



PRACTICE GUIDANCE

Scope of Practice

Approved by Council: June 19, 2015

The intent of this document is to provide practice guidance to members and other persons regarding the scope of practice of professional forestry in Ontario as listed in the Professional Foresters Act, 2000, Ontario Regulation 145/01 and Association By-laws.

PRACTICE GUIDANCE

SCOPE OF PRACTICE

PURPOSE OF THIS GUIDANCE

The question of “what constitutes professional forestry in Ontario” results in a detailed answer and depends on several factors such as the nature of the activity being considered, who is doing it (and that person’s relevant qualifications), and whether the person is being supervised while he/she undertakes the activities in question.

This practice guidance focuses on the definition of the Scope of Practice of professional forestry. The *Professional Foresters Act, 2000* (the “Act”) defines professional forestry in Ontario. The Act and the “exclusions” under Ontario Regulation 145/01 both list specific activities that will not be considered to be acts of professional forestry if conducted by certain individuals when carrying out activities associated with the excluded profession or occupation. Additional information on exclusions is included in *Practice Guidance – Exclusions to the Professional Foresters Act*.

This document has been developed to provide assistance in determining whether a person requires registration by the Ontario Professional Foresters Association (“OPFA”) in order to lawfully conduct certain forestry activities in Ontario, and whether an unregistered person may undertake such activities under a legislative exclusion.

The main purpose of this document is to provide guidance to association members, individuals in related professions and occupations, consumers, the public, employers and policy makers in interpreting the scope of practice of professional forestry in Ontario outlined in the Act, the regulations, and the OPFA’s related by-laws, policies and guidelines.

Where it appears to the Association that any person does not comply with any provision of the Act or the regulation, the Association may apply under section 59 of the Act for a cease and desist order or injunction to the Superior Court of Justice.

PRACTICE GUIDANCE

The principal object of the OPFA, as set out in subsection 5(1) of the Act, is to regulate the practice of professional forestry and to govern its members in accordance with the Act, the regulations and the by-laws in order that the public interest may be served and protected.

A copy of the Act is available on the Ontario Government's e-laws site at:
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_00p18_e.htm

By authority of the Act, the OPFA regulates the practice of professional forestry in Ontario. Although the Act provides a legal definition of professional forestry in Ontario, regulating professional forestry occasionally requires an interpretation of that legal definition and how it applies to specific circumstances.

This document includes the scope of practice definition, interpretation and some examples to help clarify the scope of practice.

Acts not constituting professional forestry (called "exclusions") are referenced in this guidance. Additional details and the OPFA's interpretation of these exclusions is included in *Practice Guidance – Exclusions to the Professional Foresters Act*.

SCOPE OF PRACTICE - DEFINITION

Forestry is a profession that may overlap with other professions, trades and occupations. Defining the parameters of a scope of practice requires an approach that can accommodate current practices and adapt to future changes in techniques, education and management practices.

It is expected and understood that the core practice of professional forestry will evolve over time without necessarily having to amend the scope of practice statement. This evolution will occur in conjunction with changes in the practice of forestry and forestry education.

The legislative definition of the scope of practice of the profession of forestry in Ontario is set out in Section 3 of the Act. That section defines the types of activities, the performance of which requires a certificate of registration under the Act:

3(1) The practice of professional forestry is the provision of services in relation to the development, management, conservation and sustainability of forests and urban forests where those services require knowledge, training and experience equivalent to that required to become a member under this Act and includes:

- (a) the designing, specifying or approving of silvicultural prescriptions and treatments, including timber harvesting;
- (b) the appraisal, evaluation and certification of forests and urban forests;
- (c) the auditing of forest management practices;
- (d) the assessment of impacts from planned activities on forests and urban forests;
- (e) the classification, inventory and mapping of forests and urban forests; and
- (f) the planning and locating of forest transportation systems, including forest roads.

A key word in the definition is the word “includes”. This means that clauses (a) through (f) in subsection 3(1) do not represent an exhaustive list of what constitutes the practice of professional forestry, but are merely specific examples.

Section 13 of the Act states that:

“No person shall engage in or hold himself, herself or itself out as able to engage in the practice of professional forestry unless the person holds a certificate of registration issued by the Association.”

This means that a person must be a duly-licensed member of the OPFA in order to lawfully engage in professional forestry in Ontario. Unregistered persons may not engage in professional forestry unless such activities are carried out in accordance with an exclusion listed in subsection 3(2) of the Act or in Ontario Regulation 145/01, because by statutory reference, those activities do not constitute professional forestry.

An Associate member of the OPFA is licensed to practice only those aspects of professional forestry that are specifically listed in the member’s approved scope of practice, and is subject to any geographic area limitation to practice included in his/her approved scope of practice.

A Provisional member of the OPFA is not entitled to practise on his/her own under the exclusions in the Act or the regulation and must be directly supervised by a competent and licensed OPFA member when conducting professional forestry activities (OPFA By-Law 11.9(1)). This will occasionally mean that a Provisional member will have to practice under supervision while doing the very same things that, for example, a certified tree marker or botanist who is not an OPFA member may do without supervision.

SCOPE OF PRACTICE - INTERPRETATION

The OPFA interprets the Act as applying only to those forestry activities which, by virtue of their specialised nature, should be performed by a member of the Association. For forestry activities which do not require the knowledge, training or experience equivalent to that required to become a member of the Association, or which fall within the statutory exclusions, it will not be

necessary for an individual to obtain a certificate of registration in order to perform them.

The answers to the following questions will be considered when determining whether an activity (besides those specifically listed in subsection 3(1) of the Act) is generally considered to be professional forestry:

1. Is the activity a service which relates to the development, management, conservation and sustainability of forests or urban forests?

Again, the Act provides some examples of professional forestry activities but that list is not exhaustive.

The ownership of the forest has no bearing on whether a particular activity is considered to be within the scope of practice of professional forestry (except to the extent that the activities in question are being carried out by the landowner him or herself and the landowner exclusion applies).

The employment status (employee, consultant, etc.) of the person undertaking a particular activity has no bearing on whether a particular activity is considered to be within the scope of practice of professional forestry.

2. Does the activity require "knowledge, training and experience equivalent to that required to become a member" under the Act?

The knowledge required to become a member of the Association includes knowledge of silviculture, forest ecology, silvics, forest soils, tree morphology and physiology and other related scientific subjects together with the ability to understand their interrelationships and interactions in different site and management conditions.

Members of the Association require an in-depth understanding of this detailed subject matter to properly consider and analyze possible outcomes and impacts of management alternatives from scientific, economic, ecological, social and cultural perspectives.

Finally, members require the ability to understand the implications of management and operational actions in the forest. These implications include not only the possible impacts on identified objectives from implementation of forest management activities, but also the potential outcomes if no activities are implemented. The ability is acquired through the combination of a member's knowledge, training and experience.

Additional examples of professional forestry are listed in the following section. See Appendix II for a discussion of the words in the definition of the practice of professional forestry.

SCOPE OF PRACTICE – EXAMPLES OF PROFESSIONAL FORESTRY

NOTE that it is the activity that is deemed to be within the scope of professional forestry. Land ownership (private, municipal, Crown, etc.) or employment status of the person conducting the activity (employee, consultant, etc.) has no bearing on whether the activity is considered to be professional forestry or not.

The following does not represent an exhaustive list of what constitutes the practice of professional forestry, but simply provides examples in addition to those provided in the Act.

Professional Foresters Act, 2000

Subsection 3(1) of the Act lists the following specific examples of forestry activities which require the knowledge, training or experience equivalent to that required to become a member of the Association.

(a) the designing, specifying or approving of silvicultural prescriptions and treatments, including timber harvesting;

Additional Examples:

- Developing silvicultural prescriptions (harvest, renewal and/or tending) for operating areas, including prescriptions to address the protection of forest values where modified operations are permitted. Prescriptions may be included in forest management plans, woodlot management plans, forest renewal plans, forest restoration plans, tree planting plans, tree marking prescriptions, or other documents that include a silvicultural prescription or a forest restoration prescription.
- Certification of silvicultural prescriptions.
- Determining silvicultural strategies that influence the manipulation of forest cover to be followed to achieve the identified management objectives and future forest condition. These strategies may influence the development and use of spatial and non-spatial computer models or other decision support tools.

(b) the appraisal, evaluation and certification of forests and urban forests;

Additional Examples:

- Auditing forest management activities for a recognized forest certification agency or institution.
- Determining the effectiveness of the development and application of silvicultural prescriptions and treatments, including timber harvesting, as they relate to certification standards.

(c) the auditing of forest management practices;

Additional Examples:

- Auditing forest management activities for a recognized forest certification agency or institution.
- Preparing an official examination and verification of records and practices prescribed by a Registered Professional Forester. Examples include, but are not limited to, Independent Forest Audits, tree plant audits, compliance audits, silviculture audits.

(d) the assessment of impacts from planned activities on forests and urban forests;

Additional Examples:

- Analyzing impacts of the manipulation of forest cover (including determination of silvicultural strategies, harvest levels, selection of areas for harvest and renewal and

the resulting forecast forest condition and forest diversity). Analysis may influence the development and use of spatial and non-spatial computer models or other decision support tools.

- Assessment of achievement of management objectives.
- Assessment and reporting of planned and actual forest management activities (annual or by planning term).
- Developing forecasts and reports for all harvesting, renewal and tending operations and monitoring. Forecasts and reports may relate to depletions, regeneration success, forest access roads, monitoring and assessment, and documentation (including summaries) on an annual basis or by planning term.

(e) the classification, inventory and mapping of forests and urban forests;

Additional Examples:

- Developing or designing the methodology for a forest / woodlot inventory.
- Analyzing, developing and describing forest classifications, such as forest units.
- Describing the current condition of the forest for forest management purposes.
- Preparing or updating the forest inventory by identifying and accounting for depletions and accruals (past and present).

(f) the planning and locating of forest transportation systems, including forest roads.

Additional Examples:

- Planning of primary and secondary forest access road corridors with respect to long term wood supply.
- Developing strategic criteria for operational (tertiary) forest access roads within operating areas.

Crown Forest Sustainability Act, 1994

Other activities required to be conducted and/or certified by Registered Professional Foresters are detailed in the *Forest Management Planning Manual for Crown Lands in Ontario (2009)*, a regulated manual under the Crown Forest Sustainability Act.

Additional Examples:

- Plan Author for a Crown land forest management plan.
- Certification of Silvicultural Ground Rules in a Crown land forest management plan.
- Road access planning in a Crown land forest management plan.

**ACTS NOT CONSTITUTING PROFESSIONAL FORESTRY
UNDER THE PROFESSIONAL FORESTERS ACT, 2000**

Certain persons will not be seen to be practising professional forestry if they are conducting certain activities in accordance with exclusions in the Act (Section 3(2)) or Ontario Regulation 145/01. See ***Practice Guidance – Exclusions to the Professional Foresters Act*** for details and the Association interpretation of these exclusions.

This document has been developed to give guidance to members with respect to the scope of practice of professional forestry so that the public interest, and the public expectation of the profession, is served and protected. Members are encouraged to contact the Executive Director of the OPFA should they wish to discuss specific applications of this practice guidance document.

APPENDIX 1: OPFA LEGISLATION, REGULATION AND BY-LAW REFERENCES

(Scope of Practice interpretations are included in italics.)

PROFESSIONAL FORESTERS ACT, 2000

A copy of the *Professional Foresters Act, 2000* is available on the Ontario Government e-laws site at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_00p18_e.htm

Section 3 of the Act reads as follows:

3. (1) The practice of professional forestry is the provision of services in relation to the development, management, conservation and sustainability of forests and urban forests where those services require knowledge, training and experience equivalent to that required to become a member under this Act and includes,
- (a) the designing, specifying or approving of silvicultural prescriptions and treatments, including timber harvesting;
 - (b) the appraisal, evaluation and certification of forests and urban forests;
 - (c) the auditing of forest management practices;
 - (d) the assessment of impacts from planned activities on forests and urban forests;
 - (e) the classification, inventory and mapping of forests and urban forests; and
 - (f) The planning and locating of forest transportation systems, including forest roads.

Exclusions

- (2) The practice of professional forestry does not include acts performed in relation to the management or manipulation of forests if they are performed,
- (a) personally by individuals on land which they own;
 - (b) by a person acting within the scope of practice of a profession, trade or occupation that is listed in the regulations;
 - (c) by persons responding to an emergency situation such as a forest fire;
 - (d) by persons acting under the supervision of a member;
 - (e) by students enrolled in a forestry education program and under the supervision of the course instructor in the program;
 - (f) by a member of the armed forces while on duty; or
 - (g) by a person engaged in scientific research 2000, c. 18, s. 3 (2).

Section 13 of the Act reads as follows:

“No person shall engage in or hold himself, herself or itself out as able to engage in the practice of professional forestry unless the person holds a certificate of registration issued by the Association.”

ONTARIO REGULATION 145/01

A copy of the regulation is located at:

<http://www.opfa.ca/regulation-enforcement/regulation-profession/legislation/regulations>

PART I - CODE OF ETHICS (*excerpt relates to supervised acts*)

1. (1) A professional forester shall be governed by the Code of Ethics set out in this section in carrying out his or her professional duties. O. Reg. 145/01, s. 1 (1).

(2) A member of the Ontario Professional Foresters Association observes the duties of the profession and honours his or her duties to citizens, employers and clients, fellow members and Ontario's forests by embracing the following values:

3. Credibility — A member shall undertake only work that he or she is competent to perform by virtue of training and experience and, where advisable, shall retain and co-operate with other professional foresters and specialists and, further, shall endorse only those plans, reports, maps and specifications that he or she produces or directly supervises.

PART III – ACTS NOT CONSTITUTING PROFESSIONAL FORESTRY

“For the purposes of section 3(2)(b) of the Act, the Act does not apply to persons engaged in another established profession, trade or occupation provided that the person is acting within its generally accepted scope of practice, including the following professions, trades or occupations:”

- a) Natural Resource Technician and Technologist
- b) Certified Forest Management Plan Approver
- c) Certified Tree Marker
- d) Biologist
- e) Certified Arborist
- f) Landscape Architect
- g) Professional Planner
- h) Certified Ontario or Canadian Land Surveyor
- i) Botanist
- j) Zoologist
- k) Professional Engineer
- l) Certified Property Appraisers
- m) Agronomist
- n) Ecologist

OPFA BY-LAWS ARTICLE 11.9 - Terms, Conditions and Limitations for Provisional Membership

Provisional members would be contravening OPFA By-laws Article 11.9 by relying on an exclusion under the Act or Ontario Regulation 145/01 because the certificate of registration of a Provisional Member is subject to the following terms, conditions and limitations:

1. the Member shall only carry out activities that would otherwise be professional forestry under the supervision of a Full or suitably qualified Associate Member or as part of a formal course of study;

APPENDIX 2: DEFINITIONS

“Provision of services which relate to the development, management, conservation and sustainability of forests or urban forests”

1. “Provision of services”. The OPFA interprets this to include prescribing, developing, directing, undertaking, supervising, investigating, evaluating, approving, planning, reporting on or advising on services.
2. “Services”. The Canadian Oxford Dictionary (Oxford University Press, 1998) includes the following definitions of “service”: “the act of helping or doing work for another or for a community etc.”; “work done in this way”; and, “assistance or benefit given to someone”.

This definition supports the interpretation that judging whether an activity is professional forestry does not rely on whether the activity was conducted for payment or in a voluntary capacity.

3. “Development, management, conservation and sustainability”. These terms, not defined in the Act. The Oxford Dictionary (www.oxforddictionaries.com/english) defines these terms as:

“development”: A specified state of growth or advancement

“management”: The process of dealing with or controlling things or people

“conservation”: Preservation, protection, or restoration of the natural environment, natural ecosystems, vegetation, and wildlife

“sustainability”: Conserving an ecological balance by avoiding depletion of natural resources

4. “Forests”. The term “forest” is not defined in the Act, nor is it defined in other Ontario legislation. A definition considered as acceptable by the Association in earlier versions of draft legislation defines forest to mean a plant community composed predominantly of trees and other woody vegetation, growing more or less closely together, its related fauna and flora and the values attributed to it. However, “forest ecosystem” is defined in the Crown Forest Sustainability Act (S.O. 1994, c. 25) to mean an ecosystem in which trees are or are capable of being a major biological component. Each of these appear to be reasonable interpretations of “forest”.
5. “Urban forests”. This term is defined in subsection 3(3) of the Act to mean tree-dominated vegetation and related features within an urban area and includes woodlots, plantations, shade trees, fields in various stages of succession, and wetland and riparian areas. The term “urban area” is not defined in the Act, nor is it defined in other Ontario legislation.

National Geographic Education defines “urban area”:

“An urban area is the region surrounding a city. Most inhabitants of urban areas have nonagricultural jobs. Urban areas are very developed, meaning there is a density of human structures such as houses, commercial buildings, roads, bridges, and railways. “Urban area” can refer to towns, cities, and suburbs. An urban area includes the city itself, as well as the surrounding areas.”

“Urban forestry is the management of trees for their contribution to the physiological, sociological, and economic well-being of urban society. Urban forestry deals with woodlands, groups of trees, and individual trees, where people live - it is multifaceted, for urban areas include a great variety of habitats (streets, parks, derelict corners, etc) where trees bestow a great variety of benefits and problems.” Denne (adapted from Grey and Deneke, 1986).

6. “Silvicultural prescription”. The term “silviculture” generally refers to the science and art of cultivating forest crops, based on a knowledge of silvics (URN 5384). More particularly, the theory and practice of controlling the establishment composition, constitution, and growth of forests (URN 5385).

The term “silvicultural prescription” is used in the definition and examples of professional forestry. A “silvicultural prescription” is also called a “forest operations prescription”. The Forest Management Planning Manual for Crown Lands in Ontario (2009) provides the following definition:

A “forest operations prescription” is a site-specific set of harvest, renewal and maintenance activities that will be used to ensure that the current forest is managed to achieve the expected forest structure and condition.