



General Bulletin

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Enforcement of Seed and Vegetative Material Transfer

Introduction

The seed and vegetative material transfer guidelines are described in the Seed and Vegetative Material Guidebook. Seed and vegetative material will be referred to as "seed" in the remainder of this document. The seed transfer guidelines specify a geographic range within which a specific seedlot is suitable for planting. Outside of this range the performance or genetic adaptability of a particular seedlot may be severely reduced, thereby increasing the level of associated risk and/or damage to the plantation.

This bulletin should not be interpreted as ministry policy or legal advice and should not be used in place of the Forest Practices Code of British Columbia Act, the Forest Act or their associated regulations.

The intent of this bulletin is to offer guidelines for the enforcement of seed transfer requirements. Guidelines in this document are not intended to describe or limit the matters that may be taken into account by a statutory decision maker when approving seed transfer variances for tree planting that has not yet occurred.

Legislation

The Silviculture Practices Regulation states, "A person... who carries out planting... must not exceed the limits for seed or vegetative material transfer specified in the Ministry of Forests' publication Seed and Vegetative Material Guidebook". Prior to June 15th 1995 the regulations stated that seed of a provenance adapted to the area must be used. Since June 15 th, 1995 the guidebook has been specifically referenced in the regulation.

Since June 15 th, 1995 it has been mandatory to comply with the transfer guidelines in effect at the time of planting unless the transfer is authorized prior to planting by the district manager or a person delegated by the district manager.

Administrative Penalties

Planting occurred prior to February 7th 1994

There was no legislative mechanism for applying monetary penalties to seed transfer contraventions that occurred prior to February 7th, 1994. Although a monetary penalty can not be applied for contraventions prior to February 7th, 1994, it may be possible to

issue a Notice to Comply for a seed transfer contravention that occurred on or after April 8, 1988 (see the remediation order section of this bulletin).

Planting occurred on or after February 7th, 1994

For seed transfers that occurred on or after February 7th, 1994 and before June 15th, 1995 the Ministry of Forests can apply an administrative penalty with no limitation on the number of years from the discovery of the date of the contravention. It is recommended that no more than 3 years lapse from the date of discovery before an enforcement action in the form of an administrative penalty is taken.

Planting occurred on or after June 15th, 1995

For seed transfers that occurred on or after June 15th, 1995 the Ministry legally has no more than three years from the date of discovery during which enforcement action in the form of administrative penalties can be taken.

Remediation Orders and Notices to Comply

When seed transfer was governed by the Forest Act (prior to June 15th 1995), remediation orders were called "Notices to Comply". A notice to comply can be issued for a seed transfer contravention prior to June 15th, 1995 and after April 8, 1988 if there is statement in the SP (PHSP) that says the seed transfer guidelines will be followed. After June 15th, 1995 a remediation order can be issued where a seed transfer contravention has occurred and there is a remedial action that is desirable.

The closer in time to the actual date of planting the more likely it is that something can be done by the Licensee to remedy the seed transfer problem. For example, if an area has just been recently planted, the trees could be physically removed and the site could be replanted with an appropriate seedlot. However, if a significant period of time has elapsed from the date of planting it may be difficult to remedy the situation. If a seed transfer is likely to result in significant growth loss or unacceptable susceptibility to a significant forest health factor, then the start over approach should be carried out where it is possible to do so. Where it is not reasonable to start over, the District Manager should consider what, if any, remediation action will be required. Other examples of remedial action that could be carried out are sanitation spacing, fill planting or by simply not counting the inappropriate seedlot when carrying out silviculture surveys. These actions may be appropriate where there are enough natural or suitable planted trees to meet the SP objectives.

Note: See the Transfer Guideline Contravention Flow Chart at the end of this bulletin.

Office Reviews of Seed Transfer Compliance

Transfer guidelines may be revised over time as more information becomes available from provenance and/or progeny tests and as advances are made in the field of forest genetics. For the most part transfer limits have become more flexible over time.

Transfer guidelines should be applied at the time of:

1. submitting a seedling request order through the Seed Planning and Registry System (SPAR), and/or
2. planting (particularly when operational requirements result in stock trading or shifting).

Note: For information regarding transfer guidelines, refer to the [FPC, Seed and Vegetative Material Guidebook and the Guidebook Updates](#) available on the ministry's FPC web site.

Note: For a chronological summary of transfer guideline changes, refer to the [Tree Improvement Branch](#) web site.

Transfer Guideline Variances

Transfer guideline variances must be submitted, prior to planting for approval by the District Manager or delegate. This has been the case since June 15th, 1995. Planting without a variance is a contravention of Section 8 (4) of the Silviculture Practices Regulation. All variance approvals must be in writing and be attached to the Opening file number and/or SP. A transfer guideline variance request form (FS850 Transfer Guideline Variance Request form) is available through the ministry's Internet Forms Index . If planting occurs outside the seed transfer guidelines before a variance is granted, then a contravention has occurred. Licensees cannot amend themselves into compliance, as the district manager has no jurisdiction to retroactively change the fact that a contravention has occurred.

Note: The [Transfer Guideline Variance Request form \(FS850\)](#) is available.

Note: Variances should only be considered on an individual request basis. Multi-year or blanket variances (one seedlot for multiple planting sites spanning large geographically different areas) should not be considered.

Transfer Guideline Compliance Monitoring

It is recommended that if transfer guideline compliance monitoring is conducted that it be carried out within a year of planting. Integrated Silviculture Information System (ISIS) reports showing planting site, species and seed lot information are available to assist with transfer guideline compliance monitoring. The Seed Planning and Registry system (SPAR) may be used to determine the transfer guidelines for individual seedlots.

Considerations for Assessing Seed Transfer Guideline Compliance

Compliance decisions are based on the severity of the impact of the non-compliance and previous Licensee history. The following information should be reviewed and/or confirmed for seed transfer compliance assessments.

To determine/decide on the impact:

Applicable legislative requirements,

- Lack of approved variance,

- Applicable transfer guidelines,
- Planting history,
- Description of planting site (proportion of the block area and number / percentage of trees (for all seed lots) in non-compliance),
- Assessment of plantation performance (current and expected) related to non-compliance,
- Assessment of disease symptoms /pest attack related to non-compliance.

To provide context for performance to determine punitive/disciplinary action:

- Number and severity of past similar contraventions,
- Whether the current contravention was deliberate or reckless or a result of a negligent act.

Note: This list is not intended to be exhaustive. Each seed transfer compliance assessment should be reviewed on a per case basis.

Trivial vs. Significant Non-compliance

Trivial non-compliance is defined in the Compliance Manual as "any incident that is not in the public interest to pursue". However, repeated trivial non-compliance events could be considered significant non-compliance, and may cause the ministry to pursue a more severe enforcement action on current practices. Significant non-compliance can have a range of enforcement actions that relate to the severity of the seed transfer contravention. For further information on non-compliance, please refer to the most recent version of the Compliance Manual.

Examples of Trivial Non-Compliance

1. Rules of the Day

In some cases, planting may have been carried out that was not in accordance with the transfer guidelines in effect at the time of planting. These same areas may now be within the current transfer limits specified in the Guidebook or the guidebook updates. The law in effect at the time of planting applies, and therefore this would technically be a contravention. However, for natural stand (Class B) lots, if new transfer limits describe a wider transfer then this could be described as trivial non-compliance. In this case, a "Note to File" could be the compliance action taken. For orchard (Class A) seed lots, new transfer ranges (including SPZs) applied to "active" seed lots may not necessarily apply to old expired seed lots. Confirm with the species' tree breeder as to whether the new "intended use" ranges are applicable.

Bullets numbered 2 –4 are related to the reasonable limits for measuring

distances, elevations and locating boundaries from maps on the ground and are in no way meant to reflect biological risk. The transfer guidelines have been developed with biological risk in mind and already reflect that risk.

2.

3. **Seed Planning Zone (SPZ)**

If the seed lot in question has been planted in an area within 2 kilometres of a Seed Planning Zone (SPZ) map boundary then the contravention could be considered trivial non-compliance.

4. **Latitude/Longitude**

If the seed lot transfer exceeds latitudinal/longitudinal transfer limits by less than 2 minutes the contravention could be considered trivial non-compliance (2 minutes of latitude is approximately 2 kilometres; 2 minutes of longitude is approximately 4 kilometres).

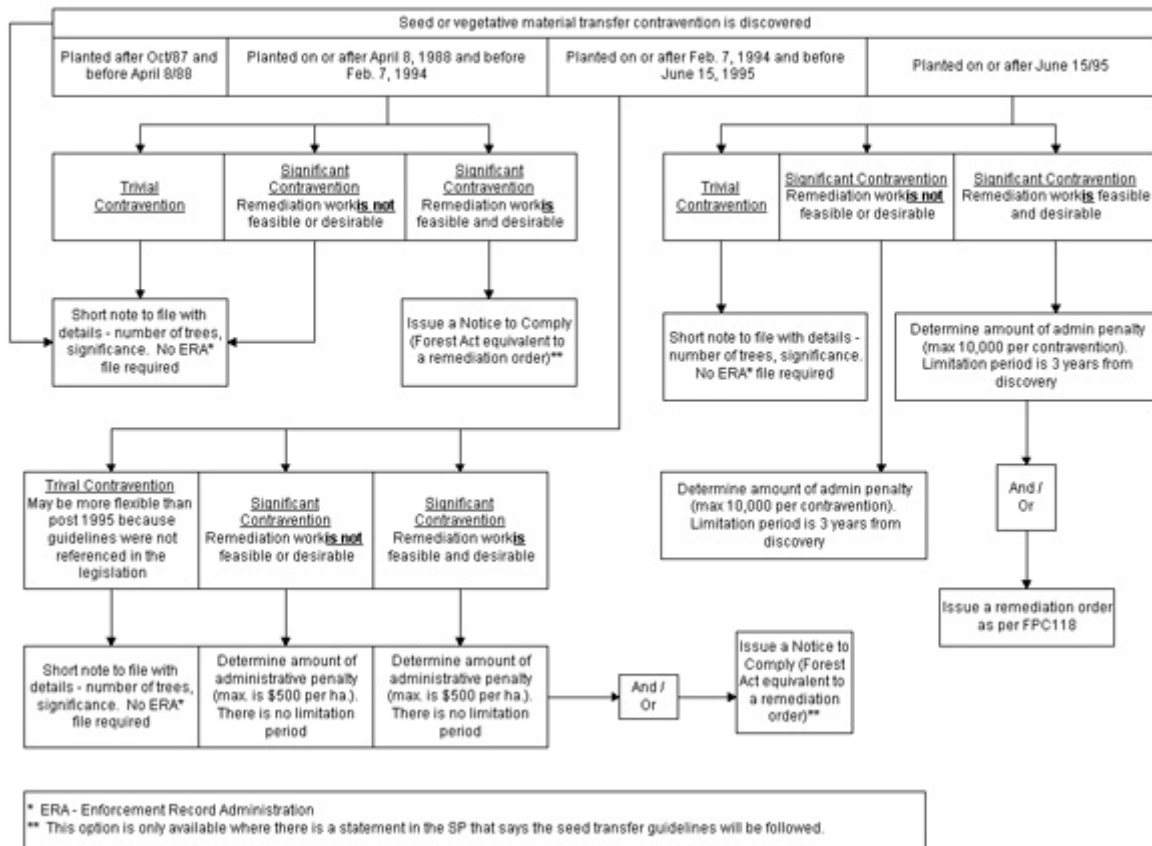
5. **Elevation**

If the transfer limit exceeded is less than 50 metres the contravention could be considered trivial non-compliance.

6. **Number of Trees/Percentage of Block**

The number of trees planted in contravention and the proportion of the block planted with trees in contravention should also be considered when assessing non-compliance. If transfer guidelines have been exceeded and the total number of planted trees in contravention is less than 1000 trees, then this could be described as trivial non-compliance with no action taken (Other than a Note to File).

Transfer Guideline Contravention Flowchart



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