

Ontario Professional Foresters Association

Practice Bulletin No. 7

Compliance Monitoring

Approved by Council, September 13, 2004

PURPOSE

The purpose of this bulletin is to clarify the accountability of members when they are involved in compliance monitoring activities on behalf of a forest company for which they normally work for on a consultant basis.

BACKGROUND

Forest operations in Ontario are monitored and audited to assess compliance and evaluate progress and results. Compliance monitoring is conducted to ensure that the Ministry of Natural Resources (MNR) and the forest industry carry out operations according to plans, regulations and required standards. The forest compliance monitoring system is designed to ensure that both MNR and the forest industry carry out forest operations according to approved plans and operational standards, and in compliance with legislation.

Effective April 1, 1998, all existing SFL holders assumed lead responsibility for conducting comprehensive programs of forest operations compliance as a condition of their licence. The program includes planning, monitoring, inspection, reporting, training and education. The forest industry is required to report all incidents of non-compliance on their management unit to the MNR.

ISSUE

In many instances, the forest companies contract with forestry consultants to carry out the compliance monitoring activities on their licence area. These forestry consultants may in some cases be the same consultants that the forest company has hired to undertake the preparation of forest management plans and/or carry out the prescribed forest operations. This results in the situation where the consultant is being paid by the forest company to monitor the work that the company has already paid them to do. This could place the RPF in a conflict of interest in both the short and longer term.

Where the forestry consultant has been responsible for carrying out some of the prescribed operations that are to be monitored, the consultant (RPF) may be in a conflict of interest situation and may be guilty of professional misconduct (3.22). The situation could be modified if the RPF declares the conflict at the outset of his/her report and certifies that the monitoring has been completed and the results identified and reported absent any influence or pressure to adjust the findings from the forest company.

There is no apparent conflict of interest if the forestry consultant was involved in the preparation of the Forest Management Plan, although a declaration of a potential conflict of interest at the outset of his/her report certifying that the monitoring has been completed and the results identified and reported absent any influence or pressure to adjust the findings from the forest company would be advisable.

SUMMARY & RECOMMENDATIONS

Members are strongly advised to avoid situations of compliance monitoring where they would be monitoring prescribed operations that they had previously carried out.

GENERAL RECOMMENDATIONS

Given that a member considers that they are in a situation where they may face a potential Code of Ethics violation or be guilty of professional misconduct, what are the appropriate steps for the member to follow in order to determine the appropriate action to be taken?

1. Ask themselves what would a reasonable forester do in these circumstances and how would that forester view the situation if asked to comment.
2. Consult with other professional colleagues for their professional opinions.
3. Consult the OPFA's Blue Ribbon Panel for confidential advice.
4. If the prevalent opinion is that there is a potential violation of the Professional foresters Act 2000, the Code of Ethics or a by-law or that to continue would constitute professional misconduct, the member must notify the supervisor or client and advise that continuation would constitute a violation of the Professional Foresters Act 2000 and that the member is not prepared to continue until these potential conflicts do not exist.