



PRACTICE BULLETIN No. 2

APPLICATION of FOREST MANAGEMENT On CROWN LAND GUIDES

Revised & Reissued

July, 2010

Application of Forest Management on Crown Land Guides

Approved by Council, September 13, 2004

PURPOSE:

The purpose of this bulletin is to clarify the accountability of members of the Ontario Professional Foresters Association (OPFA) when they are involved in certain aspects associated with the application of “guides” in the forest management planning process for Crown forests.

BACKGROUND:

MNR, in consultation with the public and interested parties, produces forest management guides for use by a planning team during the preparation of a forest management plan. As part of the forest management planning process, the direction in guides may affect the areas selected for operations and the development of prescriptions for operations. Most guides contain standards and guidelines. A standard indicates a mandatory piece of direction. A guideline indicates that the forest manager must follow the requirement, but has flexibility to interpret and adapt the requirement to meet the specific needs of the local management unit. In developing an appropriate prescription for the forest condition, members are encountering a number of situations which cause them to question their accountability as they respond to these situations.

In the interpretation as to how a guide or guides are to be used during the preparation of any given forest management plan, the plan author relies on personal expertise and the expertise from recognized experts in the various other fields. The plan author may have the expertise to deal with situations involving “professional forestry” and will rely on other members of the planning team to deal with situations relative to their area of expertise. The result will be a series of prescriptions developed by the experts for conducting operations and protecting identified values. These prescriptions are submitted to the MNR for approval as part of the forest management plan.

ISSUES:

Issue 1 - The most common issue with plan authors is that, in many cases, the MNR acting in the role of the landowner, (for the purposes of the Professional Foresters Act 2000, the OPFA considers MNR as the landowner) does not allow the use of professional judgment in the selection of a “prescription” but rather requires the maximum protection provided for in the “guide”. In the case of many “guides”, this prescription also has the most severe impact on available wood supply. In these instances the guides appear to be used as “cookbooks” as opposed to guides as the professional judgment of the RPF is not considered. In these situations, is the professional integrity of the RPF at risk?

In this instance, the MNR is exercising landowner authority over the actions activities and actions that are to take place on the forest. While one can protest that the professional judgment of the plan author is not being properly utilized, MNR as the landowner is completely within its rights to do this. As a result, the RPF is not in violation of the Professional foresters Act 2000, the Code of Ethics or guilty of professional misconduct. In addition the RPF is not in violation of by-law number 4 – Standards of Practice.

Issue 2 – A second issue is that in some cases, MNR acting in the role of the landowner, may be requiring plan authors to use guides (involving professional forestry) which the plan author believes are based on inadequate science. In these instances, the RPF may not agree with what he/she is being requested to do but must acquiesce to the wishes of the MNR acting in the role of the landowner.

In these situations, if the RPF knows and is able to provide proof (solid evidence) that the data on which a guide is based is bad or inadequate science so as to cause the member to consider the guide prescription to be inadequate, then the R.P.F. is obligated to make the professional judgment that the prescription should not be used. It is important to note that the R.P.F. must be able to provide **solid evidence of inadequate science** in order to make this judgment.

If the R.P.F. signed the plan with **solid evidence of the inadequate science** and therefore could not defend the prescription resulting from the “guide”, then the RPF may be in violation of the Code of Ethics, guilty of professional misconduct and may be in violation of by-law number 4 – Standards of Practice. If, however there is no **solid evidence of inadequate science**, the R.P.F. has no basis for not signing the plan as the issue is one of professional judgment. In this case, the R.P.F. would not be in violation of the Code of Ethics, guilty of professional misconduct or in violation of by-law number 4 – Standards of Practice.

In instances where the plan author and the MNR agree to include an “adequate prescription” based on “solid evidence of adequate science” that is contrary to the direction in a forest management guide, then certain legal requirements of the Crown Forest Sustainability Act and the Environmental Assessment Act must be met.

SUMMARY & RECOMMENDATIONS:

Issue 1 – Where MNR as the landowner chooses to override the professional judgment of the R.P.F., the R.P.F. is not in violation of the Code of Ethics or guilty of professional misconduct. In addition the RPF is not in violation of by-law number 4 – Standards of Practice.

Issue 2 – Where the MNR is requiring the R.P.F. use guides that the RPF can provide **solid evidence** that the guide(s) are based on bad or inadequate science and signs the FMP, the RPF may be in violation of the Code of Ethics, guilty of professional misconduct and may be in violation of by-law number 4 – Standards of Practice. Therefore, prior to signing the plan, the RPF should document the reasons (specific research, studies, etc.) for believing that the specific prescription or prescriptions are based on bad or inadequate science and state that in signing the plan they are doing so recognizing that their signature does not include a certification of the prescriptions that the RPF believes are based on bad science. This documentation should be presented to all members of the planning team and the MNR before the RPF proceeds to sign the plan.

If, however there is no **solid evidence of inadequate science**, the R.P.F. has no basis for not signing the plan as the issue is one of professional judgment. In this case, the R.P.F. would not be in violation of the Code of Ethics, guilty of professional misconduct or in violation of by-law number 4 – Standards of Practice.

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?

- Ask themselves what would a reasonable forester do in these circumstances and how would that forester view the situation if asked to comment.
- Consult with other professional colleagues for their professional opinions.
- Consult the OPFA's Blue Ribbon Panel for confidential advice.
- If the prevalent opinion is that there 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.