



What is this special investigation about?

When a person causes or contributes to a wildfire, the *Wildfire Act* allows government to hold the person accountable for the costs to fight the fire and the damage it caused to public resources. The decision by a government official to levy penalties and/or seek damages is called a “determination.” Determinations can involve penalties in the hundreds of thousands of dollars and they can be made against any person who causes or contributes to a wildfire, whether intentional or not.

In the six-year period covered by this investigation, there were 3238 person-caused fires, which led to 72 *Wildfire Act* determinations involving 101 of these fires. The Board examined all 72 determinations, as well as the results of 18 that were appealed to the Forest Appeals Commission, to see if they were fair, consistent, and timely. We also identified related issues with how the legislation/determination process is carried out.

What did we find?

Our review found that most determinations are consistent and fair and meet legislated timelines, but there are opportunities for improvement.

OPPORTUNITIES FOR IMPROVEMENT

- 1** Government needs to ensure that the public is fairly compensated for the loss of mature timber and the value of immature timber when imposing penalties for causing or contributing to a wildfire. None of the determinations reviewed included costs for damage to immature timber.
- 2** Decision-makers need the ability to exercise discretion to assess a person’s liability based on the degree of fault, including apportioning liability between multiple persons. Currently, government is not able to divide costs between parties or order less than full costs to an individual.
- 3** People who are liable for fire control costs, but have not contravened the legislation, should have the ability to defend their actions using the same statutory defenses available to those who are found in contravention. Those defenses are not currently available to people who caused a fire, but did not contravene the *Wildfire Act*.
- 4** Government needs to ensure that the legislation does not create a disincentive to conducting proper fire hazard abatement activities. Currently, forest companies are liable if an unintentional wildfire results from their efforts to abate wildfire hazard.
- 5** We also found that government needs to do a better job of informing the public that they can be held liable if they cause or contribute to a wildfire, and that they can be required to pay significant fines to recover the costs of fire control and to recoup damages to public resources.

What next?

The Board notes that the Ministry is already addressing some of the issues we identified. It now has policies in place to consistently assess damages to public resources like Crown timber, forest land and grassland. Government has also taken steps to notify people under investigation earlier in the process, which should help them better prepare to address the allegations made against them.

However, a number of other issues need attention. **The Board is making four recommendations to government:**

RECOMMENDATIONS

- 1 Fairly and consistently value merchantable and non-merchantable timber damaged or destroyed by wildfire.
- 2 Provide decision-makers with the discretion to order a liable person to pay none, some, or all of the government's fire control costs and damage to government resources and property.
- 3 Amend the *Wildfire Act* to make the statutory defences to a contravention described in section 29 of the *Wildfire Act* available to persons who are subject to allegations made under section 25 of the *Wildfire Act* for causing or contributing to the start or spread of wildfire.
- 4 Amend the *Wildfire Regulation* to specifically include fire hazard abatement as a circumstance for not seeking cost recovery.

See the full news release and investigation report on the Board's website at:
<https://www.bcfpb.ca/release-publications/releases/wildfire-act-determinations/>



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