



**Forest
Practices
Board**

**A Decade in Review:
Observations on Regulation of Forest and
Range Practices in British Columbia**

Special Report

FPB/SR/46

May 2014

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Executive Summary

One of the fundamental purposes of the Forest Practices Board is to encourage continual improvements in forest and range practices. The purpose of this special report is to provide independent observation, based on Board work, on how well the regulatory system is working and to identify opportunities for improvement.

The *Forest and Range Practices Act* (FRPA), along with the *Wildfire Act*, regulates the activities of forest and range licensees operating on Crown land. When FRPA was introduced in 2004, replacing a Forest Practices Code that had been in place since 1995, it was understood that adjustments would be necessary as circumstances changed and practitioners gained experience with the new approach. Now, a decade later, the Board finds that the system is generally working, but that implementation is incomplete and some aspects need to be refined or adapted to changing circumstances.

Much has been achieved. Government objectives have been established in many areas, for many resource values. Licensees generally comply with legislated requirements. Most licensees engage professionals to advise them on compliance with the law and sound practices. The Forest and Range Evaluation Program (FREP) is carrying out effectiveness monitoring.

There is also room for improvement. The full suite of government objectives has not been established, leaving, in some areas, a vacuum in government policy, which licensees and their professionals should not be expected to fill. Plans required by FRPA have limited usefulness for planning purposes or as a mechanism for public engagement. Some practice requirements are not clear. The compliance and enforcement program has significantly reduced its inspection effort in the areas of forestry and range practices. There is still no common understanding about what ‘professional reliance’ is and what should be expected from it. Effectiveness evaluations are being carried out, but the results are not being used to improve regulation.

At the end of this report, the Board notes that the context within which FRPA exists has changed, with many other resource industries and activities using the same landbase. Government needs to re-invigorate land-use planning and establish consistent environmental protection legislation that applies to all users of the land. This will be essential if public confidence is to be maintained and BC is to keep its reputation for high environmental standards.

The FRPA framework has been described as consisting of three pillars—objectives; plan and practice requirements; and compliance and enforcement—which are supported by two foundations, professional reliance and effectiveness evaluations. This report is structured around these framework elements.

For each of these elements, the Board has briefly described the legal framework, summarized its findings and observations, made general conclusions, rated performance and provided advice on how to improve FRPA or its implementation.

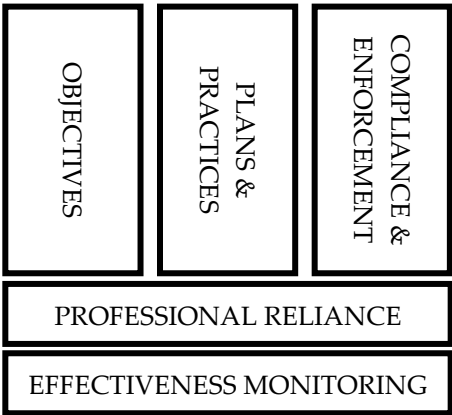


Table 1 sets out the Board's ratings for each framework element. Performance ratings are based on a rating system described in the Introduction. Each section of this report contains a more detailed discussion.

Table 1. Board Ratings

FRPA Framework Elements	Board Ratings
Objectives	Fair
Plans	
Forests	Fair
Range	Poor
Practices	
Forests	Good
Range	Not enough information
Compliance & Enforcement	
Forests	Fair
Range	Poor
Professional Reliance	Fair
Effectiveness Evaluations	Fair

The Board's advice is set out in the following paragraphs.

Objectives

1. Government should complete the full suite of legal designations and objectives necessary to ensure the proper functioning of FRPA, and should ensure there is an efficient process for updating objectives when necessary.
2. Government should clearly articulate the status of objectives in plans that do not have legal standing and may be outdated. This could be done formally in some cases, or reflected in the documented and public rationales of licensee and government decision-makers, as and when decisions are made.
3. Government should establish a single, publicly-accessible website that sets out all government objectives under FRPA.

Plans and Practices

Plans

1. Government and licensees should not rely solely on legally required plans to inform the public and solicit input for activities on Crown land. Rather, licensees are encouraged to follow the examples of those who are leaders in public involvement, such as those outlined in the Board's 2013 bulletin, *Public Involvement in Forest Management Planning in BC*. This could include, for example, making greater use of technology. A change in the regulatory standard may be needed.
2. When approving forest stewardship plans, district manager should ensure that results and strategies contained in the plans are: a) consistent with government objectives; and b) measureable and verifiable.
3. Government should consult with the range industry and re-examine the existing range planning requirements.

Practices

1. Government should continue to clarify its interpretation of practice requirements and how they will be enforced.
2. Government and licensees should pay special attention to compliance with road and bridge construction and maintenance requirements.

Compliance and Enforcement

1. Within its overall risk-based approach, government should ensure that inspections of forest and range practices are sufficient to warrant public confidence that enforcement is appropriate and timely.
2. In particular, government should increase its efforts in inspecting roads and bridges.
3. Government should consider issuing enforcement policy statements detailing how it interprets, and how it will enforce, key practice requirements.

Professional Reliance

1. Professional associations should consider becoming more proactive and transparent about follow-up on the role and conduct of members and non-members when a potential unsound practice or non-compliance incident occurs.
2. Government should consider having BC Timber Sales (BCTS) and compliance and enforcement staff be alert to potential situations of unauthorized practice and report them to the professional associations for follow-up.
3. Government and professional associations should consider entering into formal agreements that enable 1 and 2 above.
4. In situations where there are significant public concerns, licensees should be more transparent about how the advice of professionals is used or not used.

Effectiveness Evaluations

1. FREP should place the highest priority on completion and implementation of monitoring protocols for wildlife.
2. Government should expand the method being used to implement the results of FREP. While it may be entirely appropriate to implement some findings using professional reliance, the Board believes that other findings should be used to inform and amend the legal framework
3. Government and licensees are encouraged to support a robust effectiveness evaluation program.

Introduction

One of the fundamental purposes of the Forest Practices Board is to encourage continual improvements in forest and range practices. The purpose of this special report is to provide independent observation, based on Board work, on how well the regulatory system is working and to identify opportunities for improvement.

The *Forest and Range Practices Act* (FRPA), along with the *Wildfire Act*, regulates the activities of forest and range licensees operating on Crown land. When it was introduced in 2004, replacing a Forest Practices Code that had been in place since 1995, it was understood that adjustments would be necessary as circumstances changed and practitioners gained experience with the new approach. Now, a decade later, the Board finds that the system is generally working but that implementation is incomplete and some aspects need to be refined or adapted to changing circumstances. The Board decided to report on how well FRPA is working after nearly a decade of experience.

With the change from the Code to FRPA, government aimed to reduce cost and complexity for industry and government, while maintaining high environmental standards. In addition to removing most detailed planning and practice requirements from the law, much of the discretion over operational decisions shifted from government officials to licensees. FRPA was to provide a regulatory approach based more on 'results' than on detailed, prescriptive requirements.

Much has changed in the decade since 2004 that affects forest practices and the potential effectiveness of the FRPA regulatory approach. For example:

- The 2003 *Forest Revitalization Act* changed several requirements for the timber industry and redistributed a significant proportion of the annual timber harvest from major licensees to timber sales licensees, First Nations and communities.
- The legal and political relationship between the province and First Nations has continued to evolve, including recognition by the Courts of a duty to consult in many situations.
- BCTS manages and sells, by auction, approximately 20 percent of the annual timber harvest with the primary mission to "provide a reference point for the cost and pricing of timber...", changing the priorities of its predecessor organization the Small Business Forest Enterprise Program.
- Strategic land use plans have been recently completed—and are being revised—on the coast, while many of the plans done previously in other regions of the province are stale-dated.
- Many forest licensees in the province now have several years experience operating under one form or another of third party certification systems for sustainable forest management.
- The mountain pine beetle infestation and subsequent salvage have radically altered the timber supply picture for a large part of interior BC.
- Industries other than forestry and ranching have rapidly accelerated development, affecting forest and range lands in some parts of the province, and the forest industry itself has changed.
- The 'working forest' and 'defined forest area management' initiatives, which could potentially have clarified priorities and simplified management of some forest lands, were not completed.
- Government and industry have begun to develop and apply climate change adaptation strategies.

- The economy suffered a downturn, in 2008 which persisted for several years.
- The *Oil and Gas Activities Act* was brought into force, containing some forest practice requirements for the oil and gas industry.
- Government reorganized natural resource ministries, consolidating operational functions including authorizations and enforcement.

The Board has completed over 200 audits, investigations or special reports about forest and range practices during the past decade, providing a large body of work to shape its perspective. Through this report, providing a broad summary of its findings, the Board hopes to encourage continual improvement in the regulation and implementation of forest and range practices.

The information in this report is organized according to the FRPA framework, which has been described as consisting of three pillars—objectives; plan and practice requirements; and compliance and enforcement—which are supported by two foundations, professional reliance and effectiveness evaluations. For each framework element, this report:

- describes government’s intent for FRPA;
- describes the legal framework for the element;
- describes key Board findings and observations;
- gives the Board’s general conclusions;
- provides a performance rating (described below); and
- provides the Board’s advice.

This report is mainly concerned with FRPA, however, the Board has observed that activities of other sectors are also increasingly affecting the forest landbase. For example, oil and gas development, mining activities, power projects, commercial recreation and even off-road vehicle use are all affecting forest lands. How well FRPA works depends not only on its structure and content, and the extent to which it is being implemented, but also on its ‘fit’ in the broader approach to forest and natural resource management in BC. The last section of this report deals with some key factors that fall outside the FRPA framework, but are considered by the Board to be important to its success.

This report rates performance for each element of the FRPA framework as good, fair or poor. The rating system is explained in Table 2. It assesses implementation and effectiveness of each of the framework elements. Although providing a simple score for each of the elements belies the true complexity, the Board feels it is important for the public to know its opinion in concise terms. Each section of this report contains a more detailed discussion.

Table 2. The rating system.

RATING	EXPLANATION
Good	The provisions have been implemented and are working as expected in nearly all situations. Where applicable, continuous improvement is demonstrated.
Fair	The provisions have been partly implemented and are working in most situations. Some aspects of implementation may not be complete or may not be working as well as expected. Improvement is needed.
Poor	The provisions have not been fully implemented or are not working as expected in many situations. Significant improvement is needed.

Objectives



Government will establish objectives for managing and protecting forest and range values. – from What’s New in FRPA (2005)¹

FRPA is partly based on government establishing objectives for forest and range resources at a variety of scales. Forest and range licensees must then prepare plans with results or strategies that are consistent with these objectives. These plans are approved by the minister (delegated to district managers) and licensees are required to achieve the specified results and carry out the strategies. This is sometimes described as results-based legislation.

The Legal Framework for Objectives

Objectives are set by government. The objectives framework is complex (see Figure 1). Objectives applicable to most forest and range planning include objectives:

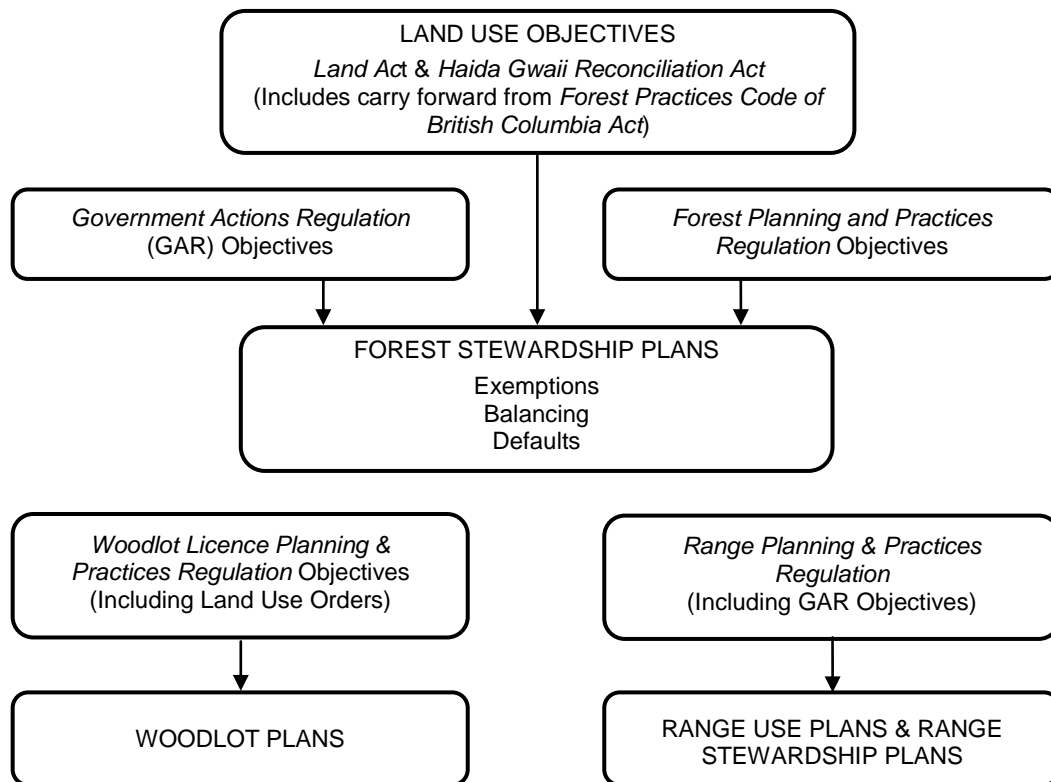
- established under the *Land Act* or the *Haida Gwaii Reconciliation Act*. These objectives are often derived from regional land use plans, land and resource management plans or landscape plans, and include objectives carried forward from the Forest Practices Code.
- established under the *Government Actions Regulation* (GAR) for ungulate winter ranges, wildlife habitat areas, water quality and other values.
- set out in the *Forest Planning and Practices Regulation* (FPPR). There are 10 objectives set by this regulation, covering a variety of items such as soil, timber, wildlife and water.
- for woodlots, set under the *Woodlot Licence Planning and Practices Regulation*, which incorporates land use objectives.
- for range, set under the *Range Planning and Practices Regulation*, which incorporates objectives from the GAR.

Objectives do not apply to some smaller forest licences, such as forestry licences to cut.

Most forest licensees must include results and strategies in their forest stewardship plans (FSPs) that are consistent with these objectives (except for the timber objective). Agreement holders do not have to specify results or strategies for certain objectives under the FPPR if they instead agree to comply with the applicable practice requirements specified in regulations (often called ‘defaults’). Woodlot licensees prepare woodlot licence plans, rather than FSPs.

¹ Government of BC, *FRPA Training Companion Guide*, 2005.

Figure 1. The Hierarchy of Objectives



The Board's Findings and Observations

The hierarchy of objectives and how or where they apply is complex and confusing. For example, the objectives contained in the FPPR lack the clarity needed to form the basis for results and strategies, and serve more as a general expression of intent. This is because most of them are very difficult to apply at a meaningful scale, and are subject to the vague limitation of not, “unduly reducing timber supply.” For example, the government objective for soils is, “without unduly reducing the supply of timber from British Columbia’s forests, to conserve the productivity and the hydrologic function of soils.”

In many cases, licensees either:

- choose the option of adopting practice requirements (defaults), rather than proposing a result or strategy for the FPPR objectives; or
- adopt the practice requirements as the result or strategy in their FSPs.

Objectives established under the GAR to manage or protect a particular forest attribute tend to be clearer than the FPPR objectives and apply to a designated area. The Board finds that where such objectives exist, they are reflected in results and strategies (albeit with occasional disagreement over interpretation). Where the process of setting objectives is incomplete, forest licensees are left to interpret broad provincial direction at a local scale, sometimes putting them in a conflict with other resource users.

Some circumstances arise where the absence of legal objectives at an appropriate scale could compromise sound forest stewardship. For example, when the Board looked at the large-scale salvage

of timber damaged by mountain pine beetle in its 2009 report, *Biodiversity Conservation during Salvage Logging in the Central Interior of BC*, it found that the chief forester had provided guidance to licensees intended to conserve more mature forest structure across the landscape. However, no legal objective was established and the desired 'conservation uplift' was not achieved.

There are situations where local public expectations are not reflected in legally established objectives. This usually occurs where objectives:

- have been developed through a past public land-use planning process, but have not been given legal standing;
- have been overtaken by more recent decisions; or
- have become outdated.

Often forest licensees and government still consider these expectations informally in their decisions, but when they don't, or are perceived not to, public complaints arise. This suggests a need for communication and clarification about the status of these informal plans and objectives.

Finally, the Board notes that there is no general repository of objectives, no single place where licensees or members of the public can find out what objectives apply to a specific area of land.

General Conclusions

Objectives can provide a valuable tool for guiding forest and range practices, provided they are:

- clear;
- meaningful at the appropriate scale;
- applicable to all relevant activities; and
- periodically reviewed and updated.

A framework exists, but the process of establishing objectives is incomplete.

The objectives set out in the FPPR have limited usefulness in guiding operational planning, however, they do provide an expression of government's intent for the matters they cover.

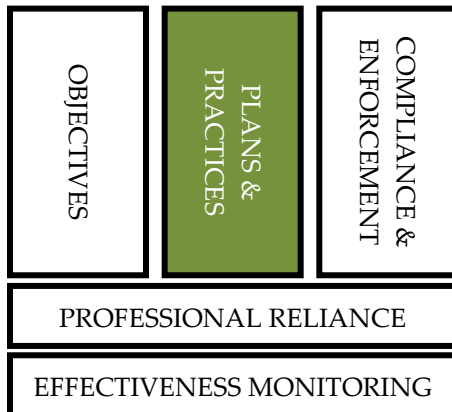
Performance Rating

FAIR

The Board's Advice

1. Government should complete the full-suite of legal designations and objectives necessary to ensure the proper functioning of FRPA, and ensure there is an efficient process for updating objectives when necessary.
2. Government should clearly articulate the status of objectives in plans that do not have legal standing and may be outdated. This could be done formally in some cases, or reflected in the documented and public rationales of licensee and government decision-makers as and when decisions are made.
3. Government should establish a single, publicly-accessible website that sets out all government objectives under FRPA.

Plans and Practices



Those conducting practices must meet the requirements in both approved plans and in the regulations. – from What's New in FRPA (2005)

FRPA requires most forest and range licensees to prepare plans showing the general areas within which they intend to operate, and sometimes more specific site plans, such as for cutblocks and roads. In addition, FRPA includes a number of specific practice requirements. Plans and practices are addressed separately in this section.

Plans

The Legal Framework for Plans

Although there are many types of plans used in the management of forest and range resources, this section refers primarily to plans required by FRPA. For forest licensees, these are FSPs, woodlot licence plans and site plans. Range licensees may require a range use plan or a range stewardship plan. Other plans, such as regional, sub-regional and local land use plans, are not required by FRPA, but they may provide background and guidance. Many forest licensees also prepare and maintain multi-year operating plans that show details about the pattern and timing of their development, including how it relates to other attributes on the land, but these are not a legal requirement.

Most forest licensees must have an approved FSP in order to gain authority to construct roads and harvest timber. FSPs must include results or strategies that are consistent with FRPA objectives and are measurable and verifiable.² The district manager, on behalf of the Minister, must approve an FSP if it meets content requirements. Licensees must then achieve the specified results and carry out the strategies. Licensees must make FSPs available for public review and comment prior to approval, or when a major amendment is proposed. FSPs normally apply for a period of five years and may be extended by the Minister, who has delegated this function to district managers.

Unlike their predecessor, forest development plans, FSPs do not have to include a map of proposed cutblocks and roads. Instead, they typically identify a broad area within which development will occur, and describe the results and strategies that the licensee is obligated to achieve or implement. Several licensees may share an FSP.

Licensees must prepare site plans for cutblocks and roads. Site plans show, for example, cutblock boundaries, wildlife tree patches, streamside buffers and culverts. Licensees must make site plans

² Or, where permitted, commitments to follow default practice requirements as an alternative to a result or strategy.

available to the public on request, but they do not have to advertise them or accommodate public input. Government does not have to approve site plans. There is no direct legal requirement to follow a site plan, but the *Foresters Act* and the *Engineers and Geoscientists Act* may limit the ability to change or disregard a site plan in some circumstances.

Range licensees must have an approved range use plan (RUP) or range stewardship plan (RSP) before grazing livestock or cutting hay on Crown land.

The Board's Findings and Observations

FSPs provide an important legal and administrative commitment for licensee practices to be consistent with government's objectives. In its audits and investigations, the Board generally finds that FSPs and woodlot licence plans meet legal content requirements and that licensees comply with plan requirements.

However, the Board does have a concern that, in some cases, results and strategies are not measurable or verifiable. For example, in a 2006 review of early FSPs, the Board found that results or strategies were vague and likely difficult to enforce. The Board is currently conducting a special investigation to assess whether the concerns identified in the 2006 Board report are still relevant and whether FSPs are meeting the expectations set for them.

In its 2014 report, *Community Watersheds: From Objectives to Results on the Ground*, the Board examined whether results and strategies relating to the FPPR objective for water in community watersheds were measurable and verifiable. The Board found that 13 of 44 FSPs examined had results and strategies that were not—or were only partly—measurable and verifiable. Government, in approving the plans, did not always ensure that plan contents met FRPA requirements. The Board made similar findings in relation to range use plans in its 2009 report, *Range Planning under the Forest and Range Practices Act*.

FSPs are the only forestry plans that must be made available for public review and comment, yet they are not particularly suitable as a planning tool or as a mechanism for public review and comment. This is partly due to their sparse detail, but also to their cumbersome and qualified wording. Public expectations placed on FSPs are not consistent with their actual design and function. When FRPA was introduced, it was anticipated that members of the public would identify areas of concern at the scale of the forest development unit during public review, before plan approval. However, this did not prove to be the case. FSPs provide little information that is of use to most interested parties and forest development units are frequently too large to enable informed public comment. The term 'forest stewardship plan' is really a misnomer in that FSPs are not plans and do little to inform the public about planned stewardship.

One of government's goals with the enactment of FRPA was to encourage innovation, and it was expected that this would become apparent in FSPs. It hasn't yet. The Board has not investigated the reasons for this, but it may have to do with a perception that innovation in an FSP attracts an unacceptable level of risk to both licensee and government.

Site plans, in addition to their critical role in guiding operational activities, may be useful to the public for specific interests. However, this usefulness is frequently limited by the public's lack of awareness of site plans, as they are not advertised and are not easily accessible.

As noted in the 2009 range planning report, the Board has found that range planning is not working well for agreement holders, MFLNRO range staff or for the management of the range resource. The Board found significant and pervasive weaknesses in range planning, due to a combination of poorly prepared plans, lack of knowledge and confusion about government objectives on the part of ranchers.

With a few exceptions, range users tend to be small family-owned and operated enterprises. These users rarely have the resources to carry out the kind of planning, public involvement and management expected of larger companies. As a result, government staff members often prepare plans and advise range licensees. The Board has found instances of non-compliance with range planning requirements.

There are many other plans used by government and licensees to guide the management of forest resources. Although they are not legally required and therefore, play no direct role in the FRPA framework, they are useful to inform managers and professionals, promote sound practices and communicate with the public. These plans are also an important component of some third-party certification systems used by licensees.

In some cases there is a public expectation that non-legal plans will be given the same weight as legal requirements, especially where they have had a lot of public involvement. This can create unnecessary conflicts, especially in situations where plans are several years old and have become outdated or have been overtaken by more recent decisions and events.

General Conclusions

Sound forest and range management requires good planning, and the plans that are legally required under FRPA fulfill only a small part of that need. Plans that are legally required under FRPA do not, in most areas:

- provide for meaningful public input;
- help government and the public understand the long-term costs and benefits of forest development; or
- coordinate and integrate resource development and optimize the use of public resources.

In order to have effective resource management, these gaps should be filled through a combination of FRPA plans and other plans or processes, such as a re-invigorated land use planning process.

The forest industry's social licence to operate depends on maintaining public good will, and that means transparent and open communication with the public. There are many examples of licensees who are doing a good job of communicating with the public, going above and beyond the legal requirements. However, it may be necessary to raise the regulatory standard to provide a more meaningful level of public involvement.

Range planning is not working for the industry, the public or range resources. While the Board understands the reasons, it does not feel that the present approach is appropriate.

Performance Rating

Forestry: **FAIR**

Range: **POOR**

The Board's Advice

1. Government and licensees should not rely solely on legally required plans to inform the public and solicit input for activities on Crown land. Rather, licensees are encouraged to follow the examples of those who are leaders in public involvement, such as those outlined in the Board's 2013 bulletin, *Public Involvement in Forest Management Planning in BC*. This could include, for example, making greater use of technology. A change in the regulatory standard may be needed.
2. When approving forest stewardship plans, district managers should, as required by FRPA, ensure that results and strategies are: a) consistent with government objectives; and b) measureable and verifiable.
3. Government should consult with the range industry and re-examine the existing range planning requirements.

Practices

The Legal Framework for Practices

This section is about practices that are legally required under FRPA. Most of these practice requirements are set out in the FPPR, which includes practice requirements that pertain to soils, timber and forest health, riparian areas, watersheds, biodiversity and general wildlife measures and resource features. These practice requirements specify what must be done, but not how. For example:

An agreement holder...who uses trap trees...must ensure that the insect brood is destroyed before the insects emerge.

[Licensees] must ensure that primary forest activity does not cause a landslide that has a material adverse effect...

A person required to maintain a road must ensure...the drainage systems on a road are functional.

Licensees may opt out of certain practice requirements by adopting, instead, results or strategies in an FSP. However, as previously noted, in most cases, licensees choose to accept the practice requirements.

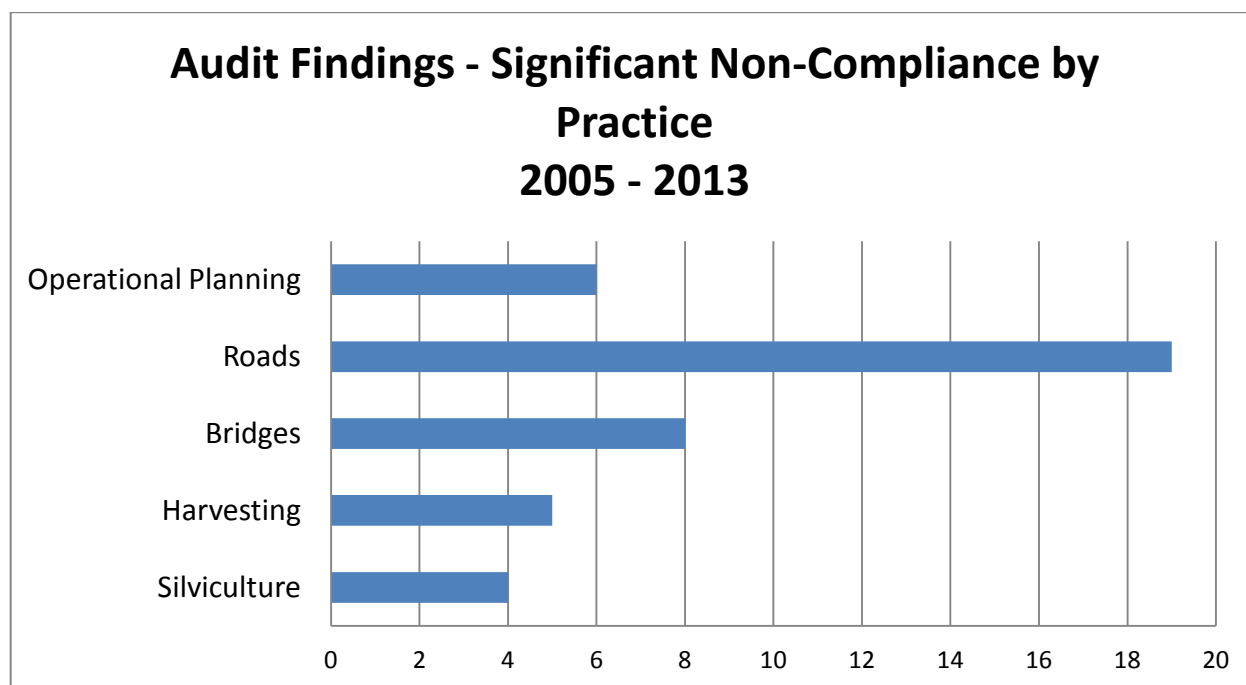
The practice requirements of FRPA apply only to forest and range licensees. Other resource industries may have practice requirements specified in other legislation or as a condition of their authorization.

The Board's Findings and Observations

Are licensees meeting practice requirements?

In its audits and investigations, the Board generally finds forest licensees have good levels of compliance with practice requirements and some licensees demonstrate performance beyond what is legally required. The Board is concerned, however, that it has found more non-compliances in recent years. In its 2010 and 2011 audits, the Board found five times more significant non-compliances, unsound practices and practices needing improvement than there were in the preceding five years combined. In 2010 and 2011, 7 audits had a total of 31 significant non-compliance findings. In 2012, 11 audits had a total of 8 significant non-compliances and 4 areas needing improvement. Most of these findings involve smaller licensees, including holders of timber sale licences. (See Figure 2).

Figure 2. Audit findings from 2005 to 2013.



In its 2014 report, *Bridge Planning, Design and Construction*, the Board examined 216 bridges built between 2010 and 2013 and found numerous non-compliances with legislation and over two dozen bridges that may not be safe for industrial use.

The Board does not have enough information to comment on the level of compliance with practice requirements by range licensees.

Unclear practice requirements

By stating practice requirements as 'results', government has given licensees considerable latitude in how they accomplish compliance. Where the stated result is clear, unambiguous and open to little interpretation, the system works effectively. However, the Board is concerned that some key practice requirements may not be sufficiently clear, as illustrated in the following examples.

Avoiding landslides and maintaining fish passage

Avoiding landslides, particularly during road construction and maintenance, is a key element of responsible forest development. The practice requirement that addresses this is found in section 37 of the FPPR, which says that licensees:

must *ensure* that the primary forest activity does not cause a landslide that has a *material adverse effect* in relation to [forest resources] (emphasis added)

Another key element of responsible forest development is maintaining fish passage in streams while carrying out activities. The practice requirement that addresses this is found in section 56 of the FPPR, which states that licensees:

must *ensure* that the primary forest activity does not have a *material adverse effect* on fish passage (emphasis added)

Both these important practice requirements contain two terms that have introduced a degree of uncertainty as to how the sections are to be interpreted and applied: *ensure* and *material adverse effect*.

A requirement to ensure a landslide does not happen may be interpreted as requiring a licensee to put in place a system to make certain that a landslide does not happen, at least where the risk of landslides is significant. On this interpretation, the mere fact that a landslide has not happened might not be sufficient to demonstrate compliance. On the other hand, the requirement could be interpreted to mean that a person is only in non compliance if a landslide actually happens.

The former interpretation takes a more preventative approach. This interpretation was adopted by the Board in its 2012 report, *Audit of Forest Planning and Practices: MaMook Natural Resources Limited, Tree Farm Licence 54*. However, the Board is aware that there is not a consensus on this point. The Board has seen situations on the ground where a road is failing and may lead to a landslide and it appears that the licensee is not taking steps to address this. The Board's interpretation, which is more proactive interpretation, would allow compliance and enforcement staff to take action. The alternative interpretation requires compliance and enforcement staff to wait for a landslide to happen before taking action.

What of the phrase *material adverse effect* on fish passage? The Board, in its 2009 report, *Fish Passage at Stream Crossings*, noted that there was disagreement between the federal Department of Fisheries and Oceans and the provincial Compliance and Enforcement Branch as to the meaning of this phrase. Subsequently MFLNRO provided guidance on the interpretation of the phrase material adverse effect, in a 2009 bulletin, *Guidance to C&E Program staff and delegated decision makers on interpreting the words "material adverse effect" and "material adverse impact."* As the bulletin points out, "proof of whether a contravention has occurred will always require one or more experts to examine the evidence and provide an opinion as to whether an adverse effect or adverse impact can be described as material."

Expert evidence can be costly and experts may disagree. Once a body of precedent has been established—through decisions of the Forest Appeals Commission (FAC)³ and the Courts—greater clarity will be provided. However, there have been, to date, no FAC or Court decisions applying these sections.

Protecting water quality in areas where cattle graze

When cattle graze on Crown lands, they may drink from streams that provide drinking water for humans. There is a provision in the *Range Planning and Practices Regulation* that is intended to protect water quality. It states that range agreement holders:

... must ensure that the range practice does not cause material that is harmful to human health to be deposited in, or transported to, water that is diverted for human consumption by a licensed waterworks.

In its 2012 report, *Audit of Forest and Range Planning and Practices Affecting Water Quality in Oyama and Vernon Creek Community Watersheds*, the Board found human pathogens in cattle feces located in or very near watercourses that supply drinking water, and concluded that the requirements of the regulation were not met.

³ FAC decisions do not create legally binding precedents but do provide useful interpretations.

The Board recommended that government provide guidance on the implementation of this practice requirement. However, this has not been done, apparently due to differences of opinion within government.

General Conclusions

In general, the quality of site-level forest practices appears to have been maintained since the transition to FRPA. Forest licensees are generally meeting practice requirements. However, there has been a worrying rise in non-compliance findings in recent years in Board audits and investigations. These non-compliances are generally—but not exclusively—attributable to smaller licensees, including holders of timber sale licences. The Board is not able to conclude on the performance of range licensees.

Some practice requirements are too open to interpretation, leading to the potential that the public’s objectives may not be achieved. When requirements are not clear, enforcement may be compromised and licensees may be unsure of their obligations. In a results-based regulatory framework, government is supposed to state required results in unambiguous terms and licensees are supposed to deliver the results.

Performance Rating

Forests: **GOOD**

Range: **NOT ENOUGH INFORMATION**

The Board’s Advice

- 1. Government should continue to clarify its interpretation of practice requirements and how they will be enforced.
- 2. Government and licensees should pay special attention to compliance with road and bridge construction and maintenance requirements.

Compliance and Enforcement



Government will inspect activities for compliance with approved operational plans and other requirements in FRPA and the regulations.
– from *What’s New in FRPA*, 2005

“You have an obligation to meet, and if you do not meet that obligation, you will face significant and serious penalties.”
– Premier Gordon Campbell, Nov 6, 2002

A key component of FRPA is that the flexibility afforded by a results-based approach is balanced by quality assurance measures that include a strong role for government compliance and enforcement.

The Legal Framework for Compliance and Enforcement

Government's compliance and enforcement staff have the power to inspect and enforce results, strategies, measures and stocking standards applicable to FSPs, range use plans, range stewardship plans and woodlot licence plans. They can also inspect and enforce practice requirements set out in the regulations.

There is not a legal requirement to follow site plans but they can inform compliance and enforcement activities.

The Minister is enabled, under FRPA s.77 and the FPPR, to stop, mitigate or remedy any activity if the Minister believes the activity will cause a catastrophic impact on public health or safety, a significant failure or delay in establishing a free growing stand or a fundamental and adverse alteration of an ecosystem.

"This government was elected on a promise to establish a workable, results- based Forest Practices Code with tough penalties for non- compliance. Today the introduction of Bill 74, the Forest and Range Practices Act, fulfils that promise."

– Minister of Forests, Mike De Jong, Nov 4th, 2002.

Penalties for contraventions can be administrative penalties, offence tickets, or Court-imposed fines. Severe penalties, including million dollar fines and jail time can be levied in certain circumstances. There are three statutory defenses to administrative penalties: due diligence; mistake of fact; and officially induced error. If a person who is believed by government to have contravened FRPA can show, on a balance of probabilities, that any one of the defenses applies, the person will be found not to have contravened the specified provision and no penalty can be levied against the person.

The Board's Findings and Observations

As documented in a 2013 Board special investigation, *Monitoring Licensee's Compliance with Legislation*, the number of inspections of forest and range activities has dropped precipitously in recent years. The Board has acknowledged the risk-based approach taken by government as reasonable, but has expressed concern that if too few inspections occur, neither government nor the public will know if forest and range practice requirements are being achieved. As previously noted, recent Board audits have found increased rates of non-compliance related to road and bridge practices, suggesting that the need for government compliance and enforcement has not gone away.

Range activities have been given a lower priority for inspection. This is surprising, given that some range activities, particularly cattle grazing in riparian areas, are known to pose a high risk of harm to resource values. The Board believes that range practices should be subject to the same level of oversight as forest practices.

The Board has reviewed penalty determinations and generally believes them to be fair. It does note that, on some occasions, decisions are unnecessarily delayed, and sometimes the amount of the administrative penalty does not seem adequate to compensate the Crown or recover the economic benefit gained by contravening the legislation.

Enforcement is not possible where legal requirements are not clear. As noted previously, the Board is concerned that some practice requirements, and some FSP results and strategies, are not sufficiently clear. In the case of uncertain practice requirements—such as the requirement to ensure that fish passage is maintained—it may be helpful for the compliance and enforcement program to publish policy statements as to how it intends to enforce these sections. The federal *Fisheries Protection Policy Statement*, October 2013 is an example of such a policy statement.

The Board also notes that the district managers have not yet made use of the intervention power in FRPA s.77. For a discussion of this in the context of potential failure to achieve free growing, see the Board's 2012 report, *Meadow Creek Cedar Ltd. – Forest Practices and Government Enforcement*.

A Board report in 2009 on 1,110 road crossings over fish streams in 19 watersheds around B.C., found that, in total, less than half of the crossings were likely to allow fish to pass through without problems. Most of the crossings were constructed before the introduction of FRPA. The Government response to the Board's recommendations included the statement that fish passage assessment for compliance and enforcement would remain a priority in 2010/11. However, after 10 years, the Board is aware of only one administrative penalty determination and no Forest Appeals Commission decisions or Court decisions applying FPPR s.56(1) regarding protection of fish passage.

General Conclusions

Compliance and enforcement under FRPA is the key component in an overall quality assurance framework that also includes licensees' management policies, professional reliance, and the Board itself. The Board believes that, on balance, the compliance and enforcement element of the FRPA model is solid. The evidence from its own investigations and audits indicate that most forest and range tenure holders comply with the law. However, as noted under the Board's *Findings and Observations*, there are concerns that, if left unattended, may weaken public confidence in FRPA.

The Board understands government's budgetary realities and the need to deploy its resources efficiently. However, in order to maintain public confidence, government needs to be able to demonstrate that it is appropriately inspecting and enforcing FRPA.

Performance Rating

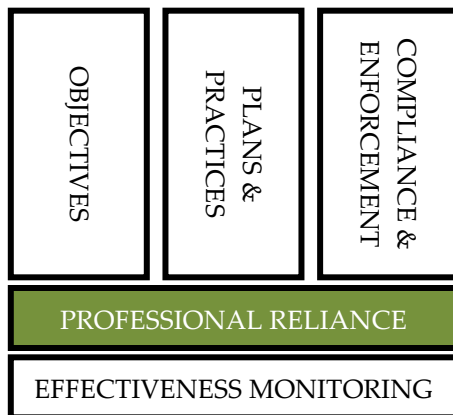
Forests: **FAIR**

Range: **POOR**

The Board's Advice

1. Within its overall risk-based approach, government should ensure that inspections of forest and range practices are sufficient to warrant public confidence that enforcement is appropriate and timely.
2. In particular, government should increase its efforts in inspecting roads and bridges, as well as range activities.
3. Government should consider issuing enforcement policy statements detailing how it interprets, and how it will enforce, key practice requirements.

Professional Reliance



With the introduction of FRPA, it was expected that high standards would be maintained, in part, through the involvement of professionals. This was facilitated through changes to the *Foresters Act* and the introduction of the *College of Applied Biology Act*.

The Legal Framework for Professional Reliance

Professional reliance is not an explicit part of FRPA. With one minor exception, FRPA does not even refer to professionals. Instead, the legal basis for professional reliance is set out in legislation governing professionals, including the *Foresters Act*, *College of Applied Biology Act*, *Agrologists Act* and *Engineers and Geoscientists Act*. This legislation establishes governing bodies for the professions, which set standards for admission into the profession and for ongoing conduct, backed up, in some cases, by disciplinary powers.

For example, a person must be appropriately registered under the *Forester's Act* before they may engage in the practice of professional forestry. Professional foresters, registered forest technologists and others are required to follow standards of competence and behaviour established by the Association of BC Forest Professionals (ABCFP). Enforcement of standards is handled through complaints against members for issues of practice and conduct. Complaints may be brought by members of the public, other forest professionals or the president or vice-president, acting on behalf of ABCFP.

If someone practices professional forestry without being appropriately registered, the ABCFP is empowered to seek a court order restraining that person from doing so. The ABCFP has established a policy to guide its approach to enforcing the *Foresters Act* against non-members who engage in unauthorized practice. The policy identifies an incremental approach to enforcement, starting with seeking voluntary compliance. Options include writing a letter pointing out the apparent contraventions of the Act and requesting future compliance, seeking a court injunction and prosecution. The ABCFP publishes information on enforcement actions.

Following the advice of an appropriate professional can help licensees to demonstrate due diligence.

The Board's Findings and Observations

In general, since its inception the Board has found that licensees engage professionals and rely on them to carry out a variety of scientific and technical functions, including advice on sound and appropriate practices under FRPA. We have no doubt that this contributes to the high level of compliance the Board usually finds in its audits and investigations. Within the FRPA framework, professional reliance is intended to be an important part of ensuring compliance with legislation.

It is a concern, therefore, that the Board has found an increased number of non-compliances in recent years, as discussed previously in this report. Most of these findings relate to smaller licensees, including TSL holders.

Examples of these non-compliances include numerous instances of roads and bridges constructed in a manner that was not structurally sound or safe, inadequate road maintenance, and non-compliance with the requirement to update forest cover maps after harvesting (reforestation reporting). Of particular concern are the results of the Board's 2014 report, *Bridge Planning, Design and Construction*, which found that some professionals are not performing to the standard government and the public expect.

The Board does not necessarily know the details leading to these non-compliances. Potentially, the non-compliances could result from inadequate supervision, inadequate training or failure of professionals to act within their area of competence.

Another possibility is unauthorized practice of professional forestry by non-professionals. For example, the Board has identified instances where professionally prepared site plans and road designs were changed without involvement of a qualified professional, leading to non-compliance with FRPA. When constructing a road, bridges associated with the road are required to be structurally sound and safe for use by industrial users. An audit published in 2014,⁴ found that BCTS had a professional design a bridge to meet safety standards, but the timber sale licence holder, not a professional, did not follow the design, instead constructing a bridge that did not meet safety standards. The professional reliance foundation of the FRPA framework does not depend only on competent professionals acting appropriately. It also depends on the legal requirement that only qualified professionals will be engaged in the practice of professional forestry, as required by the *Foresters Act*.

The requirement that planning and practices are guided by professionals may not always be the case with some smaller licensees.

While there is room for improvement in the professional reliance foundation with respect to preventing non-compliance, there may also be opportunities for improvement with respect to transparency of decision making and professional accountability. When decisions are being made, based on professional assessments, affecting members of the public, greater transparency could help enormously in maintaining public confidence.

For example, a Board investigation, *Laird Creek Landslide* (2013) looked into a landslide that caused damage to the water supply of about 100 homes. The slide was caused by a combination of factors, including logging that occurred in the area some years earlier. While the Board found that the licensee

⁴ Forest Practices Board, *Forestry Audit: BC Timber Sales and Timber Sale Licence Holders - Prince George Business Area, Prince George District*, 2014.

met the legal requirements, it identified opportunities for improvement in situations where significant resource values are potentially at risk—especially if there is a high level of interest by the public. The Board suggested that prior to development, licensees should undertake a systematic, transparent and well documented decision-making process that shows appropriate consideration of the potential impacts of harvesting, silviculture systems and roads on the risks to public and third-party interests. The process should include documentation of the professional advice received and how it was considered. In order to sustain public confidence, licensees need to be transparent about the way in which professional advice has been used in these types of situations, where there are significant public concerns.

The Board has heard questions about whether professional associations are aware of concerns about the practice of their members, and if they objectively investigate, act on and report their findings, independent of whether or not government is investigating.

The Board has found that there is still a lack of common understanding about what professional reliance actually means. For example, professional reliance cannot be expected to compensate for weaknesses in other components of the FRPA framework, such as unclear or missing objectives, lack of process to coordinate multiple licensee activities across a landscape and imbalances in decision-making power, yet there seem to be expectations that it can do just this.

“In a system based on discretion, professional reliance and strong enforcement, there needs to be a high level of transparency—not only must the public interest be kept, it must be seen to be kept. The Board encourages government and professionals to ensure this occurs.”⁵

General Conclusions

There is room for improvement in the extent to which professional reliance is promoting compliance with FRPA. A proactive approach to enforcement by professional associations—maintaining the professional reliance foundation—is essential to the proper functioning of the professional reliance component of the FRPA framework.

A higher level of transparency by professionals, licensees and government is required if the public is to be confident in the professional reliance approach.

Professional reliance cannot be expected to compensate for weaknesses in the other components of FRPA, or its implementation. In the absence of a full suite of legal objectives flowing out of land use plans and the *Government Actions Regulation*, it is unfair to expect professionals to make land use or social decisions that are government’s responsibility to make. Professional reliance is a key element of BC forest management. It appears to be generally meeting its intent where resource management objectives and priorities are clearly defined at appropriate scales, and best management practices are either well known or required in law. However, the application of this foundational element has limitations. (See the Board’s 2013 Bulletin, *Professional Reliance in BC Forests: Is it Really the Issue?*)

Finally, the Board notes that, after a decade under FRPA, there is still a lack of common understanding about what professional reliance means.

⁵ Forest Practices Board, *Laird Creek Landslide*, 2013.

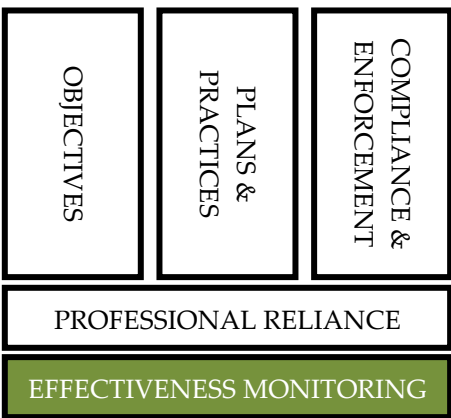
Performance Rating

FAIR

The Board’s Advice

- 1. Professional associations should consider becoming more proactive and transparent about follow-up on the role and conduct of members and non-members when a potential unsound practice or non-compliance incident occurs.
- 2. Government should consider having BCTS and Compliance and Enforcement staff be alert to potential situations of unauthorized practice and report them to the professional associations for follow-up.
- 3. Government and professional associations should consider entering into formal agreements that enable 1 & 2 above.
- 4. In situations where there are significant public concerns, licensees should be more transparent about how the advice of professionals is used or not used.

Effectiveness Monitoring



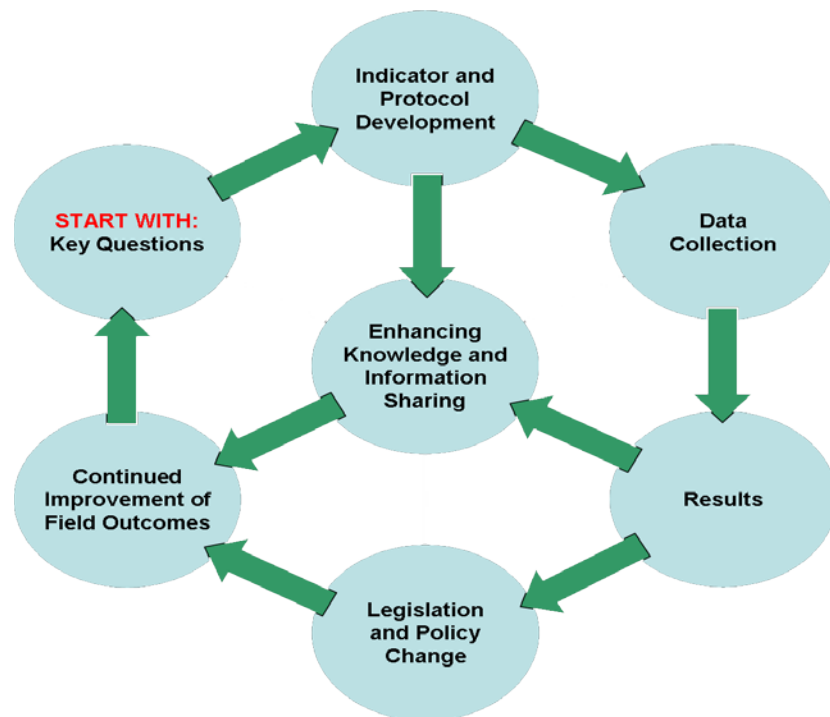
Government will conduct effectiveness evaluations to assess if desired outcomes for managing and protecting FRPA values are being achieved. – from *What’s New in FRPA, 2005*

Effectiveness evaluations are a science-based feedback loop into the policy and legislation governing forest and range practices. The intent is to determine if forest practices are effective at achieving government’s objectives. Practices can be legal but not effective.

Legal Framework for Effectiveness Evaluations

Effectiveness evaluations reside outside of FRPA’s legal realm. This element is delivered by the MFLNRO’s Forest and Range Evaluation Program (FREP). The program’s intent is to determine if the legally stated objectives for FRPA resource values are being achieved. Where this is found not to be the case, FREP is to recommend changes to legislation and/or policy, as appropriate. (See Figure 3).

Figure 3. The FREP cycle.



Conceptually, the FREP cycle is simple—ask the right question, develop the monitoring protocol, collect and analyze information, then, where necessary, recommend changes to produce continuous improvement of field outcomes.

The Board's Findings and Observations

Apart from a 2007 review of FREP's quality management framework (*Assessment of Quality Management Framework, Forest and Range Evaluation Program*, Ministry of Forests and Range, Ministry of Environment), the Board has not investigated, audited or conducted any special investigations or reports on FREP. All observations are drawn from information publically available on the FREP website.

The annual budget for FREP has declined from a high of \$4.03 million in fiscal 2008/2009 to \$1.39 million in 2012/2013. Appropriate funding of FREP is essential to maintain this foundational element of the FRPA framework.

The Board has reviewed the chief forester/ADM stewardship annual reports. For example, below are some of the results from the 2012 ADM *Resource Stewardship Report*:

- 15 percent of S4 streams and 18 percent of both S5 and S6 streams, assessed between 2007 and 2010, were found to be in poor condition.
- Soil productivity and hydrologic function are being protected on the majority of cutblocks assessed.
- Visual quality objectives of 'retention' are achieved less than half (43 percent) of the time.
- Water quality assessments show improvement over four years of sampling. These findings relate to effectiveness, not compliance with legislation.

The Board is pleased to see such transparency of reporting. However, the Board is concerned about the implementation of such findings. The FREP cycle clearly has results informing changes to legislation and

policy, whereas it is apparent that all FREP findings are being implemented primarily through professional reliance. The following passage is from the same *ADM Resource Stewardship Report*:

Resource professionals are strongly encouraged to consider this information, along with FREP publications such as reports, extension notes, and monitoring protocols, and other relevant data in their practice, to inform their professional recommendations and decisions, particularly where these involve a balancing of environmental, social, and economic values.

The Board does not believe that it is realistic to expect resource professionals to define the public interest where competing interests and values are at risk. This is government's role. There needs to be a formal process to implement improvements when FREP evaluations identify a problem, including changes to regulations, where appropriate.

Finally, the Board is concerned that FREP has provided limited effectiveness evaluation reporting for the FRPA wildlife resource value. We appreciate the complexity of developing monitoring protocols for this value, but still find it unacceptable that almost a decade after the program was launched, no appreciable progress has been made in this area. The Board also notes that, while progress is being made, there are still no completed, publicly posted, protocols for several other subjects, in addition to wildlife.

General Conclusions

The Board believes that FREP is providing transparency, supporting decision making and informing the ongoing improvement of resource management practices, policies and legislation.

Effectiveness evaluations are an important component of an effective resource management framework. However, the Board has concerns about the method being used by government to implement the results of effectiveness evaluations conducted by FREP. After 10 years, the Board would expect government to have an effective way to implement legislation and policy changes in situations where effectiveness evaluations indicate that desired outcomes for FRPA values are not being achieved.

Performance Rating

FAIR

The Board's Advice

The Board believes that using the results of science-based monitoring to continuously improve forest and range practices is an excellent model. The following recommendations are intended to strengthen this model.

1. FREP should place the highest priority on completion and implementation of monitoring protocols for wildlife and should complete and implement the remaining unfinished protocols.
2. Government should expand the method being used to respond to FREP findings. While it may be entirely appropriate to respond to some findings using professional reliance, the Board believes that other findings should be used to inform and amend the legal framework.
3. Government and licensees are encouraged to support a robust effectiveness evaluation program.

Conclusion

The Forest Practices Board seeks to encourage continuous improvement in forest and range practices. A decade after the introduction of FRPA, it is time to take a serious look at how the legislation can be improved.

Much has been achieved. Government objectives have been established in many areas, for many resource values. Licensees generally comply with legislated requirements. Most licensees engage professionals to advise them on compliance with the law and sound practices. The FREP program is carrying out effectiveness monitoring.

There is room for improvement as well. The full suite of government objectives has not been established, leaving, in some areas, a vacuum in government policy that licensees and their professionals should not be expected to fill. Plans required by FRPA have limited usefulness for planning purposes or as a mechanism for public engagement. Some practice requirements are not clear. The compliance and enforcement program has significantly reduced its inspection effort in the areas of forestry and range practices. There is still no common understanding about what ‘professional reliance’ is and what should be expected from it. Effectiveness evaluations are being carried out, but the results are not being used to improve regulations. This report includes suggestions for improvement in each of these areas.

The Board’s ratings for each element of the FRPA framework are:

- Objectives – **FAIR**
- Plans – Forests: **FAIR**, Range: **POOR**
- Practices – Forests: **GOOD**, Range: **NOT ENOUGH INFORMATION**
- Compliance and enforcement – Forests: **FAIR**, Range: **POOR**
- Professional reliance – **FAIR**
- Effectiveness evaluations – **FAIR**

Additional Comment on the Need for a More Coordinated and Strategic Approach to Resource Development

This report is mostly concerned with the *Forest and Range Practices Act* (FRPA), which regulates practices of forest and range licensees. However, the Board has observed that activities of other sectors are also increasingly affecting the forest and range landbase. For example, oil and gas development, mining activities, power projects, commercial recreation and off-road vehicle use are all affecting forest and range lands.

How well FRPA works depends not only on its structure and content, and the extent to which it is being implemented, but also on its ‘fit’ in the broader approach to forest and natural resource management in BC. This section deals with some key factors that fall outside the FRPA framework, but are considered by the Board to be important to its success.

Land Use Planning

BC has many land use plans that are intended to guide forest management at a broad scale. These plans were developed with a great deal of public, stakeholder and, in the case of recent plans, First Nations involvement. Many of the plans are more than 10 years old, however, and need updating. Most of them also have a strong focus on guiding forestry activities, and not the many other resource uses that are now occurring on public land, limiting their present value. The need to adapt to changing circumstances and provide consistent guidance to all sectors points clearly to a need to update strategic land use plans, and to provide an opportunity for the public to have input to that process. Government has recognized this need and has said it will consider re-establishing land and resource management plan monitoring committees in high priority areas, and that it will develop a framework for community-based engagement that could start being implemented in 2014.

The Board encourages government to ensure that every area of the province has a land use plan that meets the present and emerging needs.

Integrated Management

In order to ensure that the public is receiving the optimum mix of benefits from forest lands, however those benefits are defined, there needs to be a mechanism to better coordinate the many industrial and other activities. Several forestry licensees, as well as other licensed and non-licensed resources users may use the same area of land.

While government does consider potential conflicts when new authorizations are issued, the many existing users are expected to work out operational conflicts on their own. This cooperative approach should be encouraged, but there are situations where competing uses cannot be fully accommodated, resulting in infringement of one user's interests by another. For the most part, as long as its activities are consistent with government's legal objectives, a forest licensee makes the final decision about where, when and how they will occur. A licensee is expected to consider, but not necessarily avoid, the negative consequences for other users such as ranchers or commercial recreation operators. The Board frequently hears from resource users who feel their interests are put at undue risk by forest licensees but they have no route of appeal. Conversely, a mineral or oil and gas operator may negatively impact the activities of a forest licensee without the latter having any input or recourse. Even where private interests are able to work out their differences, it is important that any compromise be consistent with the overall public interest.

In some situations the appropriate mechanism may be a relatively detailed integrated resource management plan that:

- covers the shared landscape;
- incorporates all significant activities;
- is endorsed by government as providing the best balance of public benefits; and
- is periodically updated to accommodate changing circumstances.

In the absence of such a plan, or in situations where the risk of conflict and negative consequences are high, government may need to take a more active role as the arbiter of operational clashes. In the Board's view, there is a need for government to retain the authority, in appropriate, defined circumstances, to intervene, and to use that authority when needed.

Finally, BC does not have a framework for managing cumulative effects and so the cumulative effect of natural resource development remains largely unknown and unmanaged. One of the most important tasks facing natural resource managers in the near future will be to continue to make progress on assessing the implications of these effects and to find a way to manage these effects. This will be essential if we are to make sure that the resource landbase continues to provide sustainable benefits for British Columbians (see *Cumulative Effects: from Assessment Towards Management*, 2011 and *The Need to Manage Cumulative Effects*, 2013).

The Board has been advised that government intends to start implementing a cumulative effects framework in the spring of 2014.

The Board encourages the province to ensure every landscape on which there is significant industrial activity and potentially conflicting uses, has an integrated resource management plan or process that defines and assures the public interest.

Stewardship

In the Board's view, stewardship of forest and range resources remains fundamentally a government responsibility. If government wishes to delegate stewardship functions to licensees, it needs to provide an effective framework for this to happen. The Board is concerned that, over time, the clarity around who is accountable for stewardship has been eroded. As noted in the preceding section, other licensees, including other industries are often authorized to extract resources from the same landbase as a forest licensee, and interests can conflict. In some locations, it may be almost impossible for the forest industry alone to exercise stewardship responsibilities, even with the best of intentions, due to the pressure of other activities on resources. It may be necessary to ensure that all industrial and commercial land users somehow share the stewardship responsibilities and benefits, or government may need to be very judicious in its delegation, ensuring a realistic balance between responsibility, authority and accountability.

Harmonized Practices

Where two or more industries are operating on the same land area, they are often not subject to the same practice requirements. For example, the Board has seen situations where the standard of management for natural drainage patterns and riparian areas varies between two operations in the same watershed, even when there is no clear rationale for that to be the case. The Board does not report on these, as its jurisdiction is limited to FRPA and the *Wildfire Act*.

Objectives that apply to all activities at a meaningful scale could go some distance to addressing this situation. Some work has gone into harmonizing regulatory requirements across resource user sectors, for example through the *Oil and Gas Activities Act* and the proposed Resource Roads Act, however more harmonization is needed.

The Board encourages government to ensure practices for all resource users are harmonized to the extent practicable.



**Forest
Practices
Board**

PO Box 9905 Stn Prov Govt

Victoria, BC V8X 9R1 Canada

Tel. 250.213.4700 | Fax 250.213.4725 | Toll Free 1.800.994.5899

For more information on the Board, please visit our website at: www.fpb.gov.bc.ca

For Immediate Release
May 7, 2014

FRPA gets Report Card after 10 Years

VICTORIA – The ten-year-old *Forest and Range Practices Act*, aimed at reducing cost and complexity for industry while maintaining high environmental standards, has been partly implemented and is working in most situations. However, some aspects of implementation are not complete or are not working as well as expected and improvement is needed, according to a Forest Practices Board report issued today.

“Now that 10 years have passed, we felt it was timely to inform the public about how well the act is working, based on our audits and investigations,” said board chair Tim Ryan. “We have published over 250 reports as part of our oversight of industry practices and government enforcement of this legislation. That body of work says a lot about what’s working well and where the issues are.”

“Our work shows that forest practices generally comply with the legislation, subject to the recent increase in non-compliances we have been finding in audits and investigations,” said Ryan. “But the determination of whether those practices achieve government’s objectives is still a work in progress.”

The report provides observations and ratings for the components of the legislative framework concluding that:

- Government objectives for forest and range values have not been fully established, and some are unclear.
- Forest stewardship plans required under FRPA have limited usefulness for either planning or the public engagement they are supposed to encourage.
- Some forest practice requirements are not clear.
- Government compliance and enforcement is not as thorough as it once was.
- Monitoring and evaluation of the effectiveness of practices could do more to encourage improvement to the regulations and operational performance.

The report also includes advice on what needs to be done to achieve the intent of the legislation and ensure B.C. has sound forest and range practices that warrant public confidence.

The Forest Practices Board is B.C.'s independent watchdog for sound forest and range practices, reporting its findings and recommendations directly to the public and government. The board investigates and reports on current forestry and range issues and makes recommendations for improvement to practices and legislation.

– 30 –

A backgrounder follows.

The report is available on the board website at: www.fpb.gov.bc.ca

More information can be obtained by contacting:

Darlene Oman

Forest Practices Board

Phone: 250 213-4705 / 1 800 994-5899

For Immediate Release
May 7, 2014

A Decade in Review: Observations on Regulation of Forest and Range Practices in British Columbia – Special Report

May 7, 2014

Forest Practices Board Mission

To serve the public interest as the independent watchdog for sound forest and range practices in British Columbia.

The board encourages:

- Sound forest and range practices that warrant public confidence.
- Fair and equitable application of the *Forest and Range Practices Act* (FRPA) and the *Wildfire Act* (WA).
- Continuing improvements in forest and range practices.

Board Mandate:

- **Audits** – must undertake audits of compliance & enforcement of FRPA and the WA.
- **Investigations** – must deal with public complaints; may conduct special investigations of forestry and range issues in the public interest.
- **Appeals** – may appeal decisions to the Forest Appeals Commission.
- **Reporting** – must report findings to public and government.
- **Recommendations** – may make recommendations for improvement to legislation and practices.

Background

The concept of an independent oversight board was developed as part of the Forest Practices Code in the early 1990s. The code was created in response to public conflict and confrontation over forestry that culminated in the 1993 'War in the Woods' at Clayoquot Sound. The board's role was to provide assurance to the public, and to

foreign markets, that industry would follow the strict new forestry legislation and that government would enforce it.

When the *Forest and Range Practices Act* replaced the Forest Practices Code in 2004, government recognized the board as an important component of forest management oversight in B.C., and continued its mandate in the new legislation.

Board Independence and Membership

The board consists of a full-time chair and five to eight part-time members, appointed by Cabinet. Members are appointed to provide a diverse range of backgrounds and experience in forestry-related matters and do not represent a particular stakeholder community. To ensure independence, the board provides reports to the Minister of Forests, Lands and Natural Resource Operations at the same time they are provided to the public and the minister does not approve the reports before they are published. The board also has its own separate budget. The ombudsman and the auditor general of B.C. can investigate board activities and operations.

Board Work

Since FRPA came into effect in 2004, the board has published over 250 reports on the results of its audits and investigations and has made over 130 recommendations for improvement in forest and range regulation and practices. That body of work forms the basis for the observations provided in this report.

All board reports are available on the Internet at: www.fpb.gov.bc.ca