

May 3, 2000

To: FMA/Quota Holders
Local Advisory Committee Chairmen

Dear Sirs:

Following is a strategy for the development of ground rules throughout the province. The strategy results from feedback to the discussion paper that was distributed earlier this year. In addition to topics raised in the discussion paper, the strategy attempts to clarify the relationship between ground rules and management plans and to identify a role for forest practitioners in forest management.

The key ideas in the strategy are:

- Ground rules will be based on FMA zones
- Agreement on the ground rule negotiation process is essential for effective implementation
- Research should be frequently assessed and incorporated into ground rules
- The format for the ground rules is changed to provide a complete rationale
- Innovative systems for monitoring and reporting are proposed

The strategy is presented to guide discussions. It is the intent that the details of the ground rules in each FMA zone will be developed through the negotiation process.

Sincerely,

D. (Doug) A. Sklar
Director
Forest Management Division

cc: C.J. Henderson
LFS Directors
FMD Centre Managers
Area Managers

A Strategy for Ground Rules Renewal

1.0 PURPOSE OF THIS PROGRAM

The purpose of this program is to create innovative, efficient, adaptable and pragmatic ground rules throughout the province by May 1, 2006. The program is being created in response to the following ideas:

- Agreement on the process for negotiating ground rules is essential to ensure that all participants are committed to effective implementation
- Ground rules should be adaptable to regional issues while incorporating provincial standards
- Research results should be incorporated into ground rules regularly
- Ground rules should be subject to constant review to ensure that they effectively address management needs
- Ground rules must be clear and specific so that they can be used to accurately assess performance

2.0 GROUND RULES SCOPE

Ground rules are the practices used in planning and conducting timber harvesting operations. Ground rules are not tools to assess broad landscape issues nor to establish timber supplies. These issues have to be addressed in Integrated Resource Management Plans or Forest Management Plans. These plans should provide standards that are implemented through the ground rules. If these plans do not exist, or do not provide standards, the ground rules will establish practices that minimize the chance of negative effects from timber harvesting.

An objective in an Integrated Resource Management plan is to minimize the impact of human activity in the forest on water quantity and quality. The related Forest Management Plan objective may be to minimize soil erosion associated with roads. The ground rules would include extensive standards on stream crossings, road construction, maintenance and reclamation standards, and standards on erosion control.

3.0 INCORPORATION OF RESEARCH

There are substantial amounts of research being conducted on topics related to forest management systems and practices. There is an inadequate system for ensuring that this research is utilized in forest management. A key goal of the ground rules renewal program is to conduct regular reviews of the ground rules to incorporate results of research that may be applicable.

The concept of adaptive forest management is implemented in the development of the ground rules. The focus is to create flexibility in the ground rules to enable new ideas to be tested and evaluated.

4.0 ORGANIZATION OF GROUND RULES

Currently, each Forest Management Agreement (FMA) has a specific set of ground rules and other operators are governed by the Provincial ground rules. This means that in any given FMA, there can be two sets of ground rules in effect, and, that an operator working in several FMAs (as is the case with many quota operators) often have to deal with several sets of ground rules. Numerous suggestions for the organization of ground rules were evaluated (e.g. by natural region, by operator) and in the end it was deemed most efficient to ensure that all operations in an area be governed by the same set of ground rules. To this end, a series of FMA Zones have been established that include FMAs plus, in some cases, nearby non-FMA Forest Management Units (FMU). These zones are subject to review after input from stakeholders. The program goal is to develop a unique set of ground rules for each FMA zone that will govern the practices of all operators in the zone.

To address various natural regions in the FMA zone, a specific ground rule may have different standards. For example, it has been suggested that opening size may be different in different natural regions because there is a different range of natural variability. Also, planning requirements may differ based on the size of operator. The annual operating plan (AOP) format for a Commercial Timber Permit holder could be a simple form whereas the FMA holder will have a more complex plan.

Provincial consistency will be addressed by ensuring that each set of zonal ground rules meet basic provincial standards. The goal is to ensure that the provincial standards are met, but not necessarily the same way in each zone. Innovation and creativity will be encouraged.

The format for the Annual Operating Plan may vary considerably from zone to zone depending on the complexity of issues and the conflict level amongst various stakeholders. If a high level of trust has been developed through long term, high quality performance, simple submissions may be acceptable. If trust levels are low and conflict is rampant, complex and lengthy submissions would be more likely.

By having the ground rules apply to an FMA zone, it will be possible to develop ground rules that apply to a specific area in the zone. This will simplify the process by encouraging participants to clarify interests and address those specific interests without having to indirectly do so by creating a more generalised ground rule.

Many concerns are related to specific sites or locations. If the concern can be specifically dealt with, it eliminates the need to create broad, general ground rules. For example, access into a particular watershed may be a concern because of a wildlife issue. This can lead to pressure to create widespread access controls when control in the specific area is what is needed. This control could be addressed in the harvest sequence or with specific ground rules.

5.0 RELATIONSHIP OF GROUND RULES TO FOREST MANAGEMENT PLANS

In most FMAs in the province, ground rules are to be negotiated within six months of the approval of a Detailed Forest Management Plan (DFMP). DFMPs include many types of objectives (social, economic, and environmental) and a timber supply analysis (TSA) that establishes the annual allowable cut (AAC). Currently, approvals of DFMPs include a schedule of commitments made in the DFMP and a requirement for reporting on progress towards these commitments. It is expected that much of this reporting will be incorporated into the AOP and should be identified in the ground rules.

Until recently, the AAC was harvested by following an oldest first, two/three pass harvest scheduling protocol. This was incorporated in the ground rules. However, this protocol is not expected to be the norm for much longer. Landscape issues such as maintaining the range of natural variability in block sizes and age classes, cooling down the forest through modified harvest designs and maintaining biodiversity through the coarse filter approach have resulted in the need to develop alternative harvest scheduling systems. These issues cannot be addressed in the ground rules. They must be addressed through the development of a working harvest sequence in the TSA and the ground rules will incorporate a mechanism for implementing the working harvest sequence. In future, approved DFMPs will include working harvest sequences.

Following is a list of some of the assumptions in the TSA that must be incorporated in the ground rules:

- Adjacency limitations
- Tree merchantability
- Subjective deletions
- Landbase allocations
- Deletions for wildlife, fire, stand structure, isolated stands, land use
- Silviculture systems and regeneration transition assumptions
- Harvesting systems planned

It is likely that an FMA will incorporate a higher level of utilization to increase the AAC while other operators in the zone will adopt the provincial utilization standard. If this is so, it is important that it be recognized in the ground rules. If the higher level of utilization is not implemented in the field, the sustainability of the timber resource will be in jeopardy.

6.0 STEWARDSHIP, MONITORING AND REPORTING

In order to meet its legislated obligations, the Land and Forest Service needs to know what is happening in harvesting operations and associated activities (public involvement, silviculture, to name a few). In the past extensive review of plans and inspections of operations have accomplished this. Alternative systems are advocated here that rely on the accountability of forest practitioners, the implementation of ranked performance assessments, and the reporting of variance analysis by operators. This requires that the ground rules contain articulate standards for Forest Practitioner Submissions (see below) and that performance measures be established in the ground rules that can be assessed accurately, and that variance from plans is reported regularly.

6.1 Forest Practitioners

The Regulated Forestry Profession Act (the Act) requires mandatory registration for forestry professionals (FPs) in Alberta. This mechanism is designed to utilize the accountability and integrity of FPs to increase the efficiency of forest management in Alberta.

Individuals must be familiar with the Code of Ethics of the professional colleges to fully comprehend the significance and utility of this policy. Much uncertainty and many questions are answered by a careful study of the Code of Ethics.

FPs fall into two groups:

1. submitting - those submitting information for approval (usually industrial or consulting FPs)
2. regulatory - provincial employees who have the responsibility to ensure that legislation, regulations and subsequent policies are effectively implemented.

These two groups have different roles to play in forest management and the following mechanism is designed to clarify the responsibilities of each group and clearly allocate accountability. The underlying belief supporting this policy is that the accountability of FPs is such that it is reasonable for a regulatory FP to assume that a FP's submission meets acceptable standards.

The Alberta government retains all authority for forest management, and is in no way relinquishing or assigning its authority. It is delegating specifically identified accountability to FPs to improve efficiency.

1. Scope of Forestry Professional Accountability

Accurate (defined as “deviating only within acceptable limits from a standard”) information and operational documents (assessments, inspections, surveys, reports, inventories and plans to be specified) will be deemed to be approved upon receipt when signed and stamped by a FP. Policy documents (such as, but not limited to, land use

plans, management plans, operating ground rules, any other documents or plans which set policies and standards) will require complete review and agreement before approval. The ground rules applicable in each area must clearly identify acceptable standards of accuracy for information, the plans that will be accepted on the strength of a FP's signature/stamp Forestry Professional's Submission (FPS), and the standards that will apply to assess accuracy of a FPS. FPSs will not be accepted until the ground rules for the area include the appropriate standards.

The meaning of approval would vary depending on the nature of the FPS. If it is information, such as inventory data to be used in a forest management plan, approval means that the data would be accepted as submitted. If it is an inspection, assessment, survey or report, it would be accepted as submitted. If it is a plan for activity (harvest plan, silviculture plan), operations could commence.

2. Accountability of Forestry Professionals

- i) Forestry professionals are held accountable for the accuracy of the information and plans they move forward. Accountability will be enforced by utilizing the complaint process in the Act and by rejection or cancellation of inaccurate information or plans. Both groups of FPs are accountable, although the approval process differentiates the accountability.
- ii) Forestry professionals will not be held accountable for the implementation of plans they move forward, unless they are the individual responsible for the implementation. The business entity for which the plan was created is responsible for the correct implementation of the plan. Correct implementation will be determined through inspections, audits or other compliance assurance mechanisms used by the Alberta government.

3. Approval Process

A FPS is assumed to be accurate and thus is approved, upon receipt. It is the responsibility of the submitting FP to ensure that the FPS meets the prescribed standard for accuracy. The regulatory FP is to acknowledge receipt/approval, of the FPS in writing and audit to assess the accuracy of the FPS as soon as possible. If the FPS is inaccurate, the regulatory FP is to:

- i) Notify the submitting FP to rectify the inaccuracy – ensure that there are no misunderstandings about the standards or that a simple error is not the cause. The submitting FP is to rectify the inaccuracy immediately.
- ii) If the inaccuracy is not quickly resolved to the satisfaction of the reviewing FP, the acceptance (and deemed approval) of the FPS will be immediately cancelled in writing, and/or a complaint will be filed with the professional organization.

4. Complaint Process

The complaint process is defined in the Act and is designed to ensure fairness. Any individual can launch a complaint. The LFS will launch complaints when it feels there is a significant issue at stake.

The LFS will not limit the ability of any of its staff to file complaints or to participate in any complaint process.

A FP who is the subject of a complaint will not be disciplined or sanctioned by the LFS until the complaint process is completed.

5. Questions and Answers

1. How will this policy affect the role of other resource professionals, such as biologists, in forest management in Alberta?

This policy is designed to delegate accountability to FPs for accurate information and operational level plans/submissions. It is assumed that the standards for these plans will be set through the development of policy documents such as ground rules and management plans. The development of these policy documents requires the involvement of other resource professionals. As well, the standards for specific FPS may require the involvement of other resource professionals.

2. Who has to be registered?

Section 40 of the Act defines who must be registered. In essence, anyone who is qualified, who practices on public land or who teaches or supervises regulated members, must register.

3. Does this policy affect FPs involved in fire protection, and land use activities?

It is assumed that FPs working in these areas will have to be registered. Forest fire protection is largely planned and executed within the ranks of regulatory FPs so there is little need for a policy on the acceptability of plans submitted by FPs. This policy has not been developed with land use administration systems in mind.

4. What is the role of submitting FPs in Annual Allowable Cut (AAC) determination?

The Minister sets AACs. Submitting FPs are expected to submit accurate information, analyses and reports for the Minister's consideration. It is expected that submitting FPs will provide accurate information, thus allowing regulatory FPs to focus on decision-making. Focused effort will be required to set the standards of accuracy. Submitting FPs deemed to be engaging in unethical activity will be the focus of rigorous complaints launched by LFS.

5. How will standards be established in ground rules?

Ground rule development will involve several services in the department, operators in the area and appropriate stakeholder representatives. The standards for FPSs will be developed through the discussions and negotiations on the ground rules.

6. Is this policy affected by the Code of Conduct and Ethics for the Public Service of Alberta or FOIP legislation?

It is not affected. The Code of Conduct and FOIP legislation provide a framework consistent with this policy.

7. Does a regulatory FP have to be the same or greater experience than a submitting FP to receive a FPS?

No. It is assumed that the requirements that have to be met to be registered qualify an individual to fulfill the role. In the event that a complaint is proposed by a regulatory FP, the department would utilize the advice of several regulatory FPs with similar experience to the submitting FP to evaluate the need for complaint launched by the department.

8. How does this affect the role of regulatory FPs? Does this basically hand off all decision-making to submitting FPs and/or the professional colleges?

This policy will help regulatory FPs to focus more on the business of government. They can be focused more on stewardship processes such as policy setting, compliance assurance, results reporting and dealing with conflicts amongst resource users.

9. How much control does the professional Code of Ethics and the complaint process really offer?

The complaint process is designed to filter out frivolous or vexatious complaints and to seek solutions before serious sanctions are invoked. It is a process where peer judgement is used to ensure reasonable and experienced evaluation. The potential of sanction by one's professional peers is a significant incentive for professional behavior; however, there is a concern that the colleges will lack the assertiveness to address ethical standards enforcement. In the event that the department arrives at the conclusion that the complaint process lacks influence, this policy would be abandoned and replaced by full regulatory review of all submissions.

10. What is the role of ground rules?

The operating ground rules are the key document wherein the standards for FPS will be defined. These standards may vary due to local concerns and issues.

11. How does this relate to compliance audits and certifications schemes?

Government compliance audits will be structured to assess the effectiveness of FPSs. This will provide an opportunity to assess an employer's support of ethical behavior of the FPs in their employ and to assess the performance of the submitting and regulatory FPs involved. It is assumed that this will contribute to a company's ability to attain international certification.

6.2 Ranked Performance

It is recognized that operators in the province possess a range of skills and abilities. It is unfair to treat a skilled operator that is doing an excellent job the same as an operator who is unable and/or unwilling to meet the minimum acceptable standards. The LFS goal is to assist the skillful operator to maintain high performance and to encourage non-compliant operators to improve performance. The current system penalizes poor performance but has no mechanism to reward high performance. A system without rewards for high performance cannot expect to see improvements in performance.

The rewards that an operator could expect are limited, but significant. They would involve some combination of increased autonomy over operations and recognition as being a high performer. This could result in lower costs and in increased returns for the operation.

It is planned to have three skill levels of operators:

- 1.) **Basic** (Approve and Inspect): apply to operators whose AOPs are not signed by a FP and those who do not meet minimum acceptable standards in the components of a performance audit that are relevant to timber operations
 - a) AOPs scrutinized comprehensively by LFS staff during lengthy review processes and detailed approvals with conditions to control operations.
 - b) Operations inspected frequently for compliance and administrative penalties issued for most infractions.
- 2.) **Enhanced** (Accept and Inform): apply to operators whose AOPs are signed by an FP and who meet acceptable standards on components of a current performance audit that are relevant to timber operations
 - a.) AOP accepted (or rejected if substantially unsatisfactory) within two weeks.
 - b.) Operations monitored through regular reports submitted by FP and spot-checked by LFS staff. Infractions will be addressed through management responses unless they are frequent and/or severe.
- 3.) **Master** (Notify and Monitor): apply to operators whose AOP is signed by FP and who attain high standards on the two consecutive performance audits on components of the audit relevant to timber operations
 - a.) AOP accepted as notification of plans.

- b.) Operations monitored through periodic performance audits. Very significant administrative penalties for failing to meet the minimum standard in any component of performance audit relevant to timber operations.

6.3 Variance Analysis

The LFS is interested in variance from proposed plans. In the past this has been assessed by government staff comparing plans to inspections. The intent is to implement a system whereby the variances are reported by FPs with analysis and corrective action plans identified. This will allow LFS staff to focus on the variances and corrective plans. Each set of zonal ground rules may value variances differently and place different emphasis on the need for corrective action.

7.0 NEGOTIATING PROCESS AND APPROVAL

It is believed that in order for the ground rules to be effectively implemented, all those affected should have the opportunity to be involved in their development. The details of how this is to be done must be negotiated by the participants if there is to be reasonable trust and good faith negotiations. To this end, it is useful to view the negotiating process as having two phases, first, convening (or organizing) the process, and second, conducting the process.

A. Convening the Process

FMD will consult with participants and develop process that requires the express agreement of all those participating in the process . The process can include the following items:

1. Membership

The membership may vary depending on the circumstances in each zone. The core membership will be Alberta Environment (FMD, Area, NRS), the FMA holder and other timber operators in the zone. Public participation may be required. Members may be grouped into coalitions or caucuses having common interests. Guidelines should be provided which outline the conduct of the membership and how members can be removed or added to the group.

2. Chairperson and Secretary

The role of the chairperson will be described. Members will decide on the need for and role of a mediator/facilitator and secretary for administration. Selection process and tenure should also be included.

3. Procedural guidelines

Procedural issues may vary. The following topics are to be considered:

- open or closed meetings
- confidentiality issues
- media relations

- minutes vs. notes vs. meeting summaries
- behavior at the table
- involvement in other forums during the process

4. Decision-making process

How is agreement defined? How will decisions be made? Majority vote or some form of consensus.

5. Schedule

A draft schedule of activities will be developed. The deadline for agreement will be defined. The ground rules should establish a regular schedule for review to incorporate new information.

6. Approval Process

What steps are necessary after agreement is reached at the table? What happens if agreement is not possible?

B. Conducting the Process

Time is of the essence and it is expected that all participants will give the project the appropriate priority.

8.0 FORMAT FOR GROUND RULES

A model for FMA zonal ground rules has been created by grouping existing provincial ground rules into 10 topic areas. Groups 1 through 7 are operating ground rules and groups 8-10 are planning ground rules. In addition, a standardized format for each ground rule has been adopted. This format is designed to be rational and informative so that a FP can fully appreciate background logic and information supporting a ground rule. It is expected that this structure will accommodate all the variations that may be needed in the province.

Format for individual ground rules

The format for ground rules developed during this negotiation consists of *purpose, discussion, ground rules, monitoring and reporting, and references* as described below:

Purpose

A statement of **what** the ground rule is designed to accomplish. This could be a direct copy of an objective statement from an existing Detailed Forest Management Plan (DFMP). Where there is no DFMP objective to cover the topic, the purpose is worded to identify a desired result and state the management approach to achieving the result.

Discussion

This is the area to include background information, research knowledge, and reasons for concern. The discussion will focus on **why** a ground rule is needed. Alternative actions or solutions could also be discussed here.

Ground Rules

These are definitive statements of **how** the desired results are to be achieved, and will also include **who** will perform specific actions, and **when** the actions are to occur. The ground rules present results-oriented strategies, but do not always define the tactics or specific methods to be used to achieve them. Certain unacceptable practices may be included. Remedial actions are also specified, where monitoring or reporting indicates compliance has not occurred.

Monitoring and Reporting

Processes for ensuring that ground rules are met, or that progress toward the objectives is being made are stated here. Monitoring and reporting covers both internal and external communication (i.e. includes compliance audits, performance reports, etc.). The question of **how much** is answered by defining measurement standards against which achievements are quantified and gaps in performance are identified.

References

Each ground rule is developed based on existing knowledge, research findings, currently accepted practice, legislation, guideline booklets or policy directives. These written documents are not the rules, but are referenced here and copies of them are to be made readily available.

8.1 Ground Rule Evaluation

The Ground Rule Model contains a series of ground rules covering the majority of issues that should be covered in the ground rules. The model provides guidance regarding the expectations of the department. Each ground rule is classified as follows (indicated by the font type):

a.) Expected Provincial Minimum

These ground rules will typically not be open for significant changes. Examples could include such things as construction standards for stream crossings, or utilization standards. These ground rules are sometimes linked to provincial policy or regulation. Consideration will be given to proposals that exceed the provincial minimum. For example, a higher utilization standard would likely be acceptable.

b) Good Management Practise

The Department develops guides in areas such as insect and disease control or forest aesthetics (to name a few). These guidelines will be presented as possible ground rules that are open for negotiation. Some of these ground rules may be linked to the DFMP. It is expected that the negotiation team can develop and improve these ground rules.

c) Evolving Idea

There are many new initiatives being developed by both industry and the government. For example, disturbance management, wildfire threat management, and some areas of enhanced forest management (EFM). Ground rules (or parts of the ground rules) may be presented to provide a guide to develop a ground rule for the company. This category

will provide the maximum flexibility for creating a ground rule most suitable for the ground rule zone.

8.2 Example Ground Rules

Following is an example of a ground rule, designed to convey a sense of the classification of ideas.

Weed Management

Objective:

To prevent the introduction and spread of non-native, restricted and noxious weeds in the Green Area. The invasion of restricted and noxious weeds in the forested area of the Province negatively effects the integrity of the ecosystem. These invasive weeds alter natural processes, and displace organisms that naturally occur in an area.

Discussion:

Timber operators should prevent the introduction and spread of restricted and noxious weeds by:

- *Washing equipment every time it is moved between locations to prevent the spread of weed seeds;*
- **using restricted and noxious weed free seed when re-vegetating disturbed sites;**
- *and, using only "weed free" certified hay and straw bales for erosion control.*

Ground Rules:

- 1) **A cutblock must remain free of both restricted and noxious weeds.**
- 2) If weeds have spread from the cutblock into adjacent lands, the adjacent infestations may also require treatment until they are weed free.

Monitoring and Reporting:

Staying consistent with the Weed Control Act (Section 31), the occupant (or owner if there is no occupant) must destroy all restricted weeds, control all noxious weeds and prevent the spread or scattering of nuisance seeds. Alberta Environment performance monitoring of forestry operations will include the inspection of weed populations. *Performance monitoring includes, but is not limited to establishment surveys, free-to-grow surveys and compliance audits.*

References:

Province of Alberta, Weed Control Act.

Sheley R. L., Olson B. E., Hooper C. 1998. Impacts of Noxious Weeds on the Ecology and Economy of Montana.

Thornberry, B. J. 1996. Diverse People with a Common Problem, in Alien plant invasions: Increasing deterioration of rangeland ecosystem health. Proceedings of a symposium by the Range Management Society, Phoenix, Arizona. US Government Printing Office, BL/OR/WA/PT-95/048+1792.

Westbrooks, R. G. 1998. Invasive Plants, Changing the Landscape of America. Federal Interagency Committee for the Management of Noxious and Restricted Weeds.