

FPC Transition Training Overview by Chief Forester Larry Pedersen

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2 Hi. This is Larry Pedersen speaking. I'm Chief Forester for the
3 Ministry of Forests. Today we're going to walk all of you through a great
4 number of changes to statutes and regulations, and in particular, focus on
5 the current amendments to the Forest Practices Code of British Columbia
6 Act.

7 Okay, so before you are the items that I'm going to speak to today.
8 Primarily, the purpose of my presentation is to give you an overview on
9 the background and the context for these changes. I will touch on some
10 of the technical features, but others will definitely cover the technical
11 details in greater detail later on in this presentation.

12 So I'm going to give you some background. I want to talk about the
13 history that lead to this set of transitional provisions in the current Forest
14 Practices Code framework. I know it is a question of great interest, why
15 are we implementing these changes now, and in particular, why at this
16 time of year, so I would like to speak to that. We obviously developed a
17 series of principles and tests that we applied to the many changes that
18 were brought forward in either statute or regulation and I want to touch on
19 some of those principles. I'll then highlight what is changing with respect
20 to either the role of government officials or what the new obligations are
21 with respect to licence holders and in doing that I also want to touch very

1 briefly on the role of professionals, both under this framework and looking
2 forward over time. I will move towards a summary that talks about what
3 the challenges are from the perspective of the B.C. Forest Service. I
4 know others will also speak to the challenges as they see them from their
5 perspective, be that licence holders or other agencies. And lastly, I want
6 to speak to the notion of how we rise collectively to the challenge that lies
7 in the days ahead.

8 So, by way of introduction, earlier this month we brought forward a
9 bill that provided significant numbers of amendments to the current Forest
10 Practices Code. We are, in doing this, moving towards the full
11 implementation of the new Forest and Range Practices Act, which was
12 also tabled in the Legislature this fall. However, that Act is not yet in force
13 and it does not come into force until the spring of 2003. So to be clear,
14 this presentation emphasizes the current changes to the Forest Practices
15 Code Act and to the regulations, which are pursuant to that Act. However,
16 as I do touch on that, there are some linkages to the Forest and Range
17 Practices Act, and I will be touching on that and I would also like to
18 acknowledge the dedication and hard work of a number of people inside
19 and outside of government who helped us to develop this legislation and
20 later I will touch on how we drew on work and experience over recent
21 years, including that from auditors and public watchdogs, such as Forest
22 Practices Board audits, as well as the experience we had in terms of

1 maintaining and meeting in recent years, very high standards for forest
2 practices. But as said earlier, today's discussions have primarily to do
3 with the amendments to the Forest Practices Code and at the outset I
4 want to be clear, these amendments are transitional. They apply in the
5 period now of December, 2002, through to April, 2005.

6 You're all familiar and have worked with the Forest Practices Code
7 in the last -- over one half of a decade. It became law in 1995 and it set
8 out a new framework for governments of planning and forest practices'
9 standards in the province. At the time, there was a fragmented group of
10 policies and practices governing forestry in B.C. and this work represented
11 a consolidation into a single legal framework. We have learned
12 subsequently that it was successful at increasing the level of protection for
13 environmental values. We certainly all have experience with increased
14 public participation and this was, as is understood, a planning based
15 code, therefore, the code of the day, in fact, brought forward an increased
16 emphasis on planning. A few years after having had experience, we did
17 an assessment around the province. This is where we did draw on the
18 work of auditors and compliance and enforcement reports and looked at
19 the strengths of the Code and all are agreed that it did provide for a more
20 equitable treatment of licensees around the province, although there are
21 still questions about the actual equalness of applications of that
22 framework. It did bring forward a very transparent set of standards and it

1 has given rise to some level of measurable increased public credibility
2 with respect to forest practices, and in 1995 it was based on the current
3 scientific knowledge and thinking of the day.

4 However, while we undertook that review we also did so in a
5 manner that was sufficiently thorough as to be able to document the
6 weaknesses of the Code. And we have all been embroiled in the debate
7 at one point or another about whether the Code was too complex, but it
8 continues on to this day and I believe that it has been declared as having
9 been too complex a framework for reasonable implementation and
10 administration. It was also assessed as having a lack of incentives and
11 not promoting flexible or innovative practices in certain areas. Industry
12 declared that it was not able to respond rapidly enough to market
13 opportunities and meet all of the detailed planning provisions of the Code
14 and we have documented evidence with respect to how harvesting costs
15 were impacted, and in fact, are now known to have increased under that
16 framework. And to this day there are key environmental provisions of the
17 Code that still remain not delivered, and in particular, I refer to the
18 biodiversity provisions which were intended to be delivered through
19 landscape level planning.

20 This slide shows a progression through the period of 1997 to 2001
21 of certain initiatives and activities that were undertaken, all of which, in
22 fact, did provide important information as we moved towards development

1 of this transitional framework. In 1997 we had the KPMG study on costs.
2 In 1998 we took our first attempt to try and adapt the current framework to
3 a more results based framework by the implementation of Bill 47, and we
4 also initiated the cost driver initiative wherein we looked critically the
5 province over at the various factors and administration and statutory that
6 were affecting the cost base and cost competitiveness of the forest sector.
7 Also in 1999 and running through to 2001 we established an Internal
8 Code Review Committee within government. This is where some of the
9 strength and weakness assessments that I referred to earlier came from.
10 And then late in 1999 we introduced the ability to be able to initiate Forest
11 Practices Code pilots for the purpose of testing alternative regimes for
12 managing forest practices in the province. So up until 2001 we had all of
13 that information to be able to draw on and as we moved forward into 2002
14 under the direction of the new administration, by May we had developed
15 the discussion paper. Through the period May/June we ran through the
16 public input and consultation process. This gave us a tremendous
17 amount of input to draw on with respect to what was considered to be
18 reasonable and what was considered to be not reasonable with respect to
19 changing the statutes that govern forest practices.

20 In the period of July through to November 4th, a great deal of policy
21 work was undertaken that ultimately lead to the development of the
22 Forests Statutes Amendment Act, which is the subject of today's

1 discussion. It has gone through first, second and third reading and was
2 passed into law in mid-December. I should also add that simultaneously
3 in that same period of the last few months, we have also been working on
4 the regulations to support the implementation of this new Act. So this Act,
5 as you can see on the slide before you, applies from the period of now,
6 December, 2002, through to April, 2005, and it details a series of
7 amendments to the Forest Practices Code. It is a transitional piece of
8 legislation. While this statute has effect over the next two years, it is time
9 limited and it ceases to have any affect at the end of the period of April,
10 2005. And it is about early implementation of some of the features and
11 considerations that were brought forward when the Forest and Range
12 Practices Act was initially considered and tabled in the Legislature. And it
13 is felt to be a more effective set of changes in terms of the transaction
14 cost and complexity for both government and industry through this
15 transition period.

16 Licensees have the opportunity to either work under this new
17 legislation over this next period of up to April, 2005, or alternatively, they
18 can also migrate their operations towards the Forest and Range Practices
19 Act by replacing forest development plans anytime in the period between
20 April, 2003, and April, 2005, with a forest stewardship plan. I also want to
21 emphasize that while we will be talking about regulations today, the
22 regulations that are necessary to bring the Forest and Range Practices

1 Act into force are not yet developed and there is a great deal of policy
2 work ongoing that will lead to bringing clarity and definition to the Forest
3 and Range Practices Act, and this work is expected to carry on from today
4 through to early in 2003, after which point we will bring those regulations
5 forward and bring the Act into force.

6 So why change now? Well, as we looked at the Forest and Range
7 Practices Act direction, it was clear that some of the immediate decisions
8 that we had made there could be migrated into the existing Forest
9 Practices Code framework. It was also clear, particularly with changes in
10 government's resourcing capacity that anything that we could do to reduce
11 cost and complexity in the immediate term, before full implementation of
12 the Forest and Range Practices Act, would prove beneficial to both
13 government and to industry. So we have brought forward, therefore,
14 some of the efficiencies from that Act into this framework and are
15 providing licence holders a greater freedom to manage towards the
16 attainment of certain results provincially. And in this framework we will
17 continue to balance social, economic and environmental interests. This is
18 a framework that we are familiar with given our experience in recent
19 years, and I'm sure that people will immediately grasp the nature of these
20 changes and be able to deliver them.

21 Okay, so I mentioned earlier that we would touch on some of the
22 principles that were considered as we developed this legislation. This list

1 that you see before you is by no means comprehensive. It is illustrative in
2 nature only. There were numerous many other considerations, but I want
3 to highlight a few of the important ones. Part of it reflects the direction
4 that we were given by government and other parts are simply a logical
5 consequence of trying to develop statute and regulation.

6 The first point indicates that what we're trying to attain is an
7 environment wherein forest licence holders and people practicing forestry
8 in B.C. are in an environment where they can be creative and apply some
9 level of innovation with respect to attaining important public objectives. In
10 asking ourselves the question, how much did we want to specify in law,
11 we adopted a principle that said we want to limit the constraints of law to
12 where it's absolutely required to meet public interests. In other words, we
13 don't want to over regulate or particularly constrain freedoms with law, and
14 that principle had quite an influence on our thinking with respect to
15 development of both the statutes and the regulations. At the same time
16 there is a healthy tension, which is that legislative standards need to be
17 clear and precise and succinct, so we had tried to attain that within this set
18 of changes. And, of course, an important consideration for government is
19 that the standards in ensuring that they're clear also ensures that they're
20 enforceable so we tried to build a framework that is more flexible, but still
21 has enough clarity to ensure that the province and public interests can be
22 met and that we have enforcement capacity both within government and

1 in other instruments that we apply, such as utilization of the Forest
2 Practices Board audits.

3 Lastly, we were given very clear direction from government that this
4 framework had to maintain an equivalent level of environmental
5 stewardship.

6 Okay, so I'd like to touch on some of the major changes to the
7 Code. Again, others will speak in much further detail in terms of what this
8 means technically. But, government is no longer going to approve
9 silviculture prescriptions, and in fact, for new harvesting authorities they
10 are not going to be required. Instead, a new instrument called a site plan
11 will be required. It will be not approved by government, nor will the minor
12 amendments to forest development plans, and this framework will give
13 clear direction on what that means.

14 All forest development plans that are currently in affect are going to
15 be extended through the period of April, 2005. They can still be modified
16 in that period and it can still be a forest development plan driven
17 approach, but I did mention earlier that somewhere in that period some
18 licence holders may chose to migrate to the new framework after next
19 spring, and to the extent that that is what they do, then they have no
20 longer any obligations whatsoever under this statute. They will simply be
21 operating under the new Forest and Range Practices Act.

22 Forest companies must meet new standards for all new site level

1 plans. This is the replacement vehicle for silviculture prescriptions and
2 the framework has changed around the attainments of standards. For
3 example, we are no longer regulating stocking standards in silviculture
4 prescriptions, but rather stocking standards will be articulated as a change
5 to a forest development plan for any new harvesting authority moving
6 forward from this point onward. And I would like to clarify that this is a bit
7 of a complicated concept. It does require reading both the statute and the
8 regulations to understand this, but I will be releasing a circular later on this
9 month that does clarify exactly how to put this into applications so that
10 there is no interruption in terms of ongoing operations.

11 Minor changes to approved plans must not affect the intent of the
12 plan or other stakeholders. What that means is, for the authority that is
13 being given to proceed with minor amendments to FDPs without approval
14 or government oversight, there are still some thresholds and checks and
15 balances that must be met. And lastly, the results of site plans and minor
16 amendments to forest development plans are still subject to compliance
17 and enforcement action.

18 So what hasn't changed? Well, there's many features of the old
19 statute that you are all familiar with and you will see them continued
20 forward would be the province still maintains a compliance and
21 enforcement role. We still have authority to administer remedies, the
22 administrative penalties regime stays in place, and there are no changes

1 with respect to the role of the Forest Practices Board. Also, as
2 mentioned, forest development plans are a key feature of how we move
3 forward in the transition period, and that's an instrument that we're all
4 familiar with, although there are changes in terms of its administration as
5 well. And we're going to continue to manage for the protection of a broad
6 range of forest resources as was outlined and was the intent of the
7 original Forest Practices Code.

8 So, as many of you are aware, there has been a great deal of
9 discussion about increased reliance on professions and on professionals.
10 As we developed this framework we gave a great deal of consideration to
11 the role of professionals, and in fact, did place a certain amount of weight
12 on increasing reliance on resource professionals. However, the Code and
13 the statutes that govern the standards of forest practices are not
14 necessarily the right instrument for regulating professional conduct and I'll
15 say more on that in a moment on my next slide.

16 Also legislation governing resource professionals is being
17 modernized and a suite of changes have been brought forward with
18 respect to the statutes governing professional agrologists, foresters and a
19 new statutory framework governing professional biologists. So certainly
20 everybody will be wondering which professionals they have an obligation
21 to use. To that end I would say you will find the answer to that question
22 both in the Code and in the statutes which govern the professions. There

1 are still some professional signing and sealing requirements in this
2 framework in the transition period, and that will either be specified in the
3 Forest Practices Code, or in some instances, you may also choose to
4 refer to the professional acts and by-laws. And the role of resource
5 management professionals was explored when we initially developed the
6 discussion paper and it was documented in a companion document
7 number five, which is available at the website which is listed before you on
8 the screen, and I would encourage for any of you who are curious about
9 the thinking with respect to increased professional reliance, to please
10 secure that document and have a look at it.

11 So I want to turn to what the impact is on the B.C. Forest Service. I
12 know others will speak from an industrial perspective. First off as a senior
13 official within the Forest Service, and as one of the project sponsors with
14 respect to this legislation, I want to emphasize, roles and responsibilities
15 have changed and this is going to represent a significant new challenge
16 for the Ministry of Forests.

17 We are maintaining our historical emphasis on compliance and
18 enforcement. It will be continued, it will be highly focused and it will be
19 directed toward the protection and conservation of forest and range
20 values. Also, we are implementing a new program with respect to
21 effectiveness evaluations. This is a framework where we're going to
22 continue to test whether we actually got the result that we wanted to get,

1 and also as to the secondary question, is it the right result? So we're
2 going to put a stronger science foundation underneath the policy platform
3 and use the science based findings to direct future changes with respect
4 to either statute or regulation if such is needed.

5 So what does it mean to rise to this challenge? Well, very clearly,
6 this is big change. So we're going to have to let go of some traditional
7 approaches, not on a personal basis, not based on a struggle of whether
8 we want to or don't want to, but because the legislation compels that. And
9 because of that it also means a redefinition of roles within the Ministry of
10 Forests and that work, as most of you are painfully aware, is well
11 underway. We will be migrating towards the issue I mentioned earlier in
12 terms of monitoring trends and outcomes and that will give us lots of time
13 in the field to get good and familiar with the effectiveness of this new
14 statutory framework and to ensure that it continues to adapt and respond
15 appropriately in terms of managing and maintaining public interests and
16 values.

17 And I would like to make one brief comment with respect to
18 implementation decisions. There is no substitute for good judgment and if
19 it isn't specified in statute and it is not clear what ought to be done in a
20 given situation, my advice is keep the decision simple and find a way to
21 make this work. So we shouldn't lose track of the fact that we do have
22 some exciting opportunity from this point on and often when people see

1 the word challenge, they tend to think of something in a negative context.
2 I would like to make this point, we should all feel very proud about our
3 collective past accomplishments under the old framework, but we face
4 these new challenges. They provide us with new opportunity. This is an
5 exciting period and at this point we're moving in new directions.

6 So, a few comments in summary. This part of talking head show is
7 almost over, so you can wake up. As we move forward, I want you to
8 know that we have done assessment with respect to whether or not
9 government will be able to meet this set of obligations with its changing
10 staffing levels, and we have come to the conclusion that indeed we can
11 deliver this statute moving forward over the next two years. The changes,
12 as I've mentioned, do provide for some early implementation of some of
13 the features of the Forest and Range Practices Act, however, while we
14 have not yet done the regulations for that Act, it should not necessarily,
15 therefore, be inferred that the regulations that you see here are exactly or
16 precisely the type of regulation that you will see under the Forest and
17 Range Practices Act. That work is ongoing and there are many
18 challenging policy decisions before us and those regulations, in fact, will
19 be visible and available for you to see sometime later in the early part of
20 2003. However, as we bring this part to a conclusion, I want to give you
21 my personal view that we do have a solid foundation for moving ahead
22 through the transition period with the work that is before you today and I

1 wish you well and encourage you to develop immediately a familiarity with
2 the statute and to take as much learnings from these sessions as you are
3 able to over the course of the coming weeks. Thank you.

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5 (END OF PRESENTATION)

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