
Concerns and issues regarding the Forest and Range Practices Act and Regulations.

Presented by: DFO Fish/Forestry
Working Group

Overarching or Philosophical Concerns

- Use of motherhood statements to identify the objectives set by government
 - Qualifier contained within all of the objective statements... “without unduly reducing timber supply...”
 - Objectives for fish and water“conserve at the landscape level” → implications at the site level?
 - Ability for government to grant exemptions from objectives set through land use planning processes or those designated under FRPA
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Overarching concerns (cont.)

- Ability for industry to propose results and strategies that do not meet the FRPA default minimum requirements (which may also be insufficient to protect aquatic resources in some cases)
 - Lack of mechanisms for addressing such issues as watershed scale impacts, cumulative effects, rate of cut, etc.
 - Lack of legislated requirement for conducting watershed and terrain stability assessments
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Overarching concerns (cont.)

- Lack of site specific information contained in the Forest Stewardship Plans
 - Lack of mechanism for agencies to provide site specific input, recommendations, concerns, etc up front in the planning process
 - Lack of mechanism for obtaining information from licensees
 - Inclusion of sections or language that may result in conflicts with Fisheries Act requirements
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General Concerns Identified

- Riparian management
 - Stream crossings
 - Fish passage
 - Exemption for FIA administered activities
 - Terrain stability and mass wasting events
 - Deposits of sediment (potentially a deleterious substance)
 - Planning processes
 - Provision of information
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Riparian Management Concerns

- Riparian harvesting adjacent to S1-S3 fish streams
 - Potentially no legal requirement for establishing riparian reserve zones (if alternate results and strategies accepted)
 - No legal requirement for reserve zones on S1 (large)
 - Legal ability for harvesting riparian reserve zones for numerous reasons
 - Conservative approach advocated by DFO. Riparian harvest may constitute a harmful alteration, disruption or destruction (HADD) of fish habitat
 - Opportunity (and due diligence requirement) for licensees to develop an **ecological rationale** showing justification for harvesting
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Riparian Mgmt. Concerns (cont.)

- Riparian harvesting adjacent to S4-S6 streams
 - No legal requirement for reserve zones
 - May result in a HADD, an ecological rationale also required (particularly for due diligence)
 - Road building and gravel/fill removal in riparian areas
 - May constitute a HADD
 - Temperature sensitive streams
 - Very difficult/costly to prove “material adverse impact” on fish especially at stream reach or population level
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Stream Crossings Concerns

- Culvert placement in fish streams
 - ❑ Follow the guidance in the *Fish-stream Crossing Guidebook*
 - ❑ Only in marginal habitat (as defined by DFO)....if proposed in non-marginal habitat, an authorization for a HADD will be required.
 - ❑ This process includes CEAA requirements. A class screening format may be an option.
 - ❑ Section 79.7(c) of the FPPR permits installation of culverts in fish streams.
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Stream Crossings (cont.)

- Crossing installations with excessive riparian and/or bank disturbance
 - ❑ Potentially a HADD of fish habitat. A HADD cannot be authorized after construction.
 - Fish passage issues
 - ❑ The Fisheries Act is clear that fish passage must be maintained.
 - Requirement that bridges and culverts pass only a 1 in 10 year peak flow event
 - ❑ Increased risk to aquatic resources
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FIA administered activities

- Section 2.1 of the FPPR provides an exemption from the regulation, for forest practices authorized under FIA

Terrain stability and mass wasting events

- Lack of protection for destabilization of gullies and alluvial fans in the interior of the province
 - It is DFO's expectation that equal protection will be afforded to aquatic resources regardless of geographic location within the province
 - Definition of “damage to the environment”
 - Must “fundamentally and adversely alter an ecosystem”
 - DFO guidance sets sediment limit at 25 mg/litre above background levels
 - Definition of “fan destabilization”
 - [impacts] that occur beyond the naturally occurring range of variation
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Terrain stability and mass wasting (cont.)

- Allowance for natural drainage patterns to be altered “until the next freshet”
 - Increases risk of mass wasting events and sediment delivery
 - Expectation for S.36(3) of the Fisheries Act to be adhered to
 - Allowance of two years for re-vegetation of exposed soils when it is foreseen that sediment will enter any watercourse
 - Again, increased risk to aquatic resources and potential for Fisheries Act contravention
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Planning Processes and Assessments

- No legal requirement for any assessments under FRPA
 - Perceived need for planning processes to include analysis of cumulative effects and rate of cut, etc
 - Need for development threshold to be identified, such as 20% ECA, to trigger assessments
 - Lack of mechanism for input regarding site or watershed specific concerns in planning processes
 - Designation of fisheries sensitive watersheds
 - Where is the process at? Opportunity for DFO input?
 - Temperature sensitive streams
 - Will there be changes to the current listings?
 - Lakeshore management zones.....
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Concerns related to provision of information

- Lack of site specific information contained in Forest Stewardship Plans
 - No ability for intervention prior to damage to fisheries resources
 - Lack of mechanisms within FRPA for agencies to obtain relevant info from licensees
 - DFO does not consider itself to be a “member of the public”
 - Site Plans
 - No review and comment
 - Staff need timely and reasonable access to site plans...not just at the licensee’s “place of business”
 - Notification of commencement of harvest and road building may be preferable....site plans can then be requested based on risk or monitoring schedules
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Concerns related to provision of information

- Exemptions from site plan preparation allowed in forest health emergency management areas
 - As the site plan is the only document containing site specific information, this will be problem for audits, monitoring, etc.
 - The FPPR requires annual submission to MoF of a report identifying harvesting, road construction, stream crossings and road deactivation activities
 - No requirement for submission to other agencies
 - This info will be necessary for compliance monitoring by DFO staff
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Concerns vs. Initiatives Table

Concern	Initiative/Action
Philosophical concerns	DFO to succinctly outline concerns to MoF and licensees?
Riparian management (S1-S3 streams)	<ul style="list-style-type: none"> - Outline concerns and legal requirements to MoF & licensees re: HADD's - Reaffirm need for ecological rationales - Need for tracking of reserve variances - On-going research ?
Riparian management (S4-S6 streams)	<ul style="list-style-type: none"> - S4 stream research continuing (MoF and DFO) → academic opportunities? - Outline concerns and legal requirements to MoF & licensees re: HADD's - Reaffirm need for ecological rationales
Stream crossings	<ul style="list-style-type: none"> - Utilize guidance in FSCG - Identify specific areas of concern to MoF & licensees (excessive disturbance, culverts in non-marginal habitat, etc)

Fish passage	<ul style="list-style-type: none"> - Outline legal requirements to MoF & licensees → info contained in FSCG
FIA issues	<ul style="list-style-type: none"> - Outline concerns to MoF and licensees
Terrain stability and mass wasting events	<ul style="list-style-type: none"> - Outline concerns and expectations to MoF & licensees
Sediment deposits	<ul style="list-style-type: none"> - Outline legal requirements and guidelines to licensees
Planning processes	<ul style="list-style-type: none"> - Outline DFO position to MoF and licensees (re: WAP's, rate of cut, etc.)
Provision of Information	<ul style="list-style-type: none"> - Outline concerns and expectations to MoF & licensees