

Chapter 6

Department of Natural Resources and Energy

Private Forest Lands

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Department of Natural Resources and Energy Private Forest Lands

Background

6.1 New Brunswick is Canada's most forested province with 85% of its land area covered with forests. This forest is an important legacy. In our opinion it is the government's duty to ensure that forest resources are properly managed to provide a sustainable forest resource for all citizens.

6.2 Three significant groups of owners currently manage the forests of New Brunswick. The Crown is the largest with ownership of 47% of New Brunswick's productive forest lands. Private woodlot owners are the second largest group with 30%, followed by the mills and wood processors with 21%. Besides representing 98% of the productive forest these groups are also significant since they all have somewhat different goals for the resource¹.

6.3 The majority of the Crown forest lands are managed by the provincial government through ten licensee agreements with forest companies. The goals for Crown lands are contained in section 3(1) of the *Crown Lands and Forests Act* (the Act). This section of the Act lists several goals for the Crown lands including fish and wildlife habitat maintenance and harvesting and renewal of timber resources.

6.4 Lands owned by mills and wood processors are commonly referred to as *industrial freehold*. The main goal for these lands is to maximize their value to the wood processing facilities.

6.5 Private woodlots are generally smaller tracts of land than industrial freehold. Woodlot owners maintain their land for a variety of uses such as recreation, tourism and/or eventual harvest. These woodlots are owned by a wide variety of New Brunswickers with different goals, resources, and management abilities.

1. The percentages have changed slightly as a result of recent forest land purchased by the Crown. The new percentages are not yet available.

Scope

6.6 The overriding objective of all the stakeholders in the forest industry is to increase or sustain the benefits being derived from the forest resource, however those benefits might be defined. The last decade has seen a great increase in the demand for, and value of, forest products. This has put great pressure on the resource and highlighted the need for careful planning to ensure these benefits can be maintained. Critical areas include the capacity of current processing facilities, a sustainable supply of timber and the anticipated future demand.

6.7 Due to the significance of the industry to the social and economic well being of the Province we decided to carry out a project in this area. Section 3(2) of the *Crown Lands and Forests Act* states that “The Minister shall encourage the management of private forest lands as the primary source of timber for wood processing facilities in the Province”. Therefore, we decided to undertake a review of the primary source of supply first.

6.8 In the course of conducting this audit we reviewed legislation in New Brunswick as well as Nova Scotia and Maine. In addition we interviewed representatives of all seven forest products marketing boards, representatives of two key wood processors, the New Brunswick Forest Products Association, the New Brunswick Federation of Woodlot Owners and the Department of Conservation in Maine. We communicated closely with departmental employees in Forest Management and the Forest Products Commission and addressed a board meeting of the Forest Products Commission. Our senior field auditor also attended a conference on forest certification held in Fredericton in February 2000.

6.9 Our objective was to determine if appropriate systems and practices are in place “to encourage the management of private forest lands as the (sustainable) primary source of timber for wood processing facilities in the Province.” In connection with our responsibilities for “effectiveness” reporting, we also wanted to know if adequate measures are in place to determine if the goals and objectives of the program are being achieved.

6.10 To assist us in conducting our work we developed the following five audit criteria:

- *the Crown Lands and Forests Act and Regulations should clearly define the Department’s responsibilities for private forest lands;*
- *the Department should have appropriate goals and objectives to carry out its responsibilities for private forest land as assigned under the Crown Lands and Forests Act and Regulations;*
- *programs, policies and procedures should be consistent with the Crown Lands and Forests Act and Regulations for private forest lands;*

- *the Department should monitor the results of programs that address private forest land and take corrective action when necessary; and*
- *the Department should have procedures in place to report on the effectiveness of private forest lands programs.*

Results in brief

6.11 The *Crown Lands and Forests Act* requires attention. Some of its definitions and provisions are vague and confusing. As a result, the Department has not been able to articulate a clear mandate for private forest lands in the Province.

6.12 There are a number of other Acts having an impact on private forest lands. The Department should consider whether all private forest land legislation should be incorporated into one Act.

6.13 The Department has not established goals and objectives relating to its responsibilities for private forest lands.

6.14 The Department's programs are consistent with its governing legislation. However, we noted a lack of accountability by landowners for silviculture funding provided by the Department. Further, the proposed elimination of the Department's Forest Extension services could have an adverse impact on the management of private forest lands.

6.15 The Department is not obtaining timely and accurate information to enable it to monitor harvesting activities on private forest lands. It has no tracking system for wood that is not sold through a marketing board, and it does not monitor out-of-Province sales from private forest lands.

6.16 The Department's annual report does not contain sufficient information to enable a reader to assess the effectiveness of the Department's private forest lands programs.

Mandate and responsibilities

6.17 Our first criterion was:

The Crown Lands and Forests Act and Regulations should clearly define the Department's responsibilities for private forest lands.

6.18 The first criterion questions whether the *Crown Lands and Forests Act* has given the Department a clear indication or mandate as to what its involvement should be in relation to private forest lands. The first step in determining what goals are to be pursued and how they should be achieved is to have a clear idea of what mandate has been legislated.

6.19 As well as determining the Department's clear responsibilities, we also wanted to determine if the Act has sections in which the direction given to the Department is unclear. Unclear mandates can cause departments to spend considerable time and resources in areas

where legislation does not direct them. Unclear legislation could also cause an organization to overlook or inadequately address areas where involvement was intended.

6.20 Further, we also wanted to determine if other legislation has a significant impact on the Department's responsibilities for private forest lands. The criterion focuses on the *Crown Lands and Forests Act*, stating that Act "should clearly define" the Department's responsibilities. In our opinion, one component of clearly defining, is completeness. That is, if other legislation has a significant role in defining the Department's mandate, then it may be said that the *Crown Lands and Forests Act* does not clearly define the Department's responsibilities. Other legislation must be consulted.

Our conclusion on the criterion

6.21 In our opinion, this criterion is partially met.

6.22 Under section 3(2) of the Act, the Minister does have the mandate "to encourage the management of private forest lands as the primary source of timber for wood processing facilities in the Province." In fulfilling this mandate the Minister can "with the approval of the Lieutenant-Governor in Council, initiate programs for such purposes."

6.23 And there are some very specific responsibilities assigned by the *Crown Lands and Forests Act* to the Minister. These include the monitoring of operating plans and, especially in the case of private woodlots and freehold lands, the monitoring of planned and actual harvest. The Minister also has a responsibility to review the price charged for Crown timber to ensure it is at fair market value. This has an obvious impact on "encouraging management of the private forest lands".

6.24 But, despite this, there are a number of factors that prevent us from reaching a positive conclusion. To begin, the Act is rather vague in some of its definitions, particularly around the terms private forest lands, private lands and historic market share. As well, the Act could be clearer in its use of the term "primary source". In addition, it has very little to provide in terms of specific responsibilities for private lands of 5,000 hectares. There is also the possibility of an inherent conflict between the terms proportional supply and sustained yield.

6.25 Further, there are three other significant pieces of legislation which give the Minister responsibility for private forest lands. Finally, despite what seems like a clear, overarching mandate with several specific responsibilities, staff administering the Act appeared to be uncertain about the Department's mandate with respect to private forest lands. They appeared to be limiting their efforts largely to private woodlots.

Defining private forest lands

6.26 The term “private forest lands”, although present in the Act, is not directly defined by the legislation. Even though it is not defined, the term would appear to be differentiating all private forest land from public or Crown land.

6.27 Section 3, which is found in the “General Administration” section of the Act, appears to be a statement of “purpose” or “mandate”, such as is common in a number of Acts. This section has two distinct subsections. The first, subsection 3(1), outlines six broad responsibilities for the Minister for Crown land. The second, subsection 3(2), outlines the Minister’s broad mandate for private forest lands – that is, the non-Crown land. In other words “private forest lands” would be virtually anything that is not public, and owned by the Crown¹.

6.28 The Act does refer to three distinct categories or types of non-Crown land that would seem to make up all of what could reasonably be referred to as private forest lands. Those three categories are:

- private woodlots;
- freehold lands; and
- private lands consisting of an aggregate of 5,000 hectares owned by one person.

6.29 In our opinion, however, the Department may need to make some changes to the Act to clarify definitions. Firstly, it should be noted that the words “more than” or “at least” have apparently been omitted inadvertently from the definition of the third component of private forest lands – private lands consisting of an aggregate of 5,000 hectares owned by one person. It is unlikely there are too many landowners in the Province owning exactly 5,000 hectares of forest property.

6.30 Secondly, the definition refers to “one person”. The land could be controlled by a group of individuals, such as a company or a non-profit organization, and have the same impact on the forest and its ecosystems. The term “one person” should be replaced with “one person or jointly held by a group of persons or company.”

6.31 The term “private lands” appears to be used by the Act in different ways. In one instance “private lands” is a combined term representing the private woodlots and the lands of 5,000 hectares owned by a single person. Elsewhere in the Act, it appears that the term “private lands” may be being used synonymously with the term “private forest lands”. Section 5 in talking of the duties of a forest service officer notes the officer “may enter upon private lands whenever necessary for the proper performance of his duties under this Act.” Since that section

1. We are aware that the federal government does own approximately 1% of the forest land in the Province. But for purposes of simplicity, that land is excluded from the discussion in this section.

does not mention freehold land separately, we have assumed that the intent is that the forest service officer can enter any of the three components of private forest land. It would seem illogical to restrict the access of the forest service officer from one component of private forest lands.

6.32 Similarly, in a section of the Act dealing with protection of the forest, it notes “the Minister may protect forests, whether on Crown Lands, other lands vested in Her Majesty or private lands, from fire, insect and disease.” The provision is there so that the Minister may protect all forests in the Province. A fire does not stop at the border of Crown and freehold land.

Background and development of mandate

6.33 The *Crown Lands and Forests Act* was assented to in 1980 after much consultation. One key point of the resulting consensus was that the Crown should be the “residual” supplier of timber for wood processing facilities in New Brunswick.

6.34 This principle was inherent in subsection 3(2) of the Act which at that time stated:

The Minister shall encourage the management of private forest lands as the primary source of timber for wood processing facilities in the Province, and, with approval of the Lieutenant-Governor in Council, may initiate programs for such purposes.

6.35 This was the section of the Act that generated the Department’s overall mandate concerning private forest lands from 1980 to 1992. The reference to “consistent with subsection 29(7.1)”, which appears in the subsection today was added in 1992, and we will comment on that later.

Meaning of “primary”

6.36 What is meant by “primary” in section 3(2) is not defined in the Act. The *Gage Dictionary of Canadian English* defines primary as “first in time; first in order” and also as “first in importance, chief”. Using the words of “first in importance, chief” as the meaning for primary, then the supply from all three categories of private forest land would be the chief source of timber for wood processing facilities in the Province. This is consistent with the “Crown as residual” concept under which the Act was developed. It is also consistent with our observations in our 1988 *Report of the Auditor General*. In our section on *Forest Management* in that Report, we discussed the various assumptions the Department used in determining the level of silviculture activities on Crown lands. One of the key assumptions in the Department’s model was that “Crown lands will be used as the residual supply.”

6.37 The respective roles of private forest land as primary and Crown land as the residual make sense when one considers the multiple uses of Crown land mandated under the Act. The Minister is responsible “for the development, utilization, protection and integrated management of

the resources of Crown Lands.” Subsection 3(1) lists six different uses for the Crown land. And only one of these refers to the harvesting and renewal of timber resources on Crown lands. Others include habitat for maintenance of fish and wildlife, public access, and forest recreation. The Crown, then, must balance a variety of forest objectives.

6.38 From 1980 to 1992 the private forest lands were in fact the major or primary supplier except for two years. In 1988-89 and 1991-92 private forest lands supplied 50% of the timber to provincial wood processing facilities and the Crown (public) supplied 50%. We examined timber utilization statistics from 1960 to 1980 as well. During that twenty-year period, the Crown exceeded the supply from the private forest lands in only three years. In other words, prior to 1992, it was clear that, taken together, the private forest lands were the primary source of timber for wood processing facilities in the Province – both in the Act and in fact.¹

6.39 Prior to 1992 the Department required that contracts with private woodlot owners (through their representatives, the seven marketing boards or Producer Associations) be in place before it permitted harvesting of Crown lands by wood processors. Or, alternatively, the parties had to at least be engaged in an arbitration process before the Crown would grant access to its wood.

6.40 Up until 1992 this “private woodlots first” was actually specified in subsection 29(5) of the Act. At that time the subsection read as follows:

29(5) An operating plan shall, for a five-year period

(a) identify, in the following order of priority, the proportions of wood supply to be used in any wood processing facility of the licensee or any sub-licensee

- (i) from Producer Associations in the Province,*
- (ii) from freehold lands owned or controlled by the licensee,*
- (iii) from other sources within and without the Province,*
- (iv) through exchanges of wood or wood products,*
- (v) from Crown Lands;*

6.41 In 1992, the words “in the following order of priority” were removed from subsection 29(5). In effect, the pre-1992 wording specified an order or priority of supply, with the private woodlots (as represented by the Producer Associations) first on the list, followed by freehold lands, and then other sources. Other sources would presumably

1. Since 1992 the trend has continued. In all but one year the private forest lands have supplied over 50%.

include the private lands of 5,000 hectares. The Crown wood came last. Up until 1992, private forest lands were not only “first in importance”, they were also “first in time; first in order”. They were primary in both senses of the word.

***Complications resulting from
1992 amendments to Act***

6.42 This “private woodlots first” situation gave the private woodlots and the seven marketing boards that represented them negotiating power to aid in the setting of timber prices. Our understanding is that in some cases this negotiation and arbitration process was perceived as too cumbersome by the wood processing facilities. In the 1992 debates in the House on the proposed amendments to the Act, the Minister of the day said “Under the old Act there were two or three instances where there were disputes with regard to the law.”

6.43 Our understanding is that wood processing facilities argued that the threat of restricting their access to Crown wood created an unfair advantage for the marketing boards. Given that the Crown is the single largest supplier – that is, it clearly supplies more than any of freehold lands or private woodlots individually and supplies almost the same amount as the sum total of the two taken together- many mills cannot operate without Crown wood. By effectively barring access to that wood until the private woodlots had contracts or arbitration was in place, the Crown had given the marketing boards an important bargaining chip.

6.44 Of course, one might argue that this is exactly how the Act should have been working. The Crown should not dominate the market since it is to “encourage private forest lands to be the primary source of supply.” Given its huge land holdings as the single biggest individual supplier, if the Crown entered the market first, it could effectively set the market price. It could easily become the dominant supplier, the supplier of first choice. Therefore, by withholding access to Crown wood until the marketing boards and the mills negotiated contracts, the Crown would have been allowing other market forces to set a price. It would have been adding a little balance to its position as dominant supplier.

6.45 This principle is reflected in a 1990 discussion paper prepared under the name of the former Minister, the Honourable Morris Green, “*Private Woodlots: Consideration for Future Action.*” This paper discussed the direction of the Department on the issue of primary supply. It noted the Department’s approach was “intended to ensure stable markets to the private woodlot owners and to ensure that Crown timber does not compete unfairly with woodlot timber.” In other words, it was helping to encourage the private woodlots to do their part in ensuring private forest lands were the primary source of supply.

6.46 Nonetheless, the situation was such that the legislation was amended. Our understanding is that pressure from the mills and from some private woodlot owners who wished to bypass the boards and sell

direct, led to these changes. The threat of marketing boards effectively restricting access to Crown wood was seen as contrary to the so-called “open for business” philosophy of the government of the day.

6.47 The change in the influence of the marketing boards and private woodlot owners over the access to Crown wood was accomplished by an insertion to subsection 3(2) of the Act. It was amended to include a reference to a new subsection 29(7.1) in its definition of the Department’s mandate for private forest lands. Subsection 3(2) now reads:

*The Minister shall encourage the management of private forest lands as the primary source of timber for wood processing facilities in the Province **consistent with subsection 29(7.1)** and, with the approval of the Lieutenant-Governor in Council, may initiate programs for such purposes. (**emphasis ours to illustrate amendment to Act**)*

6.48 Further subsection 29(7.1) states

The Minister, during the process of approving an operating plan under subsection (7), shall ensure that private woodlots are a source of wood supply consistent with the principles of (a) proportional supply, and (b) sustained yield.

6.49 This short statement - **consistent with subsection 29(7.1)** - interjected an additional element into the mandate. But section 29(7.1) only refers to the “private woodlots.” It excludes the “freehold lands” and “forest land consisting of an aggregate of 5,000 hectares owned by one person” components of the “private forest lands.”

6.50 The Department has informed us that the “proportional supply” phrase was the key to changing the negotiating position of the marketing boards. In the Department’s view, private woodlot owners no longer had to be the first (or primary) source of supply for the mills. As long as the private woodlots remained proportional, the Department had fulfilled its responsibility. Contracts did not have to be in place. The mills could access Crown wood.

Department’s current interpretation of its mandate

6.51 When we began our audit, departmental representatives indicated that they had no clear mandate for all three components of private forest lands.

6.52 In some of our discussions the Department expressed a viewpoint that the phrase “proportional supply” overrules the “primary source” reference in 3(2), even though proportional supply relates to only one of the three components of private forest lands named in the Act. The Department now sees its role as assuring that the private woodlots have a market for their wood. One might say that this goal is

strictly an economic one. It is not one that contemplates encouraging “the management of private forest lands”. It assumes that if private woodlots can sell their products, then no action is required.

Our opinion on overall mandate

6.53 In our opinion the overall mandate under section 3(2) is to “encourage the management of private forest lands as the primary source of timber for wood processing facilities in the Province”. Further, in pursuit of this mandate the Minister may, with the approval of the Lieutenant-Governor in Council, “initiate programs for such purposes.” The 1992 reference to subsection 29(7.1) merely adds an additional responsibility to the Minister for one particular component of the private forest lands – the private woodlots component. We note that this additional responsibility is very specific and not in keeping with the general theme of subsection 3(2) which is to “encourage the management of private forest lands” by initiating programs for such purposes.

6.54 In our discussions with the Department, we have received the impression that the changes made in 1992 were done quickly. The conditions in the market were such that a quick solution was sought to dealing with the influence of the marketing boards over access to Crown wood. In retrospect, it would probably have been better to seek another way of dealing with the issue as opposed to adding this additional responsibility for only one component of private forest lands in the middle of the Department's mandate for all private forest lands. The amendment is clearly out of place. It adds a reference to a rather detailed administrative type responsibility dealing with only one component of private forest lands into a high-level purpose or mandate section of the Act.

Specific private woodlot responsibilities

6.55 We have noted that subsection 29(7.1) of the Act provides a specific responsibility that the Minister must carry out for the private woodlot portion of private forest lands as he “encourages management.” The section refers to the operating plan that wood-processing facilities with Crown timber licenses must file each year. The operating plan is one of the requirements licensees must meet for maintaining a forest management agreement on Crown land. The plan describes the licensee's plans for the volume of wood to be processed through their facilities and the sources of supply for that wood.

6.56 With respect to the Minister's responsibilities for private woodlots, the two key terms in 29(7.1) are “proportional supply” and “sustained yield.” Proportional supply is defined by the Act as:

*equitable sharing among the sources of wood supply
.....based on historic market share of supply to a wood
processing facility.*

6.57 The Act or regulations do not define historic market share. This seems to be a significant oversight. The last time the Department

established a historic market share was in 1992 based on a five-year average (1986-90) of market share by mill. These 1990 figures may have little relevance to the present market share or market conditions.

6.58 Sustained yield is not defined by the Act. The *Gage Dictionary of Canadian English* defines sustained yield as follows:

in the management of forest, fisheries, etc. the principle of maintaining a steady yield by keeping annual growth or increase at least as high as annual output.

6.59 We can see then, that it is the Minister's added duty to monitor two aspects of the planned harvest from private woodlots. First, the ratio of private woodlot wood supply to various other New Brunswick supplies for each "wood processing facility" must remain in compliance with its "historic market share of supply". Secondly, private woodlots, to be sustainable, must have a projected annual growth rate at least as high as the planned harvest. And the Department's review of the operating plans of each licensee is one forum through which these requirements can be assessed each year.

6.60 It could be argued that proportional supply and sustained yield are conflicting goals. For example, if the supply of timber from Crown lands, freehold lands or private lands to a "wood processing facility" increases, the supply of wood from private woodlots would have to increase in order to remain "proportional". This may bring the private woodlot supply up to a level that is not sustainable. It is not clear how such a conflict could be resolved.

Responsibilities for monitoring actual yield

6.61 Subsection 29(7.2) also gives clear direction to the Minister concerning private woodlots. The subsection states that:

If, during the process of approving an operating plan of a licensee under subsection 29(7), the Minister determines that a licensee or any of its sub-licensees have, in the preceding year in relation to the wood used in a wood processing facility, failed to purchase ninety-eight per cent or more of the proportion identified to be used in any wood processing facility from private woodlots in the operating plan for that year, the Minister may amend the operating plan of that licensee for the subsequent year by reducing the volume of timber that may be taken by the licensee, or sub-licensee, or both, from Crown land in the subsequent year by a volume equal to the shortfall in volume of wood that should have been purchased from private woodlots in the previous year.

6.62 This subsection requires that the Minister compare the amount of wood purchased from private woodlots to the operating plan from a mill that also harvests Crown lands. Usage of less than 98% of the planned consumption from private woodlots may cause the Minister to reduce the

Crown allocation. This monitoring responsibility further emphasizes the importance of the private woodlots as a source of supply. Section 29(7.1) gives the Minister responsibility for ensuring the operating plans deal with private woodlots from the perspective of proportional supply and sustained yield. And 29(7.2) requires the Minister to ensure that actual purchases are at least 98% of the plan.

Minister's responsibilities for freehold lands

6.63 As we have noted, subsection 3(2) of the Act clearly gives the Minister the responsibility for encouraging the management of private forest lands as the primary source of timber. Under that mandate, the Minister does have some direct responsibilities for freehold land. These are specified in various sections of the *Crown Lands and Forests Act*.

Monitoring of planned and actual cut

6.64 In our earlier comments dealing with private woodlots, we discussed operating plans prepared by the Crown licensees. Section 29(5)(b)(ii) of the Act notes that the licensee must provide the Minister with the planned wood supply to its mills from freehold lands it owns or controls. Section 39 of the Act goes on to add that:

On or before the last day of June in each year, a licensee shall provide the Minister with a report setting out . . . (b) the volume of timber by species and class harvested on the freehold lands owned or controlled by the licensee and his sub-licensees,

6.65 Taken together, these sections would allow the Minister to monitor actual to planned cut on freehold lands.

Monitoring of non-timber objectives

6.66 Subsection 40(1) seems to suggest that for freehold land belonging to a company that cuts on Crown land, the Minister has the responsibility to ensure additional non-harvesting goals are pursued. It states:

Upon the request of the Minister, a licensee shall at his own expense provide the Minister with a copy of, and shall prepare if necessary, a current management plan and a current operating plan for freehold land owned or controlled by the licensee, such plans to be prepared in the same form as, and to contain comparable information to that set out in, management and operating plans prepared for Crown Lands.

6.67 Section 45 of the Act has an almost identical provision covering freehold lands owned by sub-licensees.

6.68 It would seem that if the results of the Minister's monitoring under 40(1) were not to his liking, the Department could use access to Crown wood as an important incentive to bring about improvements. However, we have been informed that the Minister does not ask for these management and operating plans for freehold land. This appears to

be one clear part of the Minister's mandate which has not been exercised.

Specific responsibilities for properties of 5,000 hectares owned by one person

6.69 The third component of private forest lands is what has been defined as "forest land consisting of an aggregate of 5,000 hectares owned by one person". The Act contains very little in terms of direction for these tracts of land. This seems like a significant gap in the Act. A component of private forest lands has been identified, but then virtually ignored.

6.70 A situation could arise where the owner of a large tract of land of 5,000 hectares does not hold a lease on Crown land. The Province could not use the threat of canceling access to Crown wood to influence this landowner. He does not own a wood processing facility. There would be no requirement for the landowner to file a management plan like those that the Minister can request from owners of freehold land under subsection 40(1). It might be that the Province could not prevent a significant loss of habitat or sustainability if the landowner decided to cut every tree on the property.

6.71 It should be noted that the State of Maine has regulations under its "*Forest Practices Act*" to protect all forest lands in the state. This Act has strict standards for forest practices such as clear cutting. It requires the landowner notify the government prior to commencing harvest operations. It would appear that the Department would be wise to consider the need to have more specifically defined responsibilities for these 5,000 hectare private forest lands.

Influence of other legislation on private forest lands

6.72 There are three additional Acts we would like to provide comments on because of their impact on private forest lands. The first is an important piece of legislation that has not yet been proclaimed. The other two Acts relate specifically to the private woodlots component only.

Transportation of Primary Forest Products Act

6.73 The *Transportation of Primary Forest Products Act* was assented to on 12 March 1999. The Minister of Natural Resources and Energy has been assigned responsibility for administering this Act.

6.74 This Act deals with the requirement to possess and deliver load slips showing various information to be prescribed by regulation. The Act applies to all primary forest products, whether harvested on any of the three categories of private forest land or on Crown land. Our understanding is the Act is intended to deal with the growing problem of wood theft and to assist marketing boards in collecting levies for wood sourced from private woodlots.

6.75 The Act has yet to be proclaimed, but it represents a significant piece of legislation which will define key ministerial responsibilities for private forest lands in a totally separate Act.

The Natural Products Act

6.76 The *Natural Products Act* is an act jointly administered by the Minister of Agriculture¹ and the Minister of Natural Resources and Energy. The *Natural Products Act* has a goal which appears to be complementary to the Minister's responsibilities for private woodlots under the *Crown Lands and Forests Act*. Section 3(g) of the *Natural Products Act* states:

3 The purpose and intent of this Act is to provide

(g) for the development, conservation and management of forestry resources on private woodlots in the Province.

6.77 Section 39(1) permits the Lieutenant-Governor in Council to make regulations giving the marketing boards authority to collect a levy on primary forest products sold off of private woodlots. These levies can then be used "for the purposes of implementing and administering forest management programs on private woodlots." These purposes would all have a direct tie to the *Crown Lands and Forests Act's* themes of encouraging management and monitoring sustainable harvest. This is also a significant piece of legislation that deals with private forest lands in a separate Act.

The Forest Products Act

6.78 The Minister of Natural Resources and Energy also administers the *Forest Products Act*. This Act establishes an important organization known as the Forest Products Commission.

6.79 The object and the duties of the Commission are in many ways complementary to the Minister's role under the *Crown Lands and Forests Act*. And the Minister has significant influence on this organization.

6.80 To begin, the Commission Chair is recommended by the Minister. The other six members of the Commission are from a variety of groups, including one representative of the Minister. They are appointed by the Lieutenant-Governor in Council. The Minister also appoints and pays the secretary to the Commission. The secretary role is much like that of an executive director.

6.81 This is still another example of legislation dealing with private forest lands in a separate Act.

6.82 Based on our comments in this section regarding the Department's mandate for private forest lands, we made the following recommendations.

Recommendations

6.83 We recommended that the Department revisit the *Crown Lands and Forests Act* and all relevant legislation dealing with private forest

1. When we conducted the bulk of our fieldwork, there was still a separate Minister of Agriculture. Therefore, we have used that title in this chapter.

lands. We recommended several key components to the review as follows:

- **Clarification of the overall mandate and responsibility for private forest lands and a clear communication to departmental staff and representatives of all three private forest land groups.**
- **Clarification of various definitions in the Act. For example, we recommended that the Act be amended to more clearly define the terms “Private Forest Lands” and each category or type of land included in this definition. We also recommended the legislation clearly define such terms as “proportional supply” and “historic market share”. Further, the Department needs a means of reconciling proportional supply with the concept of “sustainable yield” as it relates to Subsection 29(7.1) of the Act.**
- **Clearer definition of what “encourage management” means for now and the future. For example, to what extent should the Province encourage and define non-timber objectives and certification efforts on private forest lands?**
- **A decision as to whether all private forest land legislation should be incorporated into one Act.**
- **A decision as to whether this private forest land legislation should continue to be incorporated in legislation covering Crown lands; this integration may be necessary due to the important motivational tool of access to Crown wood and the need for a total provincial forest outlook on issues such as disease and fire protection.**

6.84 Our second criterion was:

The Department should have appropriate goals and objectives to carry out its responsibilities for private forest land as assigned under the Crown Lands and Forests Act and Regulations.

6.85 The second criterion addresses the next stage in the management cycle. This is the planning stage where appropriate goals and objectives are developed to fulfill the mandate of the program.

6.86 When we asked the Department for a listing of its goals and objectives for its responsibilities for private forest lands, staff were unable to provide any such document to us. We were shown various documents; but none of these contained a specific statement of results to be achieved over a specific period of time, which was our definition of goals and objectives.

Conclusion

6.87 Therefore, we concluded that the Department does not meet this criterion. Appropriate goals and objectives have not been set that would adequately address the overall mandate and responsibilities.

Recommendation

6.88 We recommended that the Department conduct a long term planning exercise to establish appropriate goals and objectives that adequately address the Department's mandate relating to private forest lands.

6.89 Our third criterion was:

Programs, policies and procedures should be consistent with the Crown Lands and Forests Act and Regulations for private forest lands.

6.90 This criterion refers to the programs, and their related policies and procedures, that the Department has implemented to encourage the management of private forest lands. Our purpose here is to identify those programs, and to determine if they are consistent with the *Crown Lands and Forests Act* and Regulations.

6.91 The programs we have examined under this criterion are drawn from the program components of Program 60-01 – Forest Management of the *Main Estimates* for 1999-2000. These program components are Silviculture, Fire Protection, Insect and Disease Protection, Timber Utilization, Private Land Development, and Program Management. They combine departmental activities related to both Crown and private forest land. In our opinion, all six program components address, at least in part, private forest lands.

6.92 We did note, however, that it may be appropriate for the Department to add another program component to its description in the *Main Estimates*. Because the Department has a number of legislated monitoring responsibilities for private forest lands, we believe there is merit in having a formal program component for these important duties. We have called it “Timber Utilization on Private Forest Lands” for sake of discussion.

Recommendation

6.93 We recommended that as part of the *Main Estimates* process, the Department formally recognize the importance of its legislated monitoring responsibilities for private forest land by designating a new program component. A title such as “Timber Utilization on Private Forest Lands” may be suitable for such purposes.

6.94 Although not named in the *Main Estimates* as a specific program, or program component, we believe the Department may have one other program related to private forest lands. This is the work carried out by the Forest Products Commission. Under our first criterion we noted how the Minister had certain responsibilities under the *Forest Products Act* and that the Minister had significant influence on the

organization established by that legislation – the Forest Products Commission. The Commission’s duties are heavily linked to encouraging the production and sale of primary forest products from private woodlots.

6.95 The Commission serves as a link between the producer and the consumer. From our discussions with the Commission, it appears its activities are mainly concentrated in the areas of arbitrating sales disputes between firstly, the marketing boards and the processing industry, and secondly, between marketing boards and private woodlot owners. The Commission also appears to have adopted a quasi-oversight function over the quality of governance of marketing boards. For instance, the Commission receives and reviews the annual audited financial statements of the boards. It also reviews the board minutes of these marketing organizations and it receives other pertinent reports. To the extent that these activities encourage management of private woodlots owned by the “producers”, they are consistent with the *Crown Lands and Forests Act*.

6.96 In our opinion, all of the other program components we identified are also consistent with the *Crown Lands and Forests Act*. We do have some specific comments we wish to make however, regarding the Silviculture and Private Land Development program components.

Silviculture

6.97 The 1999-2000 *Main Estimates* shows a total of \$23,765,200 budgeted for “facilitating of silviculture activities on both Crown and Private Land.”

6.98 The *Main Estimates* does not provide a specific breakdown of how much is to be spent on the private woodlots component of private forest lands. Based on figures provided to us by the Department, it spent about \$8 million on private silviculture in 1998-99 and in 1999-2000. This \$8 million is a portion of the total \$23,765,200 budgeted for silviculture. Over the past five years the provincial and federal governments have spent approximately \$27 million on silviculture on private woodlots.

Administration of Silviculture

6.99 The Department conducts the silviculture program on private woodlots through various arrangements with the seven marketing boards. Our understanding is that half of the Department’s private silviculture funds are allocated based on the percentage of private woodlots in each marketing board area. The other half of the funds is allocated based on the proportion of woodlot owners represented by the board to the total number of woodlot owners in the Province.

6.100 Marketing boards draw funds from the Department by submitting claims. The Department’s employees conduct inspections to ensure the silviculture work it pays for is completed. The Department pays the marketing boards a standard rate for each hectare of land

subjected to silviculture treatments. The board in turn removes a portion of the funding to cover administration charges or overheads and then passes on the remainder to the person or company that carried out the silviculture treatment. The Department does not mandate how much of the total subsidy can be retained by the various boards for administration. In one example we noted, the board kept 41% of the Department subsidy for administration expenses.

Recommendation

6.101 We recommended that the Department review the funding formula for silviculture and provide guidelines as to what are acceptable limits for administrative expenses. The formula should work to ensure that the marketing boards optimize the area treated with the funds provided.

6.102 The Department has contrasting approaches to silviculture on Crown land versus private land. We have been informed that for silviculture on Crown land, the Department's goal is to apply a level of silviculture treatments that will maximize the annual allowable cut. Silviculture is directed to maximizing the sustainable harvest. And the level of funding is based on this level of silviculture.

6.103 For its silviculture funding on private woodlots, however, the Department has no similar goal. Therefore, there is no indication as to whether the annual funding is more or less than needed.

Recommendation

6.104 We recommended that the Department establish a measureable goal or objective to assist it in determining the level of subsidy required for silviculture activity on private woodlots. The goal and the level of subsidy should give due consideration to the funding from all sources.

No landowner commitment required

6.105 We have been informed that the Department does not require landowners that benefit from the silviculture to maintain any ongoing commitments to the Department regarding that land. One might expect to see that in exchange for silviculture funding the Department might require a landowner to make a commitment to a sustainable harvest plan on the property. Or one might expect the Department to require these landowners to sell all their wood to a New Brunswick processor, thus helping to ensure the overall goal of private wood as the primary source of supply for facilities in the Province.

Recommendation

6.106 We recommended that the Department adopt some form of contractual commitment for landowners who benefit from the silviculture funding. The commitment should be viewed by the Department as a means of encouraging private forest land to be the primary source of timber for wood processing facilities in the Province.

Silviculture on private lands of 5,000 hectares

6.107 We were informed during our discussions with the marketing boards and the Forest Products Commission that on at least one occasion a landowner of private lands over 5,000 hectares requested silviculture

funding from the Department through his local board. After some discussion, it was decided that silviculture funding from the Department was not available to this 5,000 hectare class of private forest land. It is our understanding that the authority for such a decision was stated to be the *Crown Lands and Forests Act*.

6.108 We could not find any such restriction on silviculture funding based on our reading of the Act. In fact, one might argue that subsidized silviculture activities on these 5,000 hectare private lands would be one effective way to “encourage management” of these properties. This appears to be a case where an operating procedure for the silviculture program is not consistent with the Act.

Recommendation

6.109 We recommended that the Department review the funding formula for the allocation of silviculture funds to marketing boards to ensure that private lands of 5,000 hectares are appropriately considered in the distribution of funds.

Private Land Development

6.110 The *Main Estimates* explains this activity as the “provision of technical advice to encourage management of private woodlots and the marketing of products.” It also monitors the expenditure of private silviculture funds. Approximately \$1.6 million was budgeted for this program in the year ending 31 March 2000. Over the last five years, the Department has spent approximately \$ 7.1 million on these activities.

6.111 This program is often commonly referred to as Forest Extension. During the period of our audit, the Department had Forest Extension representatives stationed throughout the Province at various regional facilities. These Forest Extension personnel provide a variety of courses and educational materials to private woodlot owners in the various regions of the Province. The 1998-99 Annual Report of the Department noted that during that year around 1,800 of the 35,000 private woodlot owners attended woodlot educational programs.

6.112 Education of private woodlot owners is a direct and visible means of encouraging management of private forest land.

Future of private land development

6.113 As we entered the reporting phase of this audit, we were informed that the government has proposed elimination of the staffing of Forest Extension. We are uncertain as to how the Department will continue to deliver an important program component without any staffing. Further, it should be noted these same Forest Extension staff are the ones monitoring the silviculture expenditures on private lands.

Conclusion

6.114 In our opinion, the Department has met this criterion. Although we have pointed out a couple of issues in the Silviculture and Private Land Development areas, in general, the program components we examined are consistent with the *Crown Lands and Forests Act*.

6.115 Our fourth criterion was:

The Department should monitor the results of programs that address private forest land and take corrective action when necessary.

6.116 Notwithstanding our general observation about a lack of documented goals and objectives for the Department's programs for private forest lands, we would still like to make some comments regarding monitoring and measurement in this section. One reason in particular why we would like to do that is because certain monitoring activities are actually established in the legislation. For instance, the Act assigns the Department several specific responsibilities such as monitoring the planned and actual cut on freehold lands, and ensuring that private woodlots are a source of wood supply consistent with the principles of proportional supply and sustained yield. We believe it would be appropriate to comment on these legislated responsibilities in this section. In effect, one might say certain goals are established by the monitoring provisions of the legislation.

6.117 Further, as previously indicated, the overall mandate that the Department has been given from the *Crown Lands and Forests Act* is to "encourage the management of private forest lands as the primary source of timber for wood processing facilities in the Province". Progress on this mandate must be measured. Whatever other goals the Department might develop, there should be some link to this broad overarching objective. Therefore, under our examination of this criterion, we are suggesting some measures which may help the Department determine if it has fulfilled its mandate.

Legislated monitoring for private woodlots

6.118 We have previously quoted subsection 29(7.1) of the Act, which gives the Minister the responsibility to monitor "proportional supply" and "sustained yield". In order to ensure that the principles of proportional supply and sustained yield are upheld, the Department would seem to require some type of ongoing monitoring mechanism. If either proportional supply or sustained yield fell out of balance, there would seem to be some need for corrective action.

6.119 Subsection 29(7.2) of the Act requires that the Minister compare the amount of wood purchased from private woodlots as compared to the operating plan from a mill that also harvests Crown lands. Usage of less than 98% of the planned consumption from private woodlots may cause the Minister to reduce the Crown allocation. This paragraph clearly grants the Minister a further monitoring responsibility.

6.120 We did not find any evidence that the Department has been monitoring for the legislative requirements of either paragraph 29(7.1) or (7.2). The Department contends that the current state of the market has not indicated concerns in these areas. Therefore no efforts have been made to monitor them. In other words, private woodlot owners are

essentially able to sell all the wood they wish. Thus, they do not currently need the Department to enforce the protection of the proportional supply clause and the 98% rule.

6.121 Although this may very well be the case, we believe the Department is overlooking a legislated responsibility. Further, there may be strong pressures for private woodlot owners to harvest too early or to over-harvest. Without monitoring sustainability, the Department cannot be sure it is encouraging the right type of management of private woodlots.

Recommendation

6.122 We recommended the Department comply with the monitoring provisions of sections 29(7.1) and 29(7.2) of the Act.

Minister's responsibilities for industrial freehold lands

6.123 Section 29(5)(b)(ii) of the Act requires the licensee, through its operating plan, to provide the Minister with the planned wood supply from freehold lands it owns or controls. The planned wood supply must cover mills owned by both the licensee and its sub-licensees. The licensees and sub-licensees own or control the vast majority of freehold land. Section 39 of the Act goes on to add that:

On or before the last day of June in each year, a licensee shall provide the Minister with a report setting out . . . (b) the volume of timber by species and class harvested on the freehold lands owned or controlled by the licensee and his sub-licensees,

6.124 These sections seem to require that the Minister monitor actual to planned cut on freehold lands.

6.125 Based on the information we reviewed, it does appear that the Department is receiving the operating plans as required. And the Department is also receiving figures for actual cut on freehold lands.

6.126 It appears though, that one other monitoring responsibility is not being carried out. We have already quoted subsection 40(1) of the Act, which allows the Minister to request management plans and operating plans regarding freehold land owned by Crown licensees. Section 45 of the Act has an almost identical provision covering freehold lands owned by sub-licensees.

6.127 We have been told that the Minister has never asked for a report under section 40(1). Management plans for Crown lands include provisions for fish and wildlife and other non timber objectives. It follows that the Minister would have a legitimate monitoring provision to ensure those holding large tracts of land are having the "right" impact on these non-timber objectives.

Recommendation

6.128 We recommended that the Department implement the monitoring provisions of sections 40(1) and 45 of the *Crown Lands and Forests Act*.

Monitoring timber exports from private forest lands

6.129 If the Minister is to encourage management of private forest lands as the primary source for facilities in the Province, there should be a full appreciation of the extent to which private forest lands are supplying wood processing facilities out of the Province. There would seem to be a need to know the extent of such export pressures in order to better “encourage the management of private forest lands” to supply in-Province facilities.

6.130 Based on our discussions, it appears the Department does not have an ongoing monitoring of the extent of the exports from private forest lands. Through contact with the State of Maine, we were able to obtain some export figures. We found that the net exports from New Brunswick to Maine averaged about 42,000¹ cubic meters of softwood in the last five years. This would have a value of about \$3 million per year. In addition, net hardwood exports to Maine are about 635,000¹ cubic meters per year. Depending on the market price, this would have a value of \$25 to \$30 million. Exports to Quebec and other markets may also be significant but we were unable to determine the extent.

6.131 Given our close proximity to the U.S. market and the lower value of the Canadian dollar, the anticipated demand for New Brunswick forest products is expected to remain strong. In our view this makes it imperative that the Department adopt monitoring procedures with respect to the export of timber from private forest lands.

6.132 One of the factors that drives owners of private forest lands to export timber is price. If these owners can get a better price in Maine or Quebec, they have an incentive to export. Given this, it would seem prudent for the Department to be monitoring export prices. If export prices are significantly higher than New Brunswick prices, the Minister may need to take action to “encourage” the property owners to keep their wood in-Province. One way to encourage management in these circumstances would be to revisit the price on Crown timber.

6.133 Corrective action might also involve the marketing board levy. At the time we conducted our fieldwork, exported wood was not subject to the marketing board levy. This appeared to be a factor that encouraged exports of unprocessed wood. When the private woodlot owners sell to an in-Province mill, the local marketing board receives a percentage of the proceeds as a levy. But a landowner who exports the wood receives all of the proceeds. There is no “check-off” levy for the marketing board. During the course of our audit, we were informed that the Department and the Forest Products Commission were working with the Government of Canada to attempt to collect a levy on exported products. But to date, no mechanism has been established. Some form of levy on exported products would “encourage” private forest land owners to send timber to New Brunswick mills.

1. Per *Wood Producer Reports*, 1990-1998. Maine Forest Services

Recommendation

6.134 We recommended the Department develop an active monitoring program over the export of wood from private forest lands. Appropriate corrective action should be taken as required in order to encourage the management of private forest lands as the primary source of timber for wood processing facilities in New Brunswick.

Monitoring of sustainable harvest

6.135 In our opinion the Department has a role in monitoring the sustainability of the harvest from private forest lands. The Department would seem to have, at a minimum, an ongoing role under the legislation to ensure that the Crown supplies less timber to the domestic market than private sources. But we believe the monitoring responsibility goes beyond that. If the Crown is not successful in encouraging private forest lands to be managed in a sustainable fashion, then eventually the private forest lands would not be the primary source of supply. Further, if private forest land is not managed sustainably, it may, because of pressure from consumers for environmental certification, be rejected as a source of supply by some processing industries. If wood can't be certified for these consumers, then it can't be sold. This "rejected" timber would not be available to help maintain private forest lands as the primary source of supply.

Annual allowable cut

6.136 One of the main measures needed in order to monitor sustainable management of the resource is the annual allowable cut. This figure details how much wood can be harvested each year without reducing the wood supply for future years. It is a planning figure.

6.137 The annual allowable cut for industrial freehold is determined by the industry itself and reported to the Department. The Department does not attempt to systematically verify these figures. But we are pleased to see that they are consistently obtained from the industry.

6.138 The process has not been as consistent for the annual allowable cut figures from the private woodlots. In four of seven marketing board areas the figures for annual allowable cut for private woodlots are more than ten years old. None of the annual allowable cut figures are less than seven years old. Marketing boards also indicated that these important planning figures were not accurate.

6.139 More timely and accurate annual allowable cut information is needed in order for the Minister to encourage management of private forest lands as the primary source of timber for wood processing facilities in New Brunswick. Although up to date figures are available on industrial freehold, improvements need to be made on figures from private woodlots.

Recommendation

6.140 We recommended that the Department obtain and develop objective and timely information on the sustainable harvest figures for private woodlots.

Annual cut figures not complete

6.141 After the plan has been set in the “annual allowable cut”, the other critical measure needed to monitor sustainability of the resource is the “annual cut”. This “annual cut” is the actual harvest statistics for the various sources and types of wood.

6.142 The Province does not have a single coordinated system to measure the annual cut. The Department has a system for Crown lands. And the owners of industrial freehold land have systems for providing the Minister with the annual cut on their lands. But there is no system for ensuring the completeness of the annual cut data for private woodlots. This is significant as these woodlots are approximately 30% of the Province’s total woodland.

6.143 Harvest statistics are prepared for private woodlots. Much of this information comes from the marketing boards. Many of the marketing boards have their own load slip systems for sales that they process and deduct a levy on. This allows them to develop harvest figures. But some boards indicated that as much as 30% of the “annual cut” from private woodlots does not go through a board. Therefore, this “30%” is not recorded in their annual cut statistics.

6.144 This lack of a complete tracking system for unprocessed wood from private woodlots causes many problems. No reliable figures for the annual cut can be determined. This means the Department does not know if this harvest on private woodlots is sustainable. Furthermore, enforcement of marketing board levies is difficult. Proportional supply cannot be reliably monitored. And detection and prosecution of wood theft is difficult.

6.145 The lack of a tracking system may also have greater implications in the future. Environmental groups, consumers and major retailers are having a greater impact on the way wood is grown and harvested. Markets are beginning to demand that wood is grown and harvested in an environmentally friendly manner. A “chain of custody” must be established for wood sold to this market so that the source of the wood can be established. A tracking system is needed to verify this.

6.146 The State of Maine now requires a load slip for all shipments of wood. Nova Scotia is also implementing a system that will track all wood sales. In New Brunswick, the *Transportation of Primary Forest Products Act* will require load slips. However, the Act has not yet been proclaimed.

Recommendations

6.147 We recommended the Department develop the means to ensure the accuracy of the annual cut figures for all components of private forest lands.

6.148 We recommended that the Province legislate a uniform provincial tracking system for all wood sales in the Province that can

identify and monitor the source, destination, type and quantity of wood shipped.

***Comparison of annual cut
(actual) to annual allowable cut
(planned)***

6.149 If the actual amount cut exceeds the annual allowable cut then the sustainability of supply and future of the industry is jeopardized. Industry reports¹ that its annual cut is at the annual allowable cut rate for softwood. For hardwood the harvest is not yet up to the annual allowable cut rate. Therefore they claim their industrial freehold lands are being managed sustainably. The Department also claims that it is harvesting at a sustainable level on Crown lands.

6.150 The same is not true for private woodlots. Four of the seven marketing boards reported that in the years from 1994 to 1998 their average softwood harvest exceeded the annual allowable cut. Province-wide during this period softwood from private woodlots was over-harvested an average of about 17% per year.

6.151 According to these figures, this means that in each of the last five years the forest industry has reduced the size of New Brunswick's private woodlots. Unfortunately, the actual over harvesting is greater than these figures show. Earlier we discussed that the annual cut figures for private woodlots were not complete. These statistics do not report a portion of wood exported from the Province, direct sales and sales to small sawmills and residential markets.

6.152 If any one of the three internal sources of timber (Crown, industrial freehold and private lands) is not being managed sustainably, there will be increasing pressure on the other two sources. This combined with an uncertain import market may have a significant impact on the future of the Province's processing industry. It would also create pressure on the Crown's ability to achieve the non-timber objectives set out in legislation.

Recommendation

6.153 We recommended that the Department monitor the difference between the annual allowable cut and the actual cut from private forest lands to ensure that they are harvested at a sustainable rate.

Conclusion

6.154 The criterion is not met. The Department is not carrying out all of its legislated monitoring functions. Further, it has not established goals or intended results for each of the program components. This makes it difficult to monitor the results of its programs for private forest lands.

1. Per *New Brunswick Forests at a Glance*, 1997. A publication of New Brunswick Primary Forest Products Association.

Effectiveness of programs for private forest lands

6.155 Our fifth criterion was:

the Department should have procedures in place to report on the effectiveness of private forest lands programs.

6.156 In auditing against this criterion, we focused on the Department's public reporting through its annual report. This is consistent with the focus in the objective section of the Province's annual report policy. The objective of the policy is as follows:

The prime function of an annual report is to be the major accountability document by departments and agencies for the Legislative Assembly and the general public. It serves as the key public link between the objectives and plans of a government entity and the results obtained.

6.157 We examined the Department's 1998-99 *Annual Report* to determine how it had been reporting on its programs for private forest lands. This was the latest available report at the time of our audit.

6.158 The *Annual Report* does not have a separate section for the Department's activities on private forest lands. Its reporting on private forest lands is included in the section "Forest Management" beginning on page 8 of the report. "Forest Management" combines departmental activities on both Crown and private land.

6.159 One thing that should be noted is that the program objective as stated in the annual report may be somewhat confusing to the reader. The program objective is "To manage Crown timber resources in accordance with government policy." It is stated in bold print at the very beginning of this section on Forest Management. Therefore it is one of the first things the reader would see.

6.160 After seeing this objective, members of the Legislative Assembly and the general public might not expect to find that this section also deals with private forest lands. But yet it does. In our opinion this is not consistent with the annual report policy's statement that "departments and agencies should give a clear account of goals (and) objectives."

Recommendation

6.161 We recommended that the Department disclose its key goals and objectives for private forest lands in its annual report.

Comments on specific program components

6.162 The *Annual Report* section on "Forest Management" is further subdivided by six program components. These six program components (Silviculture, Fire Protection, Insect and Disease Protection, Timber Utilization, Private Land Development and Program Management) relate at least in part to private forest lands.

6.163 The Silviculture segment speaks almost entirely of the Department's activities on Crown lands. Although not explicitly referenced to the text in the Silviculture section, the annual report does contain a table which summarizes silviculture activity on private woodlots. But there is no discussion of the effects of this activity. It would be useful if the Department reported on private woodlots silviculture in a manner similar to its reporting on Crown land silviculture. For Crown lands the annual report shows the additional harvest made possible by silviculture activity.

6.164 It would also be useful for the Department to consider presenting information on the extent of the Silviculture program component. Later in the report under the heading of Private Land Development, the Department does discuss the fact there is combined federal-provincial funding of around \$8 million per year for silviculture. It notes the funding was cost shared with woodlot owners and that 13,370 hectares were treated. But Members of the Legislative Assembly and the general public may be interested in knowing what percentage of private woodlot owners this funding is reaching. This information would address one of the important content provisions of the annual report policy; i.e. "how well a program was accepted by its client groups."

6.165 The Fire Protection, and Insect and Disease Protection areas do not divide their commentary into separate components of private forest lands and Crown lands. The report does clearly state, however, that "Natural Resources and Energy is responsible for providing fire protection for all forest lands." And it notes that the Department "also protects . . . private woodlots from insects and disease." Further to this point is a statement that "New Brunswick's forest did not require pest protection in 1998." This comment would presumably cover all Crown and private forest land. Improvements might be made in these areas by showing how the Department's work supports the management of private forest lands.

6.166 The discussion of Timber Utilization does not make reference directly to the link between the "value-added" policy and private forest lands. The Department could consider if such a link can be discussed in the annual report.

6.167 The section on Private Land Development deals, of course, only with private forest lands. Specifically, it addresses various departmental activities for private woodlots. The report has separate commentary on the activities relating to woodlot development, woodlot education, maple syrup production, and Christmas trees. One interesting point is that the report shows the Department reached 1,800 woodlot owners "through courses, seminars and field days" in 1998-99. This seems to be an important measure the Department could build upon in discussing client acceptance.

6.168 The Program Management section includes some discussion of the Department's continuous ten-year forest inventory program, and a co-operative network to monitor growth and forecast development on various sample plots. These plots are on both Crown and private land. This too seems like important information. It touches on the Department's responsibilities under all of section 3 of the Act – both for Crown and private forest lands.

6.169 It might be more useful if the Department provided a few more details in this subsection. The importance of forest management planning cannot be understated given its significance to the Province's economy. In our opinion, the annual report should provide more information on the relevance of these sample plots and the ten-year forest inventory program. The annual report policy notes the annual report should show "the extent to which a program continues to be relevant." Here is the Department's opportunity to show the reader just how relevant forest management planning is. It has tremendous repercussions for the future of this Province – economically, socially and environmentally.

Work carried out by the Forest Products Commission

6.170 The Annual Report for 1998-99 does not provide any substantive discussion of the work of the Forest Products Commission. The Commission has informed us it does not prepare a separate annual report for tabling in the Legislative Assembly. At times, however, the Commission is asked to appear before the Crown Corporations Committee of the Legislative Assembly. In our opinion, however, despite occasional appearances before the Committee, there has not been sufficient and appropriate reporting to the Legislative Assembly on the results achieved by the Commission.

6.171 One aspect of effectiveness is the achievement of intended results. We believe it would be useful to examine the object and duties of the Commission to determine if the role contemplated in the *Forest Products Act* is being fulfilled. In other words, is the Commission achieving what it was set up to achieve?

Recommendation

6.172 **We recommended the Department carry out an evaluation of the Forest Products Commission to determine if it has fulfilled the object and duties outlined in the *Forest Products Act*. The results should be tabled in the Legislative Assembly.**

Performance measurement

6.173 The last area we would like to touch on is found in the "Performance Measurement" appendix to the *Annual Report*. Government policy clearly calls for performance indicators. We were disappointed that this appendix had no performance indicator with respect to the government's responsibilities for private forest lands.

6.174 While it is up to the Department to formulate what that indicator, or indicators, might be, we believe some of the suggestions

we have made in this chapter may be relevant. Certainly, as we have already discussed, the Department needs to be showing whether, in fact, the private forest lands are the primary source of supply for wood processing facilities in the Province.

6.175 Further, the *Annual Report* could provide information on the annual allowable cut. This could be matched each year to the actual cut harvest statistics, allowing for a quick overview of the sustainability of provincial forests. The Department might then refer to its various forest management planning efforts to achieve sustainability.

6.176 This might include results of efforts to encourage the industry towards some sort of sustainability certification. Major players in the forest industry are actively pursuing this already. By reporting on this particular theme, the Department would show how well it was doing in encouraging management of private forest lands.

Conclusion

6.177 The Department does not meet this criterion. Although the *Annual Report* does include a number of references to private forest lands, we believe these are not sufficient. We have pointed out that there is not a clear statement of goals and objectives and performance indicators for programs relating to private forest lands. The results achieved from these programs are not clearly displayed in the annual report. And there is not enough discussion of client acceptance and program relevance.

Recommendation

6.178 We recommended that as part of a planning exercise to review its mandate and goals and objectives for private forest lands, the Department should develop appropriate performance indicators for its private forest lands programs. The Department should then revisit its annual report to determine how it might best report on its programs for private forest lands in accordance with the requirements of the government's annual report policy.

Departmental response

6.179 The Department provided the following preliminary comments on our observations and recommendations:

The document prepared by your office raises a number of issues relating to the Minister's responsibilities and mandate under the Crown Lands and Forests Act with respect to private forest land.

It has been noted that several recommendations require policy direction from Government and we anticipate seeking that direction through the normal process. Notwithstanding, we will review all remaining recommendations to determine if any can be implemented quickly without seeking policy direction from Government. In addition the Department will be seeking clarification from Justice on certain aspects of the wording in the Crown Lands and Forests Act.

6.180 The Department also committed to providing a more detailed response to our recommendations.