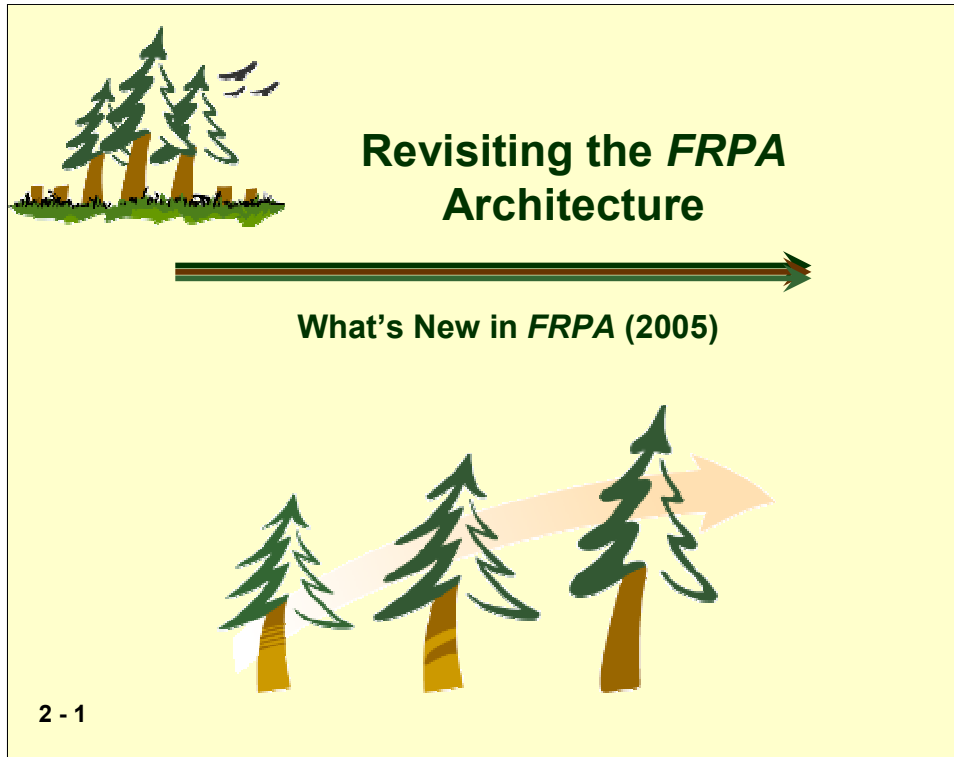


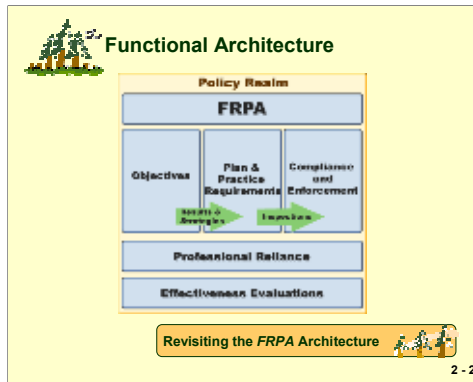


Before we go into what has changed, let review the key concepts of *FRPA* for the benefits of participants who may not have had any further exposure to *FRPA* since the training in February, 2004. First, the highlights of the *FRPA* architecture and the elements related to Forest Stewardship Plans.

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.



## Types of Objectives

- **Land Use Objectives**
  - **Established:**
    - Now: under FPC
    - Future: under *Land Act*
  - **Example—objective from LRMP declared higher level plan**



Revisiting the *FRPA* Architecture



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**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.



## Types of Objectives (cont.)

- **Objectives in Regulation**
  - Objectives established in *FRPA* regulations
  - Example—conserve productivity and hydrologic function of soils

Revisiting the *FRPA* Architecture



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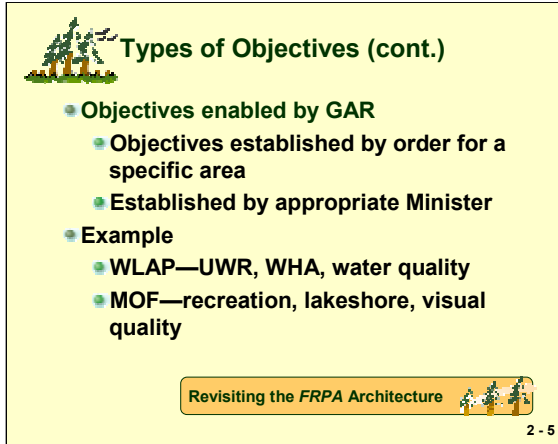
The second type of objective the government can establish are those objectives contained in the regulations.

### ***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



**Types of Objectives (cont.)**

- Objectives enabled by GAR
  - Objectives established by order for a specific area
  - Established by appropriate Minister
- Example
  - WLAP—UWR, WHA, water quality
  - MOF—recreation, lakeshore, visual quality

Revisiting the *FRPA* Architecture

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**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:***

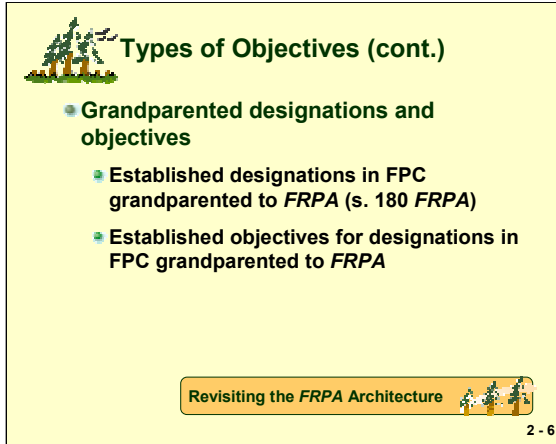
- Objectives enabled by the Government Actions Regulation (GAR) are established by Order under the authority of the appropriate Minister for a specified area.
- These objectives are not stated in the GAR, but the legislation gives authority to ministers to:
  - Designate an area
  - Establish an objective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

The slide has a yellow background. In the top left corner, there is a small graphic of a tree and a house. The title "Types of Objectives (cont.)" is in green text. Below the title, there is a blue bullet point followed by "Grandparented designations and objectives". Under this, there are two green square bullet points: "Established designations in FPC grandparented to FRPA (s. 180 FRPA)" and "Established objectives for designations in FPC grandparented to FRPA". At the bottom, there is a small orange box with the text "Revisiting the FRPA Architecture" and a small graphic of a tree and a house. The number "2 - 6" is in the bottom right corner.

**Types of Objectives (cont.)**

- Grandparented designations and objectives
  - Established designations in FPC grandparented to *FRPA* (s. 180 *FRPA*)
  - Established objectives for designations in FPC grandparented to *FRPA*

Revisiting the *FRPA* Architecture

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

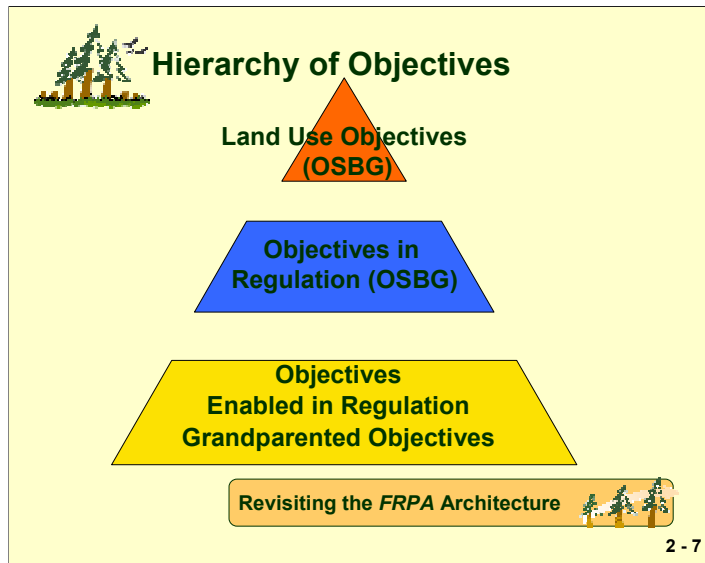
**Continued from previous slide....**

### **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

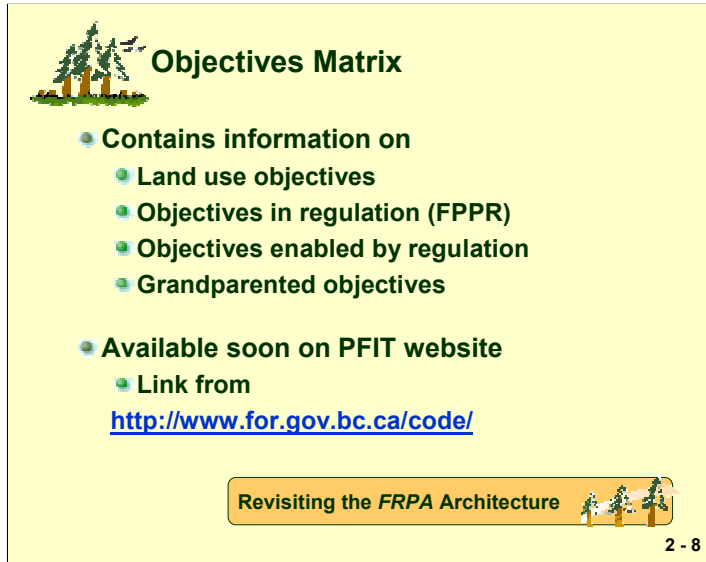
- These objectives are broad and generalized, and apply provincially.

## 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



**Objectives Matrix**

- Contains information on
  - Land use objectives
  - Objectives in regulation (FPPR)
  - Objectives enabled by regulation
  - Grandparented objectives
- Available soon on PFIT website
  - Link from  
<http://www.for.gov.bc.ca/code/>

Revisiting the *FRPA* Architecture

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**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**

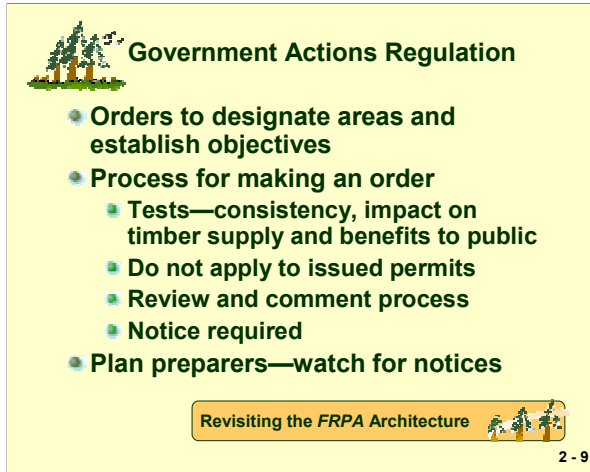
- The Objectives Matrix is not part of the FSP nor does it address other requirements of the FSP.
- It is not static or stable—check on a regular basis
- Created under the Provincial *FRPA* Implementation Team

**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



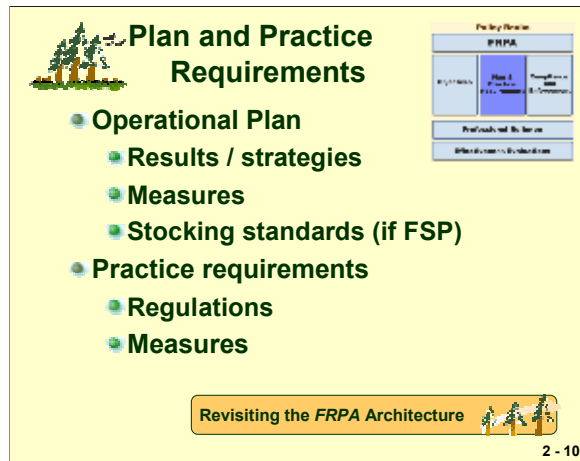
**Government Actions Regulation**

- Orders to designate areas and establish objectives
- Process for making an order
  - Tests—consistency, impact on timber supply and benefits to public
  - Do not apply to issued permits
  - Review and comment process
  - Notice required
- Plan preparers—watch for notices

Revisiting the *FRPA* Architecture

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- **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



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



## Results and Strategies: Measurable or Verifiable

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

Revisiting the *FRPA* Architecture



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**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



## Results and Strategies: Measurable or Verifiable (cont.)

- **Example—Wildlife Tree Retention (s. 66 of FPPR)**
  - **Who**—agreement holder harvesting timber
  - **What**—minimum of 3.5% of cutblock as wildlife tree retention area
  - **Where**—in a cutblock
  - **When**—at completion of harvesting

Revisiting the *FRPA* Architecture



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**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



## Compliance & Enforcement



- Enforce approved operational plans
  - Results and/or strategies
  - Measures
  - Stocking standards (in FSP)
- Enforce practice requirements in *FRPA* and regulations

Revisiting the *FRPA* Architecture


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**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

**Continued on next slide...**



## Compliance & Enforcement (cont.)

- Non-compliance addressed by:
  - Remediation
  - Administrative remedies—orders, administrative penalties, violation tickets
  - Court action
- Defences
  - Due diligence
  - Mistake of fact
  - Officially induced error

Revisiting the *FRPA* Architecture



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**Continued from previous slide...**

### **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



## Powers of Intervention

- Stop any activity before occurring for specified reasons
- The Minister can intervene if a practice may impact aboriginal rights

Revisiting the *FRPA* Architecture 

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**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 known at the time the operational plan was approved (s.77.1 of *FRPA*).**



## What is a FSP?



- A FSP is:
  - Operational plan for forest agreement holders
  - Sole document requiring approval under *FRPA*
  - Areas within which harvesting and road building may occur
  - Must be approved before any cutting/road permits issued
  - Approved for up to 5 year term

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**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.



## Major Components of FSP



- Map showing forest development units
- Results and/or strategies
- Stocking standards and applicable regeneration and free growing dates
- Measures
- Signature of person required to prepare the plan



Revisiting the *FRPA* Architecture

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**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



## Review and Comment

- **Advertise plan**
- **Make available for public review and comment**
- **Reasonable efforts to meet with First Nations groups**
- **Collect comments**
- **Consider comments**

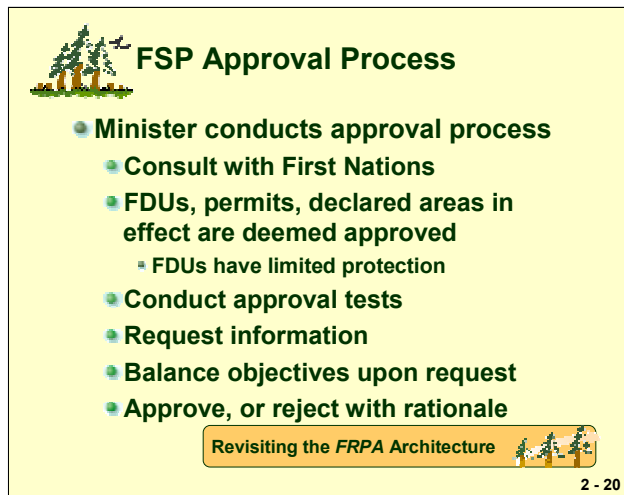
Revisiting the *FRPA* Architecture



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### **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.



## Decision Making Under *FRPA*

- Minister of Forests approves plans
  - Includes appropriate official of MOF
- Ministers of WLAP and MSRM

Revisiting the *FRPA* Architecture



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### **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*.

