

Terms of Reference for a Special Investigation

Government's Compliance and Enforcement Program

INTRODUCTION

The Ministry of Forests, Lands and Natural Resource Operations (FLNRO) is British Columbia's land manager, responsible for stewardship of provincial Crown land, cultural and natural resources. The Compliance and Enforcement Branch (C&E) is the law enforcement arm of the ministry and is responsible for ensuring compliance with natural resource legislation.

Historically, C&E staff monitored mainly forest and range activities. However, with ministry restructuring and the introduction of the *Natural Resource Compliance Act* in 2011, the program's mandate expanded to include a broader range of legislation across the natural resource sector.¹

The Forest Practices Board has a mandate under the *Forest and Range Practices Act* (FRPA) and the *Wildfire Act* to investigate the appropriateness of government enforcement. In 2013, the Board examined the C&E program and released its "Monitoring Licensees' Compliance with Legislation"² special investigation report. The Board found that the number of inspections of forest and range activities was one-third the level carried out before the expansion of C&E's mandate. This reduction was attributed to the need to inspect non-forestry activities and pressures on officers' time. The Board was concerned that without consistent, credible monitoring and reporting, neither the government nor the public would know if forest and range practice requirements were being achieved.

Since that report came out in 2013, the C&E program has changed dramatically. The program has faced significant challenges with staffing, training, safety, setting clear priorities, and communication. Major changes relate to what drives the program and how it achieves its mandate including business planning, the adoption of new performance measures, priority setting and the launch in April 2014 of a new Natural Resource Inspection System.

The Board has heard concerns from the public and the forest industry about the reduced presence of compliance and enforcement staff in the field. Can the public be confident that the system C&E has in place to fulfill its mandate is appropriate to ensuring that licensees are complying with the FRPA and the *Wildfire Act*?

Section 122 of FRPA and section 68 of the *Wildfire Act* permits the Board to carry out special investigations to determine the appropriateness of government enforcement. This investigation will focus on the compliance and enforcement framework that government has established.

¹ This legislation includes the *Forest Act*, *Forest and Range Practices Act*, *Wildfire Act*, *Water Sustainability Act*, *Water Protection Act*, *Land Act*, *Park Act*, *Dike Maintenance Act*, *Weed Control Act*, and *Heritage Conservation Act*, among others.

² Available at https://www.bcfpb.ca/wp-content/uploads/2016/04/SIR37_Compliance.pdf

OBJECTIVE

With a focus on the *Wildfire Act* and FRPA, the investigation will examine whether government's compliance and enforcement framework is appropriate.

SCOPE

The investigation is provincial in scope.

APPROACH

Through a combination of interviews (government, industry, First Nations and stakeholders), and analysis of data, the investigation will answer the following questions:

1. What is C&E's overall approach to compliance and enforcement?

The Board will investigate how the program is designed to work. How does the branch fulfill its mandate? How are priorities set? How are complaints handled? How is performance measured? Are compliance and enforcement efforts focused on what is important?

2. What are the risks and opportunities with this approach?

- Are the performance measures appropriate?
- How often are forest and range practices examined, and what is the nature of that examination? Are the priorities appropriate?
- Do staff have the knowledge and skills to enforce the *Forest and Range Practices Act* and the *Wildfire Act*, and access to the resources they need?
- Is enforcement appropriate?

3. Has C&E done what it set out to do in its business plan?

Has data been used to help set priorities? Has compliance and enforcement effort been directed at the stated priorities?

REPORTING

The Board will report to the public on the results of this special investigation, addressing the structure and delivery of the C&E program, after the completion of interviews, office work and analysis. The Board may make recommendations for improvement.