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



Prepared for:
Oregon Department of Forestry

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JUNE 17, 2020



Acknowledgment

The Auditors 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 ASTM International¹ Committee D07 on Wood began developing two voluntary consensus standards addressing forest management and responsible source issues:

- 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).

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. Additional information on responsible sources is available at <https://responsiblesource.com>

Key Findings

Forests Covered under the PFS TECO Certificate

Forests covered under this certificate are Oregon forestlands, subject to the Oregon Forest Practices Act (OFPA) 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.

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.

¹ ASTM International, West Conshohocken, PA (formerly American Society for Testing and Materials)

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.

Legality:

Requirement A:

- 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 15-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).

System Governance:

Requirement B: 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: Proprietary Standards: Not applicable-OFPA is regulated through a public legislation system of governance (Requirement B, above).

Requirement D: Consensus-based: Not applicable-OFPA is regulated through a public legislation system of governance (Requirement B, above).

Content:

Requirement E: See **Audit Requirements in ASTM D7612** later in this report. ASTM D7612 defines “Responsible Sources” of 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-OFPA complies with Best Management Practices to protect water quality, (Requirement E, above)

Traceability:

Requirement G: 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-OFPA utilizes FERNS system to satisfy traceability requirements (requirement G, above).

Requirement I: Not applicable-OFPA utilizes FERNS system to satisfy traceability requirements (requirement G, above)

Key Elements of Oregon Forest Practices Act (OFPA)

Planning

Commercial Operators, landowners or timber owners must [notify](#) ODF at least 15 days before starting forest management operations to allow time for cooperative discussion. This notification is not a permit for harvest. This allows ODF to review protected resources that may be in operation area and to work with developers on plans and review rules. ODF will provide feedback and comments to prevent potential problems or violations. Written Plans and Plans for Alternate Practice may be required by ODF but does not have the authority to approve or deny plans.

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. [Forest Road Management Guidebook](#)

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 (this authority rests with the state alone). 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 2018 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 US Department of Environmental Protection Agency's 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

The 2020 audit was held on June 8th and began at the Oregon Department of Forestry operations building in Salem, Oregon. Auditors met with Policy Analyst/Civil Penalties Administrator, Greg Wagenblast, and Economic and Forest Market Analyst John Tokarczyk. Documents related to program requirements were examined. Discussions included penalty resolution, legislature structure, and rule changes.

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 TECO identified five essential components for the audit.

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.

Findings:

PFS TECO 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.

PFS TECO found that ODF also communicates these laws through publications and manuals. These publications help to explain laws and help landowners (LO) and operators (OP) with their land management practices. Forest Protection Laws Manual contains many illustrations, pictures, and diagrams that show forest practices in the field to better help operators stay compliant in the field.

Recent Rules Changes

Effective July 1, 2017, new rules were created for Salmon Steelhead and Bull Trout (SSBT) protections. These rules saw the replacement of OAR 640 into an expanded new rule set titled Division 642 Water Protection: Vegetation Retention Along Streams. Rules include added protections including tree retention to preserve cold water streams for SSBT habitats (629.642.0100-0500)

Another change includes rescinding certain Bald Eagle protections. This comes as federal and state removed Bald Eagle from protected species list after successful recovery efforts. Protections for the eagle are still in effect, which include protections around active nests and buffer zones around these components (629.665.010)

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

Findings:

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

Field Foresters enforce all laws pertaining to forest land and prosecute violations of the Oregon Forest Practices Act (ORS 526.041 General duties of State Forester). The Board of Forestry oversees forest policy of Oregon and appoints state foresters to enforce OFPA, 527.630.

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

Findings:

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

Training materials are accessible for many different presentations available on the internal ODF site. YouTube videos are available to train for notification filing on FERNS program.

FERNS notification system tracks fiber with individual case numbers, making chain of custody more streamlined. Notification numbers are assigned once operators notify ODF of harvest practices.

4. Verify agency can demonstrate proof of enforcement.

Findings:

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

When state foresters identify a violation of the OFPA they are acting on behalf of the legislature, then the Board, then ODF. The statutory authority is given and disseminated to the landowners. 527.710 and 527.630 that shows enforcement.

Unsatisfactory conditions are followed with written statements offering OP/LO an opportunity to correct a problem. If unsatisfactory conditions continue, ODF will issue citations, but prefer to work with OP/LO to avoid escalation when possible. Cases of citations and non-compliance are used in future for training and educational purposes.

PFS TECO discussed two cases headed to litigation regarding culvert violations. Fish passage and 50 years peak flow were requirements discussed when building culverts.

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

Findings:

ODF conducts 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 data from previous years. ODF can then tell which areas of enforcement should be emphasized. Compliance audits help to create more focused training modules, show areas of improvement, and help landowners meet objectives while complying with OFPA. Continued education has been shown to greatly enhance partnerships.

PFS TECO found evidence of high compliance rates (over 95%) in most divisions. Lowest compliance was in areas involving Written Plan requirements. Majority of citations were issued for Reforestation, Road construction/maintenance, and Harvesting non-compliance.

Harvest Operations Visit

On June 9th PFS TECO auditors accompanied ODF staff to four harvest site operations outside of Lyons, Oregon. Auditors first met with Edie Dooley (Figure 1), a stewardship forester managing a 12,500-acre family-owned forest (Figure 2). Ms. Dooley explained her management strategy in accordance with Oregon Forestry Law. She manages the forest on 80-year rotations designated by the landowners.

The next visits were industry-driven, production lands owned by Weyerhaeuser. These lands were managed more traditionally with 40-year rotations. Our discussion with Jim Neff, the Weyerhaeuser operations lead, centered around private landowner interactions with ODF. Mr. Neff explained the importance of cooperation between operators and foresters. He informed the auditors that Weyerhaeuser has taken further steps in their movement towards more sustainable practices by increasing their operational distance around riparian areas giving these zones a larger buffer than the minimum ODF recommends.

Ms. Dooley, Mr. Neff, and state foresters applauded ODF's use of the FERNs system. Not only is it a notification system for forestry operations, but also a powerful GIS system that allows foresters to survey land, designate operation borders and highlight critical protected resources such as streams and endangered species habitat. Figures 3-7 depict various regulatory components of the OFPA.

ODF's focus on partnership is the real highlight of their program. Their focus on educating landowners and foresters helps to prevent citations, encourage law and regulation compliance. Their consistent drive for education creates dialogues to discuss the FPA and improve cooperation and best practices.



Figure 1. Edie Dooley and State Forester Levi Hopkins surveying the land.



Figure 2. Avery family heritage site, Here show the border of recent operations and preservation sites



Figure 3. Dug out hillside, rocks used for road laying and up-keep.



Figure 4. Snags are standing trees that are dead or dying, which are left standing because they offer important habitat for local fauna.



Figures 5 and 6. Areas around streams, riparian areas, are given a buffer zone where vegetation is untouched by operations.



Figure 7. Illustrates land in differing harvest stages. Recently harvested (left foreground) and lands a few years after harvest and successful reforestation (center and right rear ground).

Findings

This report presents the findings of PFS TECO 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 TECO has independently verified the five essential components of ASTM D7612 are being implemented. Periodic inspection will be conducted by PFS TECO 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.

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, 2019, Assessment of Lawful Sourcing & Sustainability: US Hardwood Export, American Hardwood Export Council, Reston, VA, found at <https://www.americanhardwood.org/en/environmental-profile/legality>
5. NASF, 2019. Protecting the Nation’s Water. State Forestry Agencies and Best Management Practices, National Association of State Foresters, Washington DC. <https://www.stateforesters.org/wp-content/uploads/2019/12/NASF-2019-BMP-Final.pdf>

About PFS TECO

PFS Corporation (dba PFS TECO), with its corporate office in Cottage Grove, Wisconsin and regional offices in Oregon and Pennsylvania, is a 100% employee-owned, independent, third-party certification, inspection, and testing agency. PFS TECO operates three test laboratories (one in Wisconsin, two in Oregon) and has clients in more than a dozen countries. PFS TECO certifies, inspects, and tests a wide variety of structural and non-structural products used in the construction and hearth products industries, and is an approved IPIA/DAPIA for HUD-code manufactured housing. www.pfsteco.com