

Forest Act and Forest And Range Practices Act Amendment Act, 2021



**Presentation for the ABCFP
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Presenters

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AGENDA



- Introduction
- Background: Modernizing Forest Policy
- Forest Act Amendments – AAC Redistribution and Compensation
- Forest Act and Forest and Range Practices Act Amendments – Resource Roads Administration
- Q & As



Context

- Bill 23 and Bill 28 received Royal Assent on November 25, 2021.
- Bill 23 amended the *Forest and Range Practices Act*, *Forest Act*, and *Forest Practices Code of BC Act* and Bill 28 amended the *Forest Act*
- *Forest and Range Practices Act*, *Forest Act* Amendments updated and modernized the administration of roads,
- *Forest Act* Amendments introduced tools designed to secure tenure needed to support First Nations reconciliation, AAC redistribution and achieve key forest management objectives, and create a compensation framework that is fair and transparent and consistent with tenure agreements.

Context



The amendments:

- Are central to government commitments to modernize forest policy and align out laws with the UN Declaration on the Rights of Indigenous Peoples.
- Support the government mandate to create a more diverse forest sector with a focus on ensuring communities and First Nations see increased opportunities.
- Support the ongoing implementation of the Old Growth Strategic Review.
- Support ministry staff to continue to address current and future needs during a time of significant forest sector transformation.



Land and AAC Redistribution

Forest Act

Part 15: Special Purpose Areas

Requires Government Mandate

Requires regulation

For access, non-timber and timber production (CFA, FNWL, BCTS), First Nations.

3 year term (can be extended for 3 more years)

Suspends all harvesting and tenure issuance immediately

Compensation is available when AAC is reduced

Will apply new compensation rules (not in effect)

Part 13: Designated Areas

Requires Government Mandate

Requires regulation and Ministerial Order (MO)

For conservation (non-timber purposes)

Maximum 10 year term (cannot be extended beyond 10 years) defined in MO

May Suspend all harvesting through MO Chief Forester may adjust the AAC

Entitlement to compensation begins at the end of 4 years and is paid at the end of year 10 or when the Part 13 is rescinded (if earlier) and permanently conserved.

Applies section 60 suite compensation today but will apply new compensation rules when in effect



Compensation Framework *Forest Act*

Current	New/Proposed
Current policy includes section 60, or specific legislation as applicable; e.g. First Nation Treaty Legislation	Amendments the Forest Act to incorporate the necessary tools for re-distribution and First Nations reconciliation and creates a fair compensation framework
Section 60 Compensation for purpose of non timber production or access	Compensation for purpose of non timber production, access, First Nations, timber re-distribution
"Value of harvesting rights and improvements"	Specifies net income approach to value for AAC and unamortized cost of improvements
Up to 5% non-compensable for each purpose of non-timber production or access	Up to 5% non-compensable for each purpose of non-timber production or access
Terms of compensation open to interpretation	Bill 28 provides certainty, clarity and fairness for licence holders based on the nature of the agreement
Negotiated with licensee or arbitration	Approach to compensation valuation specified based on accepted net income approach
Courts have been critical of vague section 60 language	Bill 28 addresses court criticism of vague language

Additional Amendments

Forest Act



- ***Forest Act*, Section 43.6-43.8: Community Salvage Licence**
 - Can no longer issue Community Salvage Licences
 - All references to Community Salvage Licence now removed
- ***Forest Act*, Section 63, 63.01-63.05: Distribution of AAC Reduction Among Licensees in a TSA**
 - Clarifies the distribution of AAC reductions as a result of a “taking” in a TSA among the license holders within the TSA
- ***Forest Act*, Section 170 and 173: Part 13**
 - Clarifies the administration of permits and licensed with a Part 13 Designated Area
- ***Forest Act*, Section 102-1 to 102.9: Inventory**
 - Requirements for licensees to maintain and submit inventory information
 - Can include all forest inventories, wildlife, stream classification, terrain etc.
 - Can define type of information to collect and verification standards
 - Can require information be stored and provided in a certain format

Legacy Cutting Permits

Forest Act



- All cutting permits in effect prior to November 4, 2003 will expire on November 25, 2022 (65 cutting permits).
- All cutting permits that expiry prior to November 25, 2022 are automatically extended to November 25, 2022.
- All cutting permits that expire after November 25, 2022 will expire on the date of the cutting permit.
- FA Section 58.2 repealed
- Memo distributed to REDs and DM



Road management

FA and FRPA

KEY BILL REFERENCES

FA s. 54, 54.01, 54.04, 54.61

FA s. 118 (1.1)

FRPA s. 21.1

Road Use

FRPA s. 22.12

FRPA s. 22.2

FRPA s. 22.3

FRPA s. 23.1

FRPA s. 155(1)

Road Deactivation

FRPA s. 2.39(2)

FRPA s. 23.2

FRPA s. 108.1

FRPA s. 155(1)

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

- New process for establishing forest service roads (e.g., forest service roads must now be declared)
- New authority to prohibit significant road work on forest service roads & resource roads unless authorized
- Circumstances for deactivation of road permit roads clarified
 - Timing may be specified in the road permit
 - Deactivation may be required by order or exempted by minister



Transfers of Roads

Forest Act

- Transfers of Road Permits (RP)
 - *Forest Act, s 54, 54.01, 54.04, 54.61*
 - Can be disposed of (transferred) at any time as an 'agreement' under FA s54, or can be disposed at the same time as a tenure agreement
 - Recipient of a RP must hold an agreement as described under FA s12
 - The transfer of a RP requires the decision maker to consider the effect on the marketing of fibre in BC and the public interest, and requires consultation with potentially impacted First Nations
 - May require resolution of a security deposit which would need to be resolved
 - If a RP is being transferred at the same time as another agreement to which it is associated, conditions can be attached to the approval of the transfer



Roads

Forest Act Section 118 (1.1)

Road Permit (RP) Content - new RP's or amendments (for road segments) issued after November 25, 2021 the Minister may specify (FA section 118.1(1)):

- a cancelation/expiry date
- a deactivation date
- authority for the use of gravel pits/quarries for the maintenance and construction of the roads (previously always allowed)

Note: Road Permit (FS 582) template has been revised to include an expiry date

- Minister may specify a deactivation date for a RP road in an order

Roads

Forest and Range Practices Act Section 23.3



Minister may exempt a road permit holder from the requirement to deactivate with or without conditions (FRPA section 23.3) after (must) considering:

- Public safety
- Human health and the environment
- Social and resource values
- Impacts on communities

Roads

Forest and Range Practices Act Section 21.1(1)



New definitions (in effect now):

- FRPA Section 21.1(1)
- "forest resource road" – roads administered under FA and FRPA excluding a Forest Service Road (FSR), *Land Act* (including OGC) roads
- "modify" – widen, realign, reconstruct a road, or install a bridge or major culvert
- "significant road work" - in relation to an FSR
 - modify the road (widen, realign, reconstruct, build a bridge/major culvert)
 - construct works within the road prism or right of way
 - connecting a road to the FSR



Minister's authorizing of significant road work

- FRPA Section 23.1(1-5)
- Significant road work to an FSR must be authorized and on application, the minister may approve, or can be authorized in regulation (regulation does not exist at this time)
- Connecting to a FSR will continue to be authorized in an issued road permit, cutting permit or Timber Sales Licence document
- Minister template letters in development to authorize:
 - i. The modifying an FSR (widening, realignment, build bridge and major culvert)
(eg FS 1229 - DM Requirements – Building FSR Bridge, Major Culvert by RUP Holder)
 - ii. Works within the road prism/right of way
(previously a Works Permit)

Roads

Forest and Range Practices Act Section 22.12



FSR notice of industrial use

- FRPA Section 22.12(3)
- A person wanting to use an FSR for timber harvesting, silviculture or natural resource development purposes must give notice (at least 6 days)
 - To the RUP holder responsible for maintenance (designated maintainer)
 - To the minister when a prescribed form and manner is available
- Previously, 5 days notice was required

Roads

Forest and Range Practices Act Section 22.2



- FRPA Section 22.2 (1),(4)
- Provides for regulation to allow for prescribed (specific) FSRs that:
 - provides for Government ability to maintain select FSRs and collect fees
 - the type of expenses a person (timber, silviculture or natural resource) must pay to government for maintenance
 - other prescribed persons (vehicle size, use) who must contribute to road maintenance

Note: not all FSRs, very few anticipated to be prescribed



Resources

- Forest Act
 - <https://www.bclaws.gov.bc.ca/civix/content/complete/statreg/1198514681/96157/?xsl=/templates/browse.xsl>
- Forest and Range Practices Act
 - <https://www.bclaws.gov.bc.ca/civix/content/complete/statreg/1198514681/02069/?xsl=/templates/browse.xsl>
- Legacy CP memo and template letter to CP holders
- CP/RT Manual is currently being updated - will be available May 2022
<https://www2.gov.bc.ca/gov/content/industry/forestry/forest-tenures/forest-tenure-administration/cutting-permit-road-tenure-administration>
- [Engineering Manual](#) is currently being updated
 - Table 1-2 DM/TSM Authorities
- CP, RP and RUP templates are being updated
- Delegation Matrix being updated is available <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/laws-policies-standards-guidance/transfer-of-authority>
- Training will be provided as applicable

Questions?



Please forward any additional questions related to the amendments to the *Forest Act* or the *Forest and Range Practices Act* to:

Kevin Kilpatrick at Kevin.Kilpatrick@gov.bc.ca, Wayne.Hagel@gov.bc.ca or
Barry Bryan at barry.bryan@gov.bc.ca for additional questions

Thank you!