

YUULU?IL?ATH GOVERNMENT

FOREST ACT

YFNS 78/2022



This law enacted on October 17, 2022

Signed 
Charles McCarthy, President of the
Yuulu?il?ath Government

DEPOSITED IN THE
REGISTRY OF LAWS [AND
OFFICIAL RECORDS]

ON 18/OCT/2022


Signature of Law Clerk

YUULU?IL?ATH GOVERNMENT
FOREST ACT YFNS 78/2022

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PREAMBLE

The Yuulu?il?ath Government asserts that we have occupied, benefited from and governed our Hahoulthe (traditional territories), lands, waters and resources since time immemorial. The traditional territories of the Yuulu?il?ath Government have in the past provided the resources necessary to sustain us and we honour our connection to the lands, waters and resources of our traditional territories which provide for our physical and spiritual needs.

The Yuulu?il?ath Government acknowledge that all life forms are Hish-uk-ist-sawalk (interconnected) and that all humanity must have Iisaak (respect for the earth and all life forms on it). Iisaak and Hish-uk-ist-sawalk are important to the management of forests and all resources originating from our forests and we affirm that all should be recognized as intrinsically valuable.

Through our inherent right to self-government, and our responsibility given by Naas (the creator) to look after our traditional territories, the Yuulu?il?ath Government has continuously taken steps to preserve and protect our lands. We assert that management and conservation of our forests requires an effective management system that enhances our Maa-nulth Treaty forest management rights and contributes to the conservation of natural resources and protection of our forests. The Yuulu?il?ath Government also recognizes the need for an effective role for citizens in all aspects of forest management and conservation.

It is the desire of the Yuulu?il?ath Government that our traditional territories continue to provide the resources necessary to sustain the Yuulu?il?ath Government, preserve our traditional ways and culture, encourage self-sufficiency and security through economic development and growth and provide a home for future generations.

The Yuulu?il?ath Government adopts this Act based on these values.

YUULU?IL?ATH GOVERNMENT
FOREST ACT YFNS 78/2022

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Forest Act.

Executive oversight

1.2 The member of the Executive holding the lands and resources portfolio is responsible for the Executive oversight of this Act.

Application

1.3 This Act applies to all

- (a) resource lands, and
- (b) forest resources in resource lands.

Measurement of distances

1.4 In this Act all distances are horizontal distances, except riparian management area widths, which are slope distances.

Definitions

1.5 In this Act,

“active flood plain” means a level area with alluvial soil, that is

- (a) adjacent to a stream,
- (b) flooded by stream water on a periodic basis, and
- (c) the same elevation as areas showing evidence of
 - (i) flood channels free of terrestrial vegetation,
 - (ii) recently rafted debris or fluvial sediments newly deposited on the surface of the forest floor or suspended on trees or vegetation, or
 - (iii) recent scarring of trees by material moved by flood waters;

“agreement” means a licence, contract or permit granted under section 5.3, unless the context clearly indicates otherwise;

“annual harvest level” means the annual harvest level determined under section 4.1;

“bladed skid trail” means a temporary trail, constructed to facilitate transportation of timber within a cutblock that has the following characteristics:

- (a) an excavated or bladed width greater than 1.5 metres; and
- (b) a mineral soil cutbank height greater than 30 centimetres;

“botanical forest product” means those plants and the boughs, burls and roots of timber that occur naturally on resource lands and are prescribed as a botanical forest product;

“botanical forest product buyer permit” means a permit issued under section 5.14;

“botanical forest product harvesting permit” means an individual botanical forest product harvesting permit or a group botanical forest harvesting permit;

“camp” means to occupy a campsite, by setting up a tent or parking a motor vehicle to remain overnight;

“campsite” means that area within a recreation site designed to accommodate a person who wishes to remain overnight;

“clearcut” means a silvicultural system that

- (a) removes the entire stand of trees in a single harvesting operation from an area that is
 - (i) one hectare or greater in size, and
 - (ii) at least two tree heights in width, and
- (b) is designed to manage the area as an even-aged stand;

“compacted area” means an area of soil that has the following characteristics:

- (a) is greater than 100 metres squared in area and greater than five metres wide;
- (b) has been compacted by equipment travelling over it; and
- (c) has one or more of the following:
 - (i) altered soil structure or increased density relative to the surrounding undisturbed soil;
 - (ii) soil puddling; or
 - (iii) compacted deposits of forest floor, fine slash and woody debris overlaying or crushed into the mineral soil;

“corduroyed trail” means an area occupied by logs and woody debris placed side-by-side to form a surface greater than two metres in length and capable of supporting equipment traffic;

“crop tree” means a tree that

- (a) is healthy,
- (b) is of a species that is commercially valuable and ecologically suited to the site, and
- (c) selected to be retained until final harvest under the applicable forest management plan;

“culvert” means a transverse drainpipe or log structure covered with soil and lying below the surface of a road;

“cutblock” means a specific area with defined boundaries, other than a road right of way, from which timber is to be or has been harvested;

“director” means the lands manager;

“dispersed disturbance” means an area of ground that has any of the following characteristics:

- (a) an area of soil that is at least one metre by two metres and meets the requirements of a compacted area;
- (b) a rut in the soil that is at least 30 centimetres by two metres and has a minimum depth of five centimetres from the surface of the undisturbed mineral soil;
- (c) an excavation into mineral soil that is
 - (i) deeper than 30 centimetres,
 - (ii) deeper than five centimetres if it covers at least 80% of a 1.8 metre by 1.8 metre area, or an area of at least one metre by three metres,
 - (iii) to the depth of bedrock; or
 - (iv) an area in which the organic layer of the forest floor has been removed from over 80% of a three metre by three metre area;

“ecosystem restoration contractor” means the person entering into an ecosystem restoration and carbon rights agreement with the Yuulu?il?ath government;

“ecosystem restoration and carbon rights agreement” means an ecosystem restoration and carbon rights agreement entered into under section 16.1;

“ecosystem restoration area” means the area of resource lands to which an ecosystem restoration and carbon rights agreement applies;

“ecosystem restoration plan” means a plan approved under section 16.3;

“ecosystem restoration project” means a project to restore an ecosystem restoration area to a state described in an ecosystem restoration plan;

“eligible person” means a Yuulu?il?ath citizen, a Yuulu?il?ath business or other prescribed person;

“firearm” means a rifle, shotgun, handgun, spring gun or any device that propels a projectile by means of an explosion, a spring or compressed gas;

“firewood permit” means a permit issued under section 5.9;

“forest management plan” means a plan given effect under section 6.6;

“forest management unit” means land designated as a forest management unit under section 2.3;

“forest resource” means any timber or non-timber forest resources on resource lands, including all botanical forest products and biota, but does not include soil, gravel, wildlife, migratory birds, water or fish;

“Forest Resource Division” means the division established under section 3.5(a);

“forest resource officer” means the officer appointed under section 3.5(c);

“forest road” means a road on resource lands that is declared to be a forest road under section 14.8;

“forestry plan” means a forest management plan, operational site plan, stand treatment plan, ecosystem restoration plan or any prescribed plan;

“free use permit” means a permit issued under section 5.11;

“greened-up” means the condition of a cutblock when the following has occurred:

- (a) at least 75% of the cutblock contains a total stand density of commercially valuable tree species of not less than 800 stems per hectare; and
- (b) the leading tree species or the overstory tree species in the cutblock has attained a top height of at least three and one-half metres;

“greenhouse gas emissions” means human induced emissions to the atmosphere of gases known or suspected to contribute to climate change;

“group botanical forest product harvesting permit” means a permit issued to a group under section 5.12;

“gully” means an area containing a stream that has the following characteristics:

- (a) the overall stream gradient is at least 25%; and
- (b) a portion of the stream that is at least 100 metres long has
 - (i) a side wall greater than three metres,
 - (ii) a side slope greater than 50%, and
 - (iii) a stream channel gradient greater than 20%;

“harvest” or “harvesting” includes any cutting, picking, collecting, gathering of forest resources, as applicable, or any prescribed activity;

“heritage object” means an object of archaeological, historical or cultural significance including a culturally modified tree;

“heritage site” means a site or location of archaeological, historical or cultural significance including a traditional use site, grave or burial site;

“individual botanical forest product harvesting permit” means a permit issued to an individual under section 5.12;

“industrial activity” means land clearing, timber harvesting, timber processing, silviculture treatments, mining, road construction or any prescribed activity;

“landing” means an area of land that has been modified by equipment to make it suitable as a site for gathering logs before they are transported, and that is located within a cutblock or the clearing width of a road identified in a road permit;

“large coarse woody debris” means fallen dead trees and the remains of large branches on resource lands that are greater than 20 centimetres in diameter and greater than 10 metres long;

“operational site plan” means a plan approved under section 6.11;

"permit" means a special use permit or road use permit, unless the context clearly indicates otherwise;

“primary forest activities” means timber harvesting, road construction, road maintenance, road deactivation, silviculture treatments, botanical forest product harvesting, implementation of an ecosystem restoration project or any other prescribed activity;

“qualified professional” means a professional forester, engineer, biologist, archeologist or any other prescribed individual or class of individuals that is registered and in good standing with their professional association to practice their profession in British Columbia;

“reforest” and “reforestation” means to establish a stand of crop trees in accordance with section 15.2;

“reserve area” means an area identified in an forestry plan as an area where no timber harvesting is to occur;

“resource lands” means Yuulu?il?ath lands designated as zoning district RL1 under the Zoning and Structures Act, YFNS 51/2016;

“riparian classes” means the classification of streams, wetlands, and lakes based on the presence of fish, occurrence in a community watershed, and size as set out under section 9.1;

“riparian management area” means an area that

- (a) occurs next to the bank of a stream, lake or wetland,
- (b) includes the area dominated by continuous high moisture content and the adjacent upland vegetation that exerts an influence on it, and
- (c) meets the width requirements set out under section 9.2;

“road permit” means a permit issued under section 14.3;

“road use permit” means a permit issued under section 14.5;

“sequestered” means carbon that has been sequestered in trees planted in an ecosystem restoration area by an ecosystem restoration contractor in accordance with an ecosystem restoration plan;

“soil disturbance” means disturbance to the soil in a cutblock as a result of

- (a) a temporary access structure,
- (b) a gouge, rut and scalp, or
- (c) a compacted area,

but does not include the effect on the soil of rehabilitating an area in accordance with Part 14.

“special area” means an area established under section 2.4;

“special use permit” means a permit issued under section 2.5;

“species at risk” means a species that is listed as extirpated, endangered, threatened or of special concern under the Species at Risk Act (Canada);

“stand treatment plan” means a plan required under section 15.1;

“stream” means a watercourse that has the following characteristics:

- (a) flows on a perennial or seasonal basis having a continuous channel bed that may be locally obscured by overhanging or bridging vegetation or soil mats;
- (b) has a channel bed that is scoured by water or contains observable deposits of mineral alluvium; and
- (c) has a continuous channel bed that is 100 metres or more in length, or flows directly into a fish bearing stream, wetland, lake or provincially-licensed waterwork;

“stumpage” means a fee payable to the Yuułu?il?ath government for harvesting timber under this Act, which is based on the volume of timber harvested and may either be determined by the director or prescribed by regulation;

“timber” means trees from resource lands, including those trees standing, fallen, living, dead, limbed, bucked or peeled;

“timber harvesting licence” means a licence issued in accordance with sections 5.6 and 5.7;

“timber salvage permit” means a permit issued under section 5.10;

“timber services contract” means a contract entered into in accordance with sections 5.6 and 5.8;

“unstable area” means an area that, due to

- (a) a qualified professional opinion, or
- (b) the presence of field indicators, including the following:
 - (i) recent landslide scars;
 - (ii) tension fractures;

- (iii) debris on the upslope side of trees or at the base of the slope;
- (iv) poorly drained sites on steep slopes; or
- (v) other similar indicators,

is subject to a high likelihood of slope failure, including debris avalanches, flows, torrents or slides, slumps or earth flows, or rock slides or rock fall, if primary forest activities were to be carried out on the area;

“wetland” means a swamp, marsh or other similar area that supports natural vegetation that is distinct from nearby upland areas;

“wildlife tree” means a tree with site specific characteristics that could reasonably be considered to provide present or future wildlife habitat;

“Yuulu?il?ath business” has the meaning given to it in the Economic Development Act, 34/2014.

Purposes of this Act

- 1.6** The purpose of this Act is to establish a comprehensive regime for the management and conservation of forest resources on resource lands.

Values

- 1.7** To fulfill its purpose, this Act is intended to uphold the following values:
- (a) the forest should be managed as one resource, since humans, animals and plants on resource lands are all interconnected;
 - (b) to be managed as one, the management of forest resources should include research, education, regulation, conservation, protection, restoration and revitalization;
 - (c) Yuulu?il?ath citizens are traditional and current users of the forest and their rights under the Maa-nulth Treaty in relation to the forest, which flow from that use, should be given full force and effect;
 - (d) the management and conservation of forest resources should be governed by the conservation principles referred to in section 1.8;
 - (e) the precautionary principle should govern decision making under this Act;
 - (f) the guiding principles and concepts of Iisaak (respect for the earth and all life forms on it) and Cawaaksamin (all life forms are interconnected) are important to

the management and conservation of forest resources and are an integral part of this Act;

- (g) all forest resources and life should be recognized as intrinsically valuable and worth more than just the benefits derived from harvesting and commercial activities;
- (h) the biological diversity and abundance of plant and animal species on Yuulu?i?ath lands should be maintained and utilized in a sustainable manner;
- (i) the management and conservation of forest resources should enhance the natural resource economy;
- (j) no species native to Yuulu?i?ath lands should become extinct on Yuulu?i?ath lands as a consequence of human activities;
- (k) the Department of Lands and Resources, as the main instrument of forest resource management on resource lands, should be enabled and empowered to fulfill its responsibilities and uphold the Yuulu?i?ath government's forest management values and conservation principles;
- (l) the management and conservation of forest resources should be an effective system that complements Yuulu?i?ath First Nation treaty harvesting rights, recognizes Yuulu?i?ath First Nation systems of forest management, conservation of forest resources and protection of habitat, and recognizes the need for an effective role for Yuulu?i?ath citizens in forest resources management;
- (m) Yuulu?i?ath public institutions and Yuulu?i?ath businesses have an important role in the management and conservation of forest resources; and
- (n) the Yuulu?i?ath government, which retains ultimate responsibility for forest resource management and conservation on resource lands, should be enabled and empowered to fulfill its responsibilities and uphold the Yuulu?i?ath government's forest resource management values and conservation principles.

Conservation principles

1.8 The following conservation principles apply under this Act:

- (a) Cawaaksamin (all life forms are interconnected);
- (b) Iisaak (respect for the earth and all life forms on it);
- (c) the Yuulu?i?ath government has the responsibility given by Naas (the creator) to look after the Nisma (traditional territory);
- (d) the maintenance of the natural balance of ecological systems;

- (e) the protection of habitat;
- (f) the maintenance of vital and healthy fish, aquatic plants, wildlife and migratory birds populations capable of sustaining harvesting;
- (g) the restoration and revitalization of depleted populations of aquatic plants, fish, plants, shellfish, wildlife and migratory birds and their habitat; and
- (h) that humanity must only take from the earth that which it needs.

PART 2 - MANAGEMENT OF YUULU?IL?ATH LANDS

Compatible use

- 2.1 No agreement or permit prevents or impedes the Yuulu?il?ath government from using, or granting the use of, resource lands for any other purpose authorized under this Act or another Yuulu?il?ath enactment.

Authorization for primary forest activities

- 2.2 (a) A person must not carry out primary forest activities on resource lands unless authorized to do so under this Act or another Yuulu?il?ath enactment.
- (b) If a person, at the direction of or on behalf of another person, carries out primary forest activities contrary to subsection (a), the person who gave the direction, or on whose behalf the activities were carried out, also contravenes that subsection.

Forest management units

- 2.3 (a) The director may by Order
- (i) designate resource lands as one or more forest management units,
 - (ii) divide, consolidate or cancel any forest management unit, or
 - (iii) change the boundaries of a forest management unit.

Special areas

- 2.4 (a) The Executive may by Order
- (i) establish a parcel of resource lands as a special area for the purposes of forest resource conservation or use,
 - (ii) set requirements for a special area, or
 - (iii) consolidate or divide a special area.
- (b) Before issuing an Order under subsection (a), the Executive must
- (i) post in accordance with Yuulu?il?ath law a notice to inform Yuulu?il?ath citizens about the content of the proposed Order, and
 - (ii) for a period of at least 30 days provide an opportunity for Yuulu?il?ath citizens and other individuals who are ordinarily resident within Yuulu?il?ath lands to review and comment on the content of the proposed Order.

Special use permit

- 2.5** (a) The director may issue a special use permit to an eligible person that authorizes the eligible person to use resource lands for any of the following purposes or any other prescribed activity:
- (i) communications site;
 - (ii) logging camp and any associated facility, including a waste disposal site;
 - (iii) log dump or dry land sort;
 - (iv) temporary timber processing site;
 - (v) lookout;
 - (vi) weather station;
 - (vii) airstrip, helipad or other air transportation landing site;
 - (viii) an educational or research opportunity; or
 - (ix) road use in relation to any of the above or other prescribed activity.
- (b) An eligible person may apply to the director for a special use permit.
- (c) An application for a special use permit must
- (i) be in the form specified by the director,
 - (ii) contain the information that the director requires, and
 - (iii) be accompanied by a plan that sets out how the applicable resource lands will be used, if the permit is issued.
- (d) The director may issue a special use permit to an eligible person if the director is of the opinion that the issuance of the permit would not impair the proper management and conservation of forest resources.
- (e) The director may issue a special use permit subject to any conditions that the director determines necessary or advisable to manage and conserve forest resources, including
- (i) that the holder of the special use permit will use the applicable land in accordance with the plan submitted under subsection (c)(iii),
 - (ii) restricting, regulating or prohibiting the building of or disposal of any chattel or fixture on the applicable land,

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- (iii) requiring the clean-up and restoration of the applicable land to the satisfaction of the director on the expiry of the term of the special use permit, or
 - (iv) that the holder of the special use permit provide a deposit in the form of money or other security acceptable to the director
 - (A) to ensure that the conditions of the permit are met, or
 - (B) if personal property owned by a person other than the holder is situated on the applicable land.
 - (f) The director may use any or all of the deposit referred to in subsection (e)(iv)
 - (i) to satisfy a claim for damages made by the owner of the personal property referred to in subsection (e)(iv)(B), or
 - (ii) to cover any costs incurred by the Yuulu?il?ath government resulting from a failure of the holder of the special use permit to meet the conditions of the permit.
 - (g) Subject to subsection (f), on expiry or cancellation of a special use permit,
 - (i) the director must return the remainder of the deposit to the holder of the permit, or
 - (ii) the director may issue a replacement special use permit if the holder applies for a replacement permit and the director is satisfied that the holder has met the conditions of the expired permit.
 - (h) The director may impose any conditions on a replacement special use permit under paragraph (g)(ii) that the director determines necessary or advisable to manage and conserve forest resources.

PART 3 - ADMINISTRATION AND MANAGEMENT

Forest development mission

- 3.1** The mission of Yuulu?il?ath government forest resource management and conservation is to
- (a) actively seek, secure and promote forest resource management and conservation initiatives that will enhance the quality of life and prosperity of Yuulu?il?ath citizens in accordance with the values and conservation principles referred to in sections 1.7 and 1.8,
 - (b) develop diverse, sustainable and profitable forest resource-based businesses for the Yuulu?il?ath government that respect the history, culture, traditions and environment of the Yuulu?il?ath First Nation, and
 - (c) assist in building the capacity of Yuulu?il?ath citizens to be successful forest stewards.

Forest development oversight

- 3.2** Primary oversight responsibility for the management and conservation of forest resources is vested in the director.

Director's authority

- 3.3**
- (a) On the approval of the director of operations, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to
 - (i) another Yuulu?il?ath director,
 - (ii) a Yuulu?il?ath government employee,
 - (iii) an independent contractor of the Yuulu?il?ath government,
 - (iv) a Yuulu?il?ath public corporation, or
 - (v) a Yuulu?il?ath business.
 - (b) Despite a delegation of duties or powers under subsection (a), the director remains responsible for ensuring that those duties are performed properly and the powers are exercised appropriately.

Role of the director

- 3.4** Without limiting section 3.2 and in accordance with this Act, the director's oversight responsibility for management and conservation of forest resources includes the following:
- (a) reviewing and, after considering any recommendation of the forest resource officer or a qualified professional, approving a forest management plan for submission to the Executive under section 6.2(b); and
 - (b) preparing and, after considering any recommendation of the forest resource officer or a qualified professional, recommending an annual harvest level to the Executive under section 4.1(b).

Forest Resource Division

- 3.5**
- (a) The Forest Resource Division is established as a division of the Department of Lands and Resources.
 - (b) The mandate of the Forest Resource Division is to seek to fulfil the mission referred to in section 3.1.
 - (c) The director of operations may appoint an individual to hold the office of forest resource officer.
 - (d) If appointed, the forest resource officer reports to the director.
 - (e) If the director of operations has not appointed an individual to hold the office of forest resource officer or if the office of forest resource officer is vacant, the director must perform the duties and may exercise the powers of the forest resource officer.

Duties and powers of the forest resource officer

- 3.6** Without limiting section 3.5, the forest resource officer must perform the following duties and may exercise the following powers:
- (a) manage the Forest Resource Division;
 - (b) prepare and recommend a timber supply report and annual allowable harvest level for review by the director under section 4.1;
 - (c) prepare and recommend a forest management plan for review by the director under section 6.2;
 - (d) ensure a copy of the most current forestry plans are available for viewing by Yuulu?il?ath citizens at the office of the Forest Resource Division;

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- (e) communicate with and provide appropriate information to Yuulu?il?ath citizens concerning the management and conservation of forest resources by the Yuulu?il?ath government and any person who has been granted an agreement or issued a permit;
 - (f) direct Yuulu?il?ath government employees assigned, and any consultants, qualified professionals, or other persons engaged to assist, the forest resource officer to perform its duties under this Act; and
 - (g) perform any additional duty or exercising any additional power assigned to the forest resource officer by the director.

Delegation authority

- 3.7** (a) On the approval of the director, the forest resource officer may delegate, in writing, with or without conditions, the performance of any of the forest resource officer's duties or the exercise of any of forest resource officer's powers to
- (i) a Yuulu?il?ath government employee,
 - (ii) a Yuulu?il?ath public corporation,
 - (iii) a Yuulu?il?ath business, or
 - (iv) an independent contractor of the Yuulu?il?ath government.
- (b) Despite the delegation of any duties or powers under subsection (a), the forest resource officer remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.
- (c) The forest resource officer may not delegate the power to delegate under this section.

PART 4 - ANNUAL HARVEST LEVEL

Annual harvest level determined

- 4.1** (a) The forest resource officer must, at least six months before the date referred to in subsection (c), prepare and recommend to the director a timber supply report and annual harvest level.
- (b) The director must, at least three months before the date referred to in subsection (c), review the recommended timber supply report and annual harvest level and, after making any amendment the director determines is necessary or advisable, recommend the timber supply report and annual harvest level to the Executive;
- (c) On or before the date this Act comes into force plus five years and on or before January 1 of every fifth year thereafter, the Executive must
- (i) review the timber supply report recommended to the Executive under subsection (b), and
- (ii) approve an annual harvest level for the next five years.
- (d) The annual harvest level of 18,700 cubic metres is established as the annual harvest level in effect as of the date this Act comes into force.

Content of annual harvest level

- 4.2** The annual harvest level approved by the Executive under section 4.1 must
- (a) contain a statement concerning the strategic plan for forest resource development for the Yuulu?il?ath government for the following five years and, having regard to the mission under section 3.1, the goals and objectives of the Yuulu?il?ath government for that time period, and
- (b) set an annual harvest level for resource lands that considers the following:
- (i) the rate of timber harvesting that may be sustained, taking into account
- (A) the composition of the forest and its expected rate of growth,
- (B) the expected time that the forest will take to become re-established following harvesting,
- (C) the silviculture treatments to be applied,
- (D) the standard of timber utilization and the allowance for decay, waste and breakage expected to be applied,

- (E) the constraints expected from non-timber related uses of the area,
- (F) any other information that, in the opinion of the director, relates to the capability of the area to produce timber;
- (ii) the short- and long-term implications to the Yuulu?il?ath government of alternative rates of timber harvesting;
- (iii) the economic and social objectives of the Yuulu?il?ath government in respect of forest resources;
- (iv) any abnormal damages or losses of timber due to insect infestations or fire; and
- (v) any use of resource lands authorized under another Yuulu?il?ath enactment.

Carry-over of annual harvest level

- 4.3** Subject to the approval of a new annual harvest level by the Executive under section 4.1, if the rate of timber harvesting on resource lands in any given year is less than the annual harvest level, the unused portion of the annual harvest level may be added to the annual harvest level for the following year upon approval by the director.

PART 5 - FORMS OF RIGHTS TO FOREST RESOURCES

Rights to harvest forest resources

- 5.1** A right to harvest forest resources on resource lands must not be granted by or on behalf of the Yuulu?il?ath government except in accordance with this Act.

Use by Yuulu?il?ath government

- 5.2** The Executive may by Order authorize Yuulu?il?ath government employees or agents, while acting in the course of their duties, to harvest forest resources on terms and conditions that the Executive considers are appropriate and consistent with this Act.

Right to harvest forest resources

- 5.3** (a) The director on behalf of the Yuulu?il?ath government may, in the form approved by the director, grant an eligible person a right to harvest forest resources or carry out primary forest activities in a
- (i) timber harvesting licence,
 - (ii) timber services contract,
 - (iii) timber salvage permit,
 - (iv) firewood permit,
 - (v) road permit,
 - (vi) free use permit,
 - (vii) botanical forest product harvesting permit, or
 - (viii) botanical forest product buyer permit.
- (b) The director on behalf of the Yuulu?il?ath government may grant an agreement to an eligible person in a form that consolidates one or more of the agreements described in subsection (a).

No agreement replaceable

- 5.4** No agreement or permit provides its holder, either on or before the expiry of the agreement or permit, with a right to a replacement agreement or permit.

No pledge as security or transfer

- 5.5** A holder of an agreement or permit must not assign, pledge as security or otherwise transfer the agreement or permit without the prior written consent of the director.

Timber harvesting licence and timber services contract

- 5.6** (a) The director may post in accordance with Yuulu?il?ath law a notice inviting applications from eligible persons for a timber harvesting licence or a timber services contract.
- (b) An application for a timber harvesting licence or timber services contract must
- (i) be in a form approved by the director, and
 - (ii) contain the information required by the director.
- (c) On receipt of an application for a timber harvesting licence or a timber services contract, the director may
- (i) approve the application for all or part of the advertised volume of timber, or
 - (ii) deny the application.
- (d) The director may on behalf of the Yuulu?il?ath government, with or without advertising or accepting applications from other persons, enter into an agreement with an eligible person in the form of a timber harvesting licence or a timber services contract.
- (e) The director may attach conditions to any agreement entered into under this section.

Timber harvesting licence

- 5.7** A timber harvesting licence
- (a) must be for a term not exceeding two years,
 - (b) must describe one or more areas of resource lands from which its holder may harvest timber,
 - (c) must specify an estimate of the volume of timber that may be harvested from the area of resource lands described in the licence,
 - (d) must require its holder to pay to the Yuulu?il?ath government
 - (i) stumpage,
 - (ii) an annual fee determined by the director, and
 - (iii) any other prescribed fee, and

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- (e) may include other terms and conditions that the director considers necessary or advisable.

Timber services contracts

5.8 A timber services contract

- (a) must be for the purpose of the holder providing any phase of timber harvesting operations or silviculture treatment to the Yuulu?il?ath government,
- (b) may include terms and conditions that the director considers necessary or advisable, and
- (c) does not confer any interest in timber.

Firewood permits

5.9 (a) An eligible person may apply to the director for a firewood permit.

- (b) An application for a firewood permit must
 - (i) be in a form approved by the director, and
 - (ii) contain the information required by the director.
- (c) The director must not issue a firewood permit to an eligible person who
 - (i) has, on land the person owns or occupies, sufficient timber that is reasonably accessible for the purpose specified in the application, or
 - (ii) is the holder of another firewood permit.
- (d) A firewood permit
 - (i) must be for a term not exceeding one year,
 - (ii) must describe one or more areas of resource lands from which the holder can harvest timber for firewood,
 - (iii) must be limited to a volume of timber not exceeding 50 cubic metres,
 - (iv) may require payment to the Yuulu?il?ath government of stumpage or any other prescribed fee, and
 - (v) may contain other terms and conditions that the director considers necessary or advisable.
- (e) A holder of a firewood permit

- (i) must not sell timber harvested under the permit, but
- (ii) may, with the approval of the director, authorize another eligible person to harvest firewood for the holder's benefit.

Timber salvage permits

- 5.10** (a) An eligible person may apply to the director for a timber salvage permit.
- (b) An application for a timber salvage permit must
- (i) be in a form approved by the director, and
 - (ii) contain the information required by the director.
- (c) A timber salvage permit
- (i) must be for a term not exceeding two years,
 - (ii) must describe one or more areas of resource lands from which its holder may harvest timber that is windthrown, dead, damaged, insect infested or diseased,
 - (iii) must be limited to a volume of timber not greater than 2,000 cubic metres,
 - (iv) must require its holder to pay to the Yuulu?il?ath government
 - (A) stumpage, and
 - (B) any other prescribed fee, and
 - (v) may include other terms and conditions that director considers necessary or advisable.

Free use permits

- 5.11** (a) An eligible person may apply to the director for a free use permit.
- (b) An application for a free use permit must
- (i) be in a form specified by the director, and
 - (ii) contain the information required by the director.
- (c) A free use permit
- (i) must be for a term not exceeding two years,

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- (ii) must describe one or more areas of resource lands within which its holder may harvest timber for the purpose described in the permit,
 - (iii) must describe the purpose of the permit,
 - (iv) must be limited to a volume not exceeding 200 cubic metres,
 - (v) must provide for payment to the Yuulu?il?ath government of any prescribed fee, and
 - (vi) may contain other terms and conditions that the director considers necessary or advisable.

Botanical forest product harvesting permit

- 5.12** (a) An eligible person may apply to the director for a botanical forest product harvesting permit.
- (b) An application for a botanical forest product harvesting permit must
- (i) be in a form approved by the director, and
 - (ii) contain the information required by the director.
- (c) A botanical forest product harvesting permit
- (i) must specify whether the permit is an individual or a group permit,
 - (ii) must, for a group permit, specify the number of persons who are authorized to harvest botanical forest products under the permit,
 - (iii) must specify the species of botanical forest product that may be harvested under the permit,
 - (iv) may describe the area of resource lands from which that species of the botanical forest product may be harvested,
 - (v) must be for a term not exceeding one year,
 - (vi) may limit the volume of each botanical forest product that may be harvested under the permit,
 - (vii) must provide for payment of any prescribed fee, and
 - (viii) may include other terms and conditions that the director considers necessary or advisable.

Individual and group botanical forest product harvesting permits

- 5.13** (a) An individual botanical forest harvesting permit authorizes the holder of the permit to harvest botanical forest products in accordance with this Act and any terms and conditions set out in the permit under section 5.12.
- (b) A group botanical forest product harvesting permit authorizes the holder of the permit and any other persons that the holder of the permit wishes to allow to harvest under that permit to harvest botanical forest products in accordance with this Act and any terms and conditions set out in the permit under section 5.12.
- (c) The holder of a group botanical forest product harvesting permit who allows other persons to harvest under the permit must
- (i) provide to each such person documentation satisfactory to the director that identifies the person as a person authorized to harvest under the permit, and
 - (ii) ensure that each person is aware of and observes the provisions of this Act in relation to the lawful harvesting of botanical forest products, as well as any terms and conditions set out in the permit.

Botanical forest product buyer permit

- 5.14** (a) No person may buy any botanical forest product as a commercial enterprise on resource lands unless the person has a botanical forest product buyer permit.
- (b) An eligible person may apply to the director for a botanical forest product buyer permit.
- (c) An application for a botanical forest product buyer permit must
- (i) be in a form approved by the director, and
 - (ii) contain the information required by the director.
- (d) A botanical forest product buyer permit
- (i) may give its holder the right to establish a temporary buying station on resource lands for the term of the permit,
 - (ii) must specify the species of botanical forest products that may be purchased under the permit,
 - (iii) must be for a term not exceeding one year,

- (iv) may limit the volume of botanical forest products that may be purchased under the permit,
- (v) must require the holder to pay to the Yuulu?il?ath government any prescribed fee, and
- (vi) may include other terms and conditions that the director considers necessary or advisable.

Transfer of ownership of botanical forest products

5.15 Ownership of timber or botanical forest products that are harvested in accordance with an agreement vests in the holder of the agreement at the time such timber or botanical forest product is severed from the land or the vegetation on which it grows.

PART 6 - PLANNING FOR TIMBER HARVESTING

Application of forest management plan

- 6.1** The Executive must approve a forest management plan in accordance with this Part before any agreement or permit is entered into with or issued to any person under this Act.

Responsibility for preparation of forest management plan

- 6.2** (a) The forest resource officer must
- (i) six months before the date referred to in section 6.6(b), or
 - (ii) by a date specified by the Executive,
- prepare and recommend to the director a forest management plan in respect of all resource lands.
- (b) The director must
- (i) three months before the date referred to in section 6.6(b), or
 - (ii) by a date specified by the Executive,
- review the forest management plan recommended by the forest resource officer and, after making any amendment the director determines is necessary or advisable, recommend the forest management plan to the Executive.

Forest management plan content

- 6.3** A forest management plan must
- (a) be consistent with this Act,
 - (b) address all resource lands, unless the director recommends to the Executive that it may be limited to a smaller area,
 - (c) incorporate the annual harvest level and any related Executive recommendation, and
 - (d) describe or identify a conservation and management strategy for all timber and non-timber resources and activities on resource lands including the following:
 - (i) botanical forest products;
 - (ii) harvesting practices;

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- (iii) silviculture practices;
 - (iv) access structures and roads, including bladed skid trails;
 - (v) heritage sites and heritage objects;
 - (vi) forest health factors, including bark beetles, defoliators, pathogens, abiotic damage, the effects of invasive species and climate change;
 - (vii) soil conditions;
 - (viii) biodiversity and wildlife, including species at risk;
 - (ix) any applicable permit, licence or other authorization issued to person under another Yuulu?il?ath enactment;
 - (x) visual quality objectives; and
 - (xi) water quality and fish habitats.

Forest management plan review by Yuulu?il?ath government

- 6.4** The Executive may only approve a forest management plan if it determines that
- (a) the level of timber harvesting proposed in the plan is consistent with the annual harvest level, and
 - (b) any primary forest activity proposed in the forest management plan
 - (i) is consistent with any applicable requirements for special areas,
 - (ii) is consistent with the requirements of this Part, and
 - (iii) ensures the proper management and conservation of forest resources.

Additional information

- 6.5** The Executive may require the director to submit further information before approving a forest management plan.

Approval of forest management plan

- 6.6** (a) The Executive must by Order approve a forest management plan within three months of the date this Act comes into force.
- (b) On or before the date this Act comes into force plus five years and on or before January 1 of every fifth year thereafter, the Executive must

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- (i) consider the forest management plan recommended under section 6.2(b), and
 - (ii) by Order approve a forest management plan for the next five years.

Forest management plan public review

- 6.7** Before approving a forest management plan, other than the forest management approved under section 6.6(a), the Executive must
- (a) post a notice in accordance with Yuulu?il?ath law that the forest management plan is under review,
 - (b) make available at the office of the Forest Resource Division, for a period of at least 30 days from the date of the notice posted under subsection (a), a copy of the draft forest management plan for the following persons to review and comment on:
 - (i) Yuulu?il?ath citizens;
 - (ii) any person ordinarily resident on Yuulu?il?ath lands; and
 - (iii) any other prescribed person,
 - (c) after the expiry of the 30-day review and comment period referred to in subsection (b), present the draft forest management plan at a hitacu Assembly for review and comment by any person referred to in subsection (b), and
 - (d) give full and fair consideration to any comment provided in accordance with subsection (b) or (c) in relation to the draft forest management plan.

Copy of forest management plan

- 6.8** The director must keep a copy of the most current forest management plan available for viewing by Yuulu?il?ath citizens at the office of the Forest Resource Division.

Amendments

- 6.9**
- (a) The Executive may require the director to prepare an amendment to a forest management plan at any time if the Executive considers it necessary for the management and conservation of forest resources on resource lands.
 - (b) The director may submit to the Executive a proposed amendment to a forest management plan.
 - (c) The Executive may approve an amendment to a forest management plan if

- (i) the amendment meets the requirements of section 6.4, and
- (ii) the Executive has made the amendment available for review and comment in accordance with section 6.7, unless the Executive reasonably determines that the amendment is minor and does not require public review and comment.

Term of a forest management plan

- 6.10** (a) A forest management plan must be for a period of at least five years, unless the Executive determines that a shorter period of time is appropriate.
- (b) A forest management plan takes effect and expires on the dates specified in the plan.
- (c) Before or after the expiry of a forest management plan, the Executive may extend the plan for a period or periods not exceeding a total of one year.
- (d) If the term of a forest management plan is extended, the Executive must amend the plan as necessary to comply with the requirements of this Act.

Operational site plans

- 6.11** (a) The director must approve an operational site plan before timber harvesting is authorized under any agreement other than a firewood permit.
- (b) Subsection (a) does not apply where, in the opinion of the director, removing timber immediately is necessary to ensure responsible management and conservation of forest resources.

Responsibility for preparation of operational site plan

- 6.12** The director may request
- (a) the forest resource officer,
 - (b) a holder of an agreement, other than a firewood permit, or a
 - (c) a qualified professional
- to prepare an operational site plan.

Operational site plan content

- 6.13** An operational site plan must
- (a) be consistent with the policies and strategies outlined in the forest management plan,

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- (b) address all proposed cutblocks, unless the director is satisfied that it may be limited to a smaller area, and
 - (c) describe or identify management strategies for all timber and non-timber resources and activities including the following:
 - (i) for the area addressed under the plan
 - (A) the forest cover,
 - (B) the location of any streams, wetlands and lakes, and
 - (C) the location of any special areas and any requirements established for those areas;
 - (ii) for each proposed cutblock
 - (A) its proposed location and size,
 - (B) its proposed silvicultural system, and
 - (C) the location of any contiguous cutblocks that are not currently greened-up;
 - (iii) for each proposed or existing road associated with proposed or existing cutblocks
 - (A) the approximate location of road construction operations to be carried out to provide access to the proposed cutblocks,
 - (B) the road structural maintenance operations that are to be carried out during the term of the plan, and
 - (C) the road deactivation operations that are to be carried out during the term of the plan;
 - (iv) the location of any resource feature that may be potentially affected by a proposed harvesting or road construction operation;
 - (v) if present, the location of any observed heritage site or heritage object that could be affected by a proposed harvesting or road construction operation; and
 - (vi) standard operating procedures that will be implemented to protect any heritage site or heritage object discovered during any primary forest activity.

Operational site plan review by the director

- 6.14** The director may only approve an operational site plan if it is determined by the director that the proposed operational site plan
- (a) is consistent with
 - (i) the forest management plan, and
 - (ii) section 6.13, and
 - (b) ensures the proper management and conservation of forest resources on resource lands.

Additional information

- 6.15** The director may require the person identified under section 6.12 to submit further information before approving an operational site plan.

Approval of operational site plan

- 6.16** The director must approve a proposed operational site plan
- (a) within 30 days of receipt, or
 - (b) within an adjusted time period that accounts for additional information requested under section 6.15,
- if the operational site plan meets the requirements of this Part.

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PART 7 - PRIMARY FOREST ACTIVITIES

Compliance with established requirements

- 7.1** A person who carries out primary forest activities must comply with all of the following that apply to the area where the activities are carried out:
- (a) requirements for any special area established under section 2.4;
 - (b) any applicable forestry plan; and
 - (c) authorizations, conditions or requirements approved by the Executive or the director under this Act.

Protection of forest resources

- 7.2**
- (a) A person must not perform a primary forest activity that degrades or adversely affects the management and conservation of forest resources.
 - (b) A person does not contravene subsection (a) if the person is acting in accordance with
 - (i) this Act,
 - (ii) a forestry plan, or
 - (iii) an authorization, order, variance or exemption approved under this Act.
 - (c) A person who contravenes subsection (a) must, on becoming reasonably aware of the fact that they are contravening subsection (a),
 - (i) immediately stop carrying out the primary forest activity in question,
 - (ii) promptly notify the director,
 - (iii) prevent any further degradation of forest resources, and
 - (iv) take any remedial measures that the director requires.

Variiances

- 7.3**
- (a) A person who must carry out a primary forest activity in accordance with a requirement of this Act may propose a variance from that requirement.
 - (b) A proposal under subsection (a) must be submitted in writing to the director and include the following:
 - (i) the requirement that the submission applies to;

- (ii) the proposed variance; and
 - (iii) a statement of the probable impact of the proposed variance on the area affected and how the proposed variance affects the management and conservation of the forest resources in question.
- (c) The director may approve a proposed variance if the director is of the opinion that the proposed variance is minor in nature and is
 - (i) consistent with Yuulu?il?ath First Nation forest resource management and conservation policies and objectives,
 - (ii) necessary in the interests of public safety, or
 - (iii) otherwise in the public interest.
- (d) If the director approves a proposed variance
 - (i) the person who submitted the proposal must comply with the variance, and
 - (ii) the director may direct the person who is subject to the approved variance to amend any applicable operational site plan accordingly.
- (e) A variance approved under this section does not affect any fine, imprisonment, stumpage, fee, charge or penalty to which a person is liable under this Act if the offence or contravention occurred before the variance was approved.
- (f) If the director determines that a variance proposed by a person under this section is not minor or of a prescribed type, the variance is subject to the approval process described in section 6.7 except the requirement for presentation at a hitacu Assembly.

PART 8 - PROTECTION OF HERITAGE SITES AND OBJECTS

Protection

8.1 A person must not, unless authorized in accordance with provincial law or another Yuułu?i?ath enactment, engage in a primary forest activity or other activity authorized under this Act that degrades or adversely affects a heritage object or heritage site.

Actions to take

8.2 If a person engaged in a primary forest activity or any other activity authorized under this Act discovers or locates a heritage object or heritage site, that person must as soon as practicable

- (a) cease any activity that may damage the heritage object or heritage site,
- (b) gather site specific information about the heritage object or heritage site,
- (c) notify the director of the discovery or identification of the heritage object or heritage site together with any information gathered under subsection (b), and
- (d) complete an archaeological impact assessment, archaeological overview assessment and preliminary field reconnaissance with respect to the heritage object or heritage site, as required by the director or otherwise prescribed.

Assessment

- 8.3**
- (a) The assessment referred to in section 8.2(d) must be prepared by a qualified professional and include
 - (i) the location of the heritage object or heritage site,
 - (ii) an evaluation of the impact of the proposed activity on the heritage object or heritage site, and
 - (iii) recommendations to mitigate any impact on, conserve or protect the heritage object or heritage site.
 - (b) The qualified professional must, in the preparation of the assessment and their recommendations, consider with respect to the heritage object or heritage site
 - (i) its abundance or scarcity,
 - (ii) its value or importance to the Yuułu?i?ath First Nation,
 - (iii) its history, and
 - (iv) as applicable, its traditional use.

Director to receive assessment

- 8.4** A person referred to in section 8.2 must provide the assessment prepared under section 8.3 to the director and the Executive no later than five days after its completion.

Incorporation into operational site plan

- 8.5** (a) The director may require the person referred to in section 8.2 to amend or update any applicable operational site plan based on the results of the assessment under section 8.3 and any comments from the Executive in respect of that assessment.
- (b) The director may approve any proposed amendment to an operational site plan under subsection (a) plan if it is consistent with section 6.14.

Remedial action

- 8.6** The director may direct a person to take any remedial action the director considers necessary if a person fails to comply with sections 8.1 and 8.2.

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PART 9 - RIPARIAN MANAGEMENT

General requirements within riparian management areas

9.1 In this Act, riparian classes are established for streams, wetlands and lakes as follows:

- (a) a stream
 - (i) that is a fish bearing stream or is located in a community watershed has the following riparian classes:
 - (A) S1A, if the stream averages, over one km in length, either a stream width or an active flood plain width of 100 metres or more;
 - (B) S1B, if the stream width is greater than 20 metres but the stream does not have a riparian class of S1A;
 - (C) S2, if the stream width is greater than five metres but not greater than 20 metres;
 - (D) S3, if the stream width is greater than one and one-half metre but not greater than five metres; and
 - (E) S4, if the stream width is one and one-half metre or less; or
 - (ii) that is not a fish bearing stream or is located outside of a community watershed has the following riparian classes:
 - (A) S5, if the stream width is greater than three metres; and
 - (B) S6, if the stream width is three metres or less;
- (b) wetland has the following riparian classes:
 - (i) W1, if the wetland is greater than five ha in size;
 - (ii) W2, if the wetland is greater than one ha and not greater than five ha in size and is in one of the following biogeoclimatic zones or subzones:
 - (A) coastal douglas-fir;
 - (B) coastal western hemlock, including very dry maritime, dry maritime or dry sub-maritime;
 - (iii) W3, if the wetland is greater than one ha and not greater than five ha in size and is in a biogeoclimatic zone or subzone other than ones referred to in paragraph(ii);

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- (iv) W4, if the wetland is greater than one-half ha and less than one ha in size and is in one of the following biogeoclimatic zones or subzones:
 - (A) coastal douglas-fir; or
 - (B) coastal western hemlock, including very dry maritime, dry maritime or dry submaritime; and
 - (v) W5, if the combined area contains
 - (A) two or more W1 wetlands located within 100 metres of each other,
 - (B) a W1 wetland and one or more non-W1 wetlands, all of which are within 80 metres of each other,
 - (C) two or more non-W1 wetlands located within 60 metres of each other, or
 - (D) two or more wetlands with an area of five ha or larger, excluding upland areas; and
 - (c) lakes have the following riparian classes:
 - (i) L1-A, if the lake is 1,000 ha or greater in size;
 - (ii) L1-B, if the lake is greater than five ha and not greater than 1,000 ha in size;
 - (iii) L2, if the lake is greater than one ha and not greater than five ha in size and is located in a biogeoclimatic zone or subzone that is
 - (A) coastal douglas-fir, or
 - (B) coastal western hemlock, including very dry maritime, dry maritime or dry submaritime;
 - (iv) L3, if the lake is greater than one ha and not greater than five ha in size and is in a biogeoclimatic zone or subzone other than ones referred to in paragraph (iii); and
 - (v) L4, if the lake is greater than one-half ha and not greater than one ha in size and is in a biogeoclimatic zone or subzone
 - (A) coastal douglas-fir, or
 - (B) coastal western hemlock, including very dry maritime, dry maritime or dry submaritime.

- 9.2** The minimum riparian management area width, riparian reserve zone width and riparian management zone width, for each riparian class, are as follows:

Riparian Class	Riparian Management Area Width (metres)	Riparian Reserve Zone Width (metres)	Riparian Management Zone Width (metres)
S1-A	100	0	100
S1-B	70	50	20
S2	50	30	20
S3	40	20	20
S4	30	0	30
S5	30	0	30
S6	20	0	20
W1	50	10	40
W2	30	10	20
W3	30	0	30
W4	30	0	30
W5	50	10	40
L1-A	0	0	0
L1-B	10	10	0
L2	30	10	20
L3	30	0	30
L4	30	0	30

- 9.3** (a) A person who carries out a primary forest activity in a riparian management area must
- (i) ensure that the primary forest activity minimizes deleterious impacts on
- (A) stream channel dynamics, aquatic ecosystems and water quality of the streams, wetlands and lakes adjacent to that riparian management area, and

-
- (B) the diversity, productivity and sustainability of wildlife habitat and vegetation adjacent to the stream, wetland and lake associated with that riparian management area,
- (ii) employ all reasonable efforts to reduce potential for blow down events within retention areas adjacent to riparian features,
 - (iii) retain important wildlife habitat attributes including wildlife trees, large trees, hiding and resting cover, nesting sites, structural diversity, coarse woody debris and food source characteristics of natural riparian ecosystems,
 - (iv) retain sufficient vegetation along streams to provide shade, reduce bank microclimate changes, maintain natural channel and bank stability, and important attributes for wildlife, and
 - (v) retain adjacent to wetlands and lakes key wildlife habitat attributes that are characteristic of natural riparian ecosystems.
- (b) A person who carries out a primary forest activity must not deposit in any area a volume of slash or debris that is capable of damaging fish habitat or reducing water quality.
- (c) A person who carries out a primary forest activity must ensure that the tracks or wheels of ground-based machinery do not come within five metres of a stream bank, unless the operations are conducted in such a manner that they
- (i) protect stream bank integrity,
 - (ii) minimize damage to understory vegetation, and
 - (iii) cross any stream at a designated crossing location or structure as determined by and approved in an operational site plan.
- (d) A person who carries out a primary forest activity must ensure that machinery used in carrying out the activity is not fueled or serviced within a riparian management area.

PART 10 - SOIL CONSERVATION

Limits on unrehabilitated roads, landings and bladed skid trails

- 10.1** (a) A person who carries out a primary forest activity must not create an area of unrehabilitated roads, landings or bladed skid trails in a cutblock that exceeds
- (i) the amount specified for the cutblock in an operational site plan, or
 - (ii) 7% of the area of the cutblock if no amount is specified for the cutblock in an operational site plan.
- (b) If a person contravenes subsection (a), the person must
- (i) promptly notify the director in writing, and
 - (ii) perform any site rehabilitation measures required by the director.

Limits on cutblocks

- 10.2** (a) The maximum proportion of area to be reforested in a cutblock that may be subject to a soil disturbance is
- (i) the amount specified for the cutblock in an operational site plan, or
 - (ii) 5% of the area of the cutblock if no amount is specified for the cutblock in an operational site plan.
- (b) The maximum proportion of area in a cutblock to be treated under a stand treatment plan that may be subject to a soil disturbance is
- (i) the amount specified for the cutblock in an operational site plan, or
 - (ii) 5% of the area of the cutblock if no amount is specified for the cutblock in an operational site plan.
- (c) A person who carries out a primary forest activity must not exceed the limit for soil disturbance specified in subsection (a) or (b).
- (d) If a person contravenes subsection (c), the person must
- (i) promptly notify the director in writing, and
 - (ii) perform any site rehabilitation measures required by the director.

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PART 11 - BIODIVERSITY

Biodiversity objectives

11.1 Subject to any

- (a) authorized use of resource lands under a Yuulu?il?ath enactment, or
- (b) requirement under section 2.4 for a special area,

the long-term objective of the Yuulu?il?ath government is to promote the restoration of natural biodiversity across Yuulu?il?ath lands.

Management of biodiversity

11.2 Subject to section 11.4, the director must manage biodiversity

- (a) at the landscape level to promote a reflection of natural disturbance patterns, by manipulating
 - (i) seral stage distribution by biogeoclimatic ecosystem classification variant or site series groups,
 - (ii) temporal and spatial distribution of harvested areas and retention areas,
 - (iii) connectivity across the landscape,
 - (iv) stand structure,
 - (v) species composition, and
 - (vi) natural drainage systems including wetlands, and
- (b) within a cutblock by maintaining
 - (i) stand structure including several of the larger trees,
 - (ii) tree and vegetation species composition,
 - (iii) coarse woody debris,
 - (iv) dead and dying trees, and
 - (v) natural drainage systems.

Adjacency requirements

- 11.3** The director may approve, in an operational site plan, a cutblock for harvesting that is adjacent to a previously harvested cutblock that is not greened-up if
- (a) at least 40% or more of the pre-harvest basal area of the cutblock to be harvested will be retained and evenly distributed,
 - (b) the total area of the cutblock to be harvested and the area that is not greened-up does not exceed 40 hectares,
 - (c) the primary purpose of the harvesting is to recover damaged timber, or
 - (d) the cutblock is designed to be consistent with the structural characteristics and the temporal and spatial distribution of an opening that would result from a natural disturbance.

Director's discretion

- 11.4** Nothing in this Part limits the director from approving a cutblock design that is inconsistent with the requirements of this Part, if the director is of the opinion that the cutblock location and design
- (a) is appropriate in the circumstances,
 - (b) is consistent with any applicable forestry plan, and
 - (c) manages and conserves forest resources in accordance with the purpose, values and conservation principles of this Act.

Biodiversity requirements within cutblocks

- 11.5** (a) Unless otherwise authorized by the director, a person who carries out a timber harvesting operation within a cutblock must
- (i) maintain stand structure by retaining at least 10% of the cutblock area in a combination of
 - (A) wildlife tree patches that represent the stand structure and any snags within the area,
 - (B) patches of advanced regeneration, and
 - (C) non-merchantable defect trees as recruitment snags,
 - (ii) maintain tree and vegetation species composition by retaining across the cutblock,

- (A) a variety of native understory plants and plant communities, and
- (B) minor tree species which form less than 20% of the trees present on the cutblock, and
- (iii) maintain coarse woody debris by leaving a minimum of 23 pieces of large coarse woody debris per hectare in addition to
 - (A) limbing and topping harvested trees on the cutblock,
 - (B) leaving any residue and waste distributed across the cutblock, and
 - (C) leaving non-merchantable material on the cutblock.
- (b) If a person carrying out a primary forest activity finds a forest resource that was not identified on an operational site plan, the person carrying out the primary forest activity must immediately
 - (i) stop any primary forest activity that is being conducted in the immediate vicinity of the forest resource,
 - (ii) advise the director of the existence and location of the forest resource, and
 - (iii) not continue with the primary forest activity until directed to do so by the director.

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PART 12 - TIMBER HARVESTING

No harvesting in reserve area

- 12.1** (a) A person must not harvest in or damage any part of a reserve area.
- (b) If required by the director, before a person commences timber harvesting in a cutblock the person must mark in the field the location of any reserve area that is within the boundaries of or adjacent to the cutblock.
- (c) A marking under subsection (a) must be visible during timber harvesting and for a period of at least 6 months after the completion of harvesting within the cutblock.

Ensuring terrain stability

- 12.2** (a) Before a person carries out timber harvesting within a cutblock, the person must assess to the satisfaction of the director stability of the terrain within the cutblock and in the areas adjacent to the cutblock that could be affected by harvesting.
- (b) The director may by written notice to the person described in subsection (a), require that person to
- (i) engage a qualified professional to assess the area, or
- (ii) modify the proposed timber harvesting operations to the extent necessary to ensure the terrain within or adjacent to the cutblock remains stable.

Harvesting on sensitive slopes

- 12.3** Unless authorized in writing by the director, a person must not
- (a) clearcut timber on an unstable area,
- (b) construct a bladed skid trail on an unstable area, or
- (c) sidecast material onto an unstable area.

Bladed skid trails

- 12.4** (a) A person must not build a bladed skid trail unless it is
- (i) provided for in an approved operational site plan, or
- (ii) authorized in writing by the director.
- (b) A person who builds a bladed skid trail must ensure that the bladed skid trail

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- (i) prevents subsurface seepage water from being diverted onto an unstable slope or into a stream channel or gully that would not naturally have received the water,
 - (ii) maintains stability of any cut slope or fill slope,
 - (iii) maintains surface drainage patterns,
 - (iv) facilitates any rehabilitation treatment required under subsection (c), and
 - (v) minimizes soil erosion and the amount of sediment entering any stream.
- (c) At the conclusion of harvesting, a person who builds a bladed skid trail must rehabilitate the area occupied by the bladed skid trail by carrying out
- (i) the following measures to the satisfaction of the director:
 - (A) decompacting the running surface, unless the soil is sand, loamy sand, or contains in excess of 70% coarse fragments by volume;
 - (B) placing sidecast fill material on the excavated portion of the trail;
 - (C) recontouring the slope;
 - (D) re-establishing surface drainage patterns; or
 - (E) scattering woody debris on any exposed mineral soil surface, and
 - (ii) any other measure required by the director.
- (d) The director may relieve a person from the requirements under subsection (c) if the director is satisfied that
- (i) the bladed skid trail is required to provide access for future harvesting,
 - (ii) treating the area occupied by the bladed skid trail is unlikely to restore soil productivity to an acceptable level, or
 - (iii) taking no action adequately manages and conserves forest resources.

Landings

- 12.5** (a) Unless indicated in an operational site plan or otherwise authorized by the director, a person who harvests timber must not construct a landing within 30 metres of a stream.
- (b) A person who harvests timber must deactivate a landing in accordance with subsection (c) when the landing is no longer required for harvesting operations.

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- (c) A person who deactivates a landing must, unless otherwise required under an operational site plan,
 - (i) if the landing is a permanent structure,
 - (A) incorporate a drainage system to minimize runoff flowing onto the landing and erosion of the landing fill and material, and
 - (B) ensure that the landing is stable, or
 - (ii) if the landing is a temporary structure,
 - (A) incorporate a drainage system to minimize runoff flowing onto the landing and erosion of the landing fill and material,
 - (B) ensure that the landing area is stable,
 - (C) decompact the landing area,
 - (D) spread, over the surface of the landing, retrievable soil material that was displaced to construct the landing,
 - (E) re-establish natural surface drainage,
 - (F) place woody debris over exposed mineral soil, and
 - (G) revegetate exposed mineral soil.

Harvesting in gullies

- 12.6** (a) A person must not harvest timber in a gully unless
- (i) authorized in writing by the director, and
 - (ii) a gully assessment report prepared by a qualified professional has been delivered to the director.
- (b) The director must not authorize a person under subsection (a) unless the director is satisfied that
- (i) the timber harvesting activity will adequately manage and conserve forest resources, and
 - (ii) the timber harvesting activity will not
 - (A) increase the risk of erosion or make a gully bank unstable,
 - (B) cause excessive damage to the understory vegetation, or

- (C) increase sediment and debris transport potential.

Slash accumulations

- 12.7** Unless otherwise authorized by the director, a person who harvests timber must burn the combustible slash that accumulates at landings and roadside locations before
- (a) any insects emerge, if the slash is insect-infested, or
 - (b) the end of the first burning season after harvesting is completed if the slash is not insect-infested.

Rehabilitation of compacted areas and corduroyed trails

- 12.8** (a) At the conclusion of a timber harvesting activity or at any other time specified by the director, a person who harvests timber must rehabilitate any compacted area and corduroyed trail as required under any applicable operational site plan or to the satisfaction of the director.
- (b) The director may waive a requirement of subsection (a) if the director is of the opinion that
- (i) the area is too small to warrant rehabilitation, or
 - (ii) rehabilitating the area
 - (A) is unlikely to impact restoration of forest resource productivity to an acceptable level, or
 - (B) is not required to adequately manage and conserve forest resources.

PART 13 - BOTANICAL FOREST PRODUCTS

Harvesting of botanical forest products

13.1 A person may only harvest botanical forest products from resource lands

- (a) in accordance with the terms and conditions of the applicable agreement, and
- (b) in a manner that does not deleteriously impacts the capacity of that area to produce botanical forest products.

No harvest areas

- 13.2**
- (a) If the director is of the opinion that the establishment of a no-harvest area is necessary as a preventative measure to limit the risk of damage to the capacity of an area to produce botanical forest products the director may, by Order, establish no-harvest areas for botanical forest products.
 - (b) The director must cause any Order enacted under subsection (a) to be posted at one or more conspicuous locations in the vicinity of the no-harvest area.
 - (c) A person must not enter a no-harvest area established under this section for the purpose of harvesting or buying botanical forest products without the written authorization of the director.

PART 14 - ROAD USE

Application

14.1 For certainty, this Part only applies to roads located on resource lands.

When permit required

- 14.2** (a) Any person may, without charge, use a road for a purpose other than to facilitate an industrial or primary forest activity on resource lands.
- (b) A person must not use a road to facilitate an industrial or primary forest activity on resource lands unless the person
- (i) holds a road permit,
 - (ii) holds a road use permit , or
 - (iii) holds a special use permit that authorizes the use of the road.

Road permit

- 14.3** (a) A holder of an agreement may apply to the director for a road permit to construct and use a road to access the forest resources to which the agreement applies, by
- (i) submitting an application to the director in a form approved by the director, and
 - (ii) paying any prescribed fee.
- (b) The director may issue a road permit, including the right to harvest timber from the area to which the road permit applies, if the director is satisfied that
- (i) the proposed road is identified on an operational site plan and is necessary to facilitate the carrying out of an industrial or primary forestry activity,
 - (ii) the timber proposed to be harvested under the permit must be harvested to construct the road, and
 - (iii) the road, including its layout, design and location, will adequately manage and conserve forest resources.

Road permit content

- 14.4** (a) A road permit
- (i) must describe the location of the road to be constructed under the permit,

- (ii) must require the holder to maintain and, if required by the director, deactivate the road,
 - (iii) may authorize the holder to manage and use any sand pit, gravel pit or quarry within the area to which the permit applies, as necessary to provide materials for the construction or maintenance of the road, and
 - (iv) if the permit grants the right to harvest timber, must require the holder to pay stumpage.
- (b) A road permit may include any other terms and conditions that the director considers necessary or advisable for public safety or the management and conservation of forest resources.

Road use permit

- 14.5** (a) An eligible person may apply for a road use permit to use a road to facilitate an industrial or primary forest activity on resource lands by
- (i) submitting an application to the director that is in a form approved by the director, and
 - (ii) paying any prescribed fee.
- (b) The director may issue to an eligible person a road use permit if the director is satisfied that the use of the road by that person
- (i) is necessary to facilitate an industrial or primary forest activity, and
 - (ii) will adequately manage and conserve forest resources.

Content of road use permit

14.6 A road use permit

- (a) must describe the road that the holder may use,
- (b) may, if the road is a forest road, designate the holder as the primary user of the road with the obligation to maintain the road,
- (c) may include a requirement for the holder to pay the Yuulu?il?ath? government for use of the road, and
- (d) may include any other terms and conditions that the director considers necessary or advisable for public safety or the management and conservation of forest resources.

Exemption

14.7 The director may exempt a person from the requirement under section 14.2 if the director is satisfied that the person's use of the road will not adversely affect the use of the road by others or adversely affect the management and conservation of forest resources.

Declaration of forest roads

- 14.8** (a) The director may by Order declare a road to be a forest road.
- (b) Unless otherwise specified in the Order, if a road is declared a forest road under subsection (a), the Yuulu?il?ath government assumes responsibility for maintaining the road.
- (c) If a road declared to be a forest road under subsection (a) is subject to a road permit or special use permit at the time of the declaration,
- (i) the director must grant a road use permit to the holder of the road permit or special use permit, and
- (ii) the road permit or special use permit is terminated.

Non-industrial use of a road

- 14.9** If use of a road is likely to
- (a) cause significant damage to the road or environment,
- (b) endanger life or property, or
- (c) adversely affect management and conservation of forest resources,
- then
- (d) the holder of a road permit or road use permit may, with the authorization of the director,
- (i) close the road or restrict the road's use, including use for a purpose other to facilitate an industrial or primary forest activity, or
- (ii) at the expense of the owner of the motor vehicle, remove a motor vehicle from the road, and
- (e) the director may, by directive, prohibit any person from using the road.

Damage to roads

14.10 A person must not use a road in a manner that may cause significant damage to the road or environment, endanger life or property, or adversely affect the management and conservation of forest resources.

Liability insurance

- 14.11** (a) A person must not operate a motor vehicle or trailer, other than a vehicle or trailer described in section 2(2) of the Motor Vehicle Act of British Columbia, on a road unless the driver and motor vehicle or trailer are insured under a valid and subsisting contract of accident insurance providing insurance against liability to third parties in the amount of at least \$2,000,000.
- (b) A person operating a motor vehicle or trailer, other than a vehicle or trailer described in section 2(2) of the Motor Vehicle Act of British Columbia, on a road must
- (i) carry written evidence supplied by the insurer of the insurance described in subsection (a) or a copy of that written evidence, and
 - (ii) produce that written evidence, on demand, to the director or an enforcement officer.

Authorization for construction

14.12 A person, other than the Yuułu?il?ath government, may only construct a road if

- (a) the road is identified in an operational site plan and the construction has been authorized in a road permit, or
- (b) the construction is authorized under another Yuułu?il?ath enactment.

General requirements

14.13 When constructing, maintaining or deactivating a road in accordance with this Part, a person must ensure user safety and adequately manage and conserve forest resources, including the following:

- (a) protecting water quality, stream bank stability and fish habitat,
- (b) providing safe passage of fish in streams for the purposes of spawning, rearing or migration,
- (c) protecting structural integrity of the road and drainage structures,
- (d) maintaining slope stability,

- (e) maintaining surface drainage patterns, and
- (f) minimizing surface soil erosion and sediment entering into streams.

Road construction

- 14.14** (a) Prior to starting construction, a person who constructs a road in accordance with this Part must prepare, and obtain the approval of the director for, a layout and design for the road that includes
- (i) a map showing the location of
 - (A) the road,
 - (B) any proposed stream, wetland or lake crossings, and
 - (C) the outer boundary of any riparian management area in or adjacent to the road other than at a proposed crossing of a stream, wetland or lake,
 - (ii) specifications for road design, drainage design and revegetation, and
 - (iii) anything else required by the director to manage and conserve forest resources.
- (b) The director may exempt a person from a requirement under subsection (a) if the director is satisfied that the requirement is not necessary for user safety or to adequately manage and conserve forest resources.

Road maintenance

- 14.15** (a) The director must ensure that all roads are maintained until deactivated.
- (b) A holder of a road permit for a road must maintain the road until the earliest of the following:
- (i) the date on which the road is deactivated to the satisfaction of the director,
 - (ii) the date on which the road is declared a forest road, or
 - (iii) subject to subsection (d), the date on which the director relieves the holder of the obligation to maintain the road under paragraph (c)(ii).
- (c) The director may
- (i) require the holder of a road use permit for a road to assume all or part of the responsibility for maintaining the road, in which case the holder is designated as the primary user for the road, or

- (ii) relieve the holder of a road permit or road use permit from all or part of their responsibility for maintaining the road.
- (d) Where the director relieves the holder of a road permit or road use permit from the obligation to maintain the road under paragraph (c)(ii), the holder of the road permit or road use permit must continue to maintain that part of the road to which relief under subsection paragraph (c)(ii) does not apply.

Road deactivation

- 14.16** (a) Subject to subsection (b), the director must ensure that a road is deactivated
- (i) once the road is no longer in use, or
 - (ii) within a reasonable time after the expiry of any road permit or road use permit applicable to the road.
- (b) The director may determine that deactivation of a road is not required to ensure user safety and adequately manage and conserve forest resources.
- (c) Except where the director notifies the holder of a road permit of a determination under subsection (b) or paragraph (d)(ii), the holder of a road permit for a road must deactivate the road to the satisfaction of the director by the earliest of the following:
- (i) the date on which
 - (A) the road permit expires or is surrendered,
 - (B) the rights under the road permit that relate to the road expire or are surrendered, or
 - (C) the road is declared a forest road;
 - (ii) any date of deactivation specified in the road permit; or
 - (iii) any date of deactivation specified by the director on cancelling the road permit under section 19.1.
- (d) The director may:
- (i) require the holder of a road use permit to assume all or part of the responsibility for deactivating the road; and
 - (ii) relieve the holder of a road permit from all or part of the responsibility for deactivating the road.

- (e) Where the director relieves the holder of a road permit from part of the responsibility for deactivating a road under paragraph (d)(ii), the holder of the road permit must deactivate that part of the road to which relief under paragraph (d)(ii) does not apply.

PART 15 - SILVICULTURE AND FOREST HEALTH

Stand treatment plans

- 15.1** (a) Before a person carries out a silviculture treatment, the person must prepare and obtain the director's approval of a stand treatment plan that describes the following:
- (i) the location of the proposed treatment area;
 - (ii) the current condition of the proposed treatment area;
 - (iii) the nature and timing of the proposed treatment; and
 - (iv) the anticipated post-treatment condition of the proposed treatment area.
- (b) The director may waive the requirements of subsection (a) if the director is of the opinion that a stand treatment plan is not necessary or advisable to adequately manage and conserve forest resources.
- (c) Subsection (a) does not apply to an area where reforestation is being carried out in connection with the immediate harvesting of a cutblock.

Reforestation

- 15.2** (a) The holder of an agreement must ensure that any area to which the agreement applies is reforested after the area has been harvested or otherwise destroyed, in a manner that satisfies the requirements of any applicable forestry plan.
- (b) Subsection (a) does not apply to the following areas unless required by the director:
- (i) any area within a cutblock where the land will be used for a purpose that is incompatible with the establishment of a successive crop of trees;
 - (ii) any cutblock where timber harvesting was limited to removal of a volume of timber not exceeding 500 cubic metres;
 - (iii) any area of a cutblock that is occupied by
 - (A) a road, landing or bladed skid trail that will be used in future timber harvesting or silviculture operations,
 - (B) rock, wetland or any other non-productive area that in its natural state is incapable of growing a stand of trees that meets any applicable stocking requirements, or

- (C) a reserve area;
- (iv) resource lands that are identified in a Yuulu?il?ath enactment as being planned to be rezoned for non-forest use within the next five years, and
- (v) areas where the director is of the opinion that the size or remoteness of the area makes it impractical to reforest.

Time to reforest

15.3 Unless a different period is specified by the director or in an applicable forestry plan, an area to be reforested under section 15.2 must, within seven years after the completion of harvesting or destruction of timber under the applicable agreement, contain at least the minimum number of crop trees per hectare as determined by the stocking standards of the approved forest management plan.

Silviculture treatment restrictions

- 15.4**
- (a) A person who carries out a silviculture treatment must ensure that residual leave trees are not damaged.
 - (b) Without limiting subsection (a), a person who carries out pruning must leave at least 30% of the live crown on each residual leave tree.
 - (c) A person who uses fertilizer for a silviculture treatment must ensure the fertilizer is stored, handled and applied in accordance with any applicable law and in a manner that adequately manages and conserves forest resources.
 - (d) Unless authorized by the director,
 - (i) a person must not use pesticide when carrying out a silviculture treatment, and
 - (ii) a person must not use herbicide when carrying out a silviculture treatment.
 - (e) Unless exempted by the director, a person who uses trap trees or pheromones to concentrate insect populations must ensure that the insect brood is destroyed before the insects emerge.

Forest health

15.5 The Executive may by regulation or Order establish requirements in relation to the control of insects, diseases, invasive plants, animals or abiotic factors that may affect the health of forest resources.

PART 16 - ECOSYSTEM RESTORATION AND CARBON RIGHTS

Authority

16.1 The Executive may by Order enter into an ecosystem restoration and carbon rights agreement with a Yuulu?il?ath business established for that purpose in accordance with the Economic Development Act.

Ecosystem restoration and carbon rights agreement

16.2 An ecosystem restoration and carbon rights agreement

- (a) may have a term of up to 100 years,
- (b) may apply to an ecosystem restoration area of up to 300 hectares,
- (c) must require the ecosystem restoration contractor to have an ecosystem restoration plan for the ecosystem restoration project that has been approved by the director,
- (d) may confer on the ecosystem restoration contractor the exclusive right during the term of the agreement to claim, sell, assign or otherwise dispose of any entitlement, benefit, allowance, allocation or credit that may from time to time be available in relation to the carbon sequestered under the agreement, including as an offset of the greenhouse gas emissions of any person pursuant to a greenhouse gas reduction or mitigation program, whether voluntary or regulated by an international, federal or British Columbia governmental authority or body,
- (e) may specify the terms and conditions under which the ecosystem restoration contractor may claim, sell, assign or otherwise dispose of all or any part of the ecosystem restoration contractor's rights and obligations under the agreement, including those rights referred to in subsection (d),
- (f) must provide that any tree planted in the ecosystem restoration area by the ecosystem restoration contractor will be the property of the Yuulu?il?ath government,
- (g) may require the ecosystem restoration contractor to pay to the Yuulu?il?ath government any fee or other amount that is set out in the agreement, determined by the director or otherwise prescribed, and
- (h) may include other terms and conditions that the Executive considers necessary or advisable.

Approval of ecosystem restoration plan

- 16.3** The director may by Order approve an ecosystem restoration plan for the purposes of an ecosystem restoration and carbon rights agreement if the director is satisfied that the plan will adequately manage and conserve forest resources.

Timber harvesting in an ecosystem restoration area

- 16.4** Nothing in an ecosystem restoration and carbon rights agreement will authorize an ecosystem restoration contractor to harvest any timber in an ecosystem restoration area, except as may be required to implement the applicable ecosystem restoration plan that has been approved under section 16.3.

PART 17 - FIRE PROTECTION

Application of *Wildfire Act* (British Columbia)

- 17.1** For certainty, provincial law in relation to the protection of resources from wildfire and for wildfire prevention and control applies to resource lands, including those provisions respecting cost-recovery and collections.

PART 18 - RECORDS AND PAYMENTS

Application

- 18.1** (a) For certainty, provincial law in respect of timber marking and scaling applies to timber harvested on and transported off resource lands.
- (b) The Executive may by regulation create rules in relation to the marking and scaling of timber harvested on resource lands that is transported within resource lands.

Requirement to scale timber

- 18.2** (a) A holder of any of the following must ensure that timber harvested under the agreement is scaled and marked promptly to the satisfaction of the director:
- (i) timber harvesting licence;
 - (ii) timber salvage permit;
 - (iii) road permit; or
 - (iv) timber harvesting contract.
- (b) If the director is not satisfied that a person referred to in subsection (a) has correctly scaled timber that is required to be scaled, the director may
- (i) require the person to scale or rescale the timber, as the case may be, or
 - (ii) have the timber independently scaled.
- (c) If the director has timber scaled under paragraph (b)(ii), the director may require the person who was originally responsible for scaling the timber under subsection 18.2 to reimburse the Yuulu?il?ath government for the costs incurred by the Yuulu?il?ath government in having the timber independently scaled.

Scale return

- 18.3** A person who is required to have timber scaled under section 18.2 must ensure that copies of all scale returns, including any check scale details, are delivered to the director within the time specified in the applicable agreement or as soon as practicable if no time is specified in the applicable agreement.

Records and returns for timber

- 18.4** (a) A person who is authorized to harvest timber under an agreement, other than a firewood permit, must maintain a record of any activity under that agreement.

- (b) If requested by the director, the person required to maintain a record under subsection (a) must submit a copy of that record to the director at the time and in the manner specified by the director.

Records and returns for botanical forest products

- 18.5** (a) A holder of a botanical forest product harvesting permit, or the holder of a botanical forest product buyer permit, must maintain a record of any activity under that agreement, including
- (i) the area or areas from which the botanical forest products were harvested,
 - (ii) the volume of the botanical forest product harvested or purchased, and
 - (iii) if applicable, the species, grade and price of the botanical forest products harvested or purchased.
- (b) If requested by the director, a holder of a botanical forest product harvesting permit or the holder of a botanical forest product buyer permit must submit a copy of the record described in subsection (a) to the director at the time and in the manner specified by the director.

Payment to Yuulu?il?ath government

- 18.6** The holder of an agreement or permit must pay to the Yuulu?il?ath government any stumpage, fee or other charge required by the agreement or permit or as otherwise prescribed.

Recovery of money

- 18.7** If a person does not respond to a notice from the Yuulu?il?ath government that the person owes money in accordance with this Act, the amount set out in the notice is immediately due and payable by the person to the Yuulu?il?ath government in the manner indicated in the notice and may be collected by the Yuulu?il?ath government in accordance with sections 4.6 to 4.11 of the Financial Administration Act, YFNS 6/2011.

Responsibility for payment

- 18.8** A person who knowingly acquires timber or botanical forest products on which stumpage or a fee, charge or other amount is owing to the Yuulu?il?ath government must
- (a) in a form approved by the director, report the acquisition to the director no later than 10 days following the date on which the acquisition occurs, and
 - (b) promptly pay the outstanding stumpage, fee, charge or other amount to the Yuulu?il?ath government.

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PART 19 - CANCELLATION AND LOSS OF ELIGIBILITY

Cancellation

- 19.1** (a) The director may cancel an agreement or permit granted or issued under this Act if the holder of that agreement or permit has
- (i) made a material misrepresentation, omission or misstatement of fact in an application made in accordance with this Act, or in information provided with that application,
 - (ii) failed to perform an obligation required to be performed under the agreement or permit,
 - (iii) failed to comply with a requirement of this Act, or
 - (iv) made an assignment for the benefit of its creditors, become insolvent or committed an act of bankruptcy.
- (b) Despite the expiry, surrender or cancellation of an agreement or permit granted or issued in accordance with this Act, the holder of the agreement or permit is liable
- (i) to pay any fee, cost or penalty owed by the holder to the Yuulu?il?ath government in relation to the agreement or permit,
 - (ii) to perform all obligations under the agreement or permit, and
 - (iii) to perform all obligations imposed by or under this Act in relation to the agreement or permit.

Eligibility

- 19.2** If the director determines that the holder of an agreement or permit has failed to perform an obligation under this Act or the applicable agreement or permit, the director may refuse to issue any subsequent authorization applied for by the holder until the failure has been corrected.

Review of decision

- 19.3** A decision of the director

- (a) to cancel a right under section 19.1(a), or
- (b) to refuse to issue a subsequent authorization under section 19.2

is reviewable in accordance with the Administrative Decisions Review Act.

PART 20 - OFFENCES

General

- 20.1** (a) A person who contravenes a provision of this Act commits an offence.
- (b) Every contravention of this Act is a continuing offence and a separate offence occurs for each day that the offence continues.

Specific offences

- 20.2** Without limiting section 20.1, a person who
- (a) obstructs an enforcement officer or the director in the performance of a duty or exercise of a power under this Act,
- (b) fails or refuses to comply with an agreement, permit, Order, directive, notice or requirement granted or issued in accordance with this Act, or
- commits an offence and is liable, on summary conviction, to a fine not exceeding \$10,000.

Offences created by regulation

- 20.3** The Executive may, by regulation, provide that
- (a) a contravention of a regulation is an offence,
- (b) that a contravention of a regulation is a continuing offence and a separate offence occurs for each day that the offence continues, and
- (c) a person convicted of an offence for a contravention of a regulation is liable to a fine not exceeding \$10,000.

Proof of offence

- 20.4** In a prosecution for an offence under this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence.

Liability of directors

- 20.5** (a) Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, agreed to, passively allowed without protest or participated in the commission of the offence is a party to and commits the offence.

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- (b) An officer, director or agent of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted for or convicted of the offence.

Defence

- 20.6** No person may be convicted of an offence under this Act if the person establishes that he or she exercised all due diligence to prevent that offence.

Document is proof

- 20.7** A document purporting to be signed by the director or an enforcement officer, or a certified copy of that document, is admissible in evidence in an action, prosecution or other proceeding and, in the absence of evidence to the contrary, the document is proof of the statements contained in it without proof of the signature or of the official character of the person appearing to have signed it.

Remediation directive

- 20.8** (a) If the director determines that a holder of an agreement or permit granted or issued in accordance with this Act, or their employee, agent or contractor, has contravened this Act, the director may by directive require the holder of the agreement or permit to perform measures to remedy the contravention.
- (b) A directive under subsection (a) must set out the following, as applicable:
- (i) the nature of the contravention;
 - (ii) the nature of the work to be done to remedy the contravention; and
 - (iii) the date by which the work must be completed.
- (c) If a person fails to comply with a directive under subsection (a) by the date specified in the directive, the director may do one or more of the following:
- (i) prohibit the person from carrying out the work referred to in the Order;
 - (ii) perform the work; or
 - (iii) realize any security the person was required to provide.
- (d) If security is realized under paragraph (c)(iii), the person referred to in that paragraph must immediately replace the security to the extent it has been realized.
- (e) If there is a surplus remaining from the realization of security under subsection (c)(iii), after payment of the costs incurred by the Yuulu?il?ath

government in carrying out the work, the director must promptly refund the surplus to the person referred to in paragraph (c)(iii)20.8(c)(iii).

PART 21 - GENERAL PROVISIONS

Regulations

- 21.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) Without limiting subsection (a), the powers of the Executive under this section include the power to make regulations
- (i) for any purpose in relation to which regulations are provided for in this Act,
 - (ii) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,
 - (iii) in respect of the form and content of applications, notices and reports that are required or permitted under this Act,
 - (iv) defining words and expressions that are used but not defined in this Act, and
 - (v) generally for the purpose of giving effect to this Act.
- (c) Without limiting subsection (a), the powers of the Executive under this section also include the power to make regulations as follows:
- (i) in respect of any fee for the provision under this Act or the regulations of a service by the Yuulu?il?ath government to any person;
 - (ii) requiring security to be provided by the holder of an agreement or permit granted or issued under this Act, and prescribing
 - (A) the type of security that is acceptable or not acceptable,
 - (B) the form and content of the security, and
 - (C) the circumstances under which the security may be realized;
 - (iii) in respect of the determination and payment of any stumpage, fee, charge or other amount that is required to be paid to the Yuulu?il?ath government under this Act;
 - (iv) in respect of the recovery of any money that is required to be paid to the Yuulu?il?ath government under this Act;

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- (v) in respect of the exemption of a person, place, thing or transaction from a provision of this Act, including making the exemption subject to conditions, and restricting the director's authority to exempt a person from a provision under this Act;
 - (vi) in respect of land use, including in special areas and with respect to special use permits;
 - (vii) in respect of operational site plans and road layout and designs, including
 - (A) providing for review and comment,
 - (B) the carrying out, submitting and retaining of any survey, and
 - (C) the making, submitting and retaining of any assessment or report;
 - (viii) in respect of any primary forest activity, including
 - (A) silvicultural systems,
 - (B) silviculture treatments,
 - (C) collection, drying, processing, registration, transportation, purchase, sale, disposition and standards of quality of tree cones, tree seeds, vegetative propagules and vegetative material,
 - (D) rehabilitation of any area that fails to comply with a requirement of this Act, and
 - (E) timber harvesting practices and methods;
 - (ix) in respect of any cutblock, including size, design and spatial distribution;
 - (x) in respect of any road or right of way, including
 - (A) the use of a road or right of way,
 - (B) the use and operation of motor vehicles or classes of vehicles on roads or rights of way, and
 - (C) construction, maintenance or deactivation;
 - (xi) in respect of the management and conservation of forest resources;
 - (xii) in respect of any agreement or permit, including
 - (A) prescribing any fee for an application for, or granting or issuance of, an agreement or permit ,

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- (B) in respect of the form and content of any application for an agreement or permit, and
 - (C) requiring any applicant for an agreement or permit to provide, at the time of application or before granting or issuance, specified information or documentation,
 - (D) prescribing any condition or restriction in relation to any agreement or permit,
 - (E) specifying the terms of any agreement or permit,
 - (F) in respect of the suspension of any agreement or permit,
 - (G) prescribing the procedure for suspending any agreement or permit and the effect of a suspension,
 - (H) in respect of the issuance of any agreement or permit to a person who is not a Yuulu?il?ath citizen, and
 - (I) in respect of the amendment or correction of any agreement or permit;
- (xiii) prescribing any requirements in respect of the method, timing or location of the harvesting of timber or botanical forest products;
 - (xiv) delegating to the director the discretion to vary any requirement prescribed under paragraph (xiii) to suit the circumstances of a particular case;
 - (xv) in respect of the distribution among Yuulu?il?ath citizens of botanical forest products harvested under the right to harvest botanical forest products;
 - (xvi) the designation of any individual to harvest botanical forest products under the right to harvest botanical forest products;
 - (xvii) in respect of the trade or barter of timber and botanical forest products;
 - (xviii) in respect of the sale of timber and botanical forest products;
 - (xix) in respect of any activity at a recreation site, including prescribing any fee for camping;
 - (xx) in respect of the dumping of waste or management of garbage at a recreation site;

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- (xxi) in respect of the carrying out of any inspection or examination of any harvesting activity;
 - (xxii) in respect of the alteration of forest habitat or any activity conducted in forest habitat;
 - (xxiii) in respect of the taxation of, or any levy associated with, the sale of timber or botanical forest products harvested on resource lands.

Commencement

21.2 This Act comes into force on the date it is enacted.

Consequential amendment

21.3 The definition of “natural resource licence” in section 1.4 of the Land Act, YFNS 12/2011 is amended by adding the following to the end of the definition for natural resource licence:

“that is not a forest resource, as defined in the Forest Act.”