



Forest  
Practices  
Board

# Appropriateness of Government's Compliance and Enforcement Framework for FRPA and the Wildfire Act

SPECIAL INVESTIGATION

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FPB/SIR/50

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# BOARD COMMENTARY

Compliance and enforcement is a “pillar” of the results-based *Forest and Range Practices Act* (FRPA). The public has the right to expect a comprehensive compliance and enforcement program that includes regular inspections of forestry operations to promote compliance with the legislation and regulations, and will hold licensees accountable if practices do not meet regulatory requirements. If this expectation is not met, FRPA values are likely to be at risk and public confidence may be eroded.

The Forest Practices Board has a unique legislated mandate to assess the appropriateness of government enforcement. The fact that this specific power was given to the Board indicates the importance legislators placed on compliance and enforcement as a means to ensure public confidence in the overall management of BC’s forests.

In its 2013 report, *Monitoring Licensees’ Compliance with Legislation*, the Board voiced its concerns over the reduction in the number of forestry inspections that had taken place in response to changes to the compliance and enforcement mandate, combined with reduced resources stemming from budget reductions over almost a decade. In that report, the Board made a number of recommendations intended to ensure that government’s enforcement of FRPA and the Wildfire Act achieve public expectations.

In its 2014 report, *A Decade in Review: Observations on Regulation of Forest and Range Practices in British Columbia*<sup>1</sup>, the Board again emphasized its concerns with the compliance and enforcement program and made suggestions to improve monitoring and inspection of forestry practices.

Unfortunately, this most recent investigation finds that the situation has not improved and the concerns raised in those earlier reports remain. The public cannot be confident that government enforcement of FRPA and the *Wildfire Act* are appropriate.

Overall, CEB has a large mandate with many diverse areas of legislation, covering a large part of the province, and this investigation found CEB has implemented new processes and policies to address these challenges. The program deserves recognition for some of the important changes made.

However, with respect to FRPA and *Wildfire Act*, which is the focus of this investigation, major weaknesses and gaps still exist in the program. Under the current framework, the public and government simply do not know what the levels of regulatory compliance are, and the province does not

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<sup>1</sup> Available at: <https://www.bcfpb.ca/wp-content/uploads/2016/04/SR46-A-Decade-in-Review.pdf>

have reliable data for targeting actions to improve compliance, if needed. Forest Practices Board audits and investigations generally find compliance with legislation and regulations and the forest sector claims it has high levels of compliance. However, without data, it is not possible to confirm compliance levels.

The Board is making four recommendations intended to lever the strengths of the compliance and enforcement program and its staff, and to guide the program to a clearer and more effective role in compliance and enforcement of FRPA and the *Wildfire Act*. Due to the importance of this program, the Board will be actively monitoring government's progress in addressing these recommendations, and it will undertake a further review of compliance and enforcement within 24 months of this report in order to assess progress.

# EXECUTIVE SUMMARY

The Forest Practices Board has a mandate to investigate the appropriateness of government enforcement of the *Forest and Range Practices Act* (FRPA) and the *Wildfire Act*. The Compliance and Enforcement Branch (CEB) is the law enforcement arm of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) and is responsible for ensuring compliance with certain natural resource legislation.

The way CEB fulfils its mandate has changed significantly in recent years, and the Board has heard concerns from the public, First Nations and the resource management sector about the reduced presence of compliance and enforcement staff in the field. The Board decided to take a look at the compliance and enforcement framework to determine if the public can be confident that it is appropriately ensuring that licensees are complying with FRPA and the *Wildfire Act*.

The investigation looked at how the program is set up to fulfil its mandate, what its priorities are, and how it measures performance. Next, it considered whether compliance and enforcement efforts were directed at the priorities for 2017-18. Finally, the Board examined whether the government's enforcement framework is appropriate, based on interviews with CEB staff, FLNRORD personnel including district managers, BC Timber Sales managers, and forest industry representatives.

## Program, Priorities and Performance

Sixteen headquarters staff oversee CEB operations in eight regions. Of the approximately 142 staff in the regions, 83 Natural Resource Officers (NRO) worked in the field as of April 1, 2018, conducting inspections, patrols, and investigations. The remainder are supervisors and subject matter specialists who assist NROs.

CEB prioritizes activities to ensure that it is focusing on what it decides is important. Complaints, intelligence, data analysis, government direction and emerging issues are all considered when setting priorities. The top four priorities for 2017-18 were: time sensitive and urgent investigations related to fire, archaeological sites and in-stream works; fire prevention activities in times of high fire danger; water use restrictions during drought conditions; and immediate safety issues such as bridges, user conflicts and road issues.

Almost 4000 complaints were submitted to CEB in the 2017-18 fiscal year, and 99 percent involved the *Wildfire Act*, *FRPA*, *Land Act* or the *Water Sustainability Act*. Dealing with these complaints is the main workload for NROs. For the 2017-18 fiscal year, the Board found that CEB did focus its efforts on its priorities and two-thirds of inspection, patrol and investigation time was spent enforcing the requirements of forestry and wildfire related legislation.

CEB has a single performance measure called "presence." Presence includes the time that an NRO represents CEB to clients and the public (e.g., on patrol or on the phone), and also the time required to prepare for inspections and completing investigations. For 2017-18, the goal was to be present 79 percent of the time. The investigation found CEB exceeded its performance measure. However, presence does not measure whether CEB efforts are having the desired effect on compliance and this is a significant concern to the Board.

## Appropriateness of the Framework

In the Board's view, the ultimate purpose of the compliance and enforcement program is to encourage compliance with legislation. For the purposes of this investigation, the Board chose to focus on whether the framework is effective at achieving compliance. Effectiveness was evaluated by examining the enforcement framework against the following attributes:

1. Management direction
2. Logic of design
3. Monitoring and reporting
4. Achievement of intended results

### Management direction

While the mandate of the organization is clear, this investigation revealed that the direction has not been received and understood by all NROs. Many NROs expressed concern that CEB has not fully committed to being a fully equipped enforcement agency with all the training, tools and policies needed for all types of enforcement issues they may encounter.

### **Logic of design**

A significant proportion of new NROs do not have experience in natural resource management, and these NROs are not supported with adequate training opportunities. They do not possess the knowledge and experience to identify and investigate the more complex aspects of provincial forestry legislation. They also report difficulty accessing subject matter specialists in FLNRORD to help gather the evidence that a decision-maker will need to decide whether there has been a contravention.

Although CEB has access to information concerning who is on the land base and what they are doing, it does not consistently have strong relationships with the regulated community, other agencies or the public to receive intelligence information throughout the province.

CEB has been successful at prioritizing work and focusing on those priorities. However, wildfire prevention and complaints require significant resources and many NROs feel that forest practices are not getting enough attention and that important issues are not being addressed. The agency is currently focused on reacting to issues as opposed to identifying issues proactively.

### ***Monitoring and reporting***

Based on data provided, the Board cannot confirm whether CEB is examining activities sufficiently to provide assurance that the public and regulated community are complying with the law. The information that CEB publishes is not detailed or complete enough to give the public a sense of the general level of compliance, enforcement outcomes, or the effectiveness of CEB efforts.

### ***Achievement of intended results***

CEB's "presence" performance measure does not provide an indication of whether its efforts increase compliance. The information that CEB publishes does not allow an assessment of the effectiveness of its efforts.

## **Conclusions**

The investigation found that CEB has a compliance and enforcement framework in place, has clear priorities set, and is meeting those priorities. However, there are weaknesses with the framework as well as problems with CEB's measurement and reporting system that do not allow the Board to conclude whether the program is encouraging licensees to comply with FRPA and the *Wildfire Act*. These issues need to be addressed in order to minimize risks to FRPA values and to restore public confidence in government's compliance and enforcement of the legislation.

The Board is making recommendations to government to adjust its compliance and enforcement program to ensure the program provides a basis to inform the public about the level of licensee compliance with natural resource legislation, report annually to the public on the results of compliance and enforcement efforts, and ensure NROs have the skills and resources necessary to appropriately enforce FRPA and the *Wildfire Act*.

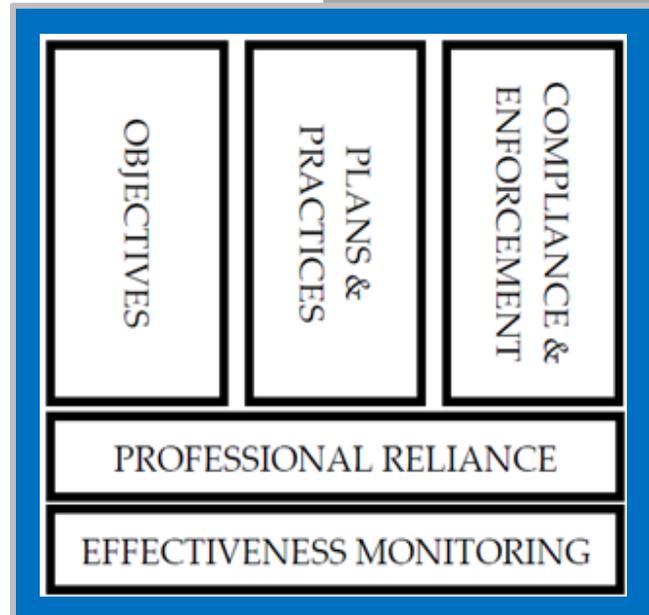
# INTRODUCTION

The Compliance and Enforcement Branch (CEB) is the law enforcement arm of the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD), responsible for ensuring compliance with certain natural resource legislation. About 135<sup>2</sup> natural resource officers (NROs) work across the province to ensure that the public, businesses and government comply with legislation, and they take enforcement action when necessary.

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

The FRPA framework is 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. 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 Forest Practices Board is not part of the FRPA framework but has a mandate under the *Forest and Range Practices Act* (FRPA) and the *Wildfire Act* to investigate the appropriateness of government enforcement as well as compliance with the Act. In a 2013 investigation of government's compliance and enforcement program,<sup>3</sup> the Board found that the number of inspections of forest and range activities was one third the level carried out before the expansion of CEB's mandate. This reduction was attributed to the need to inspect non-forestry activities and the resulting pressure on officers' time, combined with reduced staffing levels. In the report, the Board expressed its concern that without consistent, credible monitoring and reporting, neither the government nor the public would know if forest and range practice requirements were being met.



In a 2013 investigation of government's compliance and enforcement program, the Board expressed its concern that without consistent, credible monitoring and reporting, neither the government nor the public would know if forest and range requirements were being met.

<sup>2</sup> This figure includes NROs, NRO Supervisors, and NRO Specialists, and is current to July 2018.

<sup>3</sup> Monitoring Licensees' Compliance with Legislation, FPB/SIR/37 available at: [https://www.bcfpb.ca/wp-content/uploads/2016/04/SIR37\\_Compliance.pdf](https://www.bcfpb.ca/wp-content/uploads/2016/04/SIR37_Compliance.pdf)

Since 2013, the compliance and enforcement program has changed dramatically – it has faced significant challenges with staffing, training, safety, setting clear priorities, and communication. In response, CEB instituted business planning, adopted a new performance measure, set priorities and launched a system to track compliance and enforcement activities (the Natural Resource Inspection System (NRIS)).

At the same time, the Board began to hear concerns from the public and the forest industry about the reduced presence of CEB staff in the field. Although CEB's mandate has expanded, FRPA and the *Wildfire Act* requirements must still be inspected and enforced. Can the public be confident that government's compliance and enforcement framework is appropriate?

To answer this question, the Board conducted this investigation; focusing on the compliance and enforcement framework that government has established.

## Structure of this Report and Sources of Information

This report is divided into three parts. Part one describes CEB's overall approach to compliance and enforcement, detailing how the branch fulfills its mandate. This includes a description of the organization, and an explanation of how priorities are set, complaints are handled, and performance is measured. The main sources of information for this part were the CEB website, annual reports, 2017 business plan, and interviews with staff.

Part two examines NRIS data and compares it to CEB's priorities as set out in its 2017-18 business plan to determine whether compliance and enforcement efforts were directed at the stated priorities. CEB provided NRIS data for the 2017-18 fiscal year to the Board for analysis.

Part three examines whether the government's enforcement framework is appropriate. Using four attributes of effectiveness, the Board assessed the program to reach an overall conclusion about whether government's enforcement framework is appropriate. The sources of information for this evaluation were interviews with compliance and enforcement program staff, clients, and partners<sup>4</sup>, including NROs, staff from BC Timber Sales (BCTS), BC Wildfire Service (BCWS), Front Counter BC, and forest licensees.

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<sup>4</sup> Clients are the focus of CEB efforts and include the public and the regulated community. The regulated community includes all persons subject to statutory obligations within the compliance mandate, and includes licensees, contractors, and government. Partners are the organizations that CEB works with, including the Conservation Officer Service, BC Wildfire Service, and government ministries.

# PART 1 – GOVERNMENT’S APPROACH TO COMPLIANCE AND ENFORCEMENT OF NATURAL RESOURCE LEGISLATION

The purpose of this part is to describe the organization of CEB, the legislation it enforces, how it sets priorities, and how it measures its performance. In other words, how is the program set up to fulfil its mandate?

## Organization

CEB has 158 staff working in 27 field units throughout the province.

CEB headquarters in Victoria oversees operations in eight regions. The 16 headquarters staff are focused on management, planning, budgeting, training, business analytics, recruitment, administration, communications, contracts, and policy, procedure and legislation development.

In the regions, 7 regional managers supervise 135 NROs in delivering the program. The regional managers told the Board that 83 NROs regularly worked in the field, as of April 1, 2018.<sup>5</sup> NROs are the staff most visible to the public and the regulated community. They are the eyes and ears in the field focused on ensuring and promoting compliance. NROs have a background in natural resource management and/or law enforcement and new officers receive specialized training in natural resource compliance and enforcement.

CEB developed a brochure describing who NROs are and what they do<sup>6</sup> and the CEB website<sup>7</sup> describes what NROs do on a daily basis.

### What is compliance and enforcement?

Compliance means adhering to legal obligations.

Enforcement is the process of compelling compliance. Enforcement activities generally begin with inspections. If problems are discovered, there are a number of tools available to promote compliance. These tools escalate in severity, and include education and awareness, written instructions, violation tickets, stop-work orders, administrative law process and prosecution.

<sup>5</sup> The remainder of the regional staff are NRO supervisors and NRO specialists who do not regularly work in the field.

<sup>6</sup> Available at: [http://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/enforcement/nro\\_brochure.pdf](http://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/enforcement/nro_brochure.pdf)

<sup>7</sup> <http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/natural-resource-law-enforcement/natural-resource-officers>

NROs use a range of tools and actions to enforce BC's resource management laws. They include:

- educating the public and maintaining a presence in the field
- completing compliance inspections: routine inspections, in response to complaints or incidents
- scheduled inspections (coordinated with other ministries), in response to FLNRORD's identified priorities
- investigating alleged non-compliance with legislation, when enforcement action is being contemplated
- taking enforcement actions

Despite regional boundaries, NROs have been deployed to other areas based on provincial priorities and skill sets. For example, in spring 2016, 21 out-of-region NROs were deployed to the northeast region of the province to investigate human caused fires.

## Legislation

The *Natural Resource Officer Authority Regulation* provides the core list of enactments that NROs have the authority to enforce:

- Creston Valley Wildlife Act
- Environmental Assessment Act
- Forest and Range Practices Act
- Land Act
- Park Act
- Range Act
- Water Protection Act
- Wildfire Act
- Dike Maintenance Act
- Forest Act
- Heritage Conservation Act
- Off Road Vehicle Act
- Private Managed Forest Land Act
- Water Sustainability Act
- Weed Control Act
- Wildlife Act

In 2016,<sup>8</sup> NROs spent most time enforcing (in decreasing order of time) the *Forest and Range Practices Act*, *Wildfire Act*, *Forest Act*, *Land Act*, and the *Water Sustainability Act*.

## Coordination

CEB coordinates with other agencies to enforce natural resources legislation. For example, CEB and the Conservation Officer Service (COS) of the Ministry of Environment and Climate Change have defined roles and responsibilities and have determined who will take the lead on certain issues, considering their respective mandates.

<sup>8</sup> [http://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/enforcement/enforcement\\_hours\\_by\\_parent\\_act.pdf](http://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/enforcement/enforcement_hours_by_parent_act.pdf)

Similarly, an agreement between the BC COS and CEB states that while BCWS is responsible for determining the origin and cause of wildfires, CEB is the lead agency for WA contravention investigations and damage calculations. The COS is responsible for arson investigations.

## Setting Priorities

Considering its mandate, the size of the land base, the scale and variety of activities on it, and its resources, CEB acknowledges<sup>9</sup> the challenge of ensuring compliance with natural resource legislation. To manage the workload, CEB prioritizes its activities through a business planning process. The 2016-2017 business plan provided insight on this approach:

*Priority setting is essential for the efficient operation of [CEB] staff. With so many potential topics to focus on, potentially competing priorities, and different perspectives or ways of looking at priorities, it is key that we have clear, well described priorities that actually guide our field and HQ operations. Knowing the priorities helps to determine where to direct resources and efforts. Knowing the priorities also helps to determine knowledge gaps and training needs.*

CEB sets its priorities using data, complaints and intelligence, government direction, emerging issues, and input from other parties. The components are discussed in more detail below.

### Data

In an effort to focus work on priorities, CEB implemented a "business intelligence" program in 2016. Business intelligence involves the analysis of data to make informed decisions. CEB tracks its activities in the Natural Resource Inspection System (NRIS), a web-based application for documenting compliance and enforcement activities including tracking receipt of and investigating complaints, inspections, patrols and investigations. Business intelligence combines data from NRIS and other systems with analytics and personal knowledge to help make optimal business decisions. In practice, managers can review past activity levels, analyze the results of those activities, identify trends and be proactive in identifying emerging issues.

CEB tracks its activities in the NRIS, a web-based application for documenting compliance and enforcement activities.

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<sup>9</sup> Ministry of Forests, Lands and Natural Resource Operations Compliance and Enforcement Program Business Plan 2017-18. The Book of NRO, p. 1.

## Complaints and Intelligence

Government maintains a website and toll-free number for the public and agencies to report what they think might be a natural resource violation<sup>10</sup> involving wildfire, forestry, wildlife, ecosystems, heritage sites or natural resources in general. It is important to note that a complaint does not automatically become a priority or instigate action. Complaints are considered information and that information is assessed to determine whether the issue raised meets provincial business priorities. A natural resource officer may or may not contact a complainant.

## Government Direction

FLNRORD's strategic plan sets out what it is trying to achieve in the mid to long term, and includes encouraging public confidence, healthy ecosystems, and social license to operate on the land base. Compliance and enforcement is a key part of the plan and government priorities are reflected in CEB work.

## Emerging Issues

From time to time, certain issues come up and are addressed as a priority by CEB. For example, the wildfire situation in the northeast in spring 2016 required deployment of out of region NROs to help with investigations.

## Input from Other Parties

Other parties do not set priorities for CEB. However, according to CEB, extensive formal and informal working relationships with clients and partners significantly influence CEB priorities at both the provincial level and field unit level.

## Priorities for 2017-18

CEB's priorities are set out in a business plan for the entire province. The 2017-18 business planning process identifies four top priorities:

1. Time sensitive and urgent investigations related to fire, archaeological sites and in-stream works.
2. Fire prevention activities in times of high fire danger.
3. Water use restrictions during drought conditions.
4. Immediate safety issues such as bridges, user conflicts and road issues.

CEB set targets for two of the top priorities – forest revenue and woodlots.

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<sup>10</sup> <http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/natural-resource-law-enforcement/report-natural-resource-violations>

In addition to the top priorities, the business planning process identifies CEB's legislative priorities to guide staff in their day to day work. The list of legislative priorities appears in Table 1.

**Table 1.** CEB's Legislative Priorities for 2017-18 Fiscal Year

PRIORITY	DIRECTION
Fire investigations ( <i>Wildfire Act</i> )	Fire investigations are the highest priority where public safety is at risk or cost recovery and damages are involved.
Fire prevention ( <i>Wildfire Act</i> )	The focus is on industrial fire preparedness and fire hazard abatement. Campfire ban inspections are a lower priority but may be done in conjunction with other work.
Forest harvesting and in-block roads ( <i>Forest and Range Practices Act</i> )	The focus is on areas with significant forest values e.g. riparian features and fish streams, and potential impacts.
Forest revenue ( <i>Forest Act</i> )	Ensure the Crown is receiving appropriate stumpage revenue. <b>Target: two high priority appraisals per field unit.</b>
Woodlots ( <i>Forest and Range Practices Act</i> )	Focus on compliance with FRPA and Woodlot Licence Planning and Practices Regulation. <b>Target: 2 woodlots per field unit.</b>
Archaeology ( <i>Heritage Conservation Act</i> )	Alleged non-compliance damaging First Nations cultural values will be a top priority.
Foreshore ( <i>Land Act</i> )	Unauthorized foreshore structures such as wharfs and retaining walls are the subject of a hotspot plan. <sup>11</sup>
Unauthorized use and occupation ( <i>Land Act</i> )	An area-based focus on unlawful structures and commercial use on Crown land. May be the subject of a hotspot plan.
Road construction and maintenance ( <i>Forest and Range Practices Act</i> )	Focus on the physical structure of active roads with important resource values.
Works in and around streams ( <i>Water Sustainability Act</i> )	Focus on complaints about works in progress impacting high value fisheries and environmental values.
Water use ( <i>Water Sustainability Act</i> )	Water use during extreme drought conditions is a high priority.

The priorities listed above are intended to be the activities that get NROs out of the office. They are addressed through inspections, patrols, hot spot plans, tactical plans and projects. According to CEB, an inspection is a systematic process to confirm compliance with statutory obligations. Inspections may be planned or spontaneous. CEB inspections examine the legal obligations of licensees, the government and the public.

Compliance and enforcement of unlawful foreshore structures in the Thompson Okanagan region is currently the focus of a hot spot plan.

Tactical plans involve the deployment of resources to meet specific objectives in a specific timeframe. For example, a blitz of fire preparedness inspections over a short period of extreme fire hazard could be the subject of a tactical plan.

Projects involve targeted action around a specific resource where there is a perception of non-compliance. Examples of potential projects include visual quality and silviculture.

<sup>11</sup> A hotspot plan addresses a clearly defined compliance issue within a specific geographic area.

# Measuring Performance

In the past, CEB measured its performance in terms of the percentage of the regulated community complying with statutory requirements. The percentage was calculated by dividing the number of inspections carried out by the number of enforcement actions. The Board had concerns with this performance measure because compliance actions were not included with the enforcement actions. Potential non-compliance is often resolved with a letter instructing a licensee to take action, which is considered a compliance action. As a result, the Board believed the level of compliance was overstated. CEB told the Board that in addition to overstating compliance, the old performance measure was more of an industry standard than a measure suited to CEB.

In 2015, CEB adopted a new performance measure called "presence." Presence was defined as the amount of time a natural resource officer is present representing the branch. Presence included being in the field and any other time a natural resource officer is prominent to the public or regulated community.

An apparent issue is that some activities do not occur in public or in front of the regulated community. For example, a NRO may conduct a lengthy investigation in the office. To address this, CEB modified the definition of "presence" and began recording two other types of presence in addition to field presence. The term "Investigation Presence" includes office time preparing for and completing investigations, including the time spent related to the investigation communicating with clients and traveling. The term "General Presence" includes time spent communicating with clients and the public, promotion and education, meetings, training, attending trade shows and traveling in uniform.

For the 2017-18 fiscal year, CEB hoped to achieve a presence rate of 79 percent. The assumption is that being present promotes compliance and discourages non-compliance through education, verification, and enforcement activities. NROs track their presence through NRIS.

NROs and their supervisors are accountable for recording their activities in NRIS and ensuring that work is focused on the priorities. However, the business plan is not static, and through the business intelligence process, priorities are subject to change. Each month, management reviews past activity to inform any changes to plans.

NROs and their supervisors are accountable for recording their activities in NRIS and ensuring that work is focused on the priorities.

## Summary

To manage workload, CEB prioritizes its activities in a business planning process that relies on data, complaints and intelligence, government direction, emerging issues, and input from other parties. CEB uses NRIS data, personal knowledge and complaints to analyze the results of past activities, identify trends, and identify emerging issues. CEB sets priorities for the entire province, which are addressed through inspections, patrols, hot spot plans, tactical plans, and projects. This work becomes less of a priority when any of the four top priorities emerge. CEB measures NRO performance as the amount of time an NRO is present representing the CEB. Presence includes field presence, investigation presence, and general presence. Activities are recorded in NRIS to help ensure work stays focused on the priorities.

## PART 2 – TRACKING CEB ACTIVITIES AND MEETING PRIORITIES

The purpose of this part of the investigation is to determine whether CEB accomplished what it set out to do in its business plan for the 2017-18 fiscal year. The Board compared CEB's priorities (see Table 1) with CEB activity as recorded by NROs in NRIS.

It is expected that there will be regional differences in the work that NROs do. The number and nature of complaints varies by region (Figure 1), as do the activities of the regulated community. These differences are detailed in the regional summaries in Appendix 1.

Although the Board's jurisdiction is limited to the appropriateness of government enforcement of FRPA and the WA, CEB has a broader mandate. For this reason the Board considers it important to provide the complete picture. Thus the following examination of CEB activity reflects all CEB activity for the 2017-18 fiscal year.

Before examining the time that NROs devote to doing their work, it's important to understand what that work is. Table 2 shows the activities tracked in NRIS.

**Table 2.** CEB Activities Tracked in NRIS

ACTIVITY	DESCRIPTION	EXAMPLES
Complaints	A report of a suspected natural resource violation. Complaints may be submitted by anyone. A complaint may result in an inspection.	A member of the public submits a complaint through the Natural Resources Violation Reporting website that inadequate road maintenance is contributing sediment to a fish stream.
Inspections	A systematic process to confirm compliance with statutory requirements. Inspections may take place in the field or office. An inspection may turn into an investigation.	An NRO inspects an active harvesting operation to ensure that the fire preparedness requirements of the WA are met.  An NRO examines silvicultural records to determine if a licensee is meeting the requirement to establish free growing stands on harvested cutblocks.
Patrols	A patrol is visiting a group of sites to assess compliance.	Two NROs travel to a number of recreation sites to determine whether there are any campfires during a campfire ban
Investigations	A systematic process to collect information and evidence where there are grounds to believe that a contravention has been committed. Investigations may involve work in the field, office, or both.	An NRO investigates unauthorized tree harvesting and road construction.
General	Activities not related to the categories above but contribute to CEB core functions. <ul style="list-style-type: none"> <li>• Phone/counter calls/communication</li> <li>• Promotion and education (not including trade shows)</li> <li>• Attending trade shows</li> <li>• Uniformed travel</li> </ul>	An NRO responds to a telephone call from a member of the public about firewood cutting.  An NRO meets with a local off road vehicle club.  An NRO hosts a booth at an outdoor show.  An NRO travels in uniform to self-training.

With the exception of complaints, these activities contribute to achieving the performance measure of being present 76 percent of the time. Time is not attributed to a complaint until an inspection is initiated.

Almost 4000 complaints were submitted to CEB in fiscal 2017-18. Of those complaints, 99 percent involve the *Wildfire Act* (1185), *Land Act* (1060), *Water Sustainability Act* (930), or *FRPA* (722).

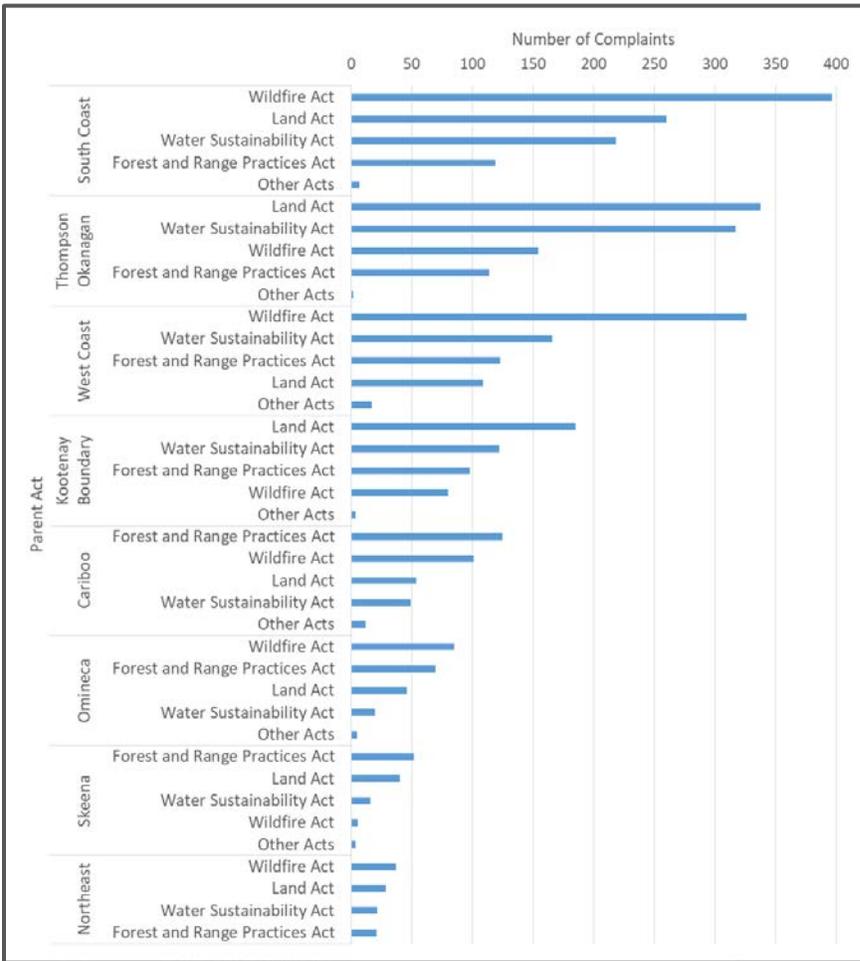


Figure 1. Shows complaints by region and the related Act

Not surprisingly, the largest number of complaints come from the most populated parts of BC – the South Coast, Thompson-Okanagan, and West Coast regions. These three regions account for more than two-thirds of complaints, while accounting for only 21 percent of the area of the province.

## Complaints per Officer

There was a wide regional variation in the number of complaints per officer<sup>12</sup> with a high of 116 in Thompson Okanagan and a low of 12 in Skeena (Figure 2).

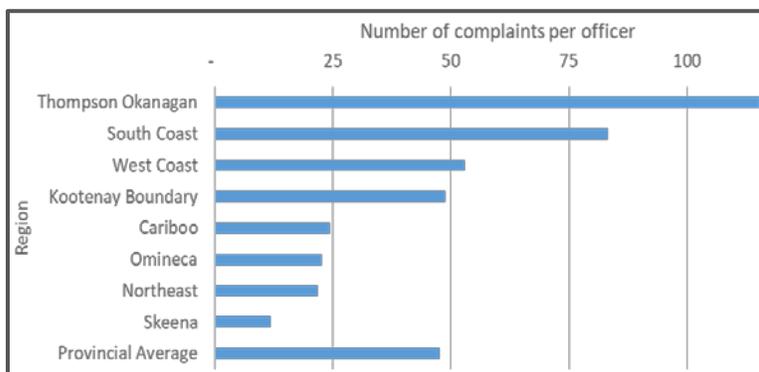


Figure 2. Number of complaints per field officer by region.

<sup>12</sup> This figure is based on the reported 83 NROs who regularly work in the field.

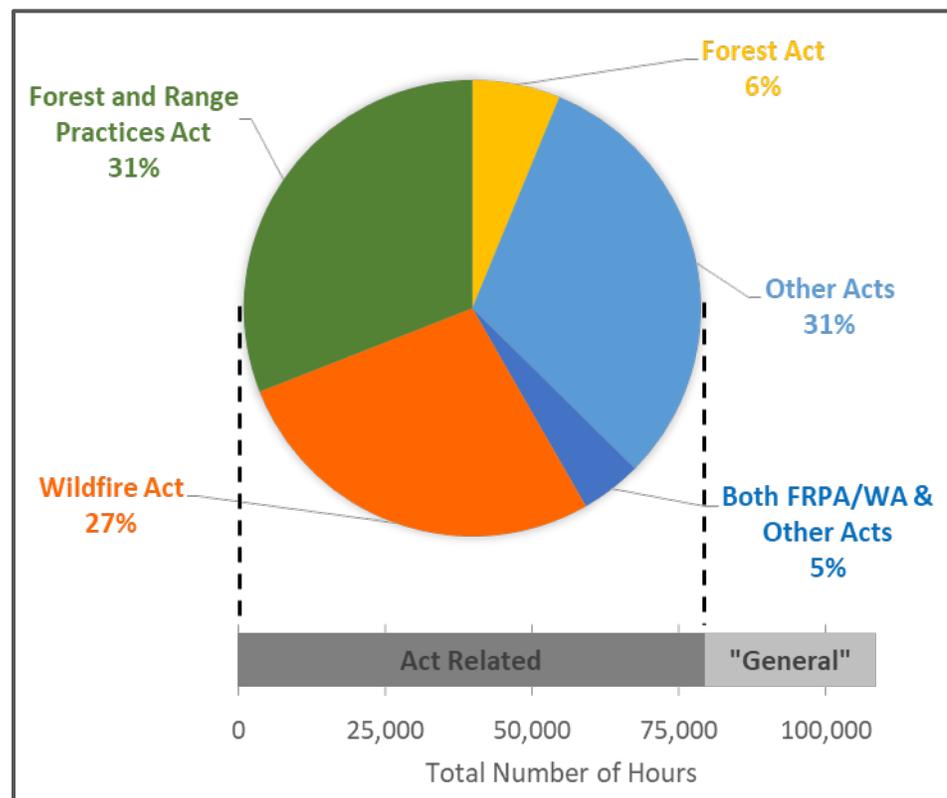
## How do NROs spend their time?

Field-based NROs attribute their time to inspections, patrols, investigations or the general, category which includes activities that contribute to CEB core functions. CEB calls this time "presence." The percentage of time attributed to these categories over the 2017-18 fiscal year are presented in Table 3.

**Table 3.** Percentage of Activity by Region

ACTIVITY	CARIBOO	KOOTENAY BOUNDARY	NORTHEAST	OMINECA	SKEENA	SOUTH COAST	THOMPSON OKANAGAN	WEST COAST	PROVINCIAL TOTAL
Inspections	34%	38%	36%	35%	32%	29%	30%	30%	33%
Patrols	23%	12%	14%	11%	13%	10%	10%	7%	12%
Investigations	20%	26%	20%	35%	9%	28%	36%	34%	28%
General	23%	23%	30%	19%	46%	32%	24%	29%	27%

When NROs carry out inspections, patrols and investigations, they attribute their time to the relevant legislation in NRIS. Figure 3 shows the proportion of time devoted to the parent Acts.



**Figure 3.** Total number of recorded hours and proportion of Act related hours by parent Act.

Despite CEB's broad mandate, NROs spent nearly two-thirds of their inspection, patrol and investigation time enforcing the requirements of the *Forest and Range Practices Act* and the *Wildfire Act*.

## Is CEB focusing on its priorities?

The data entry functions in the NRIS do not allow an NRO to exactly align activities with the business plan priorities. To address this discrepancy, the Board reviewed all of the records and assigned a priority to each record.

Table 4 lists the priorities identified in the 2017-18 business plan and the amount of presence time attributed to them.

At first glance, with only 6 percent of presence time devoted to activities that are not a business plan priority, it appears that CEB did very well focusing on most of its priorities. However, woodlots, archaeology and foreshore activities appear to have attracted little or no enforcement effort despite being priorities.

Most CEB work is reactive, meaning that CEB gets involved when someone complains about an issue or information about a potential enforcement issue is passed on to CEB. For example, NROs investigate possible contraventions of the WA and, in a quiet fire season, NROs may not be called upon as often as they would be in a busy fire season. The Board considered the priorities that appeared to attract little attention in more detail to explain the apparent lack of presence attributed to them.

### Woodlots

The business plan states that the target of CEB activity is woodlot licence-holders that do not employ professional foresters. NROs are instructed to inspect as many aspects of woodlot management as possible including roads, harvesting, silviculture, fire preparedness and hazard abatement. The business plan provides a target of two woodlot licences per field unit. There are 27 field units.

NROs do not record activities specific to woodlots in NRIS. Instead, activity is recorded under harvesting, fire hazard abatement, road use, etc. As a result, the Board could not determine how much time was attributed to woodlots. This is a limitation of NRIS and it is worth noting that this is a business plan priority that cannot be easily tracked. Nevertheless, based on the geographic location of inspections, NROs visited 41 woodlots during the 2017-18 fiscal year, which is 75 percent of the target.

**Table 4.** Proportion of Time by Priority

PRIORITY	PROPORTION OF TIME
Fire investigations	19%
Fire prevention	9%
Forest harvesting and in-block roads	19%
Forest Revenue	7%
Woodlots	0%
Archaeology	1%
Foreshore	1%
Unauthorized use and occupation of land	16%
Road construction and maintenance	9%
Works in and around streams	9%
Water use	4%
No priority indicated	6%
<b>Total</b>	<b>100%</b>

Most CEB work is reactive, meaning the CEB gets involved when someone complains about an issue.

## Archaeology

The business plan states that there will be a priority response to alleged non-compliance involving damage or destruction of First Nations cultural values. This also means there will be increased inspections of known sites subject to a higher risk of damage, which appears to require a proactive effort.

There were 416 hours attributed to archaeology issues in NRIS during the fiscal year, (approximately 1 percent of total hours). CEB did not provide the Board with the number of complaints related to archaeology for the 2017-18 fiscal year, so it is not possible to determine whether these hours were attributed to reactive work or the proactive work discussed in the business plan.

## Foreshore

The business plan states that the Thompson-Okanagan region has the largest proliferation of illegal structures and infills on the foreshore in the province, and that a reactive approach is not effective in the face of such a substantial problem. A proactive project is required and the Thompson-Okanagan foreshore project is a 'hot-spot' plan aimed at addressing the issue.

NRIS indicates that 601 hours were attributed to this project in the Thompson-Okanagan region during the fiscal year.

Overall, the Board finds CEB's time was directed at the priorities set out in the business plan for the 2017-18 fiscal year.

## Where do NROs spend their time?

NRIS enables NROs to record geographic location for work in the field. Appendix 2 includes a regional map showing the location of complaints and inspections. Unfortunately, the exact location was not recorded for 14 percent of FRPA and WA records.<sup>13</sup>

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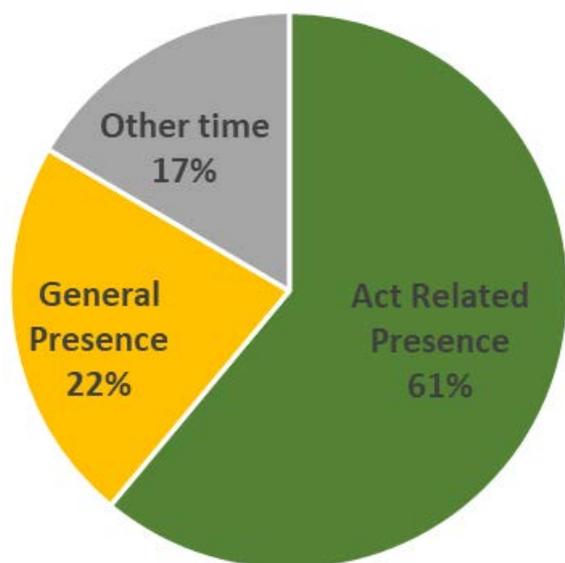
<sup>13</sup> CEB provided location information for all types of investigations but provided location information only for those complaints related to FRPA and WA (the Board's jurisdiction); citing privacy concerns related to other types of complaints.

# Is CEB meeting its performance measure of being present 79 percent of the time?

CEB told the Board that, as of April 1, 2018, there were 83 NROs regularly in the field working; doing patrols, inspections and investigations. Note that supervisory staff do not work in the field regularly, but when they do, they record presence time. In NRIS there were enough hours recorded to account for 69 full time staff.<sup>14</sup> As shown in Table 3, 27 percent of that time was recorded as “General Presence,” the remaining 73 percent of that time was recorded as conducting patrols, inspections and/or complaint investigations related to compliance with specific legislation.

Given this information, the Board infers that 83 percent of the field NRO’s time (69 out of 83<sup>15</sup>) was devoted to activities involving “presence” in the community and 17 percent of their time was devoted to other duties associated with their employment. Based on CEBs definition of presence, it exceeded its performance measure for 2017-18. The definition of presence and its use as a performance measure is discussed further in Part 3 of this report.

Overall, a total of 61 percent of the field time was devoted to patrols, inspections and investigations related to an Act (Figure 4).



**Figure 1.** Proportion of total field NRO time by presence category (and other time).

<sup>14</sup> Assuming there are 1827 hours in a year with 84 hours of statutory holidays and an average vacation allotment of 178 hours.

<sup>15</sup> Assuming all 83 field staff were employed for the entire fiscal year.

Overall, two-thirds of their inspection, patrol and investigation time was spent enforcing the requirements of forestry and wildfire related legislation.

## Conclusion

NROs track their time in NRIS, and the data shows that NROs spend most of their time enforcing the requirements of the WA, FRPA, *Land Act* and the *Water Sustainability Act*. Overall, two-thirds of their inspection, patrol and investigation time was spent enforcing the requirements of forestry and wildfire related legislation. The 2017-18 business plan sets the priorities for the CEB and it is certainly focusing on those priorities.

The CEB set a performance measure of being present 79 percent of the time, and based on CEB's definition of presence, it is exceeding its target.

While the CEB has done what it set out to do in its 2017-18 business plan, this finding does not answer the central question of this investigation: is government's enforcement framework appropriate? Part 3 of the report seeks to answer this question by relying on interviews of CEB staff and others.

## PART 3 – APPROPRIATENESS OF THE ENFORCEMENT FRAMEWORK

This part of the report examines whether the government's enforcement framework is appropriate. To help answer this question, the Board conducted 70 interviews from January to March 2018. All NROs and regional managers were invited to participate. The Board interviewed 47 NROs, 8 regional managers<sup>16</sup>, 11 ministry personnel, including district managers and BCTS managers, and 4 forest industry representatives. All of the representatives volunteered to participate. Most interviews were done by telephone, although a few people chose to be interviewed in person or comment in writing.

About a third of the NROs interviewed have less than 5 years of experience with CEB, a third have 5 to 15 years, and a third have more than 15 years with CEB. This report refers to those with less than 5 years as "new" NROs and those with more than 5 years as "experienced" NROs.

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<sup>16</sup> In January 2018, there were eight regional managers. As of July 2018, there were seven.

In the Board's view, the enforcement framework is appropriate when it is effective at encouraging compliance. Effective compliance and enforcement is demonstrated through the following four attributes:<sup>17</sup>

- Management direction
- Logic of design
- Monitoring and reporting
- Achievement of intended results

*Management direction* means that leadership has established a clear mandate for the program, authorities are defined and policy guidance is in place along with operational procedures and tools that are consistent with the mandate. It also requires direction to be effectively communicated to staff so that it can be adopted in practice.

*Logic of design* means that the structure of the program (vision to implementation) is designed to fulfill CEB's mandate of ensuring and promoting compliance. This requires that legislation is enforceable and staff are trained, knowledgeable and experienced in enforcement of the legislation. It means knowing who is active on the land base and what they are doing. It means having strong relationships with the regulated community, other agencies and the public to receive intelligence about activities on the land base. Finally, it means that activities are prioritized to ensure that limited resources are allocated to the highest risk activities.

*Monitoring and reporting* means that there is sufficient examination of activities to detect non-compliance and to report on the level of compliance. Reporting means publicly reporting activities and outcomes in a transparent manner.

*Achievement of intended results* means having a performance management system that continually checks to see whether compliance and enforcement efforts are having the desired effect of promoting compliance.

In addition to these criteria, appropriate enforcement also includes the concepts of fairness, due process, reasonableness, consistency, and efficiency in administration. The Board regularly considers these concepts through investigation of specific complaints and reviews of government enforcement decisions. As this investigation is focused on the enforcement framework and not specific enforcement actions, these concepts will not be discussed further. The Board assessed whether the four attributes of effectiveness are demonstrated by CEB to reach an overall conclusion about whether government's enforcement framework is appropriate.

In the Board's view, the enforcement framework is appropriate when it is effective at encouraging compliance.

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<sup>17</sup> Forest Practices Board's Enforcement Audit Reference Manual, Version 1.0 available at [www.bcfpb.ca/wp-content/uploads/2016/12/Enforcement-Audit-Reference-Manual.pdf](http://www.bcfpb.ca/wp-content/uploads/2016/12/Enforcement-Audit-Reference-Manual.pdf)

# Management Direction

Management sets the direction for a successful compliance and enforcement program. Authorities and responsibilities must be clearly defined and policy guidance must be in place and communicated to staff. Operational procedures, information systems and other tools must be in place to implement the policies. The Board assessed these factors through the following questions.

## Do NROs have authority?

The 2012 *Natural Resource Compliance Act (NRCA)* and *Natural Resource Officer Authority Regulation* provide the authorization that NROs need to do their job. The NRCA created the designation of NRO and lists the legislation for which the designation applies. The legislation is listed in Part 1 of this report.

## Do NROs have a clear mandate?

The 2017-18 mandate was communicated to NROs in a document called 'The Book of NRO'. The mandate at the provincial level is to protect values and enforce legislation. It says that NROs are autonomous, authorized and accountable.

While the business planning process identifies priorities, overall the mandate is broad and open to interpretation by individual officers. This could lead to NROs focusing on areas of work within their comfort zone, based on officer knowledge, personal safety, or travel distances.

Many NROs expressed concern that CEB has not fully committed to being an enforcement agency with all the training, tools and policies to meet the standards required. Others said that CEB's focus on enforcement discourages the use of compliance tools to deal with potential non-compliances.

## Is there clear policy guidance and has it been communicated?

CEB has undergone significant changes in recent years and it is important for policy guidance to be updated to reflect those changes. With an expanded mandate, CEB's clients changed from mainly forest and range licensees to include more interaction with the public, and safety is the top concern. Accordingly, much of the recent policy development has been focused on keeping NROs safe. However, interviews with NROs revealed that there are some gaps in policy. For example, there is no provincial policy to assess and prioritize complaints. Instead, some regions have developed their own systems.

Many NROs expressed frustration with the level of change and the length of time it has taken to introduce and communicate the new policy.

## Management Direction Summary

While the mandate of the organization is clear, it is not clear that the message has been received and is understood by all NROs. CEB needs to provide clear policy direction to NROs explaining how provincial priorities are to be implemented at the local level. For a complex mandate, a series of operational procedures, accompanied by clear business processes and information systems is required to provide staff with the guidance to translate that management direction into day to day operations.

## Logic of Design

To meet government objectives, natural resource legislation prohibits certain activities. To determine if a contravention has occurred and make a decision about a compliance action, legislation must be enforceable and CEB staff must be trained, knowledgeable and experienced in the legislation they are expected to enforce. To be effective, CEB needs to know who is active on the land base and what they are doing. Strong relationships with the regulated community, other agencies and the public provide additional eyes and ears on the land base. A method of prioritizing activities must be in place to ensure that limited resources are applied to the highest risk activities.

### **Are staff trained, knowledgeable and experienced in enforcement of natural resource legislation?**

Effective compliance and enforcement requires staff that have the knowledge and experience to determine whether an activity complies with the law. Before 2010, CEB enforced the requirements of forest, range and wildfire related legislation, and most staff were forest professionals who were familiar with the equipment and practices used in the forest industry.

After its mandate expanded, CEB specifically focused on hiring staff with education in natural resource law enforcement. These staff are educated in interpreting and applying legislation but, in general, are not experienced with forest practices or natural resource management. Forty percent of NROs interviewed described themselves as having education and experience in law enforcement, not natural resource management.

The CEB's philosophy is that a person with enforcement skills and an ability to interpret legislation can learn any business. To learn the business, NROs need to be supported with comprehensive training and mentoring by experienced staff to learn about natural resource management. Specialized expertise must also be available when required.

Effective compliance and enforcement requires staff that have the knowledge and experience to determine whether an activity complies with the law.

...there is a perception among many NROs that investigations under FRPA and the *Wildfire Act* are too complex, time consuming and difficult to pursue.

Since 2016, new staff have received introductory training at a four or five week academy. The training consists of introductory courses in legislation, policy, procedures, standards of conduct, safety, roles and responsibilities, systems, basic law, enforcement techniques, confrontation management, investigations, compliance options, and scenario-based field training.

NROs who attended the academy told the Board that topics were covered at an overview level and the training was not intended to prepare them for every aspect of their job. The expectation is that NROs will supplement the introductory training with on the job training working with experienced officers.

Several NROs told us they struggle to find the help they need, due to the availability of experienced staff and distances between field offices. With experienced staff retiring, mentorship opportunities are diminishing. Seventy-two percent of NROs interviewed said that there are not enough training opportunities available to them.

### **Is enforcement of complex matters adequate and supported by expertise?**

Some aspects of provincial forestry legislation can be described as black and white. For example, the *Wildfire Act* permits a government official to restrict the use of campfires. The rule is clear: if an NRO discovers a person with a campfire during a ban, he or she can issue a violation ticket.

Other aspects of the legislation are more complex and require substantial interpretation by a knowledgeable person. For example, determining whether a cutblock meets a visual quality objective takes specialized knowledge and skills and may require a qualified professional. Similarly, some land use objectives are complex and require specialized knowledge and tools to determine compliance. The expertise needed may reside outside of CEB.

Several experienced NROs said that new NROs prefer to issue violation tickets for straight-forward non-compliances, rather than investigate complex non-compliances and enforce FRPA or the *Wildfire Act* through administrative penalties. One explanation is that ticketable offences tend to be easier to identify, investigate and enforce without the help of others or without specific training in forestry or natural resource management. Some NROs and regional managers told the Board there is a perception among many NROs that investigations under FRPA and the WA are too complex, time consuming and difficult to pursue. NROs are reluctant to pursue complex investigations, as there is no assurance that an investigation will result in a contravention determination and administrative penalty.

District managers, as delegated decision-makers, have a role in compliance and enforcement, as they are called upon to decide whether to levy penalties against forest licensees based on NRO investigations. Some district managers told the Board that investigation packages are not always of the quality required to make a determination and that some important forestry non-compliances are being missed. Timeliness was also highlighted as an issue as some district managers were concerned that they received decision packages just before the limitation period for making a decision expired. The Board discussed this issue in the 2014 report “Timeliness, Penalty Size and Transparency of Penalty Determinations.”<sup>18</sup>

The interview responses indicated that many new NROs do not have the knowledge and experience required to effectively enforce all aspects of FRPA or the WA. While it is unrealistic to expect new staff to know everything, these NROs lack access to training opportunities and struggle to find the help of experienced staff.

In the Board’s view, the complexity of enforcement should not become a deterrent to investigation. Many important government objectives are complex. Undue focus on black and white compliance issues that are easier to prove may result in under-enforcement of matters that have a high public interest value. If an NRO does not possess the knowledge and experience to recognize a contravention and conduct an investigation, subject matter specialists should be consulted to help gather the evidence that a decision-maker will need to decide whether there has been a contravention. This requires strong working relationships with the branches and agencies where the expertise resides or access to qualified professionals outside of government.

### **Does CEB know who is active on the land base and what they are doing?**

NROs have access to government systems that provide information about authorizations on Crown land. These systems, combined with intelligence from other government agencies, public complaints and personal knowledge, provide NROs with a good idea of who is operating on the land base and what they are doing.

Undue focus on black and white compliance issues that are easier to prove may result in under-enforcement of matters that have a high public interest value.

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<sup>18</sup> Available at <https://www.bcfpb.ca/wp-content/uploads/2016/04/SIR41-Timeliness-Size-and-Transparency-of-Penalty-Determinations.pdf>

## Does CEB have strong relationships and partnerships with other agencies and the public to receive intelligence?

NROs do not routinely patrol Crown land. They need a reason to go out, and that reason must relate to a priority. The CEB relies on information provided through the natural resource violations reporting line (NRVR) that comes from other agencies, branches of FLNRORD, or from the public.

The CEB website encourages visitors to report natural resource violations using an online form. While there is guidance on what constitutes a violation, the process assumes that the public; 1) knows who to report issues to, 2) can recognize potential violations; 3) will take the initiative to report them, and; 4) that other arms of government are conducting monitoring programs and forwarding non-compliance issues to CEB.

Interviews revealed that the level of communication between CEB and its partners on potential issues varies by location. Where CEB and district staff have a personal relationship and work in the same office, communication was described as excellent. Where those relationships were not as well developed, communication was not as effective. The significant rate of staff turnover throughout government further complicates informal relationships. A few NRO supervisors told the Board that they were specifically focusing on developing those relationships to improve the sharing of information.

The Board also interviewed district managers, BC Timber Sales managers and licensees, all of whom interact with NROs. District managers mostly want to see better communication and information sharing between NROs and staff. BC Timber Sales managers said that their staff do not have enough contact with NROs and they are not confident that all NROs understand forestry issues. Managers think there is sometimes a reluctance to share information and not enough action when BCTS staff notify NROs of potential non-compliances of forest licensees.

Forest licensees told the Board that communication with NROs is much less than it once was. They reported that their activities are inspected less often, but it seems that more violations are being ticketed. Licensees noted a focus on enforcement of non-compliances that might have been resolved with a phone call or compliance notice in the past. They also only receive notices of non-compliance, whereas in the past they would also receive notices where inspections found everything in compliance as well. Licensees believe that better communication could help resolve minor issues.

Communication with partners and clients is essential to an effective and efficient enforcement program. Relationships and partnerships provide for strategic planning, communication of upcoming issues, and efficiencies in the deployment of resources. When the regulated community, other agencies and the public have information about potential non-compliances, it needs to be passed on to CEB and CEB needs to report back regarding outcomes. From the interviews, it is clear that communication between CEB and other branches, ministries and licensees could be improved.

...communication between CEB and other branches, ministries and licensees could be improved.

## Is CEB focusing on what is important by prioritizing work?

When faced with limited resources, prioritizing work is essential. As shown in part 2 of this report, the provincial business plan sets CEB priorities. Managers and supervisors told the Board that a big part of their job is to ensure that NRO work is focused on the priorities. The Board's analysis shows that they have been successful.

Complaints drive most of CEB's day to day work. Prioritization of activities means issues that are important to CEB will be addressed, and less important issues will not. Most NROs interviewed believe that forestry is not getting the attention it requires. For example, during fire season, work is mainly devoted to wildfire prevention activities. As the fire season expands earlier into the spring and later into the fall, more time will need to be devoted to wildfire prevention and less will be available for other priorities. In a complaint-driven organization with limited capacity, NROs reported frustration that they know things are being missed but it is not currently possible to address them.

## Logic of Design Summary

Some aspects of provincial forestry legislation can be described as black and white and are straightforward to enforce. Other aspects of the legislation are more complex and require substantial interpretation by a knowledgeable person.

A significant proportion of new NROs do not have training or experience in forestry or natural resource management, and are not adequately supported with training opportunities. New NROs need to feel confident in their forestry knowledge and their ability to recognize contraventions of FRPA or the WA. CEB also needs to have strong relationships with other areas of government so that NRO's can access resource specialists to support NROs where enforcement matters are complex and require specialized expertise.

Although CEB has access to information concerning who is on the land base and what they are doing, it does not consistently have strong relationships

CEB has been successful at prioritizing work and focusing on those priorities.

with the regulated community, other agencies and the public to receive intelligence to supplement that information throughout the province.

CEB has been successful at prioritizing work and focusing on those priorities. However, wildfire prevention and complaints require significant resources and many NROs feel that forest practices are not getting enough attention and they are frustrated that important issues are not being addressed. The agency is currently focused on reacting to issues as opposed to identifying issues proactively (e.g., through planned inspections).

## Monitoring and Reporting

An effective compliance and enforcement program sufficiently monitors activities on the land base and reports on what is being done to ensure that the regulated community and the public are complying with legislation. Monitoring includes inspections, patrols and intelligence gathering. Reporting includes summarizing what has been achieved and reporting activities and outcomes to the public in a timely manner.

### **Does CEB examine the activities of the public and the regulated community sufficiently to ensure that they are complying with the law?**

To ensure compliance and detect non-compliance, CEB needs resources to carry out inspections and investigations. Monitoring can detect non-compliance and provide an understanding of compliance rates. The current business plan allows for some compliance monitoring by NROs, and CEB expects that other partners (e.g., district staff) will complete their own monitoring and submit non-compliances to CEB. For such a system to work, it would require formal coordination with other partners. With a total of 135 NROs and only 83 of those officers regularly working in the field in BC<sup>19</sup>, covering the large geographic area where activities are taking place is challenging. The ability to cover the province is also limited by the need to work in pairs for safety reasons in certain situations.

Several NROs commented that during fire season, wildfire prevention efforts and investigations leave little time for other work. NROs also said that there is little time to *proactively* inspect forestry activities. Instead, when inspections occur they tend to be triggered by a complaint or information from FLNRORD staff. Nearly half of the NROs interviewed said that there is not enough oversight of forestry activity. The 2017-18 business planning process did not identify any targets for proactive forestry inspections, other than a target of two woodlot inspections per field unit.

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<sup>19</sup> As of April 1, 2018.

When NROs investigate potential non-compliances, some find it difficult to carry out a timely investigation and present evidence of alleged non-compliances to a district manager because of other demands on their time. An aggravating factor is the turnover of staff, which can leave regional managers short-staffed and the remaining NROs with even more demands on their time.

In addition to human resources, CEB needs vehicles, equipment, and access to information systems. More than half of the NROs interviewed said that they did not have all the resources necessary to carry out their work. For example, not all NROs can query police systems to identify the owner of a motor vehicle or the background of a person of interest during an inspection of a recreation site.

In terms of whether or not CEB examines sufficient activity to provide assurance that the public and the regulated community are complying with the law, the Board does not have enough information to make a conclusion. CEB no longer routinely monitors activities and, as discussed below, the information it reports publicly does not lend itself to evaluating the general performance of a particular licensee or sector of industry.

## Does CEB report compliance and enforcement activities and outcomes?

CEB does not have a transparent compliance and enforcement program. It does not regularly or comprehensively report its activities, enforcement actions, outcomes or compliance rates to the public. The most recent annual report available covers the 2015-16 fiscal year. While it provides statistics about presence and general topic area (e.g., wildfire management or forest management) and number of tickets issued, it gives no indication of the nature of non-compliances, the outcome, or general level of compliance. As a result, the deterrence value of publicizing the information is lost. The BC Conservation Officer Service publishes ticket-related information each year, and planned legislative changes may permit CEB to do so as well.

A transparent enforcement program helps to build and maintain confidence with the public and the regulated community that government is appropriately and effectively enforcing natural resource legislation.

## Monitoring and Reporting Summary

BC is a large province and CEB has a broad mandate, and there are many demands on a limited number of NROs. Sufficient oversight of forestry and range activities to detect possible non-compliance and investigate suspected non-compliances is critical to support environmental, social and economic values that FRPA and the *Wildfire Act* protect. If suspected non-compliances are not

...the information it reports publicly does not lend itself to evaluating the general performance of a particular licensee or sector of industry.

investigated and enforced, the deterrence effect is lost, and the likelihood of non-compliances involving high risk forestry activities could increase.

It is not clear to the Board whether CEB is examining activities sufficiently to provide assurance that the public and regulated community are complying with the law. The information that CEB publishes does not give the public a sense of the general level of compliance, enforcement outcomes, or the effectiveness of CEB efforts.

## Achievement of Intended Results

Achieving intended results means ensuring that the regulated community and the public are complying with the legislation. This is done through a combination of inspections, patrols, investigations and enforcement actions. Key to knowing whether or not results are being achieved, is a performance management system that continually checks to see whether enforcement efforts are having the desired effect of promoting compliance.

### **Does CEB have a way to assess whether enforcement efforts are having the desired effect of promoting compliance?**

CEB has chosen "presence" as a performance measure. The idea is that when NROs are visible to the public and the regulated community it promotes compliance and discourages non-compliance. CEB staff use the example of a police car parked at the side of a highway to explain the effect of presence. Drivers are encouraged to obey the speed limit when they see the police car. Appendix 1 is a summary, by region, of the number of NROs, their presence and actions undertaken.

The investigation found that CEB is likely exceeding its "presence" performance measure of 79 percent of field-based NROs time. Based on the CEBs definition of presence, and the data they provided, the Board estimates that field-based NROs are "present" 83 percent of the time.

There are four significant problems with the "presence" performance measure. First, when CEB's mandate expanded beyond forestry and range activities in 2010, the change was not widely communicated to the public. Most NROs told the Board that the public does not know who they are or what they do, although forest licensees are familiar with their role. For the idea of "presence" as a compliance tool to work, the public and regulated community must be able to identify NROs, be aware of their mandate, and react accordingly.

Second, with 83 field-based officers spread over the province, the chances of a member of the public or regulated community seeing a NRO are low.

The chances of a member of the public or regulated community seeing a NRO are low.

Third, CEB defines “presence” to include the many duties related to enforcement activities that NROs perform while in the office. While that time is critical to successful completion of enforcement activities, NROs are not in the public eye while conducting those office related duties. Therefore, it is entirely unclear why that time should contribute to the “presence” performance measure.

Finally and most importantly, measuring “presence”, regardless of how it is done, gives no indication of the effectiveness of CEB’s activities.

In the Board's view, a performance measure that gauges the effectiveness of enforcement efforts would be more appropriate. For example, NROs spent more than 25 percent of their inspection and patrol time last fiscal year enforcing the requirements of the *Wildfire Act*. Those activities were intended to ensure that those carrying out industrial activities were adequately prepared for wildfire and to ensure that there were no prohibited campfires. The “presence” performance measure doesn't answer many important questions—Was that effort effective at encouraging compliance? Did CEB influence the number of human-caused wildfires? There is no answer because the only performance measure is “presence” and the linkage between presence and compliance is unclear.

CEB told the Board that its business intelligence program was specifically designed to answer this type of question. As stated in Part 1, business intelligence combines data from NRIS and other systems with analytics and personal knowledge to help make optimal business decisions. In practice, managers can review past activity levels, analyze the results of those activities, identify trends and be proactive in identifying emerging issues. However, the business intelligence program has not been used to provide publicly available data on effectiveness.

## **Achievement of Intended Results Summary**

CEB's "presence" performance measure provides no indication of whether its efforts are having the desired effect on compliance. If CEB's business intelligence program measures the effectiveness of enforcement efforts, to date that information has not been shared.

# CONCLUSIONS

This evaluation found a number of weaknesses in the design and implementation of the enforcement framework.

This investigation set out to determine whether the public can be confident that the government's compliance and enforcement framework ensures that licensees are complying with FRPA and the WA.

The investigation found that CEB prioritizes its activities in a business planning process and sets priorities for the entire province, which are addressed through inspections, patrols, hot spot plans, tactical plans, and projects. CEB measures NRO performance and activities are recorded in NRIS to help ensure work stays focused on the priorities.

NRIS data shows that NROs spend most of their time enforcing the requirements of the *Wildfire Act*, *FRPA*, *Land Act* and the *Water Sustainability Act*. Overall, two-thirds of their inspection, patrol and investigation time is spent enforcing the requirements of forestry and wildfire related legislation. The 2017-18 business plan sets the priorities for the CEB and it is certainly focusing on those priorities. The CEB has set a performance measure of being present 76 percent of the time, and based on CEB's definition of presence, it is exceeding its target.

CEB has a framework for enforcement and it is meeting its business priorities. However, that does not necessarily mean the program is achieving the intended result of promoting licensee compliance with legislation. Based on interviews with CEB staff, clients, partner agencies and licensees, the Board assessed whether government enforcement is appropriate. This evaluation found a number of weaknesses in the design and implementation of the enforcement framework.

The main concerns are:

- While the mandate and priorities of the organization are clear, it is not clear that the message has been received, understood and is applied by all NROs. CEB needs to provide clear policy direction to NROs explaining how provincial priorities are to be implemented at the local level.
- A significant proportion of new NROs do not have experience or education in natural resource management, and these NROs are not supported with adequate training opportunities. CEB also needs to have better communication with other branches in order to support NROs where enforcement matters are complex and require specialized expertise.

- Although CEB has access to information concerning who is on the land base and what they are doing, it does not consistently have strong relationships with the regulated community, other agencies or the public to receive intelligence to supplement that information throughout the province.
- The scope of CEB work is huge and capacity and resources are limited. CEB has been successful at prioritizing work and focusing on those priorities. However, wildfire prevention and complaints require significant resources, leaving little capacity to address other activities. Many NROs feel that forest practices are not getting enough attention and they are concerned that important issues are not being addressed. The agency is currently focused on reacting to issues as opposed to identifying issues proactively.
- It is not clear to the Board whether or not CEB is examining activities sufficiently to provide assurance that the public and regulated community are complying with the law. The information that CEB publishes is not transparent and does not give the public a sense of the general level of compliance, enforcement outcomes, or the effectiveness of CEB efforts.
- CEB's "presence" performance measure does not provide an indication of whether its efforts are effective at promoting compliance.

As a result of these weaknesses, the public cannot be confident that government's compliance and enforcement framework is appropriate and is achieving the intended result of licensee compliance with legislation.

## RECOMMENDATIONS

The public and government need to be confident that the system CEB has in place to fulfill its mandate is effective. If the concerns the Board has identified are not addressed, government cannot demonstrate that it has an effective compliance and enforcement program. Unless changes are made, FRPA values are potentially at risk and public trust may be eroded.

The Board believes that a specific set of targets needs to be established for proactive and comprehensive forestry and range compliance monitoring, and that the results of this should be reported regularly to the public. These two actions would then create a report card on overall compliance rates, and would allow the public, government and stakeholders to understand the level of compliance based on robust data.

The public cannot be confident that government's compliance and enforcement framework is achieving the intended result.

Overall, the levels of compliance monitoring should provide a basis to inform the public about licensees' compliance with legislation.

In accordance with section 131 of FRPA, the Board makes the following recommendations to the Compliance and Enforcement Branch:

1. Develop an annual compliance and enforcement plan with measurable objectives and specific targets for proactive compliance monitoring as well as for investigating public complaints regarding FRPA and WA. Overall, the levels of compliance monitoring should provide a basis to inform the public about licensees' compliance with legislation. As part of this process:
  - a. Develop clear policy and procedures for implementation of the plan and ensure it is communicated to, and understood by, field staff.
  - b. Develop stronger relationships with clients, stakeholders and partners that focus on identifying mutual needs and ensuring compliance and enforcement is delivered consistently across the province.
  - c. Take an adaptive approach to reviewing priorities to ensure that emerging issues are not being missed.
2. Develop performance measures<sup>20</sup> that align with the annual plan's objectives and targets and enable compliance and enforcement to measure achievement of actions aimed at promoting compliance.
3. Report to the public annually on the results of compliance and enforcement efforts, including defensible information on compliance rates, enforcement actions and outcomes.
4. Develop human resources plans and strategies that ensure recruitment, development and support programs result in CEB employing staff with the capability to understand, interpret and enforce the requirements of FRPA and the *Wildfire Act*.

These recommendations will require a strategic rethink of how CEB works with respect to forestry and range activities. The strategic rethink should also consider previous board reports on compliance and enforcement (2007 and 2013) to ensure other important factors, like risk-based planning and statistically valid reporting, are incorporated. The recommendations require that all aspects of the program, from guiding policies and procedures to operational tools, be aligned to the type of activities carried out in forestry and ensuring licensees are complying with the legislation and are held accountable if they are not.

In accordance with section 132 of FRPA, the Board requests that Compliance and Enforcement Branch advise it of the steps taken to implement these recommendations by December 31, 2019, and every six months thereafter until the recommendations are implemented.

<sup>20</sup> The auditor general's report "Public Sector Governance: A Guide to the Principles of Good Practice; How are We Doing: The Public Reporting of Performance Measures in British Columbia" is a helpful resource. It is available at <http://www.bcauditor.com/pubs/2008/report13/public-sector-governance-guide-principles-good-practice>

APPENDIX 1:  
Regional Compliance and Enforcement  
Summaries

# Cariboo Region

The Cariboo Region includes the communities of Williams Lake, Quesnel, 100 Mile House, Alexis Creek and Anahim Lake. It's 14 field-based NROs spend most of their patrol, inspection and investigation time devoted to the *Wildfire Act* and FRPA. Most complaints are also related to these two Acts.

## Number of officers in the field: 14



**Area:** 8 258 000 hectares

Hectares per officer: 589 000

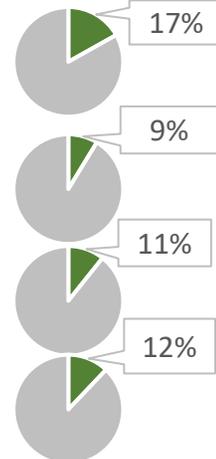
**Volume Harvested:** 6 683 000 cubic metres

Logging trucks per officer: 11 000

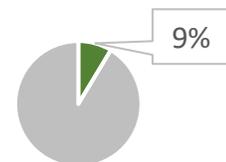
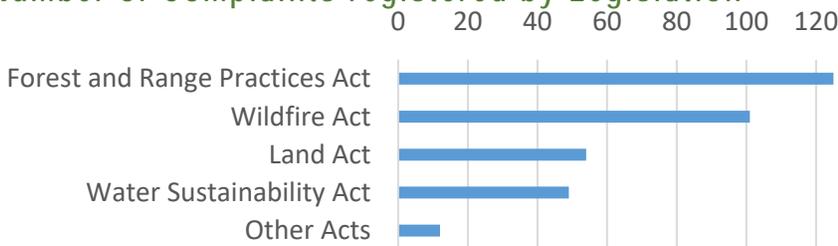
**Human Caused Fires:** 68

Fires per officer: 5

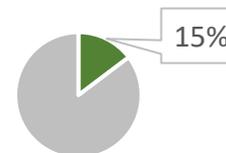
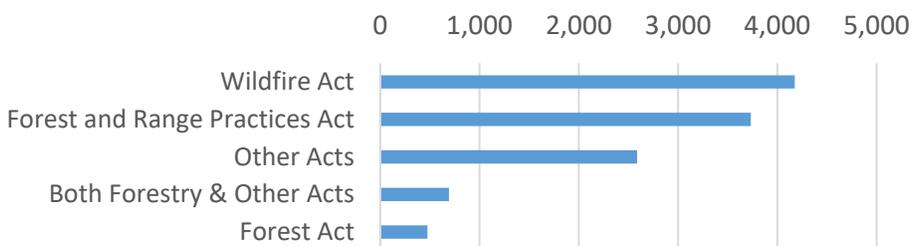
## Proportion of provincial total



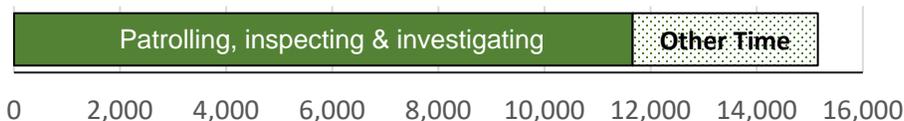
## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



**Total hours recorded**



# Kootenay Boundary Region

The Kootenay Boundary Region includes the communities of Revelstoke, Golden, Cranbrook, Castlegar and Grand Forks. Eighteen percent of human-caused fires occur in the region. Most complaints are related to the *Land Act* or *Water Sustainability Act*.

## Number of officers in the field: 10



**Area:** 8 230 000 hectares

Hectares per officer 823 000

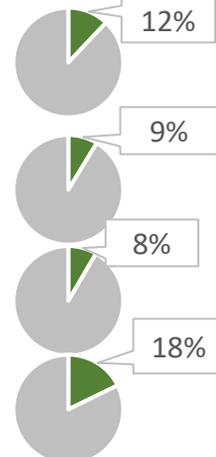
**Volume Harvested:** 5 253 000 cubic metres

Logging trucks per officer 13 000

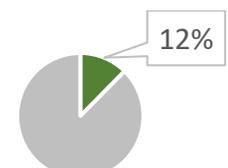
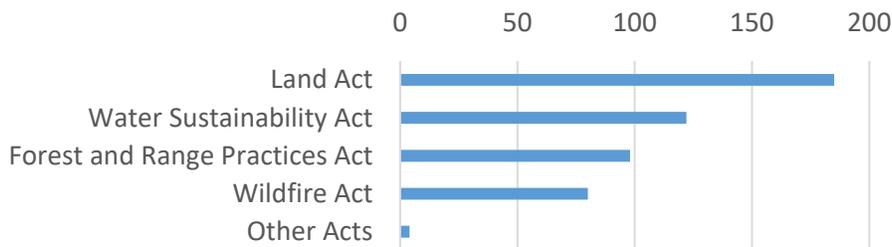
**Human Caused Fires:** 100

Fires per officer: 10

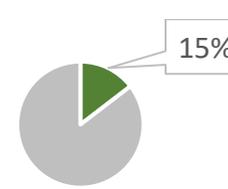
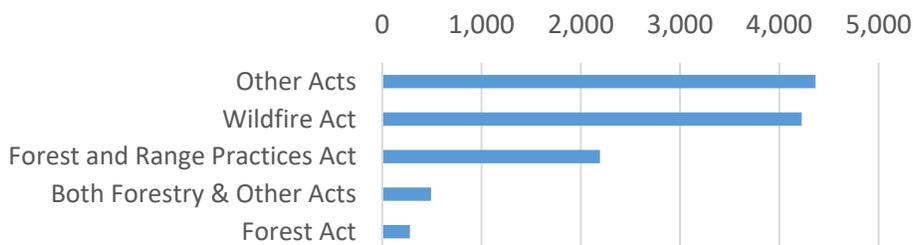
## Proportion of provincial total



## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



# Northeast Region

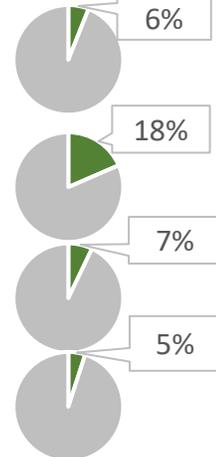
The Northeast Region includes the communities of Fort Nelson, Fort St. John and Dawson Creek. The five field-based NROs are responsible for the largest area per officer – over 3.5 million hectares each; an area larger than Vancouver Island. The number of complaints is small with only 3 percent of the provincial total. NROs spend most of their time on Acts other than FRPA and the *Wildfire Act*.

## Number of officers in the field: 5

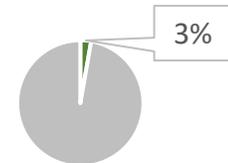
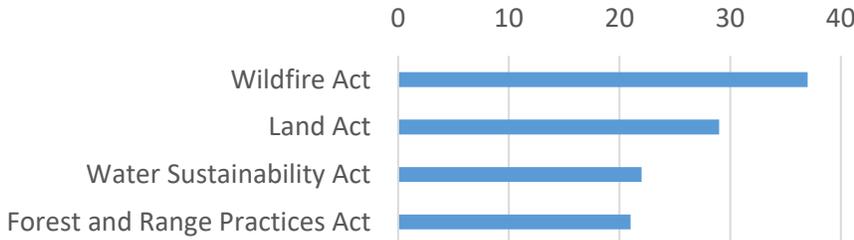


<b>Area:</b>	<b>17 527 000 hectares</b>
Hectares per officer	3 505 000
<b>Volume Harvested:</b>	<b>4 426 000 cubic metres</b>
Logging trucks per officer	22 000
<b>Human Caused Fires:</b>	<b>28</b>
Fires per officer:	6

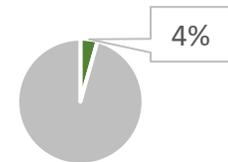
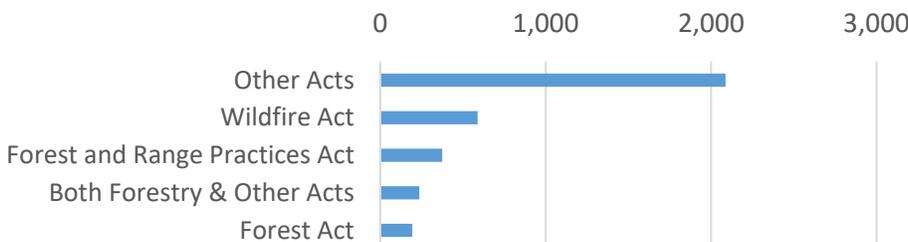
## Proportion of provincial total



## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



## Total hours recorded



# Omineca Region

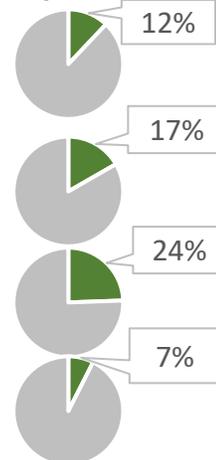
The Omineca Region includes the forest-dependent communities of Prince George, Vanderhoof, Fort St. James and Mackenzie. Twenty-four percent of the timber harvested in BC comes from the region and ten field-based NROs spend most of their time dealing with FRPA and *Wildfire Act* complaints, patrols, inspections and investigations. If each truck load of logs were assigned to an NRO, every NRO would have been responsible for 38 000 logging trucks last year.

## Number of officers in the field: 10

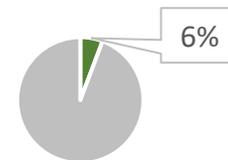
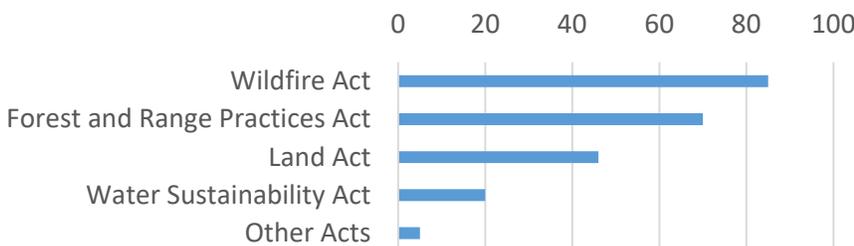


<b>Area:</b>	<b>15 831 000 hectares</b>
Hectares per officer	1 583 000
<b>Volume Harvested:</b>	<b>15 231 000 cubic metres</b>
Logging trucks per officer	38 000
<b>Human Caused Fires:</b>	<b>42</b>
Fires per officer:	4

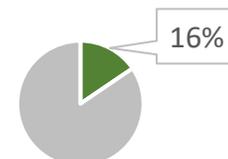
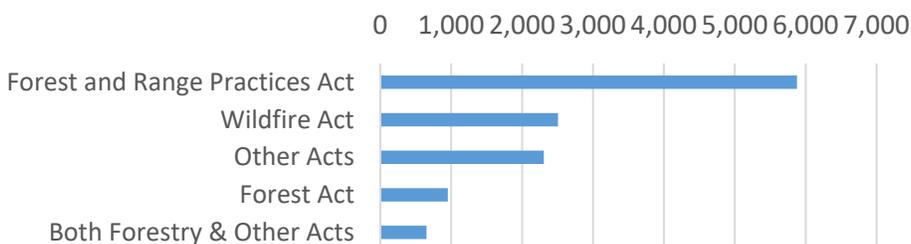
## Proportion of provincial total



## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



## Total hours recorded



# Skeena Region

The Skeena Region includes the communities of Prince Rupert, Smithers, Terrace, Houston, Atlin and Dease Lake. The region contains 26 percent of the area of BC, and it is over 900 kilometres from the southern boundary of the region to the northern boundary at the Yukon border. Distances are huge and travel times are long. Ten field-based NROs spend most of their time enforcing the requirements of FRPA.

## Number of officers in the field: 10



**Area:** 24 342 000 hectares

Hectares per officer 2 434 000

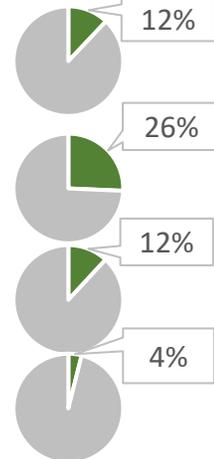
**Volume Harvested:** 7 406 000 cubic metres

Logging trucks per officer 18 000

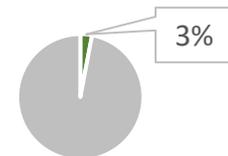
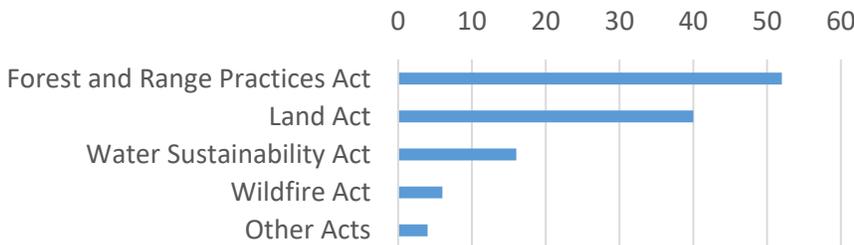
**Human Caused Fires:** 22

Fires per officer: 2

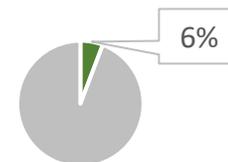
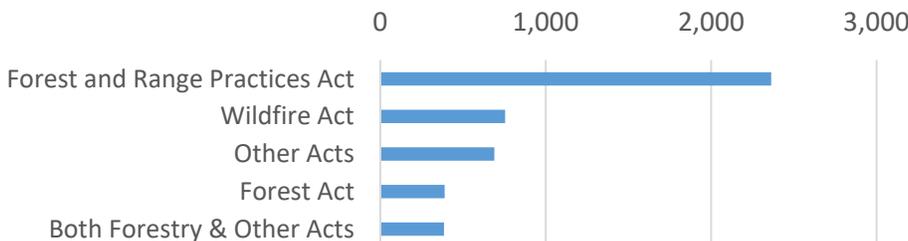
## Proportion of provincial total



## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



**Total hours recorded**



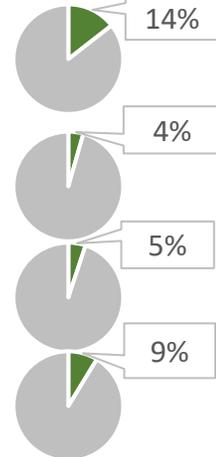
# South Coast Region

The South Coast region includes Metro Vancouver, the Fraser Valley, Sunshine Coast and the Sea to Sky corridor. It is the most populated region in BC. Although it makes up just 4 percent of the area BC, and only 5 percent of the total volume of timber was harvested there during the 2017-18 fiscal year, the region's 12 NROs deal with one quarter of all the complaints filed in BC. Most are related to the *Wildfire Act*.

## Number of officers in the field: 12



## Proportion of provincial total



**Area:** 4 187 000 hectares

Hectares per officer 348 000

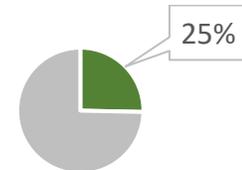
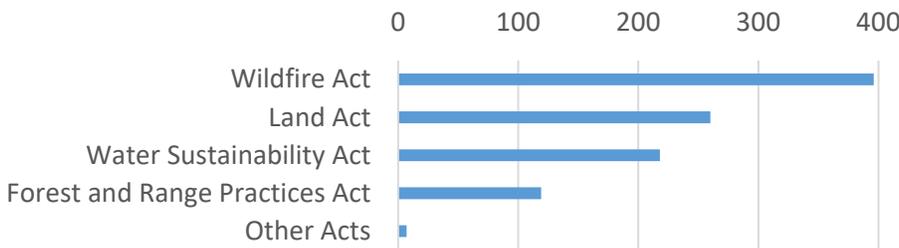
**Volume Harvested:** 3 177 000 cubic metres

Logging trucks per officer 6 000

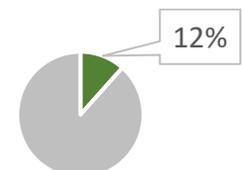
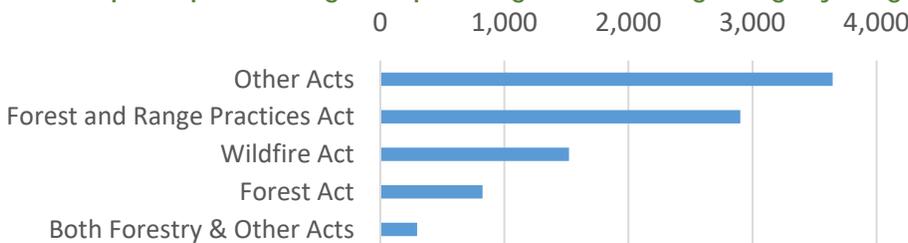
**Human Caused Fires:** 49

Fires per officer: 4

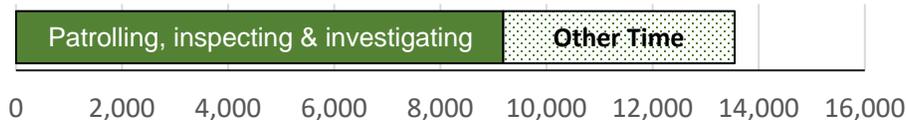
## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



**Total hours recorded**



# Thompson/Okanagan Region

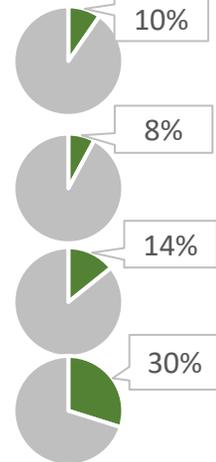
The Thompson/Okanagan region is the south-central heart of BC, and includes the communities of Lillooet, Kamloops, Kelowna and Merritt. This region has the most human-caused wildfires in BC with 30 percent of the provincial total. The region handles 23 percent of all complaints and *Land Act* and *Water Sustainability Act* complaints make up the bulk of the workload. A significant volume of timber (14 percent of the provincial total) is harvested in the region.

## Number of officers in the field: 8

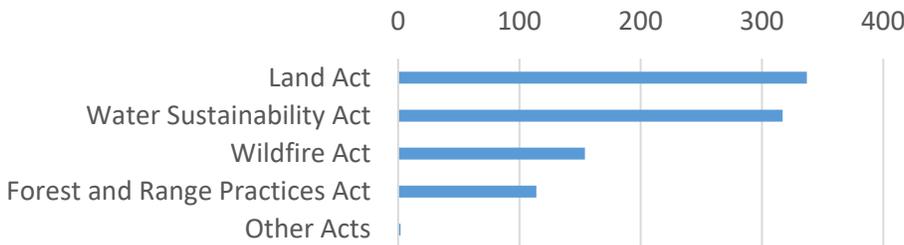


<b>Area:</b>	<b>7 463 000 hectares</b>
Hectares per officer	932 000
<b>Volume Harvested:</b>	<b>8 867 000 cubic metres</b>
Logging truckloads per officer	27 000
<b>Human Caused Fires:</b>	<b>168</b>
Fires per officer:	21

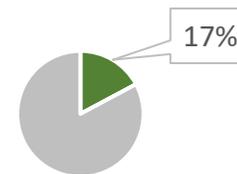
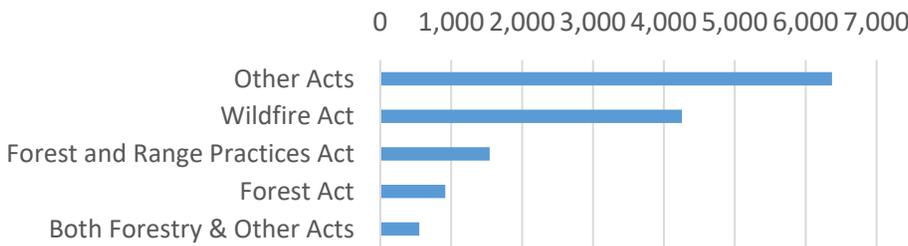
## Proportion of provincial total



## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



## Total hours recorded



# West Coast Region

The West Coast Region includes Vancouver Island, Haida Gwaii and part of the central coast. Its 14 field-based NROs represent 17 percent of the provincial total. Eighteen percent of the volume harvested in BC came from this region and most inspections and patrols were focused on FRPA requirements. Most complaints in the region involve the *Wildfire Act*.

## Number of officers in the field: 14



**Area:** 8 939 000 hectares

Hectares per officer: 638 000

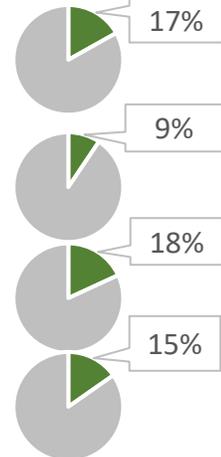
**Volume Harvested:** 11 298 000 cubic metres

Logging trucks per officer: 20 000

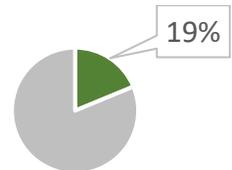
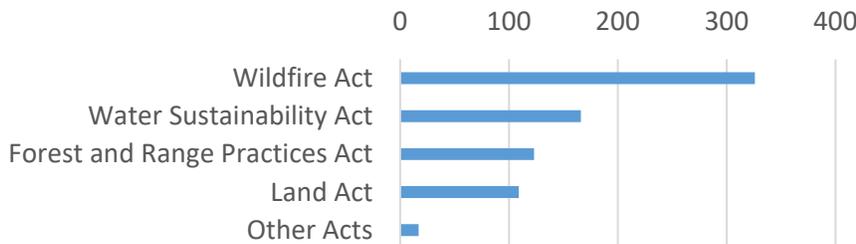
**Human Caused Fires:** 86

Fires per officer: 6

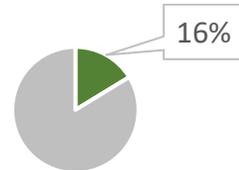
## Proportion of provincial total



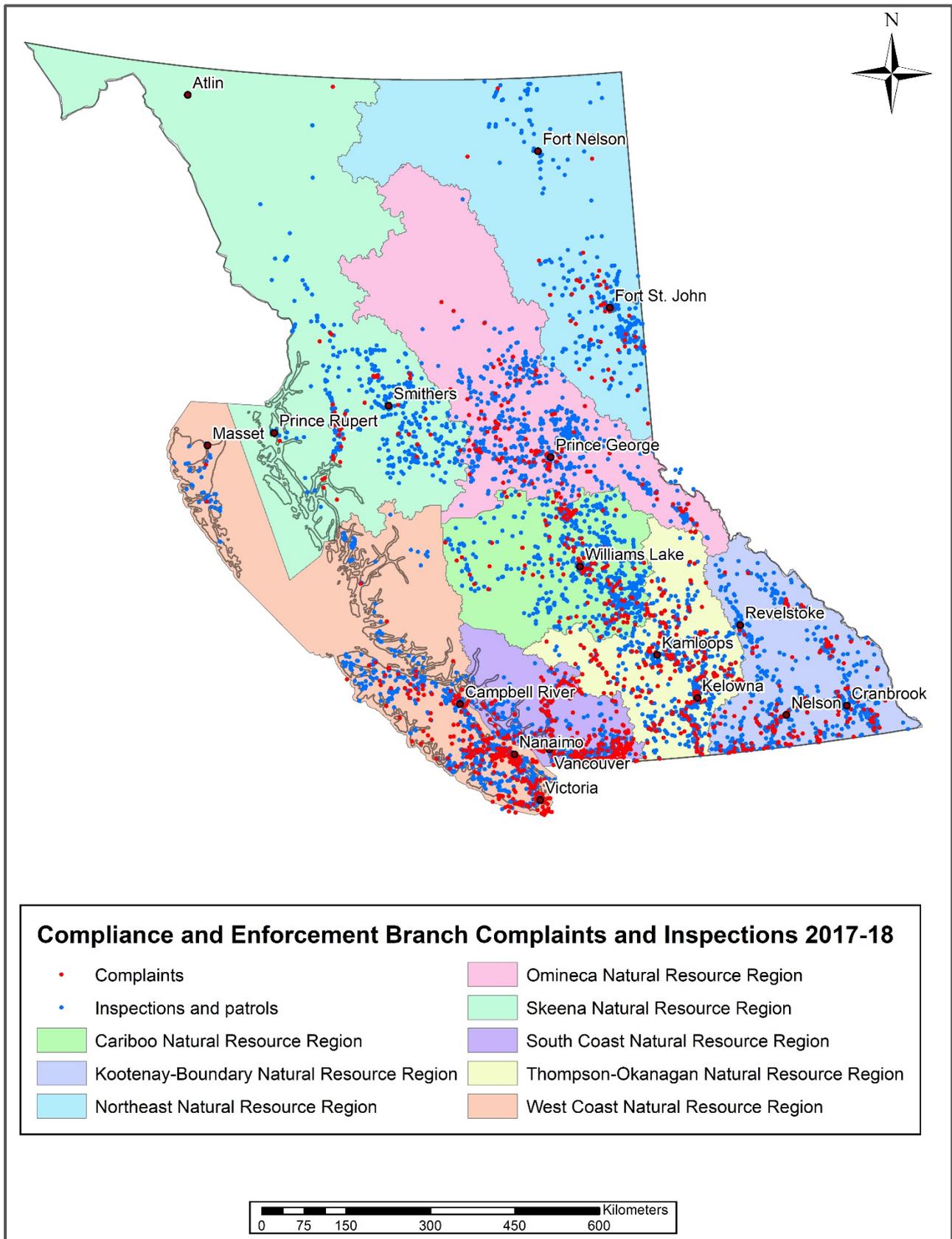
## Number of Complaints registered by Legislation



## Hours spent patrolling, inspecting or investigating by Legislation



# APPENDIX 2: Map of CEB Activity 2017-18





**Forest  
Practices  
Board**

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