



# Compliance and Enforcement Branch

## 2014–2015 ANNUAL REPORT

FOR FISCAL YEAR ENDING MARCH 31, 2015



THIS REPORT INCLUDES STATISTICS FOR COMPLIANCE AND ENFORCEMENT BRANCH ACTIVITIES  
AS RECORDED BY THE MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS  
FROM APRIL 1, 2014 THROUGH MARCH 31, 2015.



Ministry of  
Forests, Lands, Natural  
Resource Operations  
and Rural Development

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# Introduction

## THE 2014–15 COMPLIANCE AND ENFORCEMENT BRANCH ANNUAL REPORT

was produced by the Ministry of Forests, Lands and Natural Resource Operations<sup>1</sup>. It contains information on inspections<sup>2</sup>, compliance actions and enforcement actions related to legislation governing forest, lands, range, water and natural resource activities.

Natural resource activities in British Columbia are regulated by a wide range of legislation.

**TABLE 1: Key Statistics: 04/01/14 to 03/31/2015**

INSPECTIONS/PATROLS RECORDED*	6,850
COMPLIANCE ACTIONS WERE TAKEN*	2,526
ENFORCEMENT ACTIONS WERE TAKEN*	596

\* Data sourced from the Compliance and Enforcement Branch's data information systems.

The Integrated Resource Operations Division has adopted an integrated approach to managing the ministry's objectives. In this report, information is provided to reflect the broader mandate undertaken by the Compliance and Enforcement Branch in recent years.

The report provides information regarding the following acts: the *Forest Act*, *Range Act*, *Wildfire Act*, *Forest and Range Practices Act*, *Forest Practices Code of British Columbia Act*, *Land Act*, *Water Act* and *Wildlife Act*, plus all of the regulations associated with those acts.

This report contains statistics gathered from the Compliance and Enforcement Branch's two primary information systems:

- ▶ ***The Enforcement Action, Administrative Review and Appeal Tracking System (ERA)*** serves as the ministry's record of enforcement activities. The ERA tracks the progress of cases that arise from alleged contraventions of the acts and regulations enforced by the ministry, including tickets that are issued and cases that are appealed.
- ▶ ***The Natural Resource Information System (NRIS)*** serves as the ministry's record of inspection activities and compliance actions.

This annual report covers Compliance and Enforcement Branch activities from April 1, 2014 to March 31, 2015 and it serves as a follow-up to the branch's previous annual reports. It covers compliance and enforcement activities related to forest management, land management, water management, wildfire management and resource road activities, carried out by individuals and licence holders making up what's commonly referred to as the regulated community.



1 Electronic copies of this report are available from the ministry's Compliance and Enforcement Branch or on the government website at: [www.for.gov.bc.ca/hen/reports.htm](http://www.for.gov.bc.ca/hen/reports.htm) If there are discrepancies between the printed copy of the annual report and the copy posted on the website, the website version is considered to be correct.

2 Many of the technical terms used in this report are defined in the glossary at the end of the document.

# Service Plan Report: *Final Statistics*

**THE MINISTRY** of Forests, Lands and Natural Resource Operations continues to monitor and enforce compliance with applicable statutes, as B.C.'s natural resource ministries work together to modernize and streamline natural resource policies, regulations and legislation.

The expanded responsibilities of the Compliance and Enforcement Branch have enhanced natural resource stewardship through more effective compliance and enforcement actions, including: major projects monitoring; Crown land tenures and trespass; dam safety; forestry and range practices; and actions that support effective wildlife management.

Ongoing collaboration between various ministries and agencies support a consistent compliance and enforcement framework and identity within the

ministry's Integrated Resource Operations Division. These strategies promote effective stewardship of the province's natural resources and ecosystems (including the management of water quality and water quantity, fish and wildlife habitat, and species at risk), while ensuring that the government's management practices adapt to changing conditions.

**GOAL:** Co-ordinated and sustainable management, use and stewardship of B.C.'s natural capital.

The development and use of natural resources are guided by the standards set out in the ministry's legislative and regulatory framework<sup>3</sup>.

## **PERFORMANCE MEASURE:**

Monitoring statutory requirements within the resource management sector.

PERFORMANCE MEASURE	2014/15 TARGET	2015/16 TARGET	2016/17 TARGET	2017/18 TARGET
<b>COMPLIANCE &amp; ENFORCEMENT (C&amp;E) PRESENCE</b>				
► <i>Percentage of C&amp;E field staff time spent in the field (actual time divided by operational capacity, in hours)</i>	<b>70%</b>	<b>74%</b>	<b>76%</b>	<b>78%</b>

Data Source: Ministry of Forests, Lands and Natural Resource Operations Service Plan



<sup>3</sup> The government's management framework for the natural resource sector was restructured over the past few years and the ministry's compliance and enforcement obligations were expanded significantly beyond forest-related acts and regulations. The Compliance and Enforcement Branch is now also responsible for enforcing statutes such as the *Land Act*, *Water Act* and *Wildlife Act*.

# Compliance and Enforcement Branch

## Priorities for 2014-15

- ✓ **STREAMLINING OPERATIONS:** Natural Resource Violation Reporting System; harmonization of Natural Resource Sector operations
- ✓ **PROGRAM MANAGEMENT:** Natural Resource Inspection System; staff training program; increased staff involvement in Temporary Emergency Assignment Management System (TEAMS), public education and awareness events, personal and career development, Lean initiatives, Natural Resource Officer identity program (e.g. uniforms)
- ✓ **LAND MANAGEMENT:** structures; occupation; tenures; foreshore structures; gravel extraction; use of off-road vehicles
- ✓ **WATER MANAGEMENT:** ensuring the protection of water quality and quantity through enforcement of legislation impacting; water management; practices and works in streams; dams
- ✓ **FOREST MANAGEMENT:** road safety (road maintenance, overloading, bridges, speed on forest service roads, road permits); forest and range operations (identifying non-compliances, high-risk licensees); revenue; Forest Stewardship Plans (results and strategies); riparian management areas; timber marking and transportation (including road checks); silviculture; invasive plants; Range Use Plans; environmental damage (site degradation)
- ✓ **WILDFIRE MANAGEMENT:** enhancing public safety through the enforcement of *Wildfire Act* open burning bans and restrictions (especially as fire danger ratings increase during the summer)
- ✓ **RECREATION MANAGEMENT:** patrols and inspections to ensure compliance with the *Forest and Range Practices Act* and legislation related to recreational activities
- ✓ **WILDLIFE MANAGEMENT:** patrols and inspections to ensure compliance with vehicle closures under the *Wildlife Act*, the *Forest and Range Practices Act* and related legislation; wildlife attractant inspections in conjunction with the Conservation Officer Service
- ✓ **BUSINESS IMPROVEMENT:** enhanced collaboration and co-ordination with Natural Resource Sector agencies
- ✓ **MAJOR PROJECTS:** mines; independent power projects (wind, water, transmission lines); pipelines
- ✓ **HERITAGE AND ARCHEOLOGY SITES:** ensure compliance with legislation and regulations as requested; archaeological impact assessments
- ✓ **AGRICULTURAL LAND COMMISSION:** verify compliance with regulations and legislation as requested
- ✓ **MINES AND MINERALS:** collaboration and verification of mineral titles as requested; joint inspections with Ministry of Mines and Energy staff.
- ✓ **WASTE MANAGEMENT:** spills; sewage; dumping; litter
- ✓ **AIR QUALITY:** Open Burning Smoke Control Regulation
- ✓ **FIRST NATIONS:** enforcement of First Nations-related legislation on treaty lands; other interactions that involve First Nations or a claim of First Nations rights; recording of complaints or alleged violations on treaty lands

# Presence

## WHAT IS "PRESENCE"?

Presence is a new performance measure for the Compliance and Enforcement Branch, as outlined in its service plan. It refers to the amount of time that a Natural Resource Officer spends publicly representing the Compliance and Enforcement Branch.

Presence includes time that staff spend working in the field and when they are visible to members of the public. This may include time spent traveling in a fleet vehicle or working directly with the public or members of the regulated community.

**TABLE 2: Number of Records and Presence Hours by Function: 04/01/14 to 03/31/2015**

FUNCTION	PRESENCE HOURS	NUMBER OF RECORDS
AGRICULTURE LAND RESERVE	52	23
AIR QUALITY MANAGEMENT	37	50
FOREST MANAGEMENT	8,434	3,244
HERITAGE & ARCHAEOLOGY	59	19
LAND MANAGEMENT	3,956	1,649
LAND USE RESTRICTIONS	966	258
MAJOR PROJECTS	40	12
MINES & MINERALS	198	80
PARKS & PROTECTED AREAS	240	76
RECREATION MANAGEMENT	3,167	670
RESOURCE ROADS	3,425	1,139
WASTE MANAGEMENT	606	291
WATER MANAGEMENT	2,267	1,156
WILDFIRE MANAGEMENT	2,925	873
WILDLIFE MANAGEMENT	429	123
<b>TOTAL</b>	<b>26,799</b>	<b>9,663</b>

*Data sourced from the Compliance and Enforcement Branch's data information systems.  
The "Number of Records" column heading refers to patrols, inspections and presence records.*

## WHY ARE WE USING “PRESENCE” AS A PERFORMANCE MEASURE?

Using “presence” as a performance measure allows us to monitor this important indicator within the Compliance and Enforcement Branch. The previous performance measure was dependent in large part on interactions with the regulated community and did not truly reflect the amount of work being done.

In contrast, presence captures all of the work done by Compliance and Enforcement Branch staff and the effort required to complete those tasks, instead of the previous measure that only represented about four per cent of the work that staff actually completed. A visible public presence is also a proven deterrent to non-compliant behaviour, so “presence” now includes public education activities related to compliance and enforcement.

## HOW IS PRESENCE MEASURED?

Presence is measured using the Natural Resource Information System (NRIS) system. NRIS already captures presence data related to inspections and patrols, so it will be enhanced to also capture data related to investigations and corporate presence.

The performance measure that was used previously did not allow the Compliance and Enforcement Branch to manage its performance in the same way.

The baseline that was established for the “presence” performance measure in 2014-15 was 70%, but the Compliance and Enforcement Branch exceeded that target and achieved 72%.

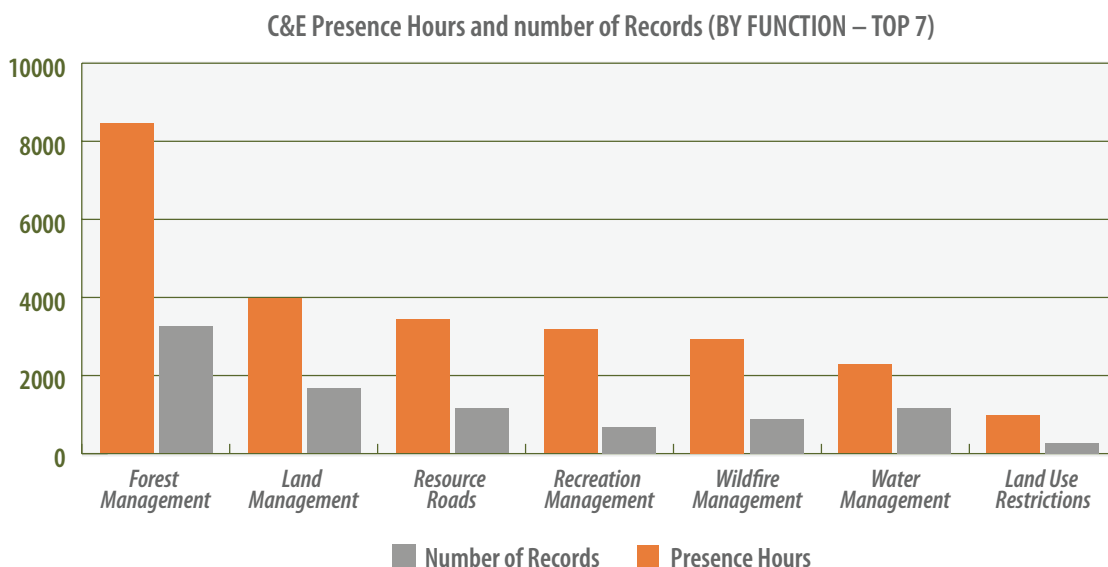
## WHAT FACTORS ARE MEASURED TO DETERMINE “PRESENCE”?

NRIS takes into account field time, administrative time and presence time.

Presence includes travel time to and from inspection, patrol and investigation sites. It also includes time that staff members spend dealing with “opportunity to be heard” hearings (OTBHs), client interviews (for investigative purposes) and appeal hearings.

Presence includes public presentations at schools, trade shows and job fairs, and impromptu contact with members of the public or the regulated community. Interactions with the public may occur in the field or in the office (either in person or over the phone), where the purpose is to promote compliance, educate or initiate conversations related to complaints, inspections or investigations.

**CHART 1. Compliance and Enforcement Branch Presence: 04/01/14 to 03/31/2015**



*Data sourced from the Compliance and Enforcement Branch's data information systems. "Number of Records" refers to patrols, inspections and presence records.*



# Inspections



## WHAT IS AN INSPECTION?

- *An inspection is a systematic process to verify compliance with statutory obligations. Inspections are done on a priority basis and may be either planned or spontaneous. Compliance and Enforcement Branch inspections cover the legal obligations of licensees, the government and the public.*

**INSPECTIONS** and site visits are conducted on a priority basis to determine whether forest, land, water and range activities are being conducted in compliance with legislation that falls within the mandate of the Compliance and Enforcement Branch.

Since it's not possible to inspect every forest, water, land, wildlife and range activity, Compliance and Enforcement Branch staff evaluate

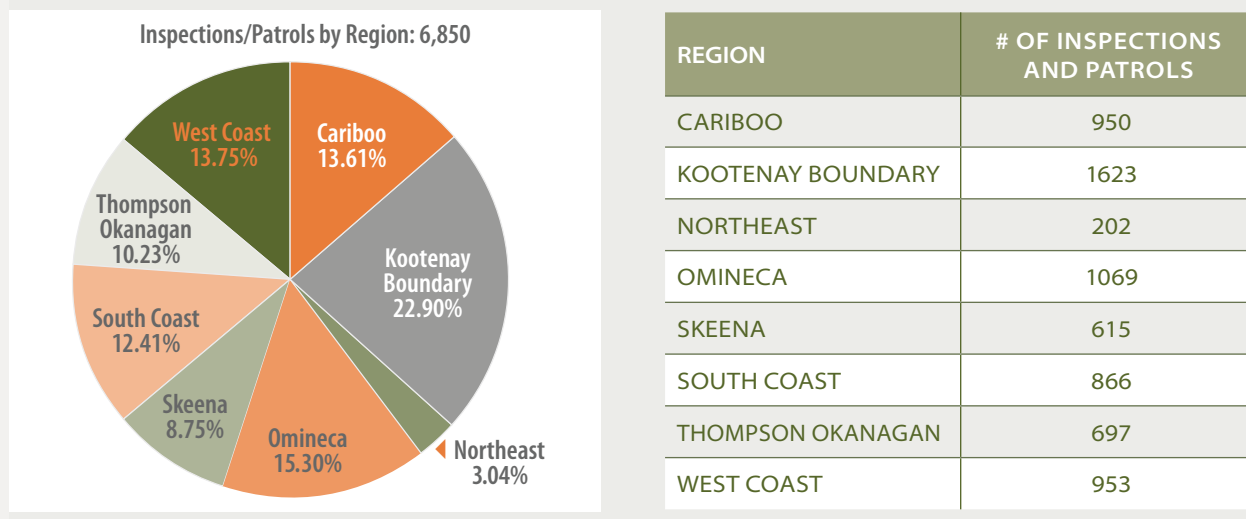
the risks associated with various types of sites and activities and then prioritize their inspections to focus on activities with a higher social, economic or environmental risk.

The Compliance and Enforcement Branch's Natural Resource Officers (NROs) conduct various types of inspections, based on the Provincial Business Plan priorities and Regional Implementation Plans priorities for each area of B.C.

They include inspections and compliance verification related to forest, land, water, wildfire and other program priorities of the Ministry of Forests, Lands and Natural Resource Operations, plus other activities that fall under the mandate of the ministry. Natural Resource Officers also follow up on complaints and incidents submitted through the Natural Resource Violation Reporting system.



**CHART 2: Inspections and Patrols by Region: 04/01/14 to 03/31/2015**



Data sourced from the Compliance and Enforcement Branch's data information systems.

**TABLE 3: Inspections and Patrols by Function: 04/01/14 to 03/31/2015**

FUNCTION	NUMBER OF INSPECTIONS AND PATROLS
FOREST MANAGEMENT	2550
RESOURCE ROADS	986
LAND MANAGEMENT	976
WATER MANAGEMENT	598
WILDFIRE MANAGEMENT	561
RECREATION MANAGEMENT	540
LAND USE RESTRICTIONS	218
WASTE MANAGEMENT	172
WILDLIFE MANAGEMENT	89
PARKS & PROTECTED AREAS	57
MINES & MINERALS	49
AIR QUALITY MANAGEMENT	19
AGRICULTURE LAND RESERVE	16
HERITAGE & ARCHAEOLOGY	11
MAJOR PROJECTS	8
<b>TOTAL</b>	<b>6850</b>

Data sourced from the Compliance and Enforcement Branch's data information systems.

## Profile: *Natural Resource Inspection System*



**WITH THE RESTRUCTURING** of the Ministry of Forests, Lands and Natural Resource Operations in recent years and significant changes to the Compliance and Enforcement Branch's mandate (including its business priorities, authorizations, roles and responsibilities), Natural Resource Officers and branch staff needed a new data system to document compliance and enforcement activities.

The Natural Resource Inspection System (NRIS) was launched in 2014.

The Compliance and Enforcement Branch's decision to create a new system was well-timed, since it coincided with the government's Natural Resource Sector Harmonized Initiative for data systems.

Two key goals of the initiative are to minimize the number of systems that government's natural resource sector ministries use and to avoid the duplication of work functions.



### KEY FEATURES:

- ▶ *The Natural Resource Inspection System is provincial in scope and not restricted geographically. Natural Resource Officers may be working away from their home base in a neighbouring field unit or region, but they can enter their inspection details immediately.*
- ▶ *Drop-down menus, multiple-choice menus and dynamically linked options make data entry much smoother and reduce the likelihood of input errors.*
- ▶ *The Compliance and Enforcement Branch has designed two new inspection forms: "Compliant/Non-Compliant" and "Patrols". Collected information and data that is relevant to the branch's business needs can be entered quickly and easily.*
- ▶ *The Natural Resource Inspection System tracks referrals and complaints that have been received, as well as actions taken by Natural Resource Officers. This tracking method is consistent with the Natural Resource Violation reporting system.*
- ▶ *This data can be co-ordinated with other data to deliver up-to-date and relevant information.*
- ▶ *Staff will also be able to view inspections that have been conducted in other agencies, such as the Ministry of Environment.*

The Compliance and Enforcement Branch will ensure that the Natural Resource Inspection System serves the branch's business needs and remains flexible and versatile to meet future needs.

# Compliance



## WHAT ARE COMPLIANCE ACTIONS?

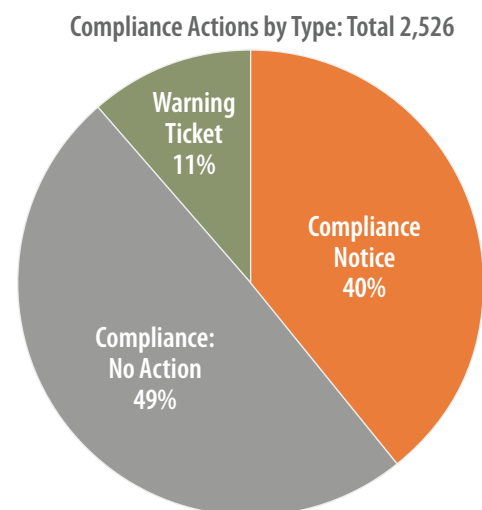
- ▶ *Compliance action categories include “COMPLIANCE, NO ACTION”, “COMPLIANCE NOTICE” and “WARNING TICKET”. Compliance actions are appropriate if all elements of an alleged contravention could be proven through the formal enforcement process, but the severity of the alleged contravention does not warrant a formal enforcement action.*

During the course of an inspection or site visit, a Natural Resource Officer may find incidents of alleged non-compliance with Ministry of Forests, Lands and Natural Resource Operations legislation, where an individual or a company may have acted in a manner that violated the law.

Alleged non-compliance may be found during an inspection or identified from other sources (such as tips from the public or ministry staff, or self-reporting by licensees).

Depending on the significance and impact of the contravention, compliance actions are used to encourage the individual or company to bring their activities into compliance with applicable legislation.

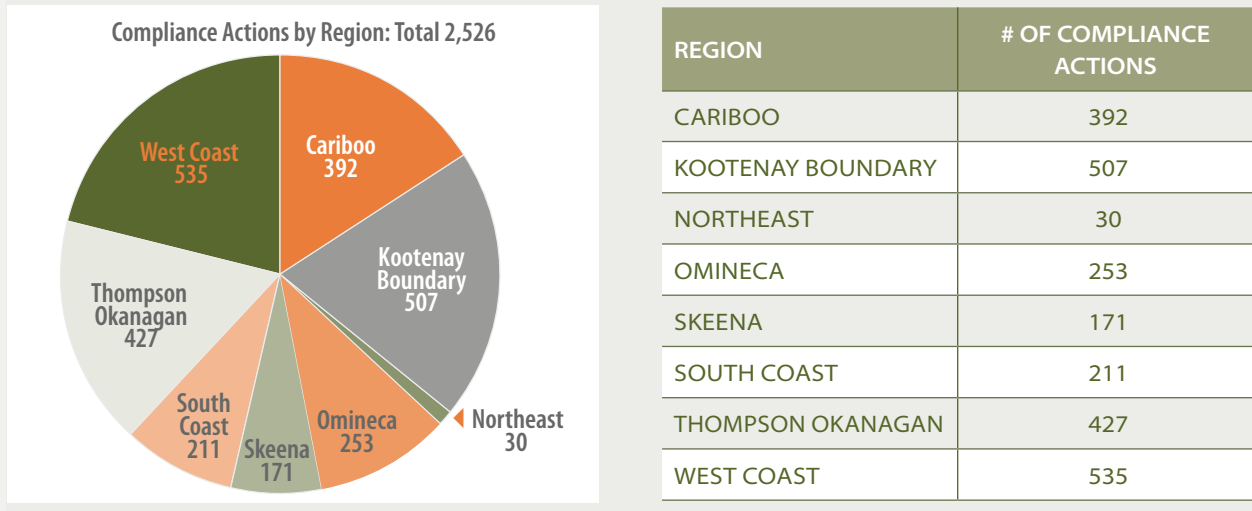
**CHART 3: Compliance Actions by Compliance Action Type: 04/01/14 to 03/31/2015**



*Data sourced from the Compliance and Enforcement Branch's data information systems.*



**CHART 4: Compliance Actions by Region: 04/01/14 to 03/31/2015 (source: NRIS)**



Data sourced from the Compliance and Enforcement Branch's data information systems.

**TABLE 4: Compliance Actions by Function: 04/01/14 to 03/31/2015**

FUNCTION	COMPLIANCE NOTICE	COMPLIANCE: NO ACTION	WARNING TICKET	GRAND TOTAL
AGRICULTURE LAND RESERVE		1		1
AIR QUALITY MANAGEMENT		8	1	9
FOREST MANAGEMENT	474	343	122	939
HERITAGE & ARCHAEOLOGY	2	5		7
LAND MANAGEMENT	121	295	7	423
LAND USE RESTRICTIONS	31	31	22	84
MAJOR PROJECTS		1		1
MINES & MINERALS	6	7	1	14
PARKS & PROTECTED AREAS	2	8	2	12
RECREATION MANAGEMENT	27	82	11	120
RESOURCE ROADS	235	76	18	329
WASTE MANAGEMENT	10	80	3	93
WATER MANAGEMENT	36	149	26	211
WILDFIRE MANAGEMENT	49	159	62	270
WILDLIFE MANAGEMENT	1	4	8	13
<b>TOTAL</b>	<b>994</b>	<b>1,249</b>	<b>283</b>	<b>2,526</b>

Data sourced from the Compliance and Enforcement Branch's data information systems.

# Enforcement



## VIOLATION TICKETS AND ADMINISTRATIVE PENALTIES: 04/01/14 to 03/31/2015

TOTAL VIOLATION TICKETS ISSUED	422	ADMINISTRATIVE PENALTIES LEVIED	37
MONETARY AMOUNT OF TICKETS	\$64,850	MONETARY AMOUNT OF PENALTIES	\$81,939

Data sourced from the Compliance and Enforcement Branch's data information systems.

Enforcement actions are used when a Natural Resource Officer determines that legislation has been contravened and a formal sanction is warranted.

For example, an enforcement action may address contraventions that result in loss of or damage to the environmental, social or economic values of a site. Individuals and companies that are subject to enforcement actions have an avenue to appeal these actions.

### ENFORCEMENT ACTIONS INCLUDE:

- ▶ Violation Ticket
- ▶ Monetary Penalty
- ▶ Remediation Order
- ▶ Licence Suspension
- ▶ Licence Cancellation
- ▶ Stop Work Order
- ▶ Order to Vacate

**NO ACTION** – a contravention has been determined, but it is not in the public interest to take further action.

### THERE WERE **596** ENFORCEMENT ACTIONS TAKEN IN 2014/15.

A Stop Work Order is used by an official to stop a forest, land or range practice that the official believes contravenes the law. This order halts potential loss of, or damage to, environmental, social or economic values on the site. It also gives the official more time to determine if a contravention has actually occurred. A Stop Work Order is not considered to be a finding of contravention.

A Seizure (forfeiture) may occur when an official has reasonable grounds to believe that a person has contravened the *Forest Act*, *Land Act*, *Range Act* or *Forest and Range Practices Act*. This halts potential loss of, or damage to, environmental, social or economic values. It also gives the official more time to determine if a contravention has actually occurred. A seizure is not considered to be a finding of contravention.

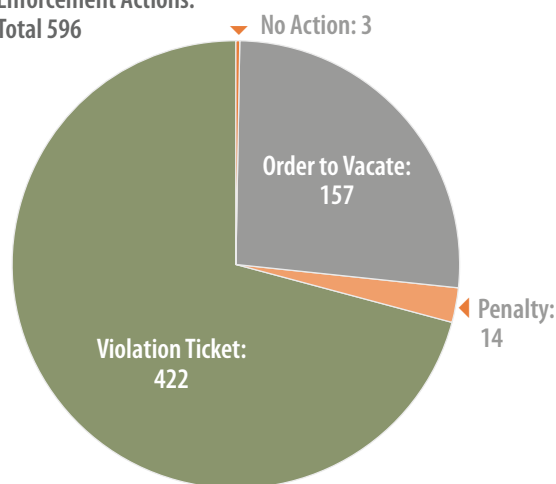
**TABLE 5. Enforcement Actions by Legislation (Source ERA): 04/01/14 to 03/31/2015**

LEGISLATION	NO ACTION	ORDER TO VACATE	PENALTY	VIOLATION TICKET	TOTAL
ENVIRONMENTAL MANAGEMENT ACT	0	0	0	18	18
FOREST ACT	0	0	0	67	67
FOREST PRACTICES CODE OF BRITISH COLUMBIA ACT	0	0	1	0	1
FOREST PLANNING AND PRACTICES REGULATION	0	0	1	1	2
FOREST AND RANGE PRACTICES ACT	1	0	12	147	160
FOREST RECREATION REGULATION	0	26	0	10	36
LAND ACT	0	131	0	0	131
FOREST SERVICE ROAD USE REGULATION	0	0	0	42	42
MOTOR VEHICLE ALL TERRAIN ACT	0	0	0	1	1
MOTOR VEHICLE PROHIBITION REGULATION	0	0	0	5	5
TIMBER MARKING AND TRANSPORTATION REGULATION	0	0	0	23	23
WILDLIFE ACT	0	0	0	3	3
WILDFIRE ACT	2	0	0	35	37
WATER ACT	0	0	0	70	70
<b>TOTAL</b>	<b>3</b>	<b>157</b>	<b>14</b>	<b>422</b>	<b>596</b>

Data sourced from the Compliance and Enforcement Branch's data information systems.

**CHART 5: Enforcement Actions (source ERA): 04/01/14 to 03/31/2015**

Enforcement Actions:  
Total 596



Data sourced from the Compliance and Enforcement Branch's data information systems.

### NATURAL RESOURCE VIOLATION REPORTING (NRVR)

The Natural Resource Violation Reporting (NRVR) system was developed to collect and record reports of alleged violations of natural resource legislation.

Although intended in part for public use, it also allows the ministry's natural resource partner agencies and programs to record issues identified by their staff. The system includes reports submitted online and by telephone (1 877 952-7277).

All submitted reports are managed through FrontCounter BC staff, who administer the intake process. Every Natural Resource Violation Report is reviewed by a Natural Resource Officer to determine the appropriate response.

The information that is compiled using the Natural Resource Violation Reporting (NRVR) system is also analyzed to identify trends and ongoing issues, which helps the Compliance and Enforcement Branch plan future resource allocations and focus on program priorities.

#### ANYONE CAN REPORT A NATURAL RESOURCE VIOLATION:

- ▶ by telephone: 1 877 952-7277
- ▶ online: [www.for.gov.bc.ca/hen/nrv/report.htm](http://www.for.gov.bc.ca/hen/nrv/report.htm)



**TABLE 6. Complaints by Function (Source: NRIS): 04/01/14 to 03/31/2015**

FUNCTION	NUMBER OF RECORDS	PERCENT OF TOTAL
FOREST MANAGEMENT	703	26%
LAND MANAGEMENT	682	25%
WATER MANAGEMENT	565	20%
WILDFIRE MANAGEMENT	315	9%
RESOURCE ROADS	154	6%
RECREATION MANAGEMENT	131	5%
WASTE MANAGEMENT	120	4%
LAND USE RESTRICTIONS	41	1.4%
WILDLIFE MANAGEMENT	34	1.3%
MINES & MINERALS	33	1.1%
AIR QUALITY MANAGEMENT	31	1.3%
PARKS & PROTECTED AREAS	19	0.8%
HERITAGE & ARCHAEOLOGY	10	0.4%
AGRICULTURE LAND RESERVE	7	0.3%
MAJOR PROJECTS	4	0.1%
<b>TOTAL</b>	<b>2849</b>	<b>100%</b>

*Data sourced from the Compliance and Enforcement Branch's data information systems.*



# Reviews and Appeals



## WHAT IS AN APPEAL?

If a person is dissatisfied with an administrative determination made by a Statutory Decision Maker, he or she may ask for the decision to be reviewed by a government official if there is new evidence to consider. Alternatively, the person may challenge the decision by submitting a Notice of Appeal to the Forest Appeals Commission or the Environmental Appeal Board).

The Forest Appeals Commission is an independent administrative tribunal that hears appeals of certain decisions made by government officials under the *Forest Practices Code of British Columbia Act* (often referred to as “the Code”), the *Forest Act*, the *Forest and Range*

*Practices Act*, the *Private Managed Forest Land Act*, the *Range Act* or the *Wildfire Act*. The commission is required to make recommendations to government about review and appeal procedures under these statutes.

For more information about the Forest Appeals Commission, visit <http://www.fac.gov.bc.ca>.

The Environmental Appeal Board was established under the *Environmental Management Act*. It is an independent agency that hears appeals of certain decisions made by government officials related to environmental issues. Among other topics, these decisions may involve water licences, contaminated

site remediation orders, pesticide use permits and the cancellation of hunting licences.

Acts and regulations that may be considered by the Environmental Appeal Board include the *Environmental Management Act*, the *Environmental Appeal Board Procedure Regulation*, the *Greenhouse Gas Reduction (Cap and Trade) Act*, the *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*, the *Integrated Pest Management Act*, the *Water Act* and the *Wildlife Act*.

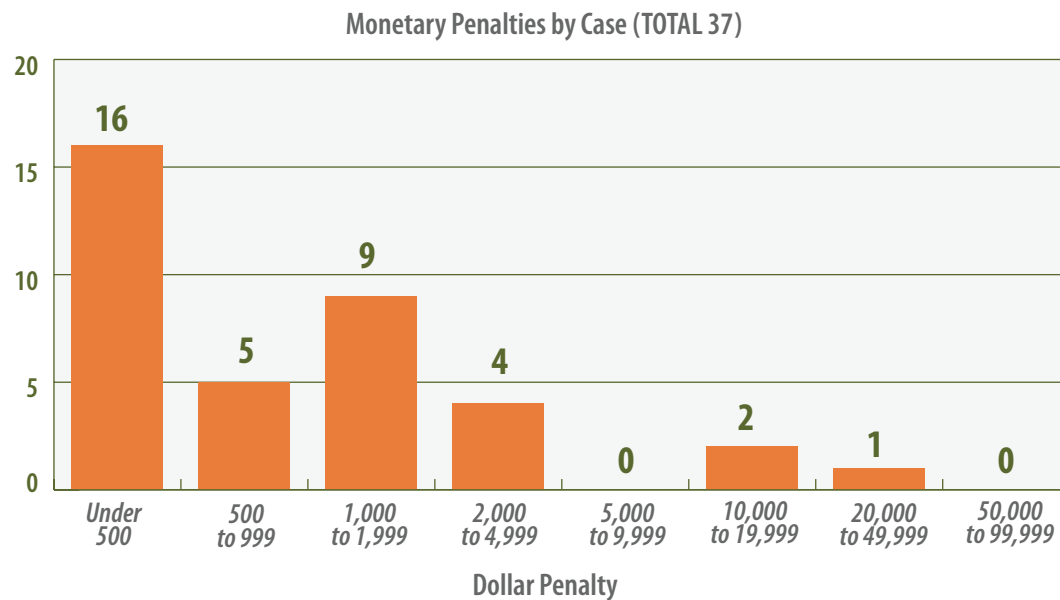
For more information about the Environmental Appeal Board, visit <http://www.eab.gov.bc.ca>.

## MONETARY PENALTIES

Monetary penalties may be applied by a Statutory Decision Maker if he or she has determined that an individual or licensee has contravened legislation. Monetary penalties should not be confused with fines, which may be imposed by the courts if a licensee is convicted of an offence.

The Forest and Range Practices Act gives government officials the authority to pursue the recovery of any economic gain resulting from a person's act or omission that would be a contravention or offence if it were not for the successful application of one of the defences of "due diligence", "mistake of fact" or "officially induced error".

**CHART 6: Monetary Penalties by Case: 04/01/14 to 03/31/2015**



*Data sourced from the Compliance and Enforcement Branch's data information systems.*





# Functions recorded in the Natural Resource Information System

## **Agriculture Land Reserve**

The use of land within the Agricultural Land Reserve is managed by the Agricultural Land Commission. Any activity that is not permitted under the *Agricultural Land Commission Act* or the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, or is not authorized by a decision of the commission, is considered to be a contravention.

## **Air Quality Management**

Air quality enforcement falls under the *Environmental Management Act* and the Open Burning Smoke Control Regulation. Enforcement of the venting index is governed by the Act. Natural Resource Officers enforce this legislation when delegated as a Special Conservation Officer or in conjunction with *Wildfire Act* enforcement actions.

## **Forest Management**

B.C.'s forests are managed under the provisions of the *Forest Act*, *Range Act*, *Forest Practices Code*, *Forest and Range Practices Act* and *Wildfire Act*.

## **Heritage and Archaeology**

Heritage and archaeology matters are governed by the *Heritage Conservation Act*. Inspections may involve culturally modified trees, fossil beds, etc.

## **Land Management**

Land management is governed by the *Land Act*.

## **Land Use Restriction**

Recreation area closures, caribou protection closures, non-motorized vehicles.

## **Major Projects**

Inspections related to environmental assessment certificates for commitments, obligations and regulatory requirements.

## **Mines**

Compliance and Enforcement Branch staff monitor and report on activities associated with mining tenures on Crown land. These activities may include work that was done to develop the mine, such as road construction, tree harvesting or the use of water resources.

## **Parks and protected areas**

Parks and protected areas are governed under the *Park Act*.

## **Recreation management**

Recreational activities must be compliant with the Forest Recreation Regulation. Any commercial use or gathering (such as a Tough Mudder race) is governed by the *Forest and Range Practices Act*.

## **Resource roads**

Resource roads are governed under the *Forest Act*, the *Forest and Range Practices Act* and the Forest Service Road Use Regulation. This includes roads used for resource extraction and forest service roads.

## **Waste Management**

Waste management is governed by the *Environmental Management Act*. Currently, Natural Resource Officers must be delegated as Special Conservation Officers to conduct ongoing investigations of an alleged contravention, unless specifically authorized by the act. Examples of infractions include depositing motor home sewage on Crown land and dumping household appliances on Crown land.

## **Water management**

Water management is governed by the *Water Act* (to be replaced by the *Water Sustainability Act* in 2015), the *Dike Maintenance Act* and the Dam Safety Regulation. Wells are inspected to ensure that they are authorized and properly constructed.

## **Wildfire management**

Wildfire management is governed by the *Wildfire Act* and the Wildfire Regulation.

## **Wildlife management**

Wildlife Management is governed by the *Wildlife Act*.

# Government Non-compliance Statistics

In keeping with ministry policy, this section reports on incidents of significant government non-compliance (as determined by a senior official) and the nature of any such contraventions, when the government has an identified statutory obligation. Significant government non-compliance is defined as “not being trivial or inconsequential in nature.”

It is the ministry’s policy that incidents of significant government non-compliance are reported in this annual report. One incident of significant government non-compliance was identified during the 2014-15 reporting period.



## Glossary

### **Compliance Action**

Compliance actions include “Compliance, No Action”, “Compliance Notice” and “Warning Ticket”.

A compliance action is only appropriate if all elements of a contravention could be proven (if necessary, through the formal enforcement process), but when the severity of the alleged contravention does not warrant a formal enforcement action.

### **Compliance and Enforcement Branch**

The Compliance and Enforcement Branch is the law enforcement arm of the Ministry of Forests, Lands and Natural Resource Operations.

The purposes of the branch are to ensure that forest, land, water, wildlife and range laws are being followed on B.C.’s public lands and to take action where there is non-compliance.

### **Compliance, No Action**

“Compliance, No Action” is when an official finds that a contravention has occurred, but no action is required to bring the responsible party or parties responsible back into compliance with legislation. Of the three compliance actions (“Compliance, No Action”, “Compliance Notice” and “Warning Ticket”), this is the least formal.

### **Compliance Notice**

A Compliance Notice is issued when an official finds that a contravention has occurred and the official believes that the responsible party or parties should be given a written notice of the contravention for their records, but no formal action needs to be taken.

### **Contravention**

A contravention occurs when an individual or company has not complied with the law (i.e. they have contravened a legal requirement). Alleged contraventions are

investigated and may result in a formal determination of contravention.

### **Crown land**

Crown land is land that is owned by the people of British Columbia, also known as public land. Approximately 94 per cent of the province is Crown land and is managed by the B.C. government.

### **Delegated Decision-maker**

A delegated decision-maker is the most common type of statutory decision-maker in the ministry. This person has been delegated powers and/or duties under an Act to make a statutory decision, by someone who has been given those powers and/or duties by the legislature (usually the minister).

### **Due Diligence**

Due diligence refers to the amount of care that a person is required to take in any given situation. For the defence of due diligence to apply, an alleged contravener must have

taken all reasonable care to avoid committing the prohibited act. The degree of care required increases with the seriousness of the potential harm.

### **Enforcement Action**

If it's determined that legislative requirements have been contravened and a formal sanction is warranted, an enforcement action is taken against the responsible party or parties.

Enforcement actions may include violation tickets, monetary penalties or remediation penalties, as well as other steps as deemed appropriate by the decision-maker. Parties subject to enforcement actions have an avenue to appeal those actions.

### **Enforcement Action, Administrative Review and Appeal Tracking System**

The Enforcement Action, Administrative Review and Appeal Tracking System is a web-based database application that serves as the ministry's record of enforcement activities. The system documents cases that arise from alleged contraventions of acts and regulations enforced by the ministry, including investigation details, determinations, enforcement actions and appeals.

### **Environmental Assessment Act**

The *Environmental Assessment Act* governs the legal framework for the province's environmental assessment process for proposed major projects. The Act is supported by several regulations (including the *Reviewable Projects Regulation*) as well as policy, procedure and technical guidelines.

Once a project is reviewed and approved, the proponent is granted an environmental assessment certificate by two provincial ministers (one of whom is the Minister of Environment). This approval is required before any decisions can be made on permits and other approvals required to construct and operate a large-scale project in B.C.

### **Environmental Management Act**

The *Environmental Management Act* provides innovative tools for environmental protection, such as area-based planning and administrative monetary penalties. The *Environmental Management Act* also includes provisions for waste management, contaminated sites and spill response.

### **Forest Act**

The *Forest Act* provides authority for the cutting and removal of timber.

### **Forest and Range Practices Act**

The *Forest and Range Practices Act* and its regulations govern the activities of forest and range licensees in B.C. The statute sets out requirements for planning, road building, logging, reforestation and grazing.

### **Forest Crime**

Forest crime is the violation of provincial or federal law (Criminal Code) and includes fraud, theft, arson and mischief.

### **Forest Practices Code of British Columbia Act (often referred to "the Code")**

Much of the *Forest Practices Code of British Columbia Act* has been repealed as a result of the implementation of the *Forest and Range Practices Act* and the *Wildfire Act*. The remaining provisions of the Code primarily relate to the issuance of special use permits for the use and occupation of Crown land, as well as the continuation of the Forest Appeals Commission.

### **Forest Service Road**

A forest service road on Crown land that is: declared to be a forest service road; is constructed or maintained by the ministry; is historically a forest service road; or meets prescribed requirements for a forest service road.

### **Government Non-Compliance**

A Government Non-Compliance is a contravention where the provincial government is the obligation holder.

### **In Compliance**

Compliance is defined as "conforming to a specification, standard or law that has been clearly defined." "To be in compliance" means that the activity is meeting all statutory requirements of relevant standards, regulations and acts.

### **Inspection**

An inspection is a systematic process to confirm compliance with statutory obligations. Inspections are done on a routine basis and may be either planned or spontaneous.



### **Investigation**

An investigation is the process of Compliance and Enforcement Branch staff collecting evidence to determine if a contravention of applicable legislation has occurred.

### **Land Act**

The *Land Act* covers the disposition and management of Crown land.

### **Licence Cancellation**

One of the available enforcement actions for a contravention of forestry legislation is the cancelling of a licence. If, after suspension, the party has not made changes to operate in compliance with statutes, then the offending party's forest tenure licence may be cancelled.

### **Licence Holder**

A licence holder is an individual or company that holds one or more of the many types of forest tenure licences or agreements under the *Forest Act* or the *Range Act*. The Compliance and Enforcement Branch divides licence holders into the following categories: Major Licensees; BC Timber Sales Licensees; Community Forest Agreement Holders; Woodlot Licensees; Range Licensees; and Other Licensees/ Non-Tenure Holders.

### **Licence Suspension**

One of the available enforcement actions for a contravention of legislation is to suspend all or part of the offending party's tenure licence.

### **Mistake of Fact**

Mistake of Fact is a defence based on the notion that a person should not be penalized if his or her alleged wrongdoing was the result of honestly relying on information that, if it had been correct, would not have led to a contravention. This defence is not available where persons are willfully blind, deliberately ignorant, or not competent to carry out the activities.

### **Monetary Penalty**

One of the administrative remedies available under some legislation is a monetary penalty. A licensee may be assessed a monetary penalty when a delegated decision-maker has determined that the licensee has contravened the law and the defences available (due diligence, officially induced error and mistake of fact) do not apply. Monetary penalties should not be confused with fines, which can be imposed by a court if a licensee is prosecuted and convicted of an offence.

### **Natural Resource Compliance Act**

The *Natural Resource Compliance Act* enables the minister to designate a person as a Natural Resource Officer (NRO), who is authorized to enforce a broader range of legislation across the natural resource sector in a more streamlined process. Officers can only enforce acts that they are specifically designated for under the NRO designation.

### **Natural Resource Information System**

The Natural Resource Information System is a web-based database application that serves as the ministry's record of inspection activities and compliance actions.

### **Natural Resource Officer**

A person, an employee of the government of British Columbia, who has been designated by name or title to be a Natural Resource Officer by the Minister of Forests, Lands and Natural Resource Operations for the purpose of upholding the provisions of the ministry's legislation. A Natural Resource Officer may also perform the duties of a prescribed "official" under a prescribed enactment but subject to their limitations, terms and conditions of the prescribed enactment.

### **Objectives**

The government may set objectives related to one or more of the following: soils; visual quality; timber; forage and associated plant communities; water; fish; wildlife; biodiversity; recreation resources; resource features; or cultural heritage resources. This may be done to protect or manage these values on behalf of the public. Forest Stewardship Plans, for example, must be consistent with the objectives set by government.

### **Official**

An employee of the Ministry of Forests, Lands and Natural Resource Operations who is designated by name or title to be an official by the Minister of Forests, Lands and Natural Resource Operations for the purpose of upholding the provisions of forestry legislation.

### **Officially Induced Error**

Officially Induced Error is a defence where an accused may have committed a contravention or offence as a result of relying on an erroneous legal opinion or advice from an official who is responsible for the administration of that particular law.

### **Opportunity to be Heard**

At an Opportunity to be Heard administrative hearing, a person has the right to present facts in his or her defence regarding an alleged contravention of legislation. An Opportunity To Be Heard submission is heard by a delegated decision-maker prior to making a determination.

### **Order to Vacate**

This form of enforcement action is specific to a recreation site, trail or forest interpretive site. The person receiving the order is required to leave the area by a specified time and for a specified period of time.

### **Prosecution**

A prosecution is undertaken as a provincial judicial process when an individual or company that allegedly contravened the law is prosecuted in the courts. Prosecutions can only be carried out for sections of legislation that designate offences.

### **Range Act**

The *Range Act* authorizes the ministry to allocate and administer the use of range resources by the livestock industry through grazing and hay cutting agreements that provide revenue to the government.

### **Regulated Community**

The Regulated Community consists of everyone whose activities on Crown land are regulated by forestry and range legislation.

### **Remediation Order**

One administrative remedy available under legislation is a remediation order. It is used when work is needed to remedy the contravention and/or repair environmental damage caused by the contravention. A licensee may be issued a remediation order when a delegated decision-maker has determined that the licensee has failed to meet a statutory requirement and the defences available (due diligence, officially induced error and mistake of fact) do not apply.

### **Risk Evaluation**

Risk Evaluation is a formal process that the Compliance and Enforcement Branch uses to assess risks related to forest, land, water, wildlife or range practices. Each evaluation looks at social, economic and environmental values, as well as government objectives.

### **Seizure**

A seizure (forfeiture) may occur when an official has reasonable grounds to believe that a person has contravened the *Forest Act*, *Land Act*, *Range Act* or *Forest and Range Practices Act*.

This halts potential loss of or damage to environmental, social or economic values and gives the official more time to determine if a contravention has actually occurred. Seizures may involve timber, lumber, special forest products, tree seeds, hay, chattels or livestock. Seized items may be returned, released, sold, destroyed or disposed of in another manner. A seizure is not considered to be a finding of contravention.

### **Statutory Decision-maker**

A statutory decision-maker is a person who makes a decision authorized by legislation. This person may be named by position or title in the Act or regulation, may be delegated by someone else who was named by position or title in the Act or regulation, or maybe designated by someone who was named by position or title in the Act or regulation.

### **Statutory Obligation**

A Statutory Obligation is a duty, task or responsibility that must be completed or carried out as specified through legislation.

### **Stop Work Order**

A Stop Work Order is used by a ministry official to order a licensee or person to stop a forest, land or range practice or activity that the official believes is a contravention of applicable legislation. A Stop Work Order is not considered to be a finding of contravention.

### **Trespass Notice**

A Trespass Notice is used by a Natural Resource Officer to give notice that a structure, use or occupation activity when the officer believes it is in contravention of applicable legislation. A Trespass Notice is not considered to be a finding of contravention.

### **Unauthorized Harvest**

An unauthorized harvest is a situation where Crown timber is being (or has been) cut, damaged, destroyed or transported without appropriate authorization.

### **Violation Ticket**

A violation ticket may be issued for contravening specified sections of provincial legislation and it carries a specific monetary fine. A violation ticket is a form of prosecution under the *Offence Act*.

### **Warning Ticket**

A warning ticket is issued when an official finds that a contravention has occurred and determines that the party or parties responsible should be given a warning. It can be given for any contravention for which a violation ticket could be issued. However, it is not a formal finding of contravention and there is no monetary fine.

### **Water Act**

The *Water Act* governs the allocation and management of water resources.

### **Wildfire Act**

The *Wildfire Act* clearly defines the specific responsibilities of all users of the forest with respect to fire.

### **Wildlife Act**

The *Wildlife Act* governs the management of wildlife, hunting and angling.

### **Woodlot Licensee**

A Woodlot Licensee is an individual or company that holds a licence to manage and harvest timber from a woodlot. A woodlot may be made up of both Crown and private land.







Ministry of  
Forests, Lands, Natural  
Resource Operations  
and Rural Development