

A Results-Based Forest and Range Practices Act Backgrounder

Government's Response to Public Consultation Report

Introduction

In his July 25, 2002 report on results-based code consultation, George Hoberg made 24 recommendations to government. His report was based on submissions from technical stakeholders and input from an MLA panel that held 13 public meetings across British Columbia. The following is a summary of Hoberg's recommendations and government's response.

The consultation process led to significant changes to the results-based code model proposed in the discussion paper. For example, a forest stewardship plan replaces the proposed resource development permit. While the forest stewardship plan includes a map similar to the resource development permit concept, it also must include measurable and enforceable results or strategies that are consistent with objectives for a variety of forest values.

Government addressed many of the recommendations as it developed the enabling Forest and Range Practices Act, and will continue to address the recommendations as it develops supporting regulations.



The Web site www.resultsbasedcode.ca received 88,000 hits during the consultation period.

Timeline



- Stakeholder presentations (58 technical groups and individuals, 133 written submissions)
- MLA public hearings (13 communities, 250 presentations)
- Internet-based forum (88,000 hits, hundreds of comments)

George Hoberg's recommendations to government

Review the proposed regimes for environmental values and ensure they maintain existing environmental standards.

Conduct a scientific review of the biodiversity guidelines and results and rules for riparian protection, preferably before results-based code (RBC) is introduced.

Develop, in partnership with experts, an effectiveness, evaluation, and monitoring framework for all code values, and report publicly.

Ensure sufficient resources are deployed to enforce the code properly.

Ensure that appropriate requirements for professional regulation are contained in legislation for all professionals involved in delivery of the RBC.

Conduct additional discussions with First Nations and various groups to revise the RBC proposal.

Restore site levels plans to the framework. Their content could be specified, they could be made public, and consideration should be given to whether they should be binding on licensees.

Review contested result statements to ensure that they are sufficiently clear, measurable, and enforceable.

Government's response

Government agrees, and has ensured that the new code maintains or strengthens all environmental standards in the old forest practices code.

Government agrees, and has begun this work. It will subject all results-based code results and rules to scientific review and continual improvement.

Government agrees, and will work with other agencies within and outside of government to establish this framework.

By streamlining approvals, the new code allows government to focus on results, rather than paperwork. The Ministry of Forests is restructuring its compliance and enforcement program to improve its effectiveness. The Ministry of Water Land and Air Protection is organizing staff to monitor delivery of results, and track forest stewardship indicators in state of the environment reporting.

Government agrees, and will introduce amendments to strengthen the level of professional accountability (e.g. a new act for biologists and amendments to the Foresters Act and Agrologists Act).

Government has met with many stakeholders and will continue these kinds of meetings as it constructs and implements the new code. It will also create an ongoing public advisory committee.

Government agrees. The new code requires that licensees prepare site plans and make them available to the public and First Nations on request.

Government agrees. Forest stewardship plans must define results or strategies that are measurable and enforceable. When these results are in an approved forest stewardship plan, they will form the basis for compliance and enforcement activities.

George Hoberg's recommendations to government

Clarify and define public consultation objectives and processes for the results-based code.

Conduct additional discussions with First Nations prior to finalizing RBC policy decisions.

Ensure adequate information is available to enable First Nations to adequately assess the impacts of proposed development on their cultural values and aboriginal rights and title.

Ensure the consistency of the result-based code with any First Nations consultation requirements as defined by the Courts.

Establish clear timelines and provide strategic direction and adequate resources to the land use processes that guide forestry operations.

Put in place legally binding interim biodiversity objectives prior to the implementation of the RBC, and subject them to public consultation.

Allow licensees to opt out of parts of the general regulatory framework if they can show they will meet or beat the environmental standards.

Consider the certification status of companies when developing compliance and monitoring and auditing schedules.

Government's response

Government agrees. A forest stewardship plan must show that the public and First Nations have been consulted, and a statutory decision maker must be satisfied that their input has been reasonably addressed, before approving the plan.

Government has met and will continue to meet with First Nations representatives to examine forest practises policy and legislation.

Government agrees, and has made improvements to the code framework that will provide forestry planning and practice information to First Nations. Site plans have been restored to the legal framework but will not be approved by government.

Government will ensure the new statute is not in conflict with any judgements on matters of First Nations title and rights.

Government agrees. Provincial objectives for forest values and legally established objectives in land use plans will form the basic information directing the preparation of forest stewardship plans. Government will co-ordinate the activities of ministries to deliver legal objectives or interim measures to properly support the foundation for a results-based regime.

Where land use objectives are not in place, there will be legally binding interim objectives for high-priority biodiversity values such as old growth and wildlife trees.

Government agrees, and will continue to work with industry and stakeholders to ensure the new code provide reasoned flexibility while maintaining environmental and forest stewardship standards.

Government agrees, and has developed a new code that fully accommodates voluntary certification.

George Hoberg's recommendations to government

Create a more distinctive regulatory regime for woodlots to account for their unique character.

Reconsider the policy to limit the impact of the Code on timber supply to six per cent.

Work with industry to perform an analysis of the cost implications of the proposed RBC and create a system to monitor implementation costs.

Simplify government's organizational arrangements for delivering the RBC to eliminate ambiguity and ensure orderly implementation.

Ensure the legislative framework promotes consistent interpretation and application by implementing officials.

Clarify the evidentiary burden required to meet the Resource Development Permit tests.

Consider revising the Resource Development Permit to provide for minor amendments.

Government should clearly acknowledge its role as the ultimate authority in resolving conflicts in cases of overlapping resource claims.

Government's response

Government agrees, and will continue to work with representatives of the woodlot and ranching sectors to ensure the new code meets their distinct needs.

Government will maintain this policy but is committed to reviewing its impact on environmental stewardship.

Government agrees, and will continue to work with industry to ensure the code reduces costs without impacting environmental standards.

Government agrees. It has eliminated joint-ministry approvals and is purposefully coordinating responsibilities under the code through joint policy initiatives.

Government agrees. It will ensure the code is delivered consistently and fairly across the province. Under the legislation, the Minister of Forests is the designed statutory decision-maker and can delegate this authority with legally binding policy direction.

Results based means allowing licensees to determine what is needed to support their forest stewardship plan. However, government may develop some policy guidance to help bound the information expectations of statutory decision-makers.

Government agrees, and will allow for minor amendments in forest stewardship plans as well as gating of forest development units.

Government, in consultation with industry and other resource users, will look for ways to enhance consultation and resolve disputes. However, it agrees it will need to make a decision in a timely manner if unresolved disputes remain.