

**INDEPENDENT THIRD-PARTY ASSESSMENT OF THE
OREGON FOREST PRACTICES ACT IN ACCORDANCE WITH
ASTM D7612**



Prepared for:

Oregon Department of Forestry

By:



PFS CORPORATION

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Acknowledgment

The authors wish to recognize the long standing history of the Oregon Department of Forestry (ODF), who has actively managed water quality compliance on Oregon public and private timberlands since the early 1970s and the ongoing efforts by the wood products industry to bring formal recognition of Oregon Best Management Practices (BMP) through a voluntary consensus standard.

Background

Beginning in 2007, the American Society of Testing and Materials (ASTM) Committee D07 on Wood began developing two voluntary consensus standards; D7480 Guide to Evaluating the Attributes of a Forest Management Plan (completed 2008) and D7612 Standard Practice to Categorize Wood- and Wood-based Products According to their Fiber Sources (completed 2010). D7480 provides a list of criteria and indicators (taken from the Montreal Process) that have been generally accepted as defining the goals of a sustainable forest management plan. D7612 provides the minimum criteria and evaluation requirements to characterize products based on their underlying forest management practices and relationship to different forest certification schemes. D7612 designates three levels of requirements: in increasing order of complexity, they are legal, responsible and certified sources.

In 2013, the Governor of Oregon issued an Executive Order calling for, among other things, an evaluation by ODF of the adequacy of leading green building certification systems to recognize the social, environmental, and economic values of Oregon-grown wood. The report, which ODF released in February 2014, included a detailed technical analysis by the Oregon State University College of Forestry. The report stated that *“Because of the presence of a clear regulatory framework and the Oregon Forest Practices Act (OFPA), uncertified fiber coming from forests of Oregon meets the requirements for classification as ‘responsibly sourced’ as described by ASTM International (2010)”* (page 54).

The report recommended that the State explore the available standards, policies and actions that would advance market recognition of responsibly sourced, yet uncertified Oregon-grown wood, and advocate for expanded use of applicable standards that promote the use of wood products derived from Oregon forests. ASTM D7612 was selected as the standard to achieve this goal.

This independent third-party assessment was completed in response to a request by ODF to substantiate that lands managed under the OFPA comply with the requirements of the *responsible sources* category within ASTM D7612.

The authors wish to recognize the cumulative efforts since 2008 by ODF, the Oregon State University College of Forestry, the Oregon Forest Industries Council, timberland owners,

wood products associations, and third-party certification and inspection agencies as well as other private stakeholders that participated in this process during the various stages of standard development and adoption.

The authors also note similar uses of ASTM D7612 in the USDA BioPreferred Program, which promotes the procurement of biobased products derived from plants and other renewable agricultural, marine, and forestry materials and provide an alternative to conventional petroleum-derived products.

Key Findings

Comparison to Existing Forest Certification Systems

This *certification* report by PFS Corporation, an ISO 17065 certification body accredited by the Standards Council of Canada, used an evaluation plan and on-site inspection to evaluate ODF compliance to ASTM D7612.

The PFS Corporation certification is not an evaluation to existing forest *certification* schemes by the Program for the Endorsement of Forest Certification (PEFC) and Forest Stewardship Council (FSC), which certify both forest management and wood products manufacturer procurement systems and product labeling. Forests managed under PEFC, including under the Sustainable Forestry Initiative (SFI), or FSC certification schemes would be classified as a *certified source* in accordance with ASTM D7612.

The PFS Corporation certification is also not an evaluation of forest lands qualified under the SFI Certified Sourcing label. The SFI Certified Sourcing label and claim do not make claims about certified forest content. According to SFI, the label informs buyers and consumers that fiber in a product comes from a company that is certified to the SFI 2015-2019 Fiber Sourcing Standard, or comes from recycled content, or from a certified forest. All fiber must be from non-controversial sources. Certified sourcing is a defined term in SFI Definitions (Section 13, SFI 2015-2019 Standards and Rules). Products qualified under the SFI Certified Sourcing program would be classified as a *responsible source* in accordance with ASTM D7612.

FSC or PEFC forest certification standards would consider fiber sourced from timberlands that are not assessed under their proprietary programs as “non-certified”. Other entities, however, may recognize this non-certified wood as acceptable under the appropriate source category of ASTM D7612, provided it meets the applicable qualifications and is audited by an accredited third-party.

What Forests Are Covered under the PFS Corporation Certificate

Forests covered under this certificate are Oregon forestlands, subject to the Oregon Forest Practices Act as administered by ODF. ODF regulates forest practices on all non-federal land, where the landowners and operators are subject to the Act and Forest Practices Rules when they conduct any commercial activity related to the growing or harvesting of trees.

The Requirements of the International Green Construction Code

ASTM D7612 is referenced as the basis upon which the International Green Construction Code (IgCC) accepts bio-based materials (IgCC Section 505.2.4) under the “equivalent fiber procurement system” provision.

The specific IgCC language is as follows (with emphasis added):

505.2.4 Bio-based materials. Bio-based materials shall be those materials that comply with one or more of the following:

1. The bio-based content is not less than 75 percent as determined by testing in accordance with ASTM D 6866.
2. Wood and wood products used to comply with this section, other than salvaged or reused wood products, shall be labeled in accordance with the SFI Standard, FSC STD-40-004 V2-1 EN, PEFC Council Technical Document or equivalent *fiber procurement system*. As an alternative to an on-product label, a Certificate of Compliance indicating compliance with the *fiber procurement system* shall be permitted. Manufacturer’s *fiber procurement systems* shall be audited by an accredited third-party.
3. The requirements of USDA 7CFR Part 2902.

The IgCC definition of equivalent fiber procurement system is (with emphasis added):

FIBER PROCUREMENT SYSTEM. A system that ensures that fiber procured for the manufacture of wood and wood based products comes from responsible or certified sources in accordance with ASTM D7612.

Wood and wood-based products derived from a fiber procurement system audited by an accredited third-party in accordance with the ASTM D7612 “Responsible Sources” category are therefore acceptable as bio-based materials under Section 505.2.4 of the IgCC.

The IgCC language is inclusive of all globally recognized sustainable forest management certification systems and both responsible and certified sources as defined by ASTM D7612. The intent of ASTM D7612 was to recognize existing forest certification systems, and provide a path to verify wood sourced from equivalent systems. The responsible sourcing category parallels SFI’s Fiber Sourcing standard, which emphasizes implementation of state Best Management Practices (BMP) programs to meet water quality standards adopted in accordance with the US Clean Water Act.

Why OFPA is Categorized as a Responsible Source

The OFPA and associated compliance mechanisms are sufficiently robust to be recognized as producing “Responsible Sources” in accordance with ASTM D7612.

ASTM D7612 defines Responsible Sources as (with emphasis added):

6.1.2 Responsible Sources of Forest Products:

6.1.2.1 Products from responsible sources are produced with wood fiber acquired according to an independently certified procurement standard or are from a proprietary forestry standard or from jurisdictions with regulatory or quasi-regulatory programs to implement best management practices. These standards or programs are typically consensus-based proprietary certification standards or public legislative and regulatory processes. To qualify for this category, the applicable standard or forest governance in the applicable geography shall document a system designed to require compliance with best management practices to protect water quality and ensure all fiber comes from known and legal sources.

Section 6.1 lists the criteria for differentiating wood products into three categories (legal responsible, and certified) based on a combination of four factors: i) a threshold legality requirement; ii) system governance; iii) the substantive content of the requirements; and iv) traceability. The requirements for each category are summarized in Table 1 of the standard, reproduced below:

TABLE 1 Summary of Criteria for Categorizing Products with Fiber Procurement Systems Conforming to Different Forest Certification or Management Standards

Requirements	Products from		
	Legal Sources	Responsible Sources	Certified Sources
A) Fiber is from jurisdictions with a low risk of illegal activity or from controlled wood standards, stair-step standards, legality assessments, or other proprietary standards	A	A	A
System governance: B) Public legislative or regulatory processes; C) Proprietary Standards; D) Consensus-based	B or C	B or C or D	D
Content: E) Requires compliance with best management practices to protect water quality and ensures all fiber comes from known and legal sources F) Provides for Forest Management Plans in substantial compliance with relevant portions of Guide D7480 – 08 or equivalent	—	E or F	F ^A
Documentation includes traceability: G) To the applicable jurisdiction H) By a certified procurement system I) By a chain of custody system ^B	G	G or H or I	I

^A See Appendix X3 for discussion of additional concepts related to sub-categorization of certified sources.

^B For the purposes of categorizing products under this practice, distributors and retailers can rely on “on-product” labels for chain of custody or a certified procurement system if they are not engaged in significant value-added processing or remanufacture. In lieu of an onproduct label, a certificate of compliance indicating conformance with the applicable chain of custody or certified procurement system is permitted.

The OFPA as administered by ODF complies with the following ASTM D7612 requirements as summarized in Table 1:

Requirement A, Legality:

- The notification requirements under the OFPA require the state to issue an identification code and review the potential water quality risks for each forest activity. The Forest Activity Electronic Reporting and Notification System (FERNs) allows the public to notify ODF prior to conducting a forest operation. Owners or operators must file a Notification of Operation at least 15 days before starting an operation. FERNs also allows for notification of intent to harvest timber.

- Once a timberland owner, landowner or operator registers their notification, they can track their notifications, inspections and comments by a Stewardship Forester on FERNS. The Forester can waive the fifteen-day waiting period if protected resources are not evident in the area to be harvested.
- When the application is submitted, FERNS issues a notification ID. The notification ID is typically required by wood products manufacturers prior to issuing a purchase order, transporting logs or completing the transaction. Thus, the identification code requirement within the procurement process works to ensure that fiber is procured from known and legal sources.
- There are other sources citing low risk of illegal activity. For example, Oregon is identified as having a low risk of illegal activity per the comprehensive report, **Assessment of Lawful Harvesting & Sustainability of US Hardwood Exports**, published by the American Hardwood Export Council: *“Based on the data compiled and analyzed, the weight of evidence strongly indicates that there is very low risk that US hardwood exports contain wood from illegal sources”* (page 2). *“We have a high confidence that hardwood procured from anywhere in the Hardwood States could be considered Low Risk in all five risk categories of the FSC Controlled Wood standard (FSC-STD-40-005) that applies to the non certified portion of mixed products”* (page 3).

Requirement B, System Governance:

The OFPA was adopted by the Oregon State Legislature. Its accompanying Forest Practices Rules are promulgated by the Oregon Board of Forestry, following public notice and comment rulemaking procedures.

Requirement C: Not applicable.

Requirement D: Not applicable.

Requirement E, Content:

See **Audit Requirements in ASTM D7612** later in this report. ASTM D7612 defines "responsibly-sourced" fiber as fiber produced with practices that protect environmental quality, particularly water quality, in addition to other legal requirements. It does not require the full suite of practices required to classify sources as "certified." In the report **Evaluation of the Adequacy of Leading Green Building Certification Systems to Recognize the Social, Environmental, and Economic Values of Oregon Grown Wood**, the authors noted that the OFPA clearly provides for sufficient oversight (operators must file notifications to ODF or face civil and criminal penalties) and water quality protection, such that the report concludes on p. 54: *"Because of the presence of a clear regulatory framework and the Oregon Forest Practices Act (OFPA), uncertified fiber coming from forests of Oregon meets the requirements for classification as "responsibly sourced" as described by ASTM International (2010).*

Requirement F: Not applicable.

Requirement G, Traceability:

The FERNS system issues a number used to track the ODF oversight of the harvesting process; from the initial notification to the completion of timber extraction and subsequent reforestation. The wood products manufacturer is responsible for tracking the FERNS number from the timber purchasing documents to ensure proper labeling of the product content with respect to the ASTM D7612 designation.

Requirement H: Not applicable.

Requirement I: Not applicable.

Key Elements of Oregon Forest Practices Act

Planning

Commercial Operators must notify ODF at least 15 days before starting operations to allow time for cooperative discussion before activities begin.

Operations

The OFPA and forest practice rules apply to any of the following activities that are part of the commercial growing and harvesting of forest trees:

- 1 timber harvesting,
- 2 road construction and maintenance,
- 3 slash treatment,
- 4 reforestation, and
- 5 pesticide and fertilizer use.

Reforestation

If tree stocking is below rule standards after harvesting, landowners must plant trees within two years and have a healthy, freely growing stand by the sixth year.

Slash Treatment

The forest practice rules allow burning and other valuable management tools as long as soil, air, and water are protected.

Chemical Application

The rules recognize that fertilizers and pesticides are valuable management tools, if soil, air, and water are protected.

Landslides & Public Safety

Harvesting and road construction on steep slopes above homes or roads are regulated to minimize the risk of landslides to public safety.

Road Construction & Maintenance

The forest practice rules recognize the necessity for a well-designed and maintained road system; soils and water quality must be protected.

Harvesting

The forest practice rules recognize timber harvesting as an important practice. Soils, wildlife habitat, and water quality must be protected.

Water Protection

Forest practice rules require tree retention along many streams, wetlands, and lakes. Operators must protect soils, fish and wildlife habitat, and water quality.

Wildlife Sites

Operators must time operations and retain trees near specific wildlife sites to protect those sites and avoid excessive disturbance of specified wildlife species.

Scenic Highways

Operators must retain a screen of trees along certain state and federal highways.

Other Notes

- Changes of Land Use: The OFPA expressly does not prohibit changing the use of forestland to another use. However, such changes are subject to other state and local regulations.
- ORS 527.722(4) allows counties to prohibit, but in no other manner regulate, forest practices in specific areas outside urban growth boundaries if an acknowledged exception to an agricultural or forestland goal has been taken. The intent of this allowance is to provide a way for counties to protect outstanding natural features if harvesting or other forest practices might damage them.
- Nothing in the OFPA limits local government authority over other activities associated with development permits. Local governments retain the authority to regulate those activities, regardless of whether they have adopted local forest practice regulations under ORS 527.722.
- The Oregon Department of Agriculture notes that ORS 634.055 through 634.065 prohibit local governments from regulating storage or use of pesticides (only the state may do that). Based on this interpretation, if a local government adopted a local forest practice regulation, it would not have the authority to regulate forest pesticide use, even if the regulation met the standards in ORS 527.722.

Oversight

To encourage practices that implement the OFPA policy, Oregon has declared that it is in the public interest to vest in the State Board of Forestry (Board) exclusive authority to develop and enforce statewide and regional rules and to coordinate with other state agencies and local governments, which are concerned with the forest environment (ORS 527.630).

Continuous Improvement

Related to Requirement A, the Board's 2011 Forestry Program for Oregon recognizes that the OFPA includes a set of best management practices to ensure that forest operations are conducted to meet state water quality standards adopted under the federal Clean Water Act. The Board's guiding principles and philosophies include a commitment to continuous learning, evaluating and appropriately adjusting forest management policies and programs based upon ongoing monitoring, assessment, and research (Value Statement 11).

The Board oversees an effectiveness monitoring program to collect data that informs the Board's adaptive management approach of establishing BMPs, monitoring effectiveness, and updating rules based on science. OFPA rules specifically require monitoring in the areas of water quality, streamside forests (OAR 629-635-0110), pesticide use (OAR 629-620-0700) and landslides and public safety (OAR 629-623-0000). The ODF 2002 Monitoring Strategy prioritizes key questions based on public input to promote efficiency in designing and implementing projects to assess the effectiveness of forest practices into the future.

Coordination with Other Agencies

ODF actively seeks to conduct monitoring and research in coordination with other agencies. These efforts include participation in the inter-agency Water Quality Pesticide Management Team. This team facilitates and coordinates monitoring, analysis and interpretation of pesticide data throughout the state and across all land uses, effective response measures, and management solutions. As the Designated Management Agency for maintaining water quality on forestland under the Clean Water Act, ODF coordinates monitoring and research projects with the Oregon Department of Environmental Quality to ensure success in meeting statewide environmental standards. ODF also participates in three paired watershed studies as part of the Watershed Research Cooperative. These efforts inform the adaptive management approach at multiple levels, challenging scientific assumptions via watershed-level research while simultaneously evaluating forest practices effectiveness at operational scales. The Cooperative creates and disseminates new knowledge about the relationships between forest management and natural resources, particularly water-related resources, to address questions framed by policy makers and forest practitioners.

Audit Requirements in ASTM D7612

ASTM D7612 does not list specific audit requirements for Requirement E in Table 1, which describes the criteria for substantive content: *"Requires compliance with best management practices to protect water quality and ensure all fiber comes from known and legal sources."*

PFS Corporation identified five essential components for the initial audit to this standard:

1. Verify there is a state law that requires compliance and punishes non-compliance with best management practices that protect water quality; and verify that state (or other) law requires that fiber comes from known and legal sources.

PFS reviewed all appropriate documents including the Oregon Forest Practices Act and accompanying rules along with the Forest Practices Act Enforcement Directive. The Civil Penalty Notebook was also reviewed. The FERNS notification ID and method of traceability were also confirmed.

2. Verify there is an agency with responsibility and authority to implement the law.

PFS found that ODF is authorized by the Oregon Legislature to enforce the Forest Practices Act.

3. Verify agency has sufficient budget / staffing to enforce the law.

PFS found that the ODF has a yearly budget of over \$10,000,000 and a staff of 107 with 51 Field Stewardship Foresters providing inspections and enforcement. PFS audited the ODF offices in Salem, OR, questioned three different supervisors and attended two different inspections by two different Stewardship Foresters in two different regions. PFS reviewed publications, software and training documents used to support the OFPA.

4. Verify agency can demonstrate proof of enforcement.

PFS audited inspection records and found that the ODF is giving citations, repair orders and if necessary conducting criminal prosecution to enforce the OFPA.

5. Verify agency can prove there is an adaptive management strategy showing continuous improvement.

ODF has an annual compliance audit conducted with internal and external review, conducted by an independent third party. Two hundred sites are reviewed. The data is summarized and compared to past years. ODF can then tell which areas of enforcement they need to emphasize.

Findings

This report presents the findings of the PFS Corporation that wood fiber removed from Oregon forestlands, subject to the OFPA as administered by ODF, is designated as a responsible source in accordance with ASTM D7612. The content of rules and statutes are determined through the legislative process; the rules are enforced by ODF; and PFS Corporation has independently verified the five essential components of ASTM D7612 are being implemented. Periodic inspection and certification will be conducted to monitor ongoing compliance.

This finding is subject to the additional requirement that primary and secondary manufacturers of wood and wood-based products demonstrate third-party-verified traceability from the original extraction of fiber to any use making a claim, e.g., via an on-product label or certificate of product compliance, that the product is designated as coming

from responsible sources in accordance with ASTM D7612. This is required, for example, to meet the requirements for a fiber procurement system as defined by the IgCC.

Future Work

This method of audit and certification is repeatable and may be desirable in other states. For example, a recent survey and report by the National Association of State Foresters calls on partners, stakeholders, and decision-makers to:

- Recognize the importance of forests to the nation's supply of clean water and the critical role of sustainable forest management in ensuring the continued delivery of all benefits derived from forests;
- Understand that state forestry agency BMP programs are vital to the continued ability of forests to serve as the nation's source of clean water, and that these programs are tailored to meet society's needs for sustainable sources of fiber, wood and renewable energy fuels;
- Acknowledge that substantial federal investments are warranted to address the ongoing interests of stakeholders and water users, and to deliver the best possible set of protection measures; and
- Help states achieve an adequate federal commitment and investment that will ensure the quality and quantity of the nation's water supply now and for all future generations.

The ASTM D7612 standard coupled with third-party assessment provides an important link between wood and wood-based products and state agency enforcement of water quality programs, especially on lands that are not currently certified under FSC, PEFC, or SFI forest certification schemes.

References

1. ASTM D7480-08 *Guide to Evaluating the Attributes of a Forest Management Plan*, ASTM International, West Conshohocken, PA.
2. ASTM D7612-10 *Standard Practice to Categorize Wood- and Wood-based Products According to their Fiber Sources*, ASTM International, West Conshohocken, PA.
3. Oregon Department of Forestry, 2014, *Evaluation of the Adequacy of Leading Green Building Certification Systems to Recognize the Social, Environmental, and Economic Values of Oregon Grown Wood*, Salem, OR.
4. Goetzl, et al, 2008, *Assessment of Lawful Harvesting & Sustainability of US Hardwood Export*, American Hardwood Export Council, Reston, VA, found at http://www.americanhardwood.org/fileadmin/docs/Seneca_Creek_Study/Seneca_Creek_Study_-_Full_Version.pdf.
5. *International Green Construction Code*, 2012, 2015, International Code Council, Country Club Hills, IL.
6. *Protecting Water Quality Through State Forestry Best Management Practices*, National Association of State Foresters, Washington DC.



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