA*

What's New in *FRPA* (2005)



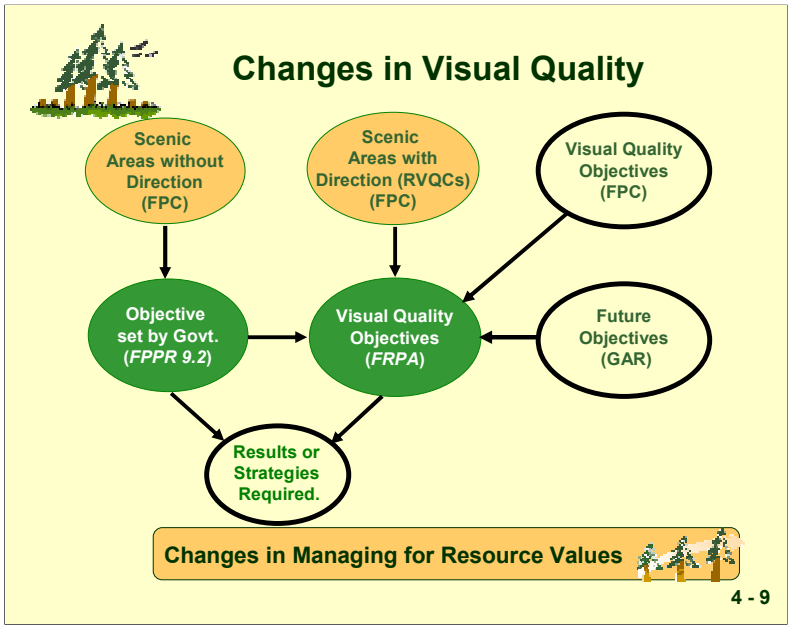
4 - 7

What's new?

Under *FRPA*, visual quality is managed only through objectives. To achieve FPC equivalency within *FRPA* objectives for visual quality have been established in regulation (FPPR) for scenic areas previously established with no objectives, and future objectives are enabled through regulation (GAR). If no objective is defined, then the licensee does not need to address it through results and/or strategies in their plan.

To ensure a more consistent interpretation and application across the province the levels of alteration for VQOs are defined in Section 1.1 of the FPPR. These definitions also apply to Objectives set by Government.

Where results and/or strategies for VQOs are prepared by a professional, they may carry an additional certification by that professional, signifying that the professional believes the results and/or strategies meet the content and approval tests listed in *FRPA* section 5 and that they are consistent with the objectives (FPPR, Sect. 22.1).



Changes in visual quality

- The changes to *FRPA* and regulations bring the various ways we managed for visual quality in scenic areas under FPC into the *FRPA* world. These changes are:
  - Existing scenic areas with management direction in the form of visual quality classes have been carried forward as visual quality objectives under *FRPA* (s. 17 of GAR)
  - Existing scenic areas without management direction have objectives in regulation under *FRPA* (s. 9.2 of FPPR). These can be superceded by GAR objectives (s. 7 of GAR)

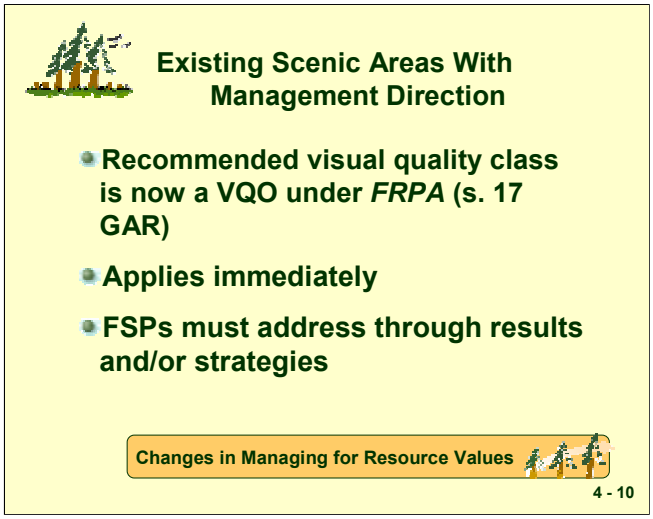
The following has not changed

- Existing visual quality objectives in FPC that were grandparented to *FRPA* under s. 181 of *FRPA* remain unchanged
- In the future, new visual quality objectives will be established under section 7 of GAR

More information on the management of visual quality under *FRPA* is contained in a visual quality bulletin being prepared by the MOF. It will be available on the *FRPA* website shortly.

NOTE to presenter…

- this visual quality bulletin may be available by the time training is delivered. If so, please state it is now available off the *FRPA* website.



What is new?

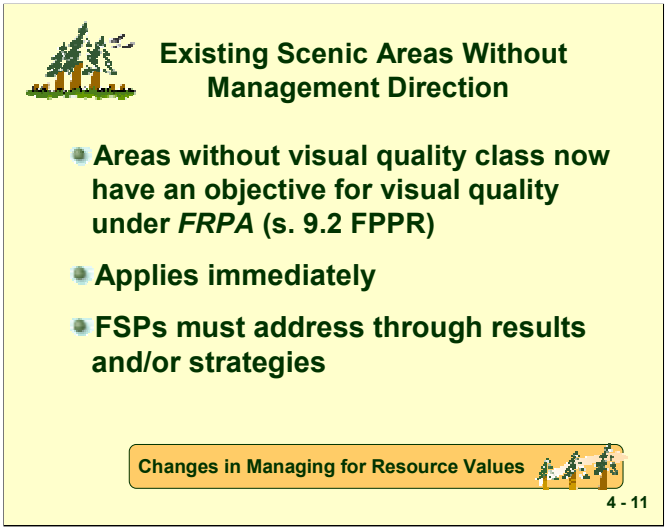
- scenic areas that existed under FPC, with management direction in the form of recommended visual quality classes continue under *FRPA* as scenic areas with a visual quality objective (s. 17 of GAR)
- In order for this provision to apply:
  - The district manager must have made the visual quality class known before October 24, 2002 to the agreement holders including BCTS, or
  - the visual quality class was included in most recent TFL visual landscape inventory approved by the regional manager as part of Management Plan.

When does it apply?

- This objective is effective immediately (as of December 13, 2004)

Implications

- Scenic areas that had a visual quality class, now have a visual quality objective under *FRPA*. FSPs must contain results and/or strategies that are consistent with the objective



What is new?

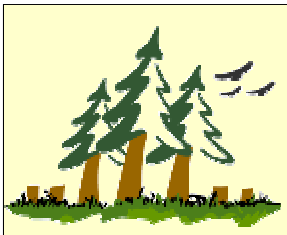
- scenic areas that existed under FPC, without management direction, now have an objective set by government for visual quality (established under FPPR (s. 9.2 of FPPR)). These are the scenic areas that did not have recommended visual quality classes or VQOs but were being managed using the FPC's manage and converse test.
- In order for this provision to apply:
  - The district manager must have made the scenic area known before October 24, 2002 to the agreement holders including BCTS, and
- the objective set by government for visual quality comprises a range of prescriptions based on the Visual Landscape Inventory Visual Sensitivity Class.

When does it apply?

- This objective is effective immediately (as of December 13, 2004)

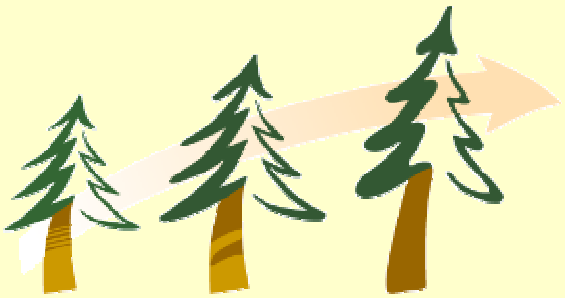
Implications

- If a designated scenic area under FPC did not have a visual quality objective, it now has an objective set by government for visual quality under *FRPA.*
- FSPs must contain results and/or strategies that are consistent with the objective



Biodiversity Regime under *FRPA*

What's New in *FRPA* (2005)



4 - 12

NOTE TO PRESENTER: This overhead has changed from the participant's materials to include the website address for the old growth order.

Provincial Non-spatial Old Growth Order

What is it?

- In June 2004, MSRM established old forest retention objectives—via a Provincial non-spatial old growth order under section 4 of FPC
- Order establishes objectives in areas where **old growth objectives have not otherwise been established.**
- Order provides "blanket" coverage for the Province for old growth if no other objectives established—filling any gaps in areas without old growth objectives
- The objectives intend to conserve biodiversity values and species associated with old growth forests by identifying the amount of old forest that must be maintained
- The objective is "non-spatial". It defines target amounts of old forest retention but does not specify areas to be retained
- More detailed objectives for old growth at the local level are anticipated to be established as part of an ongoing process by MSRM. When more detailed old growth objectives for a given area are established, they will rescind the general direction continued in the provincial order
- FSPs must contain results and/or strategies that are consistent with the objectives

Continued on next slide…

Provincial Non-Spatial Old Growth Order (cont.)

- Does not apply to:
  - Areas under woodlot licence agreements
  - Community forest agreements less than 600 ha.
  - Private land outside a TFL
  - Old growth objectives established in higher level plans

Changes in Managing for Resource Values

4 - 14

Continued from previous slide…

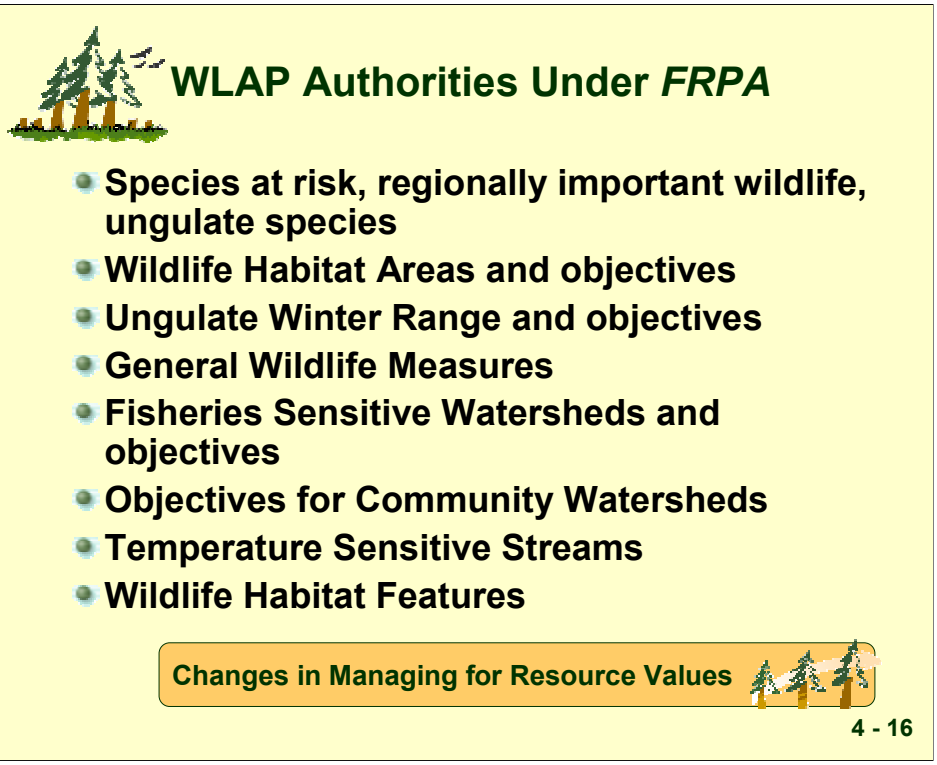
- Order does not apply to woodlot licence agreements, community forest agreements less than 600 hectares and private land outside of a TFL
- Order also does not apply in areas where spatial old growth management areas (OGMA) or other non-spatial old growth objectives have been established, either before or after the effective date of the provincial order.

NOTE to Presenter:

- if you are asked about OGMA and draft OGMAs, you can state the following. If you have a OGMA legally established, this order is turned off—follow the OGMA. But if you have a draft OGMA, this order may or may not apply—depending if the Minister of MSRM approved the draft OGMA as an objective (s. 8 of Provincial Non-Spatial Old Growth Order). If it applies, if must be used in the FSP (e.g., results or strategies drafted that are consistent with objective).

- Welcome and introduce yourself (ministry, title, etc).

- This part of the presentation will discuss progress in implementation of the provisions for wildlife and other environmental values under *FRPA*, that are administered by the Minister of Water, Land and Air Protection.

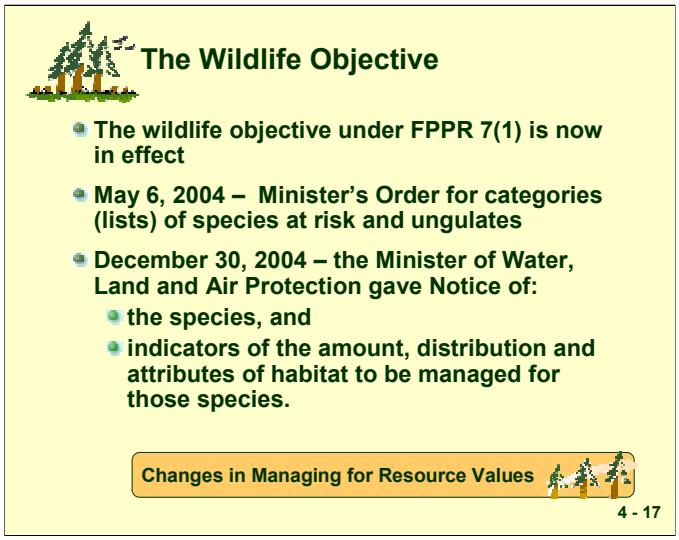


Let's first review the authorities granted to the Minister of Water Land and Air Protection by way of the Act and the Government Actions Regulation (GAR). The Minister may:

- Establish categories (lists) of Species and Risk, Regionally Important Wildlife, and ungulate species for which an ungulate winter range is required;
- Establish Wildlife Habitat Areas, and objectives for these areas;
- Establish Ungulate Winter Ranges, and objectives for these areas;
- Establish General Wildlife Measures for a specified area, a WHA or a UWR;
- Identify Fisheries Sensitive Watersheds (FSW), and establish objectives for these watersheds;
- Establish water quality objectives for community watersheds that are continued from the Code, or designated by the Minister of Sustainable Resource Management;
- Designate Temperature Sensitive Streams; and
- Identify Wildlife Habitat Features.

Related to these resource values,

- I will provide an update as to what WLAP is doing implement these provisions, and which ones affect forest stewardship plans versus selection of forest practices.



NOTE TO PRESENTER: this overhead has changed from the participant material's. The date "May 3, 2004" was changed to "May 6, 2004"

- In addition to the list of WLAP authorities we have just reviewed, there another provision that is important to planning – the Wildlife Objective in section 7 of the *Forest Planning and Practices Regulation*.
- This objective must be brought into effect for the purposes of *FRPA* by way of a Notice given to agreement holders by the Minister of Water, Land and Air Protection.
- The Notice must list:
  - the species, and
  - the indicators of the amount, distribution and attributes of wildlife habitat to be managed for the listed species.
- The Minister of WLAP approved categories (or lists) of species for Species at Risk and Ungulates. The Order was approved on May 3, 2004 and took effect on May 6, 2004.
- On December 30, 2004, Notices for each forest management unit and Forest District were given to all agreement holders in the province, including BC Timber Sales.
- Regionally Important Wildlife are not yet listed by the minister. No actions can be taken for these species, and there will be no implications for planning until supporting policy is approved.

Legal Role of the Section 7 Notice

- **The Notice provides information that adds clarity to the objective**
- **It is a legal instrument that triggers the objective, and adds detail regarding the intent of the objective**
- **Results and/or strategies must be consistent with the FPPR 7 objective, considering information in the Notice – *in as much as the Notice is relevant to an FDU within the area covered by the FSP***

Changes in Managing for Resource Values

4 - 18

- The Notice provides important information that defines the scope of application of the FPPR7 (1) objective.
- The Notice triggers the legal function of the objective for the purposes of *FRPA*, and it provides important detail on the extent to which the objective is to be applied for conservation of wildlife habitat.
- The information in the Notice must be "read into" the objective, and becomes a legal part of the objective.
- Results and/or strategies must be consistent with the objective as it reads while incorporating the information in a Notice.
- The extent to which the Objective is relevant in the area of a plan depends on the extent to which a Forest Development Unit (FDU) in a FSP cover areas of suitable habitat for a species in the list.
- If no suitable habitat exists within the area of an FDU in an FSP, then there would be no use in preparing results/strategies – remember than results and/or strategies must pertain to an FDU in an FSP.

Legal Role (cont.)

- **FSP need only address those species listed in a Notice, and only the amount, distribution and attributes of habitat as set out in a Notice**
- **Notices are bound by the government's provincial timber supply impact policy**
- **Legal interim measure that applies until WHA and UWR are legally established**
- **Where WHA or UWR already exist – Notice only addresses the amount of area that remains to be established as UWR or WHA, under applicable timber supply impact policy**

4 - 19

- The objective is constructed to provide certainty as to what exactly needs to be addressed in FSP content for wildlife. The objective, combined with information given by the Notices, provides a clear statement of the scope of application of the objective.
- A Forest Stewardship Plan is only required to address those species listed in a Notice, and only the amount, distribution and attributes of habitat as set out in a Notice.
- Note the " without unduly reduce the timber supply" clause – This is a direct reference to the province's timber supply impact policy. It is here to remind both government and industry that management of wildlife habitat (like all *FRPA* values) is bound by the parameters of timber supply impact policy.
- The joint government/industry policy team chose to draft the objective in this manner so that it would act as a legally effective interim measure that would apply until government and industry have worked collaboratively to complete provincial coverage of UWR and WHA consistent with policy.
- Where only some of the required UWR or WHA already exist, the Notice only addresses that amount of area that remains to be established as UWR or WHA under timber supply impact policy applicable to the forest management unit or Forest District.

Notices Apply Immediately

- As Notice was given December 30, 2004, the FPPR 7 Wildlife Objective applies immediately
- Results and/or strategies must be consistent with the wildlife objective. This includes:
  - plans being developed now,
  - plans being advertised, and
  - any plan submitted for approval.

Changes in Managing for Resource Values

4 - 20

- As Notice was given December 30, 2004, the FPPR7 Wildlife Objective applies immediately.
- Results and/or strategies must now be prepared consistent with the FPPR 7 objective, considering the information in the Notices.
- Plans being developed now, and any plan submitted for approval, will need to be consistent with the Section 7 Wildlife Objective.
- A plan that was approved before December 30, 2004 will need to be amended within two years.
- Notices were **not given** for:

  - areas where HLP have already set objectives for wildlife,
  - species that were not on the Ministers lists of SAR or ungulates,
  - species that are not forest dependant
  - species where government has no information or inventories that would support results and strategies for that species

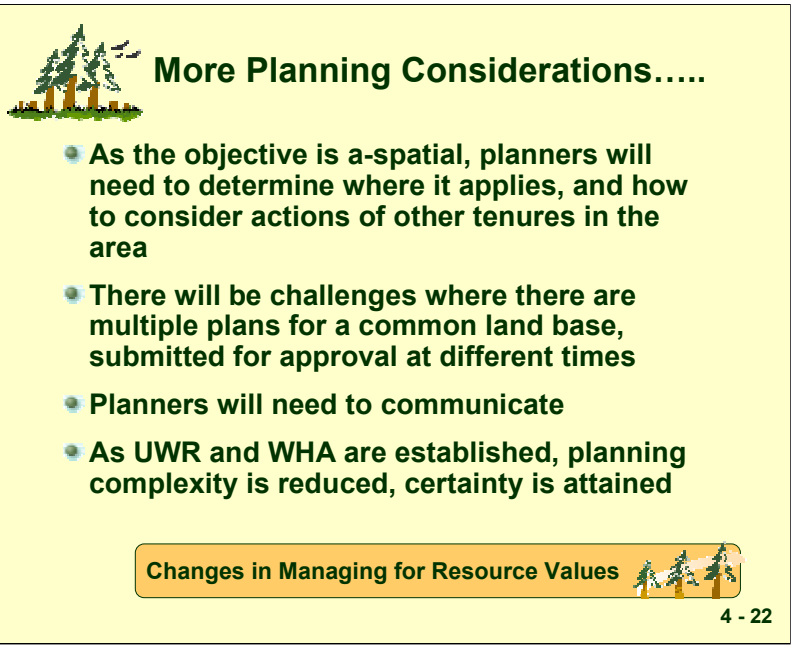
Wildlife Planning Considerations

- **The " indicators" in the Notices are a-spatial and not specific to tenures or FDU**
- **Persons preparing a plan should consider available information. Is there suitable habitat in the area that requires attention?**
- **How much of the "indicator of amount" from the Notice should be addressed in the plan? How should it be distributed considering the "indicators of distribution", and timber supply implications**

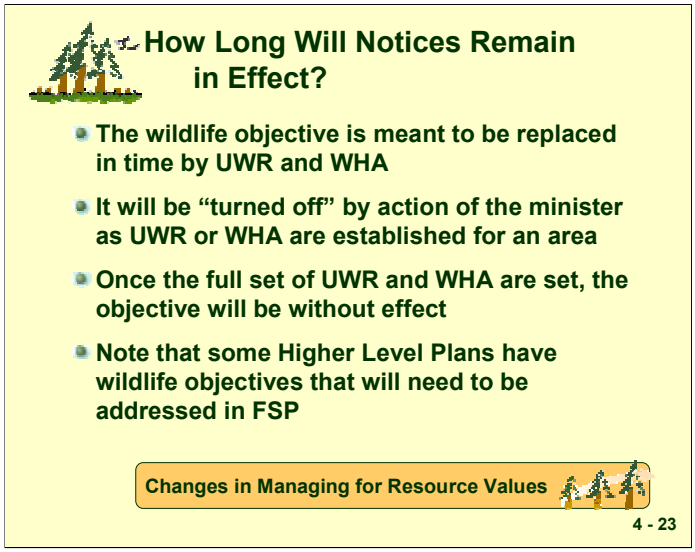
Changes in Managing for Resource Values

4 - 21

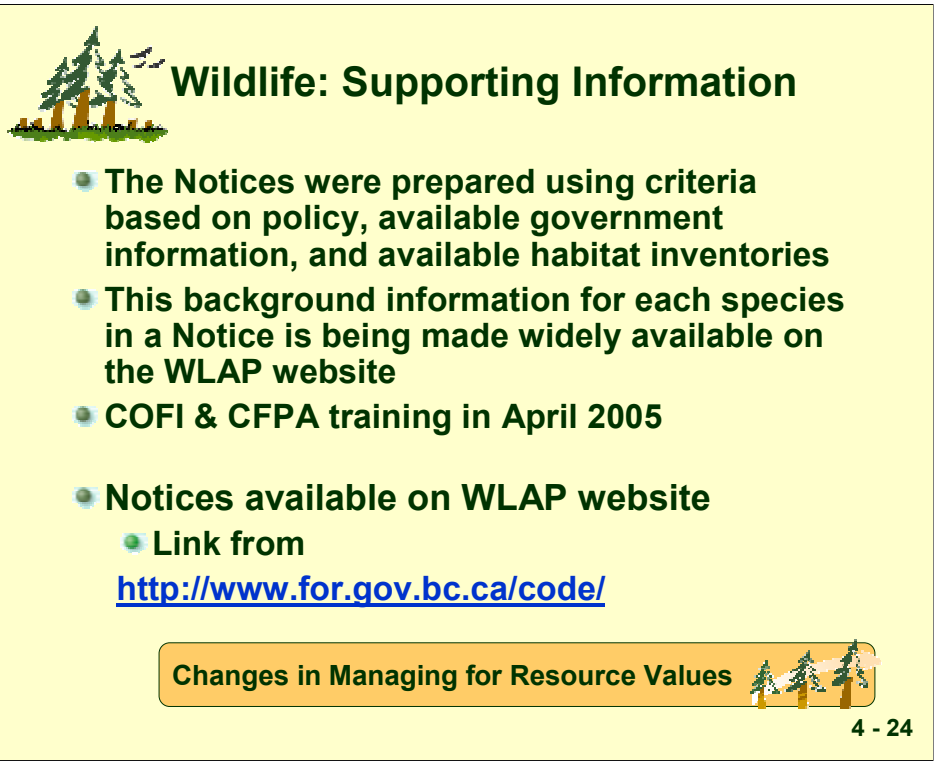
- A person preparing a FSP must consider the FSP and the location of FDU, and based on available information, determine the extent to which the objective applies in their planning area.
- Once it has been determined that there is suitable habitat in an FDU, results and/or strategies must be prepared.
- If no habitat, or if information from government shows no management intent for the habitat in a FDU, then plan content would not be required. This will have to be explained to the Delegated Decision Maker in the rationale supporting the proposed FSP.
- Where an order has established UWR and WHA to limits provided by policy, such Orders replace the Wildlife Objective, and the notice will no longer have effect when stated by the minister.



- The information in the Notices is a-spatial (not specific land designations). As such, the Notices can be read and addressed differently by different licensees operating on a common or immediately adjacent land base.
- The planning commitments of one licensee can confound the planning or compliance of another licensee on the same land base.
- Salvage operations, and operators under other tenures or licenses to cut, can act in a manner that would compromise the best planning and compliance intentions of a licensee.
- Persons preparing FSP really need to talk to each other, agency staff (especially WLAP), professional biologists, and the DDM when considering the location of FDU and development of plan content for FPPR 7(1).
- The main avenue to reduce this uncertainty and complexity is to accelerate UWR and WHA. Setting these land designations, with GWM, will eliminate most of the potential conflict between volume-based tenures, will reduce planning costs, and will deliver the same compliance conditions for all forest tenure holders.



- The requirement to prepare plan content for the section 7 Wildlife Objective will be incrementally "turned off" by the Minister as UWR or WHA are established, until at some point, the section 7 wildlife objective will cease to have any legal effect.
- The UWR or WHA Orders will inform agreement holders as to whether or not a Notice still applies to an area, and to what extent.
- Note that Higher Level Plans (HLP) have already set objectives for wildlife. If so plan content is required for the HLP objectives. As no notice was given in such areas, the section 7 Wildlife Objective has not been triggered.
- **CCLUP, KBLUP, Kamloops LRMP, Bulkley LRMP areas (and other HLPs) :** information on the species that should be addressed consistent with the HLP is available from WLAP.
- **Muskwa Kechika Management Area Act:** no notice was given for the area covered by this statute as it already requires management consistent with the Fort Nelson and Fort St. John LRMPs.



NOTE TO PRESENTER: this overhead has changed from the participant's material. The URL for the link to the section 7 notices was added.

- Where would a person go to access information that would support planning for wildlife habitat, considering a Notice that pertains to the area of a proposed FSP?
- WLAP has summarized available information that supports the FPPR 7 notices, and has made it available by way of our website….. For the sake of clarity, these documents are referred to as "Background information that supports the Notices but is not part of the Notices".
- These background documents provide information on occurrences of species listed in the notices, reference to information that locates suitable habitat, references to the location and shape files of any proposed GWMs, WHA or UWR, or areas intended for management of wildlife habitat consistent with timber supply impact policy.
- COFI and CFPA training programs on crafting results and/or strategies for Section 7 will address the details related to the preparation of plan content. This training will be jointly delivered by WLAP, COFI and the CFLA in April.

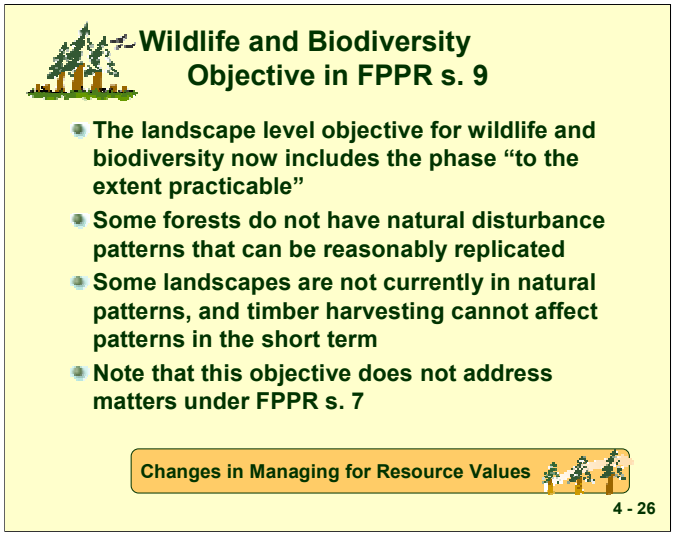
Wildlife Habitat Areas (WHA) & Ungulate Winter Range (UWR)

- New UWR and WHA have been established
- UWR and WHA proposals, with General Wildlife Measures are being submitted for approval
- UWR and WHA are being established with General Wildlife Measures (GWM), not objectives
- There is no requirement to prepare results or strategies for GWM – forest practices must comply with GWM

Changes in Managing for Resource Values

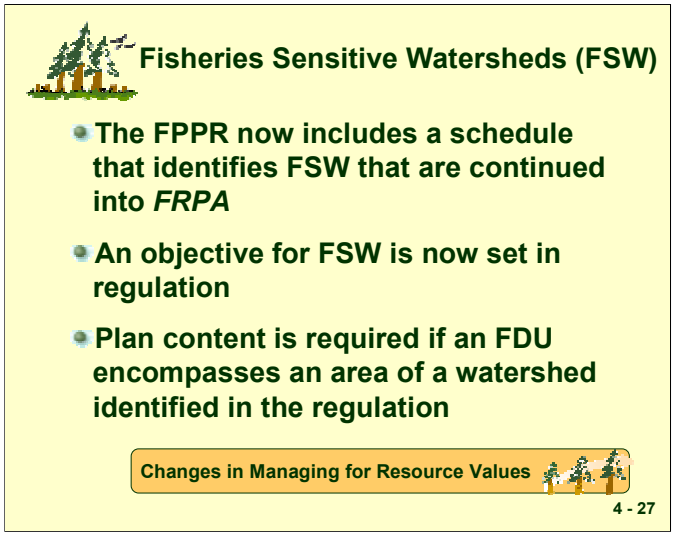
4 - 25

- In addition to the Notices, many new WHA and UWR have been approved. Check the WLAP website or contact your WLAP regional office.
- These UWR and WHA have been the product of joint industry and ministry investments – a process that we wish to continue as a business priority.
- Several more WHA and UWR are in queue awaiting the consideration of the minister's delegate over the next few weeks.
- It is important to note that WHA and UWR are being established with General Wildlife Measures. There is no requirement to prepare plan content for UWR or WHA with GWM. Forest practices must comply with GWM.



Objectives in FPPR (s. 9 and 9.1) …. What has changed?

- the wildlife and biodiversity objective in FPPR at the landscape level was clarified by adding a phrase "to the extent practicable" in the objective statement to recognize the need for flexibility when developing results and/or strategies considering local forest conditions.
- The landscape level objective for wildlife and biodiversity requires that timber harvesting be designed to resemble, both spatially and temporally, to resemble the patterns of natural disturbance that occur within the landscape.
- The phrase "to the extent practicable" has been included to reflect that:
    - the natural disturbance patterns of some forest ecosystems (single tree replacement) would preclude reasonable use of acceptable silviculture systems. In these cases, openings larger than natural patterns would be "practicable".
    - the current condition of some landscapes is far different than the natural disturbance pattern, and it will take time for timber harvesting to emulate the natural disturbance patterns. In these cases, openings that are working toward natural patterns would be "practicable"
- The design of timber harvesting on the landscape must not unduly reduce the timber supply
- "Practicable" as it pertains to results and/or strategies, means an action that <u>is feasible and relevant under current circumstances</u> and is the best option available when consistency is not possible under the circumstances



- A revision of the regulation was required to allow FSW to be managed under *FRPA*, and to reconcile a potential conflict between approved plan content and practice provisions in the regulation.
- The regulation changes for FSW are in effect immediately.
- Plan content consistent with the objective in regulation is required if an FDU encompasses any area of a FSW identified in regulation.
- Plans that include an area of an identified FSW, that have submitted but are not yet approved. Will have to be retrieved and amended to address the objective.
- A plan that is currently approved will need to be amended within two years.

Community Watersheds

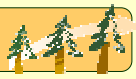
- **Existing community watersheds are continued for the purposes of *FRPA***
- **Existing water quality objectives have no effect under *FRPA***
- **The regulation now includes an objective for community watersheds that applies immediately**

4 - 28

- All Community Watersheds that were established under FPC provisions before January 31, 2004 are continued for the purposes of *FRPA*.
- An objective has been established in FPPR for these watersheds to continue management under *FRPA*
- Note that existing water quality objectives are not functional for the purposes of *FRPA* – and plan content is not required for those pre-existing water quality objectives.
- The objective is effective immediately.
- Plan content must be prepared consistent with the objective for areas of planning that include a continued CW.
- Plans that have been submitted but not yet approved, and include the area of a continued CW, will need to be retrieved and amended consistent with the objective.
- Approved plans that include an area of a continued CW will require a mandatory amendment within two years.

Other WLAP Actions

- Work is underway to:
  - Identify Wildlife Habitat Features
  - Revise the list of Species at Risk
  - Develop policy to support a list of Regionally Important Wildlife
  - Develop policy to support designation of Temperature Sensitive Streams

Changes in Managing for Resource Values 

4 - 29

- Consultation is underway on Wildlife Habitat Features for both the Coast and Interior areas. This action will not affect FSP preparation, but will eventually have effect on selection of forest practices.
- WLAP is working on policy that will support revisions to the Minister's list of species at risk, and will support the eventual development and approval of a list of Regionally Important Wildlife. This action will not affect plans.
- Regionally important wildlife are not expected to have effect for the purposes of an FSP as forest practices will be guided by General Wildlife Measures in a WHA or specified area. This is not expected to occur until early 2006.
- WLAP is also working on policy to support the designation of Temperature Sensitive Streams. These designations will not affect preparation of FSP. They only affect the selection of practices.

In summary….

- **The FPPR 7 Wildlife Objective has immediate application to your planning activities**
- **UWR & WHA – New areas may have been established in your area. Check the applicable websites, and select practices accordingly**
- **Fisheries Sensitive Watersheds & Community Watersheds – Regulation changes will have immediate effect on your planning**
- **Other WLAP actions – Check for any that may affect selection of practices**

Changes in Managing for Resource Values

4 - 30

- In summary, note that FPPR 7(1) affects almost all planning areas.
- If you were not given a Notice because of a Higher Level Plan provisions, consider seeking information that will help you address the land use objectives for wildlife in that plan.
- If you have questions on new UWR or WHA, or the background information for wildlife, communicate with your district's WLAP contact and your DDM.
- Take note of the imminent regulatory changes for FSW and CW, and consider what may be required for plan content in your area.
- Remember to check for new designations under the *Government Actions Regulation* that may affect selection of practices. All of these designations occur by way of orders under the Government Actions Regulation. Orders are listed on the WLAP website.

WLAP service delivery for *FRPA*

WLAP will not conduct business by referral:

- **Referral is inefficient and reactive**
- **Occurs after investment in a plan, after submission for approval**
- **Service is more effective and cost efficient when counsel is provided in a proactive manner**
- **Service is delivered before plans are being prepared, and is available to plan adjudicators before they consider a plan**

4 - 31

Presenters…. You need only present to this first slide and note to the audience that the other 2 are provided for their information.

- The next slides describe the manner in which WLAP will deliver service to the forest and range sectors under *FRPA*.
- There have been many enquiries, and we take this opportunity to explain our approach to *FRPA* business.
- Referral is inconsistent with our Shared Stewardship business model.
- Referral involves interference in planning investments, plan adjudication, and practice selection. Referral is inefficient, time consuming, process laden and reactive – and shifts accountability and liability away from those who must by law bear those burdens. **[next slide]**
- WLAP is a service agency, who assists those who are required by statute and regulation to deliver environmental stewardship.
- This business model requires WLAP to deliver service to those who must deliver in compliance with the law.
- WLAP does this in a pro-active manner, by making information, risk assessments and guidelines available for consideration before they are needed. **[next slide]**
- Those who must carry out actions to deliver environmental stewardship include persons, agencies or business entities that are required by law to prepare plans, select practices, adjudicate plans and practices, and comply with the statute and regulations. WLAP informs those actions.
- We are successful when planners, practitioners and plan adjudicators have the all the information we can offer, in hand, as they enter into their respective deliberations.

Pro-active Service Delivery

- We deliver information prior to plan preparation and determinations
- Information is expected to assist planners and practitioners, and help establish the level of diligence in delivery of consistent plans in compliance with the law
- We inspect for compliance and support enforcement action
- We will conduct effectiveness monitoring

Service Delivery to Planners

- **WLAP will help identify and communicate relevant considerations for results and strategies**
- **Summarise key considerations in the state of the land or forest relative to the objective**
- **Provide references on available science and information**
- **Outline risks to objectives, the nature and the location of these risks, and**
- **Make this information freely available to licensees, decision makers, public**

Changes in Managing for Resource Values

4 - 33

- **Please make sure that you ask any MOF representatives in the audience to ensure that District Managers <u>do not</u> instruct licensees to refer FSP to WLAP for review and comment.** Such instructions will only set up inappropriate expectations in industry and the public that we will not be able to address.
- **Let the audience know** that WLAP is developing a Service Delivery information bulletin that will be widely available in early April.

Issues or Questions….

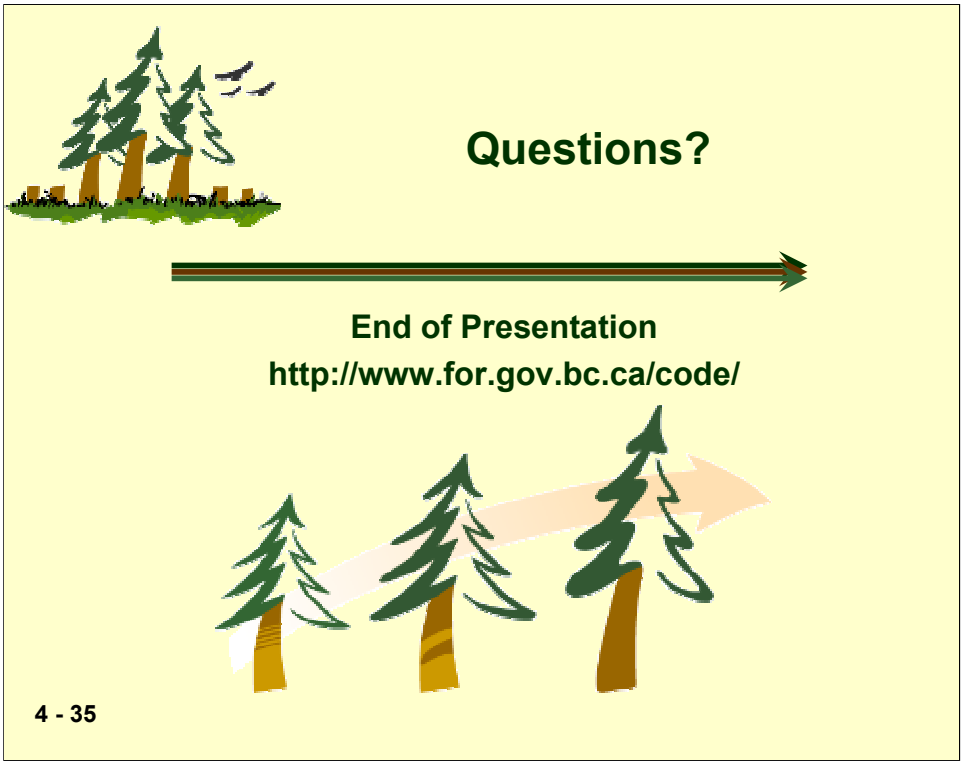
If issues arise, or if there are questions regarding WLAP actions to implement *FRPA*:

- **Please document these matters and forward them by e-mail to attention of Rodger Stewart**
- **Rodger is lead manager responsible for WLAP implementation of *FRPA***
- **We will consider your questions, and will supply response to participants in this forum**

rodger.stewart@gems3.gov.bc.ca

4 - 34

- We know that this presentation will lead to questions and discussion. It is quite likely that all your interests will not be met today. We expect that questions will arise as you think about this on the way home.
- So …. We offer a means for all participants to seek clarification as needed.
- We have a lead manager who can act as our "one window" of service for such questions.
- Please pose your questions as clearly as possible, and wherever possible, link them to specific situations and specific legal provisions so the context of your question is clear.



Questions?

NOTE to Presenter:

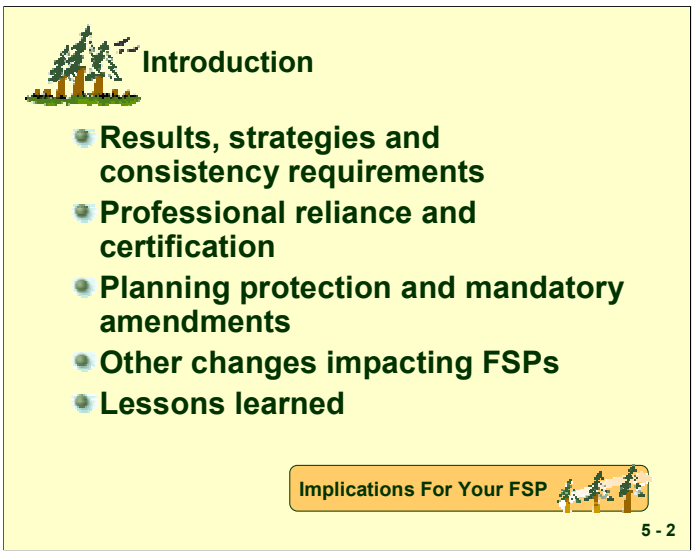
- Introduce the next presenter(s) and hand the floor over to them to begin Topic 5: Implications for Your FSP.

In this topic, I will explain the implications the changes to *FRPA* and regulations have on the development of FSPs

- This topic explains the implications of the major changes in *FRPA*. It does not explain the implication of all changes. Participants should refer to the *FRPA* Training Companion Guide for more details and/or seek legal advice for a complete and thorough understanding of the changes and their implications
- Please hold your questions until the end of the topic(s) in order to ensure we can cover all the material

NOTE TO PRESENTER(S):

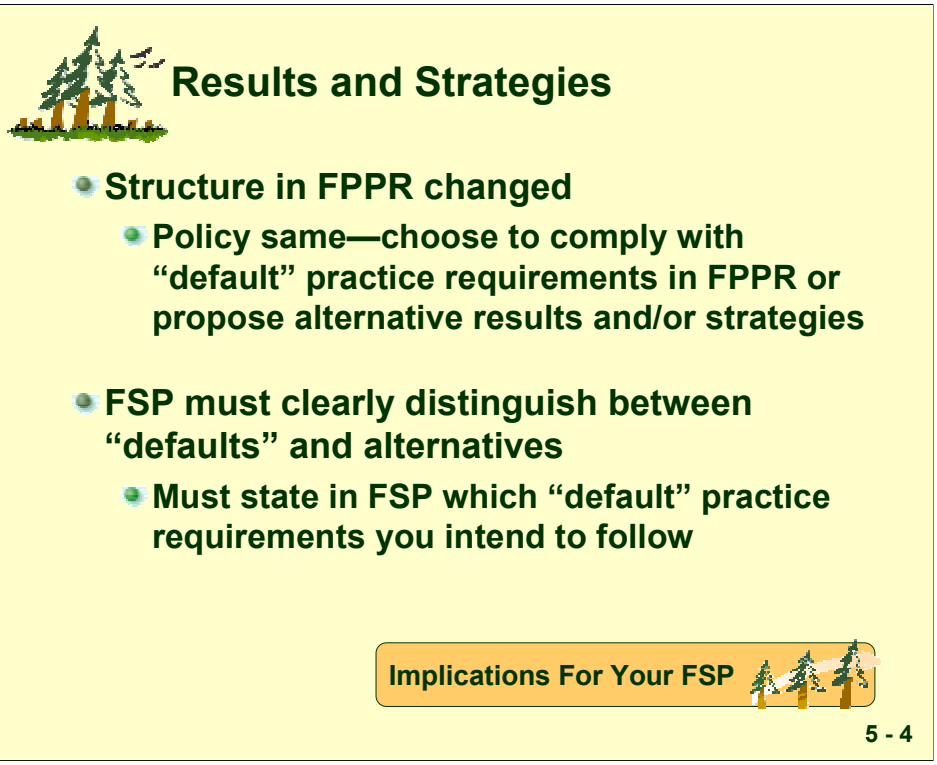
- Refrain from quoting section numbers of the *FRPA* and regulations unless asked by participants. The section numbers have been included in the speaking notes for your benefit should you wish to read the legislation corresponding to the overhead.



In this topic, we will cover the implications that the changes to *FRPA* and regulations have on the development of FSPs. This includes:

- Results, strategies and consistency requirements,
- certification by professionals and the larger role of professional reliance under *FRPA*,
- Provisions for planning protection and mandatory amendments,
- Other changes impacting FSPs such as the Public review and comment provisions, and
- lessons learned by our industry partners over the last year of implementing *FRPA*—specifically developing the initial FSPs

First, I will cover the changes regarding results, strategies and the requirements for consistency with objectives established by government.



The criteria and process for creating alternative results and/or strategies in an FSP have been clarified.

- The policy is the same but the table in section 13 has been repealed and replaced with sections 12.1 through 12.5.

The FSP must clearly state and distinguish between the "defaults" and the alternatives to the "defaults" that the agreement holder does not commit to following

- If the plan holder intends to use the "default" practice requirements, they must state in the FSP that the plan holder will "undertake" to comply with specific set of practice requirements (section 12.1 of FPPR).
- This is a change from the previous FPPR which stated that if you didn't propose an alternative, you must follow the "default" practice requirements in FPPR. The FSP must now specify that you intend to comply with specific "defaults"

"Default" Practice Requirements

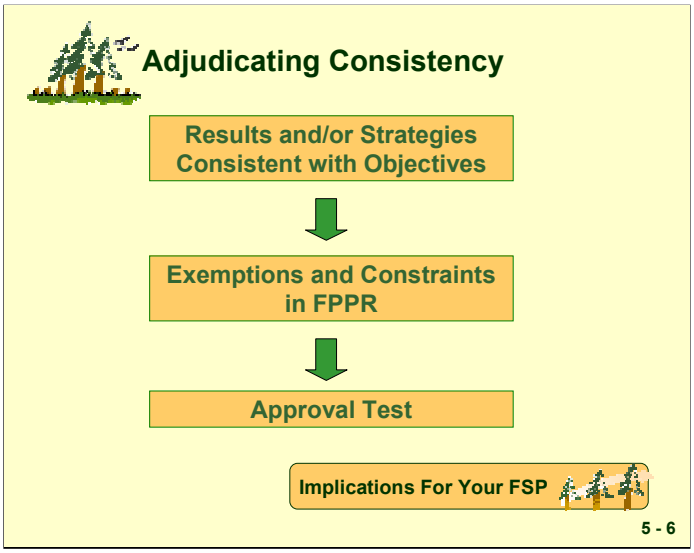
Objective in FPPR	Defaults
Soil (s. 5)	s. 35, 36
Water, fish, wildlife, biodiversity (s. 8)	s. 47-51, 52(2), 53
Biodiversity at landscape level (s. 9)	s. 64, 65
Wildlife and biodiversity at stand level (s. 9.1)	s. 66, 67

Implications For Your FSP

5 - 5

The "default" practice requirements in FPPR for which you can propose alternatives are shown in this table. This information is contained in section 12.1 of FPPR

- The default practice requirements in section 12.1 state, for example….If you follow the practice requirements in sections 35 and 36, you do not need to prepare a result and/or strategy for the objective in FPPR for soil.
- As discussed on the previous slide, the FSP must clearly identify which "defaults" a plan holder intends to comply with. For example, if the plan holder intends to use the "defaults" for the soils objective, they would state in the FSP something like "the plan holder will comply with sections 35 and 36 of FPPR"
- NOTE: the "default" practice requirements are those that you can prepare an alternative for in the FSP. There are other practice requirements that cannot be varied in a FSP (e.g., fish passage requirements of section 56 of FPPR that cannot be varied by a result or strategy in a FSP).



Enhancements to the FPPR have been made to help with adjudicating whether results and/or strategies are consistent with objectives. The adjudication of the consistency test involves the following:

1. Results and/or strategies must be consistent with government objectives (s. 5(1.1) of *FRPA*). In addition, every result and/or strategy must first meet the definition(s) in FPPR, that is, be measurable or verifiable and include the circumstances where they apply.
2. There are exemptions and constraints in the FPPR to the requirements that results and/or strategies be consistent with government objectives (s. 12, 25, 25.1 of FPPR)
   - Exemptions and constraints have been added and/or changed in the FPPR to aid the adjudication of results and/or strategies being consistent with government objectives to:
     - Resolve any conflicts that may exist with legacy objectives (e.g., overlapping, inconsistent, duplicate)—amongst themselves and/or with new objectives in *FRPA*
     - Enable practicability to address local conditions and circumstances
3. The minister must approve a FSP, or amendment to FSP, if it conforms to the content requirements of the *FRPA*—which includes the approval test that results and/or strategies be consistent with government objectives (s. 16(1) of *FRPA*)

NOTE TO PRESENTER:

- The Administrative Guide for FSPs contains more information on exemptions and constraints if participants wish to pursue this area further

Adjudicating Consistency Flexibility

- Results and/or strategies must be consistent to the extent practicable (s. 25.1(1) of FPPR)
- Result / strategy consistent if restate steps in objective along with circumstances when achieved (s. 25.1(2) FPPR)

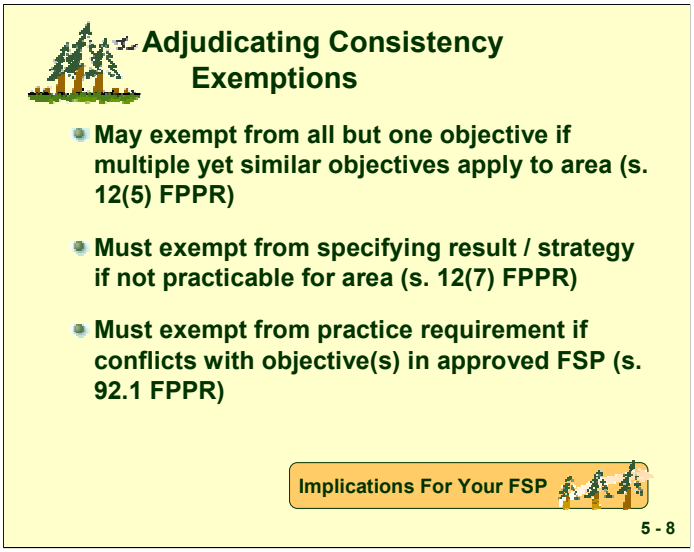
Implications For Your FSP

5 - 7

NOTE TO PRESENTER: this overhead has changed from the participant's materials. The title was changed. The sequence for displaying this slide was switched with the next slide (slides 5-7 and 5-8 switched). The order of the points displayed has reversed. The section number for the second bullet was changed from 25.1(1) to 25.1(2).

New flexibilities in developing results and/or strategies consistent with government objectives include the following:

- Results and/or strategies must be consistent with government objectives to the extent practicable given local circumstances and conditions (s. 25.1(1) of FPPR). If not practicable to prepare results/strategies, then go back to s. 12(7) of FPPR for an exemption.
- A result and/or strategy is considered consistent with the objective if it re-states the measurable or verifiable steps, if any, in the objective. The plan preparer must include the circumstances where the result and/or strategy will be achieved (s. 25.1(2) of FPPR)

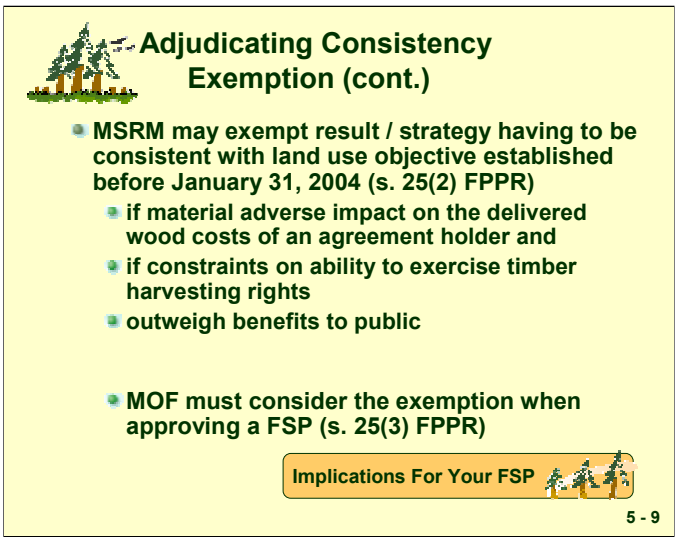


NOTE TO PRESENTER: this overhead has changed from the participant's material. The sequence for displaying this slide was switched with the previous slide (slides 5-7 and 5-8 switched). The last bullet was modified to replace "results/strategies" with "objectives".

New exemptions for when results or strategies may not be required include the following.

The Minister of Forests:

- must provide an exemption from specifying results or strategies consistent with established objectives if the Minister determines it is not practicable, given the local conditions or circumstances (s. 12(7) of FPPR). Section 25.1(1) of FPPR should be looked at first to determine if practicable to develop results/strategies—if not, grant an exemption under s. 12(7) of FPPR).
- may grant an exemption from results or strategies for all but one established objectives if two or more established objectives apply to the same area and refer to similar subject matter (s. 12(5),(6) of FPPR)
- must exempt the plan holder from a practice requirement if it conflicts with an objective used to develop results or strategies in an approved FSP (s. 92.1 of FPPR)
  - If an exemption is in regard to the wildlife provisions, conditions may be attached
  - The exemption does not affect those areas that have full protection



NOTE TO PRESENTER: this overhead has changed from the participant's materials. The words "relieve" and "relief" in the first and last bullets were changed to "exempt" and "exemption". The phrase "established before January 31, 2004" was added to the first bullet.

The Minister of MSRM:

- Upon application by the plan preparer, the Minister of MSRM may exempt a plan preparer from having to provide a result and/or strategy consistent with a land use objective. The result or strategy is still required, but may not need to be consistent with the objective. This provision applies to land use objectives established before January 31, 2004 under section 3 or 4 of the FPC (legacy objectives)—s. 25(2) of FPPR). NOTE: plan preparers should start this process during the plan preparation stage rather than when the plan is submitted to the MOF for the approval process. The intent is to address some of the legacy objectives in older LRMPs that may be difficult to prepare results/strategies for.
- The test for granting the exemption is that requiring consistency would:
  - Have a material adverse impact to the delivered wood costs of the holder of an agreement under the *Forest Act* and
  - Would unduly constrain the agreement holders' ability to exercise timber harvesting rights, and
  - That those impacts and constraints outweigh the benefits to the public that would be achieved by requiring the result or strategy to be consistent with the objective
- The Minister of Forests must consider any exemption granted by MSRM for the land use objective under section 25(2) of FPPR when approving the FSP or amendment (s. 25(3) of FPPR).

Introduce the Professional Reliance and "Certification" provisions under *FRPA*

Professional Reliance Concept

- Professionals are regulated through the legislation governing professional bodies
- *FRPA* does not regulate the relationship between employers and resource professionals
- Reliance on the experience, knowledge, judgment and accountability of professionals can make forest and range management more effective and efficient

Implications For Your FSP

5 - 11

Professional Reliance Concept (cont.)

- Employers are motivated by due diligence to rely on professionals
- *FRPA* is predicated on relying on appropriate professionals to apply good judgment and act in the interest of the public and the environment
- Professional regulatory bodies hold their members accountable for matters of conduct and competence
- Professionals are regulated by their *Acts* to practice only in those areas they are competent to practice in

Implications For Your FSP

5 - 12

- The implementation of *FRPA* is predicated on the use of the appropriate professionals in applying their professional judgment in a variety of ways:
  - Providing strategic advice on FSPs including when to transition to a FSPs and the identification and development of forest development units
  - identifying and conducting assessments—requirements for assessments are no longer in legislation. Professionals will assist licensees by advising on assessments that should be carried out—including where and how these assessments should be done
  - developing and gathering support for results and/or strategies that meet the approval test (e.g., consistent with government objectives) that also meet the goals of *FRPA* such as costs savings, flexibility and innovation
  - providing advice on implementing *FRPA* through approaches that achieve the required results, meet legal requirements while delivering greater operational efficiencies as identified in one of the goals for *FRPA*.

The professional associations support professionals in their roles under *FRPA* through:

- Developing and providing tools and information to members such as:
  - guidance documents for technical items such as drafting results and/or strategies and conducting assessments
  - codes of ethics
  - Providing bylaws and standards of practice on how professionals conduct themselves
  - Providing information and education to members
  - Carrying out practice audits
  - Defining which documents require signing and sealing by professionals
    - •Identifies the professional responsible/accountable for the work
    - •Confirms the work is done to the standards of their profession

Continued on next slide….

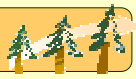
Continued from previous slide….

Professional associations:

- Develop and maintain continuing competency programs to assist professionals maintain their standards of practice
- Hold professionals accountable including handling complaints and following a disciplinary process, if required

Actions of Professionals

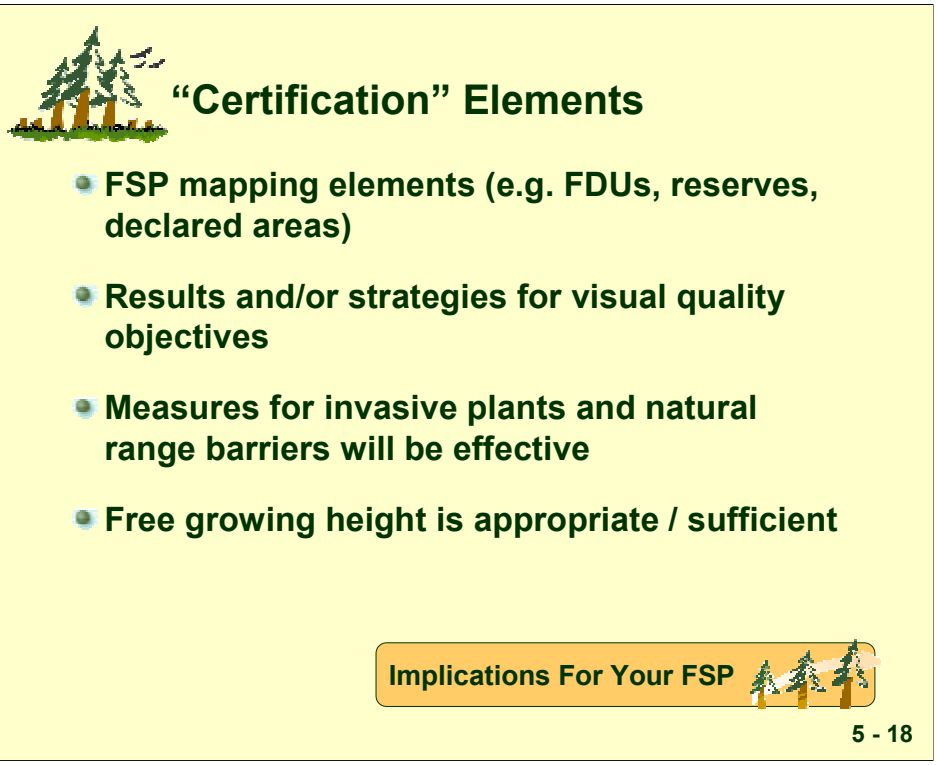
- Fully responsible for their recommendations, reports, decisions, assessment and any other professional activities undertaken
- Fully accountable to the public through their professional association
- Can delegate the task but not the responsibility/accountability

Implications For Your FSP 

5 - 16

One recent change in professional reliance as it relates to FSPs involves the provision to "certify" which is but one aspect of professional reliance:

- Resource professionals, if they choose to do so, may now certify that the plan approval tests have been met for a limited number of FSP content elements. These elements are listed in section 22.1 of FPPR.
- The thinking behind the "certify" provisions added to *FRPA* is not new. These concepts were identified several years ago by a joint government, industry and professional association task force.



The elements of a FSP that can be "certified" in *FRPA* include (s. 22.1 of FPPR):

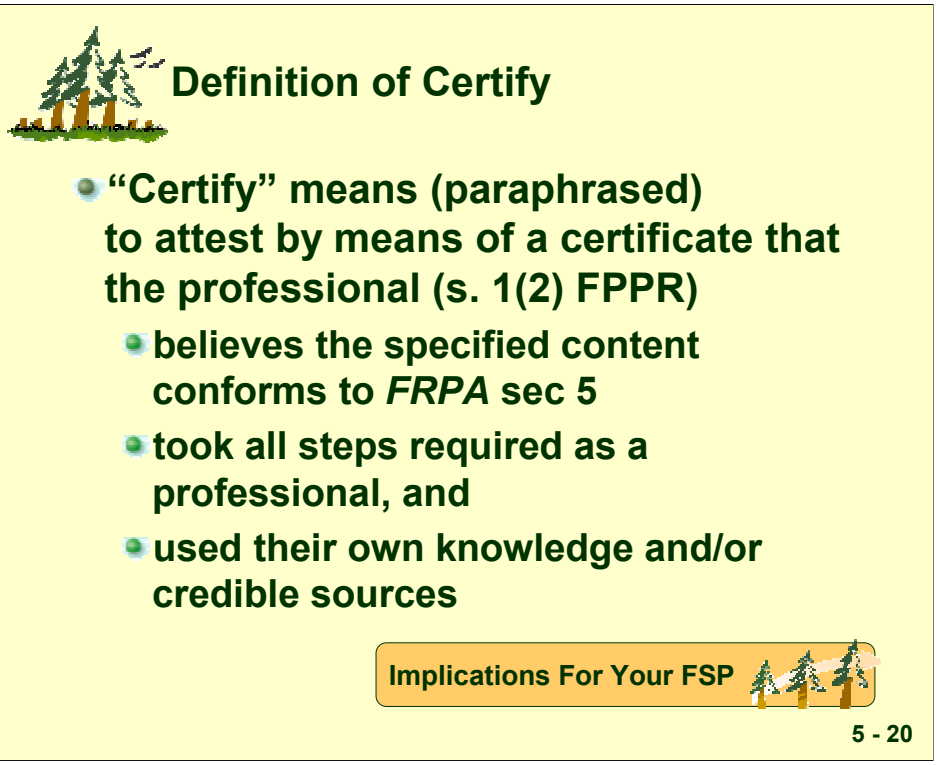
- The FSP mapping elements, such as FDUs, reserve areas, UWRs, WHAs, and declared areas
- That the results and/or strategies for visual quality objectives are consistent with objectives
- That measures for invasive plants and natural range barriers will be effective
- That free growing height is appropriate and sufficient to demonstrate the tree is adapted to the site

NOTE TO PRESENTER: this overhead has changed from the participant's material. The word "professional" has been added in front of "Agrologists".

FPPR section 22.1 lists the five types of professionals provided authority to "certify" content:

- Professional Agrologists
- Professional Biologists
- Professional engineers
- Professional geoscientists
- Professional foresters

But, only those professionals who are appropriately registered and have the knowledge and experience in that particular area of practice may certify.



"Certify", in section 16 (1.01) of the *Act*, means to attest by means of a certificate that the agrologist, the professional biologist, the professional engineer, the professional geoscientist, or the professional forester who issues the certificate:

a) is of the opinion that a FSP or amendment to a FSP conforms to section 5 of the Act in relation to the subject matter described in section 22.1 (2) of this regulation,

b) in forming that opinion, he or she took all steps required of him or her as a professional, and

c) the opinion referred to in paragraph (a) is based on either or both of the following**:**

   i. his or her own knowledge

   ii. information from credible sources.

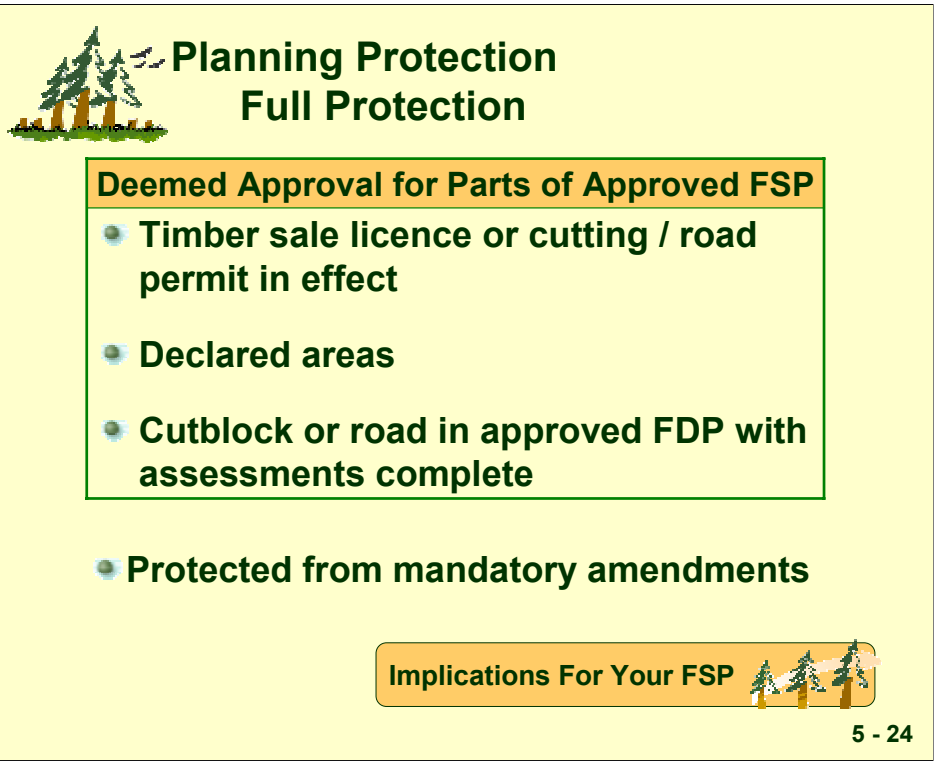
- Certification is optional.
  - The person preparing the plan must provide the information as per the content requirements for a FSP
  - It is up to the professional to determine if they wish to certify any element that is certifiable
- If the qualified professional chooses to certify an element, they must “attest by means of a certificate” the items we just discussed under the definition of “certify”:
  - The element conforms to section 5 of *FRPA*
  - They took all steps required as a professional and
  - Their opinion is based on their own knowledge and/or information from credible sources
- The professional associations will develop the details around the “certificate”

- Certification does not provide authority for professionals to approve the plan or elements of the plan. The Minister, or DDM, continues to be responsible for approving the entire plan.
  - *FRPA* states that if a qualified professional certifies prescribed subject matter, then the FSP conforms to the content requirements for the item(s) certified
  - It is not expected that DDMs will review the "certified" plan elements in detail.
- The Minister, or DDM may challenge the "certification" if they receive information that gives them reason to believe that the "certified" element does not conform to the content requirements
  - An amendment to the plan may be required
  - The plan holder must be given an opportunity to be heard before making the decision to require an amendment
- The plan holder is required to notify the District Manager and amend the plan if they determine the "certified" elements no longer conform to the prescribed requirements

NOTE to Presenter--OPTIONAL

- Ask participants if any questions on the professional reliance topic (while the professional association speaker has the floor)
- **Some questions that participants might ask based on feedback from other training programs. Presentations may wish to be prepared to answer these questions or know who to contact (e.g., association executive)—don't answer the question if you are not qualified or do not have a solid answer.**
- What are the implications of professional deference in drafting the plan for items not "certified"? (e.g., what are the limits of professional deference in terms of the plan approval test for items not "certified"?, If a professional defers part of a result/strategy to another professional, should it be approved?)
- Are there different tests if "certify". For example, is the test to "certify" that the FDUs are specified "accurately" the same test as if it wasn't "certified" (e.g., conforms to the content requirements of section 5 of *FRPA*)? Is this a new test? There is a little information in *FRPA* on this—the tests should be the same logic and wouldn't differentiate the tests. The professional standards of practice will be the same whether they choose to "certify" or not
- What if the Minister notices the "certified" element doesn't seem right at the time of plan submission. The Minister can give the licensee an opportunity to consider. The Minister can also challenge the "certified" element once it has been approved.
- Standards of practice—what is it and what role does it play in developing and approving a FSP?

Now we will cover some of the provisions for planning protection for FDUs and mandatory amendments.



The provisions for planning protection—limited and full protection—have been modified in *FRPA*.

- The intent of these planning protection provisions is to be equivalent to planning protection provisions under the FPC.
- Changes have been recently made to the *FRPA* and FPPR to address some elements that were overlooked in the original legislation (e.g., declared areas, category A cutblocks with assessments completed).

In order to provide licensees with continuity or protection of their earlier work in evaluations and activities, road building and layout, etc. some parts of an approved FSP are not subject to the plan approval test when a subsequent FSP is submitted for approval. Those parts with full protection listed in section 7(1) of *FRPA* are:

- A Timber sale licence or cutting or road permit that is in effect or has a term starting after the date when the FSP is submitted for approval
- Areas identified as a declared area
- A cutblock or road in an approved FDP with the necessary assessments completed as per the Operational and Site Planning Regulation and/or Forest Road Regulation of the FPC (s. 196(1) of *FRPA*)

These items are fully protected at the approval stage as well as protected from any mandatory amendment requirements

NOTE TO PRESENTER—new slides on pages 25-28 replace overheads in participant's package (slides 25-29). Please refer participants to pages 6-24 to 6-27 in the *FRPA* Training Companion Guide.

The Limited Protection concept in *FRPA* is similar to that you're familiar with under the FPC.

- If certain events occur, FDP approved Category A blocks (without assessments) must go back through the plan approval process (1st FSP only). In subsequent FSPs, the limited protection applies to approved FDUs.
- The important change is that the list of items has been expanded & the list changes over time.

The 'ongoing' specified events are:

- New or amended enactment
- An objective set by government is established, varied or canceled
- An objective by order under *FRPA* or the regulation (e.g., GAR) is established, varied or canceled for:
  - Wildlife habitat areas **
  - Water quality **
  - Fisheries sensitive watersheds **
- A community watershed designated in or adjacent to the FDU is added, varied or cancelled by order
- Timber in the vicinity of the FDU has suffered catastrophic damage

Continued on next slide....

NOTE TO PRESENTER—new slides on pages 25-28 replace overheads in participant's package (slides 25-29)

Continued from previous slide…NOTE: the overhead has not changed. The speaking notes continue from previous page.

Limited planning protection for FDUs (Cat A blocks) can be pulled back for an additional list of events ONLY until December 31, 2005.

- The different dates for these elements reflect that government envisions having these objectives in place by the end of December, 2005.

This limited protection provision is the same for the others just discussed except these events must occur by December 31, 2005. Otherwise they do not apply and the Minister cannot consider the FDU to be inconsistent with the event (s. 7(1.1) of *FRPA*)

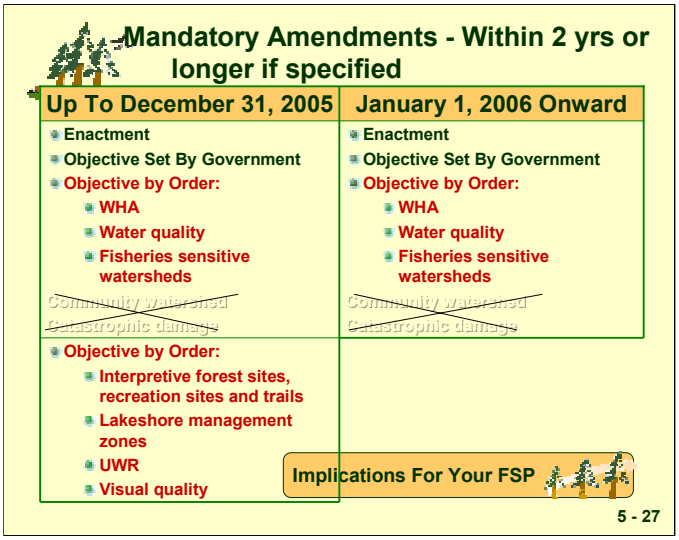
Before December 31, 2005, the additional list of events that would cause Category A blocks to be pulled back for re-approval are:

- An objective by order under *FRPA* or the regulation (e.g., GAR) is established, varied or canceled for:
  - Interpretive forest sites, recreation sites and trails
  - Lakeshore management zones
  - Ungulate Winter Range (UWR) or
  - Visual quality

After December 31, 2005, the establishment of objectives for these items do not trigger the limited protection provisions of s. 7 of *FRPA*

Planning protection does not apply (i.e., is "limited") if these events on both slides 25 and 26:

- occurred within the specified period before the plan is submitted
- are applicable to the FDU and
- the Minister considers the FDU to be inconsistent with the event (s. 7(1.1) of *FRPA*)



NOTE TO PRESENTER—new slides on pages 25-28 replace overheads in participant's package (slides 25-29)

The holder of an approved FSP must propose and submit an amendment to the Minister within the specified timeframes if any of the following events are applicable to the plan (s. 8(1) of *FRPA*)

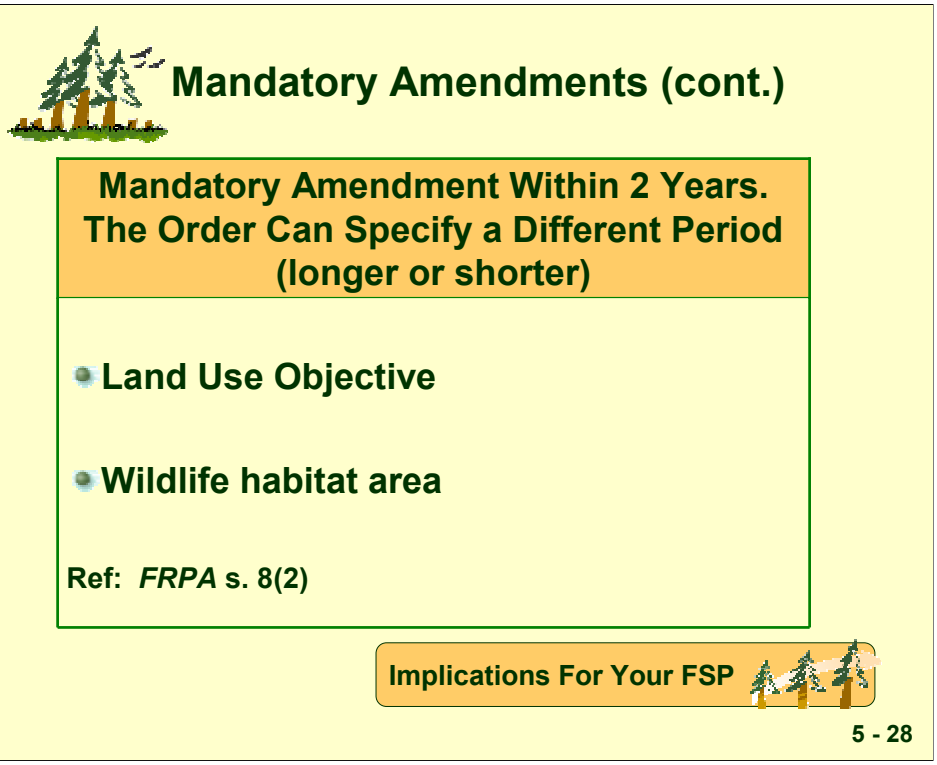
Similar to the limited protection 'events', we just went thru, there are two lists, one to Dec 31/05 & one ongoing beyond Jan 2006. The only difference between this list & the previous one is that Community Watersheds and catastrophic damage are not on the list (these would just get picked up at plan replacement instead of opening up a plan mid-term).

The 'default' time frame is two years, but the enactment/order can specify a longer period.

- New or amended enactment
- Land use objective established, varied or cancelled
- Objective set by government (in regulation) is established, varied or canceled
- a mandatory amendment must be made to an FSP if an objective established by Order (GAR) is established, varied or canceled, and applicable to the FSP for (s. 23(3) of FPPR):
  - Wildlife habitat areas
  - Water quality
  - Fisheries sensitive watersheds

The additional list UNTIL DECEMBER 31, 2005….:

- Interpretive forest sites, recreation sites or recreation trails under s. 56(3) of *FRPA*
- Lakeshore management zones
- Ungulate Winter Range (UWR)
- Visual quality



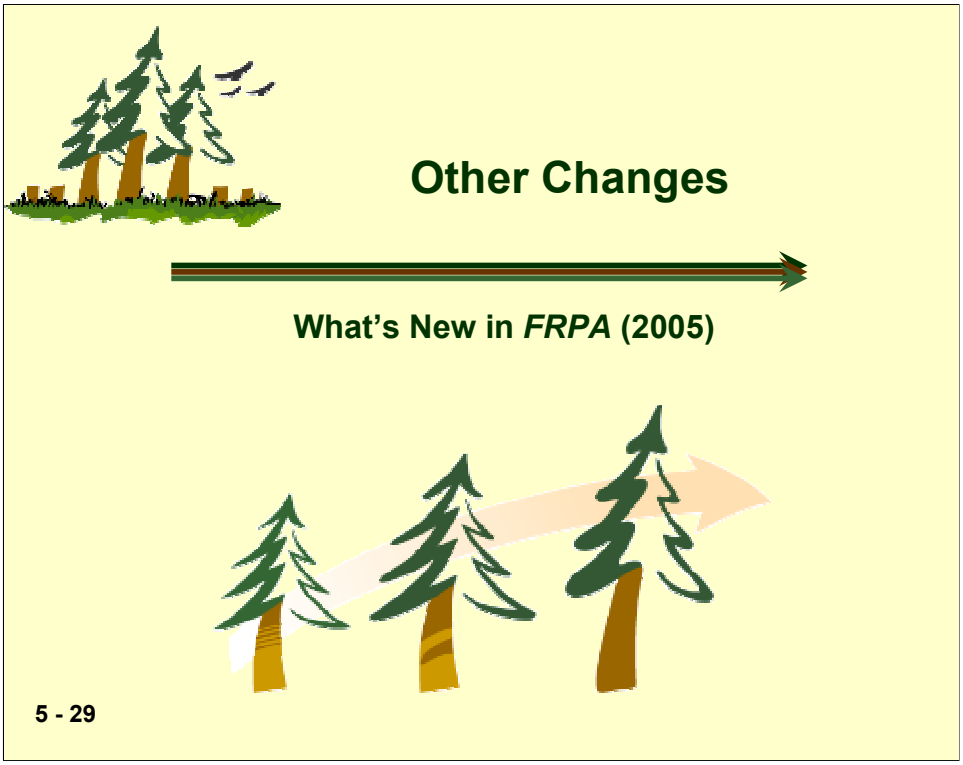
NOTE TO PRESENTER—new slides on pages 25-28 replace overheads in participant's package (slides 25-29)

Continued from previous slide….

Two 'special cases' that apply under s 8(2) of the Act……

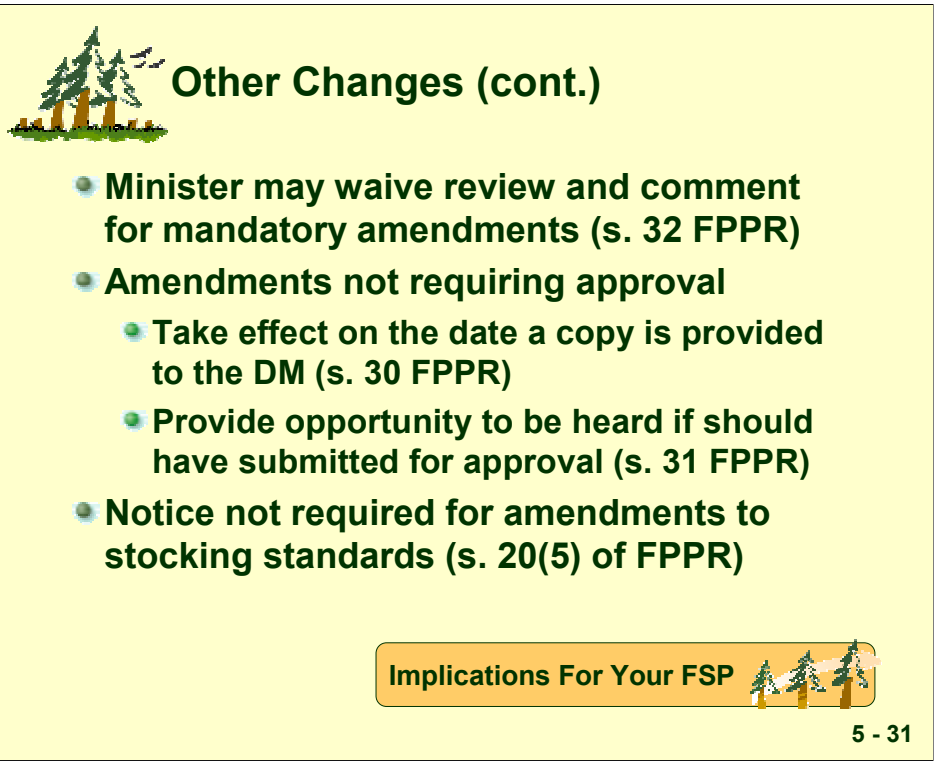
- For Land Use Objectives and objectives for Wildlife Habitat Areas, Section 8(2) of the *FRPA* allows the Order to specify a different period within which you must amend your FSP — either longer or shorter than 2 years.

- For all the other objectives on the previous slide, *FRPA* only allows the order to specify a longer period than 2 years.



Now we will cover some of the other changes impacting the development of FSPs.

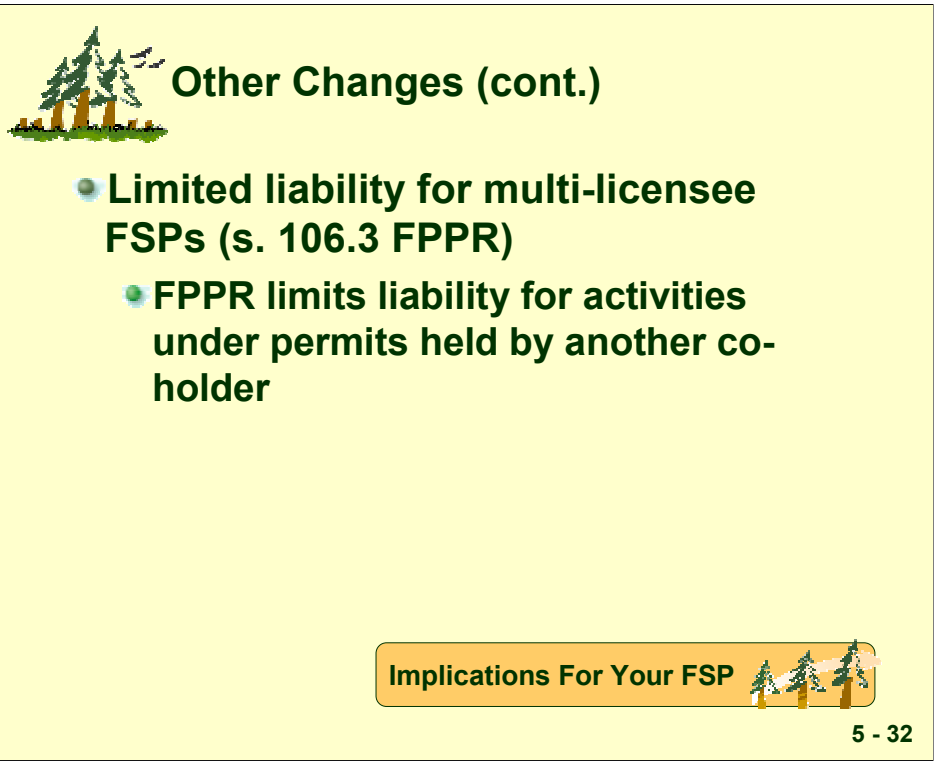
- Obligations for providing public review and comment opportunities have been clarified by differentiating between:
  - those who are interested in the plan (who can review the plan at the licensee's place of business), and
  - those whose rights may be affected by the plan (by providing an opportunity to review the plan commensurate with the effect on their rights).
  - It will be important to conduct up-front dialogue with the DDM, other licensees and tenure holders regarding who these rights holders are, and what their rights are



NOTE TO PRESENTER: this overhead has changed from the participant's materials. The word "Provide" was added to the start of the fourth bullet.

Other changes to the FSP amendment requirements include the following:

- the Minister may waive the review and comment obligations for mandatory amendments if not practicable given local conditions (s. 32 of FPPR).
- Amendments not requiring approval
  - An amendment not requiring approval takes effect on the date a copy of it is provided to the District Manager (s. 30 of FPPR)
  - If the Minister determines that an amendment made without approval should have been submitted for approval, he/she must give the holder of the FSP an opportunity to be heard before declaring the amendment is without effect and/or suspending applicable operations (s. 31 of FPPR)
- A person proposing an amendment to the stocking standards is not required to publish a notice in a newspaper (s. 20(5) of FPPR).



A provision to limit the liability of multiple holders of an FSP was incorporated into FPPR (s. 106.3 FPPR):

- If a FSP is held by more than one person, individual plan holders are exempt from the requirement to ensure the results and/or strategies specified in the plan are carried out on areas subject to a cutting permit, road permit or timber sale licence held by another co-holder.
- Previously, plan holders were drafting limited liability clauses into their FSPs and other legal documents to cover this matter. Plan holders do not need to continue this under the new provision in s. 106.3 of FPPR

Over the past year, industry and government have gained experience in developing/reviewing/approving FSPs through both the FSP pilot projects and other FSPs developed under *FRPA*. We will discuss some of these lessons learned.

NOTE to Presenters--THIS IS AN OPTIONAL SECTION (TIME PERMITTING)

You can use this section of the presentation to break up the delivery depending on the agenda and number of participants in session. If time permits, you can open this section up into a audience discussion by:

- Asking participants for their lessons/experiences in developing FSPs
- Open the floor for discussion based on time permitting
- Debrief the discussion using the following slides (for example, "findings and lessons learned from other locations include the following…")

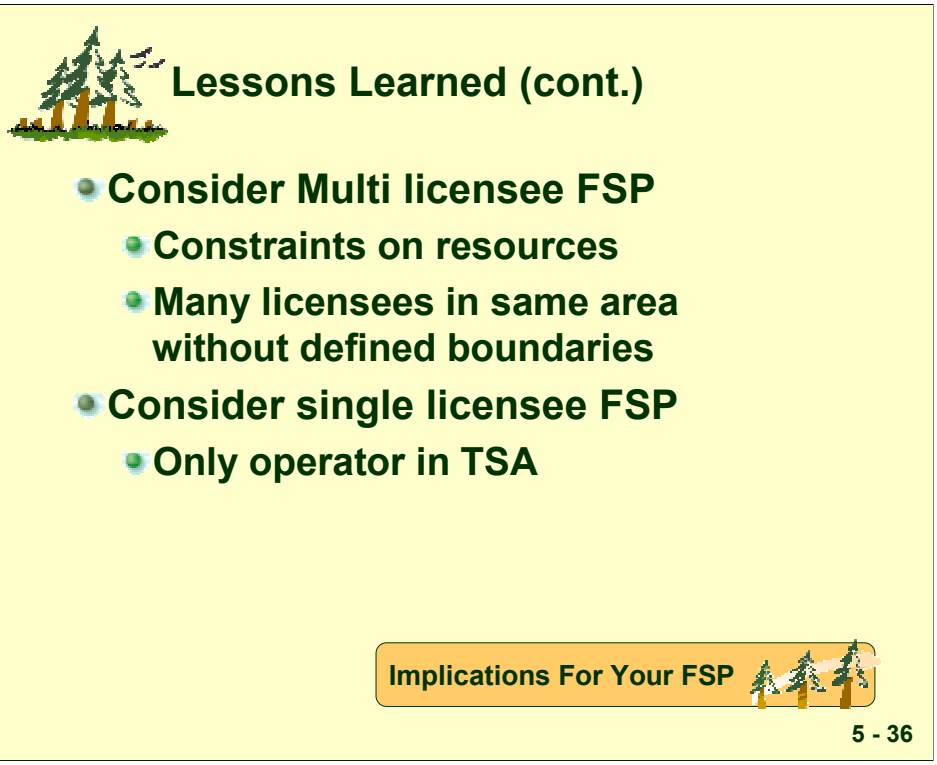
Feedback from the FSP pilots and initial FSPs prepared/approved regarding approaches to preparing alternative results and/or strategies includes the following:

- Consider how you will document the alternative such that others can review and approve or implement. Documenting your alternative in a supporting document, in a way that makes it easier for others to review and understand, could shorten the approval process and aid the success of your implementation. Not only will government need to understand the alternative, so will your harvesting supervisor and their teams. NOTE: the supporting document should contain background information for a result/strategy. Information contained in the FSP is subject to compliance and enforcement—keep the results/strategies in the plan and the supporting material outside the FSP.
- Look to develop results and/or strategies around areas that have caused you issues in the past under the Code; things that have not worked well or areas that you'd like to improve practices on (e.g., address inefficiencies and/or reduce costs through greater innovation and flexibility). For example, on the coast, getting access to and setting buffers for blowdown in riparian areas is an issue local foresters would like to address. Planning foresters are developing alternative results and/or strategies for their FSP to address this.
- Ensure you don't over commit the licensee/company to something that can't be delivered

The following sources of information and tools were identified in the FSP pilot projects and initial FSPs

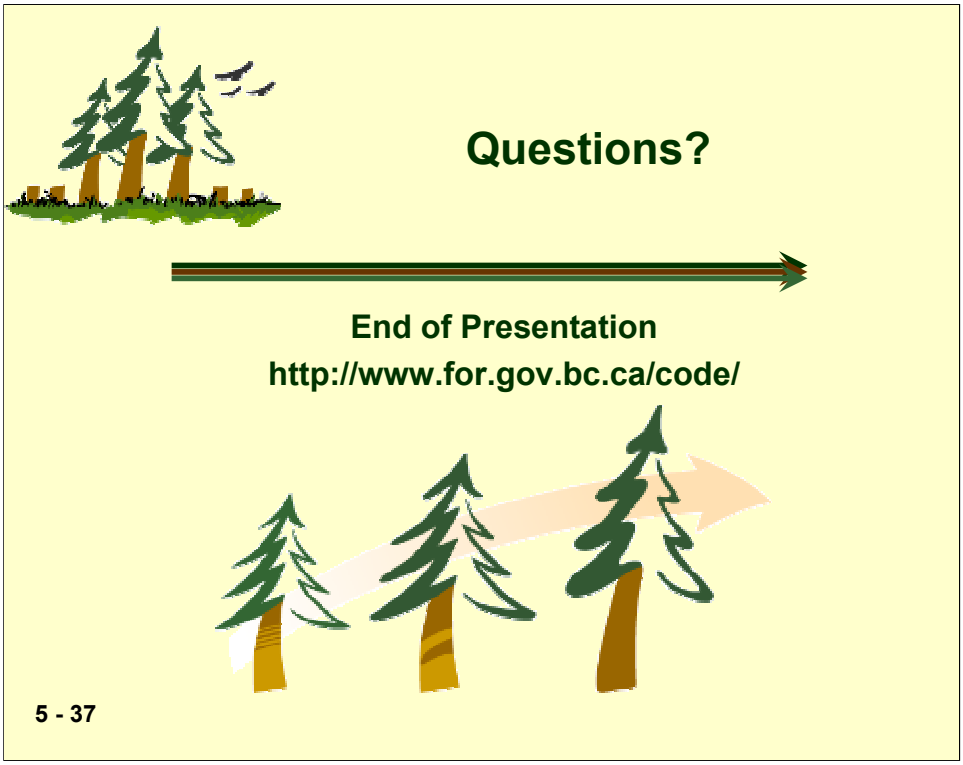
- Talk to neighbor/licensee that work around you
  - Ensure you talk to other licensees and agreement holders in the plan area. Work together on the landscape/broad strategies to avoid impacting each other. You don't want to leave this to the DDM to identify during the plan approval process
  - Innovation and cost reduction will come through licensees and professionals working together to capitalize on opportunities to create broader plans and implement more innovative approaches that permit flexibility
- Checklists/peer review of your FSP—use these tools to review your plan for flow, missing content, over commitment in results and/or strategies, etc. before submitting to the MOF. Under professional reliance, you are responsible to ensure your plan is complete and accurate
- Use all the resources you can to develop your plan:
  - Work with other professionals and leverage material in the public domain to identify the issues and ways to address. This isn't fettering your decision as a professional but a resourceful way to develop results and/or strategies.
  - Look for other work done in your area that may be useful in your FSP. Many research projects, including those funded by FIA, contain useful information for your consideration
  - Utilize specialists—some aspects of the FSP are very specialized with skills most licensees will not have in-house (for example, dealing with cultural heritage resources or marbled murrelet). Planners should work with input from specialists to ensure these areas are addressed in the plan

Don't forget about practice requirements that must be met on the ground. You don't need to cover these in your plan but your operational teams will need to meet.



Additional feedback on when to consider a multi-licensee FSP that may extend beyond district boundaries:

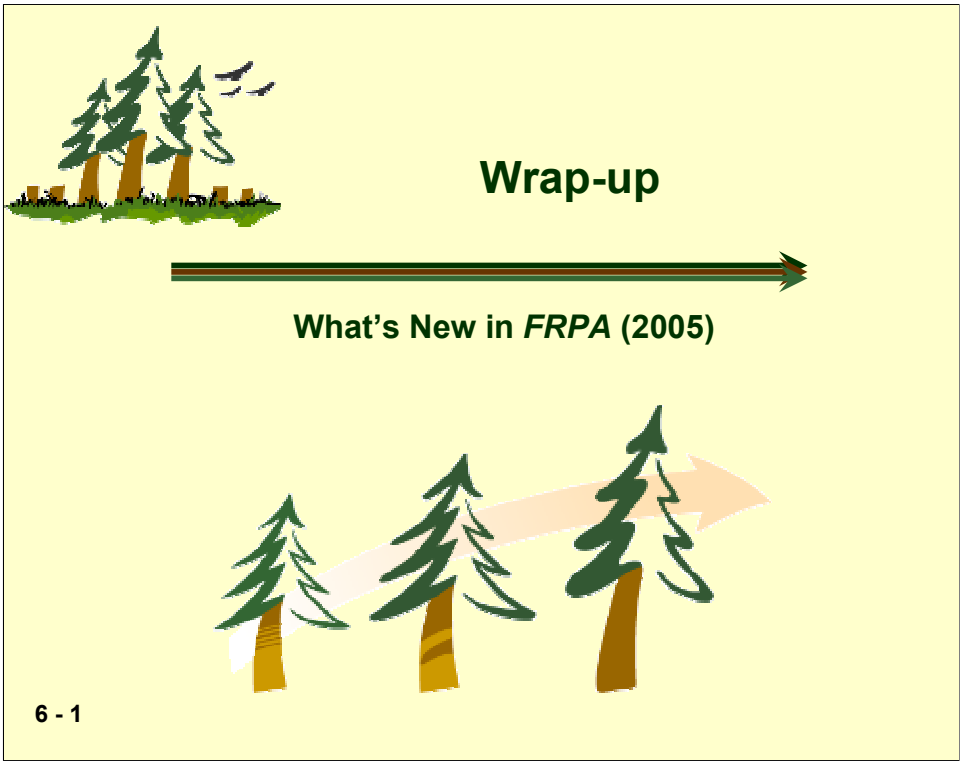
- A multi-licensee FSP may be appropriate if:
  - A licensee has limited resources
  - Many licensees are operating in the same area without defined boundaries and will want to avoid tripping over each other (for example licensees sharing the landscape). There may be other efficiencies in plan development such as licensees working together to create core plan content and then turning it into separate FSPs (i.e., not multi-licensee but sharing some of the development process).
- A licensee may want to submit their own FSP if they are the only operator in the TSA



Questions?

NOTE to presenter:

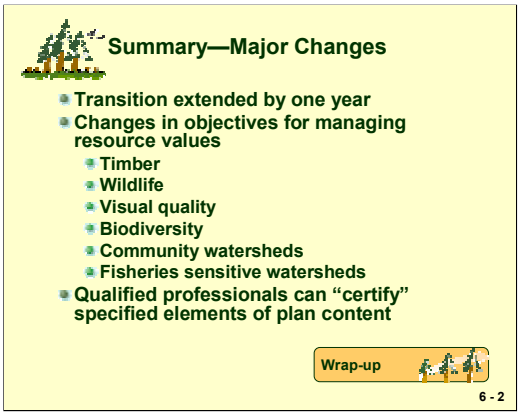
- Introduce the last presenter (Facilitator) and hand the floor over to them to begin Topic 6: Wrap-up.



In this topic, summarize the content presented and collect feedback from participants.

NOTE: The changes we have covered today are only the major changes related to developing and approving FSPs. We encourage all participants to review the Companion Guide for additional changes (highlighted in the document) and refer to the Act and regulations for the exact wording and requirements of the revised legislation.

As we covered in the summary of the previous topic, all participants should monitor, on an ongoing basis, all new objectives as they are established to determine the impact on approved FSPs (e.g., mandatory amendments).



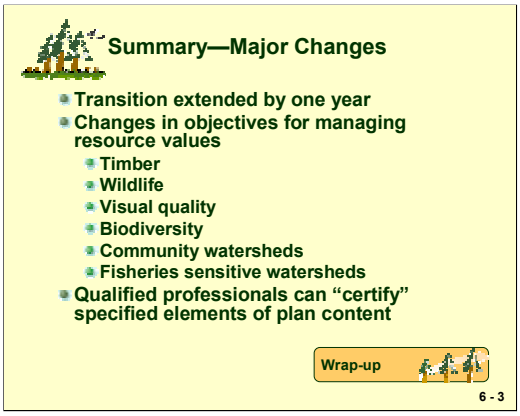
NOTE TO PRESENTER: the overhead has changed from the participant's materials. The word "partially" was deleted from the first bullet and the phrase" specified elements of" was added to the last bullet. The objectives in FPPR for community watersheds and fisheries sensitive watersheds established on February 23, 2005 were included in the overhead.

Thank you for your time today. This session was designed to provide you with information to assist you develop and amend, as necessary, approved FSPs as a result of the recent changes to the *FRPA* and regulations

The major changes include:

- Transition has been extended by one year. FDPs can be submitted until December 31, 2005. Approved FDPs can be amended until December 31, 2006. All FDPs expire on December 31, 2006. Cutting permits, road permits and timber sale licences can be obtained from an approved FDP until December 31, 2006.
- objectives have been established or modified for several resource values. This includes an objective for:
  - Timber—the objective in FPPR was amended to include a consideration of delivered wood cost. Results or strategies for this objective are optional
  - Wildlife—orders now list the species at risk and ungulate species that must be addressed in the wildlife objective in FPPR. Notices under section 7 of FPPR have also been issued to describe the indicators of the amount, distribution and attributes for conserving sufficient wildlife habitat for these species at risk and ungulate species

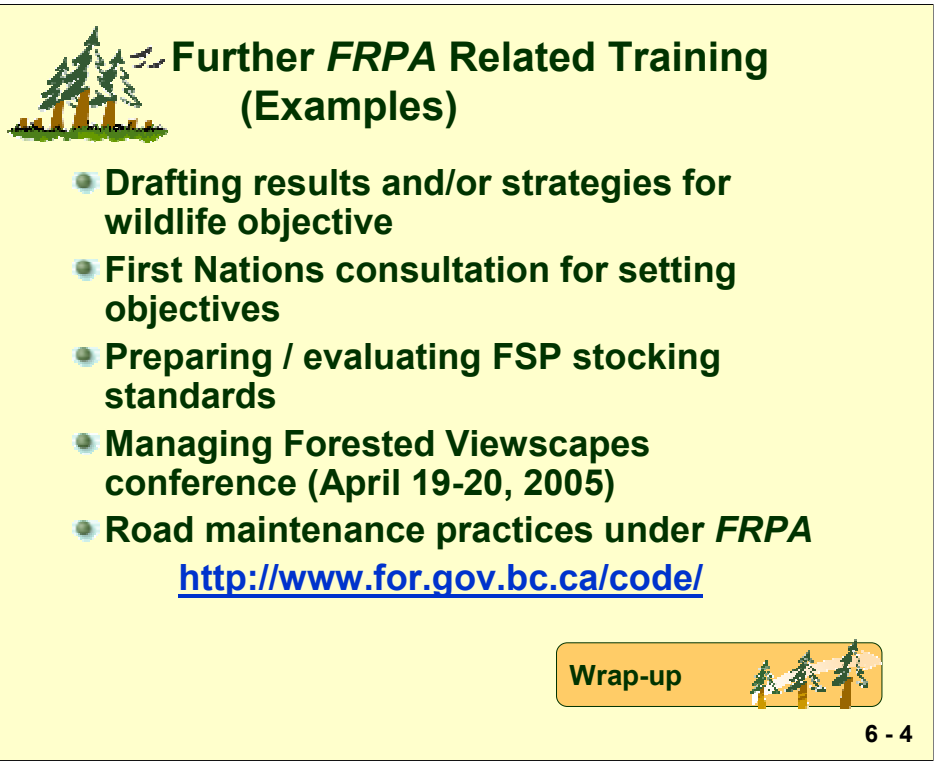
Continued on next slide….



Continued from previous slide…NOTE: the overhead has not changed. The speaking notes continue from previous page.

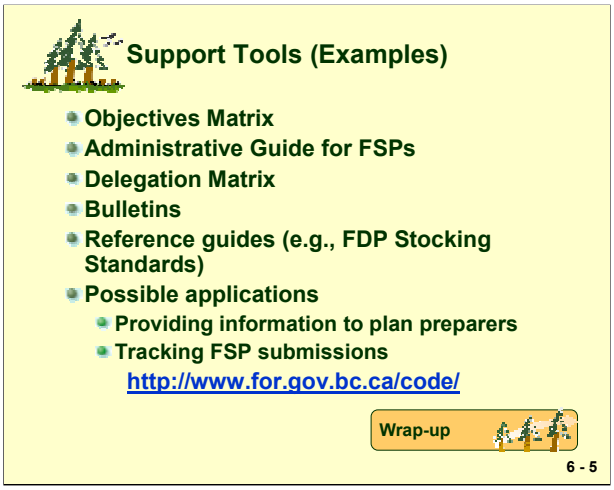
- Visual quality
  - an new objective in FPPR provides objectives for established scenic areas that do not have a VQO already. Approved FSPs must be amended within 2 years, if applicable, to address this objective
  - An new objective established by Order under GAR provides objectives for established scenic areas with established visual classes. These visual classes now become the objective
- Biodiversity—objectives for old growth were established by order in June of 2004 under s. 4 of FPC. FSPs must contain results and/or strategies consistent with this objective.
- Community watersheds—a new objective under FPPR for community watersheds established under FPC provisions before January 31, 2004. This objective applies immediately and FSPs must contains results and/or strategies consistent with this objective if the plan area includes a continued community watershed.
- Fisheries sensitive watersheds—a new objective under FPPR for fisheries sensitive watersheds. The FPPR now includes a schedule identifying fisheries sensitive watersheds that are continued into *FRPA*. FSPs must be consistent with this objective if an FDU encompasses any area of a fisheries sensitive watershed identified in the regulation

- New provisions for "certifying" plan content—qualified professionals can now "certify" that specified elements of the plan conform to the content requirements of an FSP



Many training activities and tools are planned to assist you implement *FRPA*. Some of these include the following (NOTE: Not a complete list):

- Drafting results and/or strategies for wildlife objectives--WLAP and COFI are co-developing and delivering a workshop on drafting results and/or strategies for the wildlife objective in FPPR. This workshop is a hands-on session that builds on the information presented today. This training is scheduled for delivery in the first two weeks of April
- First Nations Consultation for Setting Objectives--MSRM is developing training on First Nation consultation when setting objectives. This training is a joint effort with Land and Water BC and the Ministry of Energy, Mines and Petroleum Resources
- Training is available for anyone who will be preparing or evaluating FSP Stocking Standards. Contact the Regional Stewardship Forester for more information
- A visual quality conference titled "Managing Forested Viewscapes" is scheduled for April 19-20 of this year in Kamloops. Pamphlets with additional information are available at the door
- Training on road maintenance practices under *FRPA* is under development and planned for delivery in May. Training will be available for government, industry and contractors.



NOTE TO PRESENTER—this overhead has changed from the participant materials. The acronym "AGFSP" has been spelled out "Administrative Guide for FSPs"

In addition, many tools are planned to assist you implement *FRPA*. Some of these include the following (NOTE: this is not a complete list):

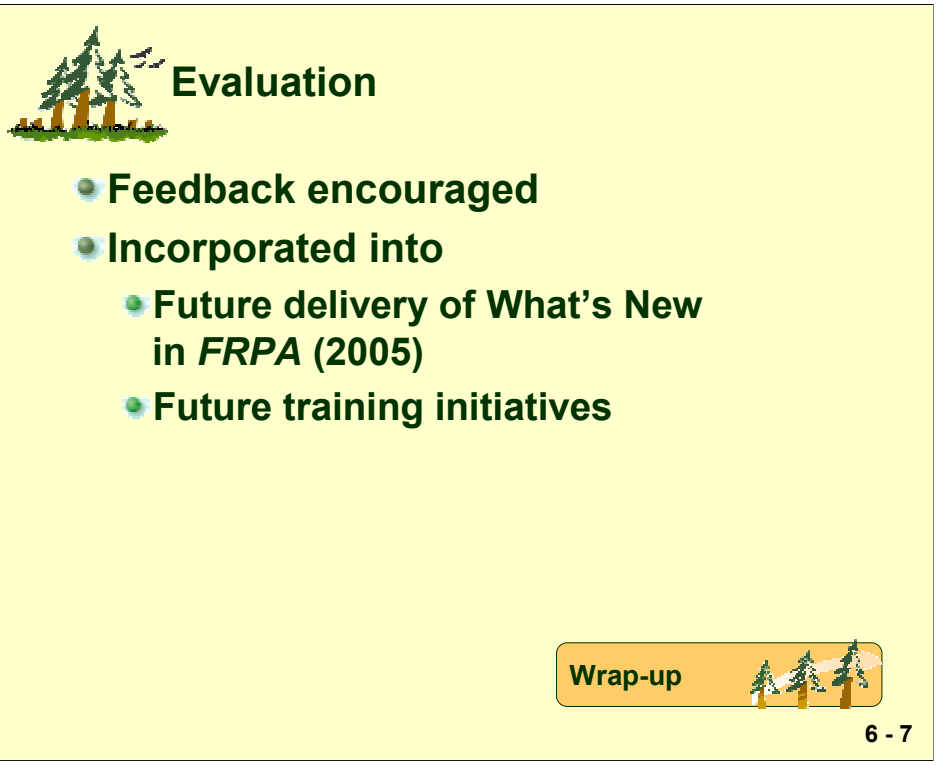
- Objectives Matrix—as discussed in topic 2, the Objectives Matrix is tool contains additional information on government established objectives. Bulletins are available off the *FRPA* website
- Administrative Guide for FSPs—and training package to support
- Delegation Matrix—clarifying which ministry decision has been delegated to who
- Bulletins—prepared with additional information on a variety of topics including managing for visual quality, transition and information sharing with First Nations. Bulletins are available off the *FRPA* website.
- Reference guides—guides are available such as the MOF Reference Guide for FDP Stocking Standards containing standards that may be applicable to cut blocks under a FSP and other agreements
- Applications that may be developed include systems to:
  - Provide information—government is conducting an initial analysis project to determine requirements for a system to provide information to plan preparers. This may result in a system to improve access to government information for use in preparing a FSP
  - Track FSP submissions—MOF is also conducting an initial analysis project to determine requirements for a system to track FSP submissions and the associated approvals and communicate the results and/or strategies to C&E staff. This may result in a FSP submission tracking system

NOTE TO PRESENTER: this overhead has changed from the participant's materials. The phrase "delivery dates" was added to the third bullet.

Discuss where to find additional information

- Act and regulations
  http://www.for.gov.bc.ca/tasb/legsregs/comptoc.htm
- *FRPA* Training Website —
  http://www.for.gov.bc.ca/code/training/frpa/
  - *FRPA* training materials (*FRPA* Training Companion Guide (2005), overhead package); and
  - Ongoing errata and clarification as identified.

Links from this website will be available to other websites such as the Provincial *FRPA* Implementation Team (PFIT) website, MSRM's old growth order website and WLAP's website containing section 7 (FPPR) notices and orders for species at risk and ungulate species



Complete Participant Evaluation Form

- Feedback from participants is welcome and encouraged.
- Feedback will be used to enhance future sessions as well as the next time we do an event like this.
- Participant to complete the evaluation form and return to Facilitator.
- Facilitator should forward to Colleen Cotter, Training Projects Coordinator, Forests Practices Branch, Ministry of Forests, Victoria. (e-mail: Colleen.Cotter@gems5.gov.bc.ca, fax: 250.387.1467).

Thanks presenters for their presentations and answers to questions.

Thank participants for attending.

Remind them to hand in the evaluations and visit the *FRPA* website on a regular basis for information and training materials on *FRPA*.