

INFO special report



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Compliance and Enforcement Audits of Forest Planning and Practices in British Columbia, 1996-2001

May 2002

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Letter of Introduction

This special report has been prepared under section 189(3) of the Forest Practices Code, which permits the Chair of the Board to report to the Code ministers (Forests; Sustainable Resource Development; Water, Land and Air Protection; and Energy and Mines) and the public about issues arising from the Board's work in audits or complaint investigations. I would like to thank Board staff for their work in assembling this information and preparing this special report under my direction - in particular, Steve Chatwin, Darlene Dahl, Steve Hughes and Jacqueline Waldorf. Any errors or omissions are my responsibility.

In 1995, in response to the public's desire for legislation to ensure sound forest practices, the province created the Forest Practices Code and with it, the Forest Practices Board as an independent monitor of Code compliance and enforcement.

Part of the Board's mandate is to carry out random audits of forest licensees and government in order to assess their compliance with Code requirements. The Board's first six years have seen steady progress in the nature and scope of the auditing process - from the development of the audit framework in 1995, to the undertaking of area-based audits in 2001. All 2001 audits examined operational planning, and the Board now conducts audits of range use, woodlots and access to oil and gas tenures. This expands our examination of the impact of human activity in our public forests that is subject to the Code and provides greater field-level assessment of the full effects of forest practices on the ground.

In six years of auditing forest licences, Small Business Forest Enterprise Program operations and government agencies, the Board's fieldwork has identified and reported on issues and improvements in forest practices. The Board has seen these improvements on the ground - streams have better protection from harvesting, cutblocks are more suited to the ecosystem, there is less disturbance resulting from logging, and logging roads are built and maintained to higher standards. This report is in part a summary of those accomplishments, but it is also a roadmap for future progress.

This report also identifies areas where our audit fieldwork suggests improvements need to be made. With respect to higher-level plans, the classification of streams and the maintenance of roads and bridges, the Code's intention is not always evident in the forest. As the Code moves to a results-based approach, the Board's findings and experience will be important to the restructuring of our forest management legislation. Our field-level impact assessments highlight aspects of forest practices that are the most difficult to manage. The past few years have been innovative and dynamic for BC's forests, and the Forest Practices Board looks forward to continue auditing, reporting and recommending improvements to ensure we are achieving sustainable forest management in the province.



Bill Cafferata
Chair, Forest Practices Board



In addition to audits and investigations of complaints, the Forest Practices Board Chair can undertake special reports to the public and four ministers (Forests; Energy and Mines; Water, Land and Air Protection; and Sustainable Resource Management) about matters relating to the Board's duties and important forestry issues related to the Code. Board members choose the scope and subject of the reports, which are often sparked by observations in the course of regular audits and investigations.

The Board's Role in Conducting Audits

The BC legislature created the Forest Practices Board because it recognized the need for an independent agency to reflect the public interest in forestry matters by monitoring forest practices. The Board reports its findings and recommendations to the public and the four cabinet ministers who oversee the implementation of the Forest Practices Code: the Ministers of Forests; Sustainable Resource Management; Water, Land and Air Protection; and Energy and Mines.

The Board's mandate is set by the *Forest Practices Code of British Columbia Act*. The Board is required to carry out periodic independent audits of government's, forest companies' and other operators' compliance with the Forest Practices Code. The Board also audits the appropriateness of government enforcement of the Code.

Board compliance audits examine current operators' planning and practices to determine whether or not they meet Code requirements. Compliance audits have been either limited-scope audits or full-scope audits. Limited-scope audits examine individual components of forest practices, such as timber harvesting or road construction. Full-scope audits examine all components of forest practices - operational planning, roads, harvesting, silviculture and forest protection.

Enforcement audits examine the performance and appropriateness of government's enforcement of the Code. The primary purpose of these audits is to ensure the Code ministries undertake enforcement actions in an effective, efficient and fair manner, and initiate enforcement actions when it is appropriate to do so.

A Snapshot of Audits

1996 - The Board initiated its first compliance audits in 1996, completing fieldwork for four limited-scope audits (where selected planning activities and forest practices were audited). These included two audits of harvesting and roads (one in the interior and one on the coast), one audit of silviculture practices and one of operational planning. The Board developed and tested a rigorous and comprehensive set of procedures for auditing compliance with the Code and released the *Audit Reference Manual*.

1997 - Audits were undertaken in all six provincial forest regions. Seven forest licences and two Ministry of Forests Small Business Forest Enterprise Programs (SPFEPs) were randomly selected from among the 181 major licences and 41 SBFEPs across the province. Three audits were classed full scope and six limited scope.

During 1997, final reports for the first four audits carried out in late 1996 were released and one of the 1997 audits was completed. The Board found one audit clean - meaning there was no evidence of significant non-compliance, but the other four were found to contain areas of significant non-compliance.

Non-compliance was found most commonly in the areas of stream protection, and in road construction, maintenance and deactivation.

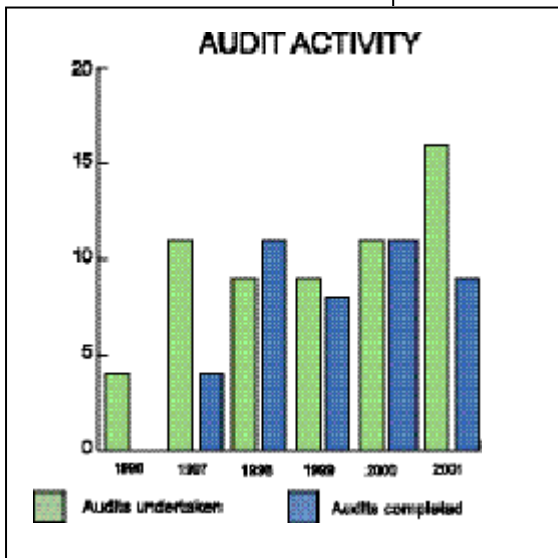
In each report that had non-compliance findings, the auditee advised the Board that action would be taken address problems identified in the audit.

1998 - Of the nine randomly selected new audits undertaken in 1998, seven were licences held by forest companies and two were registered under the Ministry of Forests SBFEP. Three of the audits, including one SBFEP, were classed full scope. Six of the audits were limited scope. The limited-scope audits focused on timber harvesting and the construction, maintenance and deactivation of roads.

The Board released 11 audits - eight of them limited to timber harvesting and road construction, maintenance and deactivation. Seven of the released audits were qualified audits and four were deemed to be clean. The Board found a greater overall level of Code compliance this year but still noted non-compliance tending to occur in the areas of roads, and in stream protection and classification.

In one audit, the Board recommended that the licensee needed to work together with the Ministry of Forests to develop a landscape-level strategy to deal with the risk to forest resources presented by the mountain pine beetle.

Development of an enforcement audit program was started in 1998. The intent of the program was to audit and report on what enforcement activities and programs were in place, and how they were being carried out by the responsible government agencies.



1999 - In 1999, the field work for audits of seven forest company licences and two SBFEPs was completed. Three of the audits were full scope. Reports were released for eight compliance audits, four of which were clean. The results indicated a general move toward greater compliance with the Code than in previous years, however continued improvement in forest practices was still required in some areas - again most notably in riparian protection and in road construction, maintenance and deactivation. In one audit conducted during 1999, the Board found that logging during wet weather was adversely impacting the environment. Although the disturbance was within limits set out by the Code, and therefore did not constitute non-compliance, the Board felt that it was not consistent with sound forest practices.

In 1999, the Board also released the first of its enforcement audits - *An Audit of the Government of British Columbia's Framework for Enforcement of the Forest Practices Code*. Among the many conclusions were that the lack of higher-level plans created gaps in the legal protection of important forest resources.

2000 - Eight forest company licences and two SBFEPs were randomly selected for audit in 2000; three of the audits, including one SBFEP, were full

scope and seven of the audits were limited scope.

2000 was an innovative year in terms of audits. A major change was the development of the enforcement audit program, born of the previous year's audit into how the forests, environment and mines ministries were organized to enforce the Code. In 2000, the Board conducted a pilot audit of the appropriateness of Code enforcement in the Vernon Forest District. This audit was released in November 2001.

2000 also began to show some significant changes in forest practices - changes that indicated a better awareness of Code requirements and sound forest practices. Practices that might have been considered notable exceptions two years previous were now occurring frequently. In one audit for example, the Board found harvesting around certain non-fish streams was being carried out with a high degree of sensitivity, and that these practices were being employed in drainages that were not defined as streams and therefore not legally required under the Code. Forest licensees were adopting such practices as standard operating procedures.

The Board reported on 12 compliance audits - two SBFEP audits and 10 audits of forest licences. Six of the audits were clean and six contained qualified opinions with a wide range

of findings. In several of the audits, the Board found that the lack of higher-level planning made it difficult to audit how well some forest resources were addressed through forest development plans and subsequent practices. The Code does not require that FDP's address objectives for forest resources if they have not been formally established as higher level plans under the Code. The Board made recommendations to government aimed at expediting higher level planning, or at least ensuring that forest district managers become aware of all forest resources and make them known to licensees for the purpose of FDP planning.

An audit of a forest license in Clayoquot Sound found that the licensee met all Code requirements, as well as the relevant recommendations of the Clayoquot Sound Scientific Panel.

2001 - Sixteen audits were undertaken for the 2001 season: significantly, all of them full-scope audits.

Three sets of audits in the 2001 season stand out. For the first time, the Board conducted audits to determine the compliance of operational planning and forest practices with *Forest Act* and *Range Act* agreements. The first of these audits - in the Fort Nelson Forest District - examines all activities under the Code in a land area, which could include range, oil and gas tenures, SBFEP and forest companies. This set will also examine government's enforcement of the Forest Practices Code.

The Board has also completed fieldwork for its first ever range audit in the Horsefly Forest District in order to gather a broader sense of how these practices on Crown lands affect public resources and whether the Code is



Bridge construction and maintenance are key areas of examination in Forest Practices Board audits.

effective in regulating these activities. The Horsefly report will also include an audit of government enforcement of the Code's range requirements.

As well, 2001 has seen the Board conducting its first in a series of audits under the Nisga'a Treaty. The Nisga'a audits examine compliance with the treaty, the *Forest Act* and the Forest Practices Code by licensees who are winding down their operations on Nisga'a lands. The Nisga'a final agreement requires the Board to undertake compliance audits of all existing forest licences during the five-year transition period. The Nisga'a agreement also requires audits of government's enforcement of the Code.

Ten audits were reported this year, eight of which were clean. Both qualified reports found deficiencies in bridge maintenance and inspection - a recurring issue in recent audits that the Board initiated the special report, *Bridge Maintenance Not Up To Code*, to address.

In an audit conducted on the western side of Vancouver Island, the Board found significant non-compliance in the areas of road construction, bridge maintenance and in windthrow management.

The Vernon Forest District Enforcement Audit was released in the latter part of the year, making recommendations with regard to inspection frequency for high risk sites and for the separation of the compliance and enforcement function from the operational function in the SBFEP.

What did Audits Examine?

Audits examined compliance and government enforcement of the following Code activities:

Operational planning: Currently the Code requires that operations in the public forest be consistent with the approved forest development plans (FDPs). The Code also requires that FDPs be consistent with the objectives of higher level plans, where they have been declared.

Timber harvesting: Harvesting has to comply with a silviculture prescription and with the *Timber Harvesting Practices Regulation*.

Road and bridge construction, maintenance and deactivation: Every stage of the construction and maintenance of logging roads and bridges on Crown land is covered by specific requirements in the Forest Practices Code. If a logging company wants to build a road or bridge, it has to be mindful of the plants, streams and wildlife in the area.

Silviculture: Reforestation and silviculture prescriptions must comply with specific Code regulations, as well as long-term management objectives as described in the Code, and specify the end result.

Fire protection: The Code requires that licensees submit a fire preparedness plan to a designated forest official, that proper tools be provided at logging sites and that training be kept up.

Prominent Audit Issues

Forest Development Planning

The Forest Practices Code requires operations in the public forest be judged according to their respective FDPs; and that the FDPs in turn be consistent with the goals set out in higher level plans. Higher level plans, where they exist, are intended to reflect society's goals for the forest and become legally binding under the Code. In 2000, the Board undertook a special project in order to provide a public report about the state of forest development planning and the resulting FDPs in the province. Among the Board's findings was that the lack of higher level plans in many parts of the province may hinder the FDP process from identifying and protecting all of the public forests resources and values.

All 2001 audits conducted by the Board have examined operational planning; however in areas where higher level plans have not been implemented, the Board cannot always assess whether all forest resources are being adequately managed and conserved. Without a higher-level plan and an identification of all of a forest's resources, the ability of licensees to comply with - and the Board to audit for - legal commitments towards the environment is compromised.

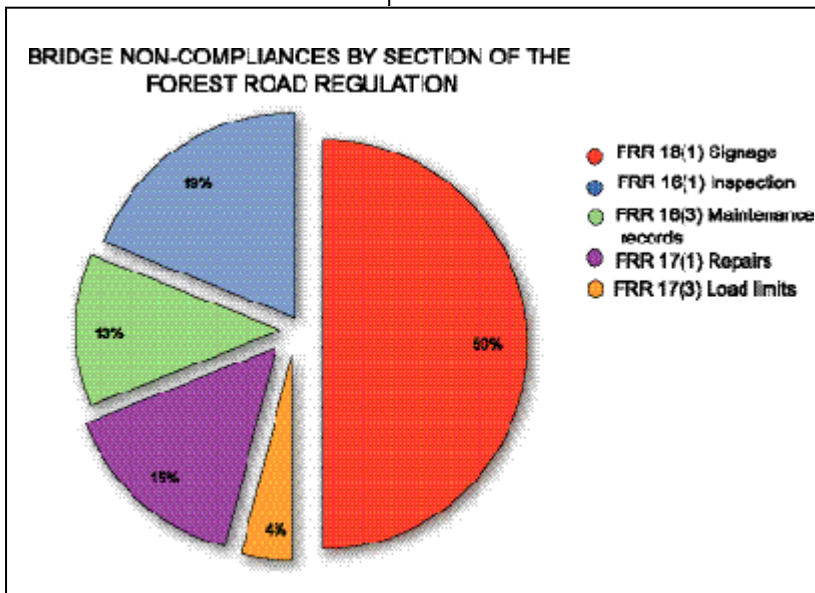
However some licensees have gone to extra lengths to incorporate what they expect will eventually be higher level plan requirements into their FDPs. These licensees are using land and resource management plans (LRMPs), draft landscape unit plans and other strategic plans to focus their development planning, even when there is no legal requirement to do so.

Roads and Bridges

The Forest Practices Code has requirements in place to ensure the construction, maintenance and deactivation of logging roads and bridges is safe and doesn't cause harm to the people using them or the environment. Forest practices related to roads and bridges have improved significantly since the Code was implemented in 1995, but it is still a prominent issue in Board audits.

Most problems have to do with the impact on streams of improper road construction, maintenance or deactivation and bridge maintenance. Of the Board's 46 completed compliance audits, 17 identified problems relating to road and bridge construction, maintenance or deactivation.

Examples of road problems found in Board audits include crushed or blocked culverts that prevent fish from passing through, which can also result in streams being diverted. Auditors have also seen poor road maintenance that



results in sediment being deposited into fish streams, and which sometimes causes landslides.

Over half of the 277 bridges audited by the Board for maintenance obligations in the past two years were not in full compliance with the requirements of the Code. In the past two years alone, three audits have turned up significant Code non-compliance with bridge maintenance. This non-compliance is significant because there is a potential for human harm as a result.

Bridge maintenance non-compliance often involves licensees not meeting the requirements to do regular inspections, or not implementing the recommended repairs. Bridge inspections are important to ensure bridges are properly maintained, public safety is ensured and environmental damage is prevented.

Roads built before the enactment of the Code, and which have been out of use since then, can also create problems because they aren't covered by the Code and responsibility for their deactivation or upkeep is not always clear. Culverts along these roads that haven't been maintained may get a build-up of debris, preventing the passage of fish and eventually altering the course of the water, which may cause landslides.

Stream Classification

A 1997 special investigation undertaken by the Board examined forest practices near streams along the coast of BC. The investigation was the largest assessment of forest practices near streams ever undertaken in the province and it revealed that since the implementation of the Code, practices around larger streams have dramatically improved. For the most part, licensees and government-run forestry operations follow Code requirements for the riparian management of fish streams. The compliance was less near small streams.

As testament to this improvement, four audits released in 1999 and 2000 noted licensees provided more protection to streams than required by the Code. However, there is still room for improvement when it comes to carrying out forest practices near streams, lakes and wetlands. Of the 22 completed audits that have found non-compliances, 12 of them identified problems that were directly related to streams, lakes or wetlands. The majority of problems dealt with incorrect classification of streams, which is important since the Code provides stream protection based upon their classification. There were also examples of poor road construction practices near streams, alteration of drainage patterns, poorly built drainage structures, logging within a riparian reserve zone, logging across streams, culverts blocking fish passage and inadequate marking of riparian reserve and management zones.

There is still a widespread misunderstanding of the default provisions for stream classification, which require that all low-gradient streams be classified as fish bearing, S-1 to S-4, unless there is an inventory that shows that they are not fish bearing. Incorrect stream classification can lead to inadequate reserves and inappropriate forest practices near streams.

The Board has recommended that government establish a standard format for stream classification reports to ensure that all appropriate information is

presented in the reports. Regarding stream classification, the Board has also recommended that government and industry establish training requirements for individuals conducting stream classification work.

Trends Over Time

Over the past six years, the Board has seen a general improvement in the performance of licensees. We have seen a better understanding of the Code over time and licensees tend to now embrace the intent of the Code, if not the Code itself. What was once thought to be a unique or notable practice, such as leaving deciduous trees around non-fish bearing streams, is more commonplace now.



The Board has expanded its scope to audit range practices.

Audit findings have shifted, from most audits having some type of significant non-compliance to report, to most audits having no significant non-compliance to report. Of the 10 audits in which the field work was done in 2000, only one had a significant non-compliance.

The past six years have seen some real innovation in the way forestry is carried out. Specifically, the introduction of variable retention or partial cut cutblocks, and the move away from routine clearcutting has changed the forest landscape. Auditees are becoming more accepting of Board audits. Many indicate they view them as a learning experience, and they are therefore quicker to adopt changes and improve practices.

Future Audit Plans

In 2001, the Board made some significant changes to its audit program. Three new programs were implemented: auditing range practices, auditing forest practices on Nisga'a land and an area-based set of audits. The Board will continue to audit forest licences and the Ministry of Forests Small Business Forest Enterprise Program. As well, all compliance audits in 2001 examined all activities subject to the Code, including planning, silviculture and fire protection. This is an important change in that prior to 2001, only 12 of the Board's 41 audits have examined the full scope of activities subject to the Code.

The Nisga'a audits will continue to examine compliance with the Code by licensees bringing to a close their operations on former Crown lands that are being transferred to Nisga'a ownership. The Nisga'a Treaty requires the Board to undertake an audit of existing forest licences in each year of the five-year transition period.

Budget and resources permitting, the Board intends to conduct its future audits on an area basis - focusing on all Code-related activities within a defined landbase. These audits will allow the Board to inform the public about how forestry, range, oil and gas, and other activities are complying with the

Code in a specific area. Government's enforcement of the Code will also be examined.

Finally, the Board anticipates that its audits will expand their results focus to adapt to a more results-based Code, as new legislation is developed and implemented.

For More Information on Audits

The Board's *Compliance Audit Reference Manual* offers detailed information about the audit process, and is available from the Board.

The reports referenced in this document, and other information about the operation of the Board and its policies and activities, are available on the Board's website, or by contacting the Board directly.

How to Reach Us

If you wish to obtain further information about audits or about other Board activities, please contact us:

Toll-free phone	1-800-994-5899
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Frequently asked questions

Is the Board part of the Ministry of Forests?

No. The Board reports to government and to the public on the state of forest practices, but it is an independent agency and does not take direction from the Ministry of Forests or any other government ministry. The Ministry of Forests, the Ministry of Water, Land and Air Protection, the Ministry of Sustainable Resource Management and the Ministry of Energy and Mines, can be the subject of complaint investigations or audits by the Board.

What is the background of Board members?

Members of the Board have experience in a variety of fields, including the forest industry, labour, resource management, and environmental protection. This diversity is important in ensuring that Board members are familiar with a broad range of issues. It also helps ensure a balanced, objective approach in monitoring forest practices.

What is the background of the auditors?

The Board has auditors on staff, but also employs contractors, all with professional credentials in such fields as accounting, forestry, engineering and biology. Board auditors and contractors generally have many years of forestry and/or audit experience.

Can the Board order forest companies or the government to take action?

No. The Board cannot stop work or order remediation. But often the Board's experience has been that auditees are quick to embrace changes and improve practices as recommended by the Board.

What happens if the Board's recommendations are not followed?

If the Board is not satisfied with the response to its recommendations, it can raise the matter with the ministers responsible for the Code or, further, make a report to the legislature. The Board describes the responses to all its recommendations in its Annual Report to the legislature.

How do Board audits relate to certification?

Every certification process requires the applicant to comply with local legislation, which in British Columbia includes the Forest Practices Code. The Forest Practices Board already determines compliance with the Code through its independent audits - information which can be useful to certifiers looking at operations in BC.

The Board has developed a rigorous audit process which is predominantly field-level results oriented, as opposed to some certification schemes which are predominantly systems-oriented. We have confronted many of the issues others will confront as they begin independent audits with a public reporting function.

The Board can help prevent the duplication of these efforts and can provide advice on how to audit forest practices against measurable standards.

All Board audits results are made public, whereas some independent certification schemes do not require public release of all audits.

Glossary of Terms

Adverse audit opinion

is an overall negative conclusion which is appropriate when significant non-compliance is sufficiently pervasive or of sufficient magnitude to warrant an overall negative conclusion.

Clean audit opinion

is when all of the forestry activities subject to audit are in compliance with the Code, in all significant respects. The statement "in all significant respects" recognizes that there may be minor, or insignificant, instances of non-compliance.

Qualified audit opinion

is when significant non-compliance is found, but it is neither pervasive nor of a sufficient magnitude to warrant an overall negative conclusion.

Full-scope audit

is an audit of forest practices for performance under all of the requirements of the Code.

Limited-scope audit

is an audit of forest practices for performance under some, but not all, of the requirements of the Code.

Significant non-compliance

follows a non-compliance conclusion—when the auditor assesses that the non-compliance event or condition, or the accumulation of a number of non-compliance events or conditions, is significant.