



**Ontario Professional  
Foresters Association**

## Practice of Professional Forestry on Private Lands in Ontario

### **PRACTICE GUIDANCE**

*The intent of this document is to provide guidance to qualified members of the OPFA in the practice of professional forestry to protect the public interest as provided for in the Professional Foresters Act, 2000, Ontario Regulation 145/01 and Association By-Laws.*

The document is a consolidation of former practice bulletins 1, 8 and 10

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## **1. Overview**

This document has been developed to give guidance to the members of the OPFA regarding the practice of professional forestry on private lands in Ontario<sup>1</sup> such as woodlots, agroforestry, plantations and land conservation. The intended objectives are:

- to help members in meeting the standards of professional practice on private land;
- to help members achieve compliance with the requirements and standards including, but not limited to the *Professional Foresters Act, 2000* and regulations and By-Laws of the OPFA including standards of practice, code of ethics, and professional misconduct regulation; and
- to help members achieve compliance with the requirements and standards including, but not limited to municipal, provincial and federal legislation.

In this Practice Guidance, a qualified member of the OPFA means:

- 1) a member registered as an RPF with demonstrated experience and competencies in the area covered by the prescription and within the forested land base being managed;
- 2) an Associate member who is authorized by their scope of practice to prepare prescriptions within the forested land base being managed; or
- 3) a Provisional member who is being directly supervised by an RPF. The supervising RPF must satisfy the qualifications listed in number 1 above.

A qualified member is aware of, and able to apply appropriately, the legislation and regulations that apply to the land they are working on, including, but not limited to, the *Forestry Act, Municipal Act, 2001* and By-Laws, the *Professional Foresters Act, 2000* and the OPFA Code of Ethics, regulations and By-laws.

## **2. Landowner or Client Actions Not in Keeping with Good Forestry Practices**

Local municipalities may prohibit or regulate the cutting, destruction or injuring of trees in woodlands through the establishment of By-Laws. In passing such By-Laws, the municipality must have regard to “good forestry practices”, which are defined in the *Forestry Act* as:

“the proper implementation of harvest, renewal and maintenance activities known to be

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<sup>1</sup> **NOTE:** This document is a consolidation, revision and updating of what were formerly known as Practice Bulletins #1, #8, and #10. These bulletins each dealt with separate but related issues with respect to professional practice on private land in Ontario and are noted below:

- *Practice Bulletin 1 - Good Forestry Practice on Private Lands – July 10, 2010*
- *Practice Bulletin 8 - Professional Practice and Municipal Tree Cutting By-Laws - September 2012*
- *Practice Bulletin 10 – Minimum Content for Prescriptions for Partial Harvesting on Private Land in Ontario - October 2010*

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appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape”

There may be situations where a landowner or client requests that a qualified member of the OPFA prepare a silvicultural prescription that, in the opinion of the qualified member, is not consistent with applicable silvicultural guides or “good forestry practices”. Members must not undertake or support any activity that is not within the limits prescribed by law (federal, provincial, or municipal), including a requirement of “good forestry practices” as doing so may lead to a potential Code of Ethics violation or a finding of professional misconduct.

If the qualified member believes that what the landowner or client is proposing is not “good forestry practices”, then:

The member must not prepare or sign a prescription that the member does not believe is consistent with good forestry practices. The OPFA expects that a member will:

- Personally, ensure the landowner is aware of the distinct management options and implications, whether the landowner is the client or whether the client is a third party such as a lumber company; and
- Document the advice that they have given to the landowner and/or client advocating forest land management consistent with good forestry practices. Documentation should include as a minimum, the date, time and location of any discussion as well as all participants’ names and a summary of the advice the member provided to the landowner/client;
- In considering these matters, the member need ask themselves if the actions they contemplate are:
  - what a reasonable qualified member of the OPFA, experienced with this type of situation, would do in this circumstance and how would that member view the situation if asked to comment?
  - considered consistent with what a member of the public would expect from a professional?
  - viewed as legitimizing the activity in the eyes of the client and potentially the public?
  - having the potential to cause disrepute to the profession?

The member should also consider consulting with other professional colleagues for their professional opinions.

If the member determines there is a potential violation of the Code of Ethics or that to continue would constitute professional misconduct under the *Professional Foresters Act, 2000*, the member should consider whether it would be appropriate to advise the client/landowner as such, and state that the member is not prepared to continue until these potential conflicts are remedied.

### **3. Qualified Member's Role and Responsibilities Regarding Municipal Tree Cutting By-Laws**

#### **Background:**

The provisions for municipal tree cutting By-Laws under the *Municipal Act, 2001* or the *Forestry Act* provide municipalities with the authority to enact By-Laws that prohibit or regulate the cutting, destruction or injuring of trees on privately owned lands.

In some cases, municipalities may set conditions on tree cutting permits such as operating seasons, timing and use of municipal roads for hauling, buffer trees along boundaries, location of species at risk mitigation requirements, etc. Some of these conditions may not be considered core elements of professional forestry but additional requirements that are of local knowledge, interest or concern or part of the overall municipal planning for the area in question.

#### **In Cases Where By-Laws Require "Good Forestry Practices"**

Some municipal tree cutting By-Laws include a statement that indicates the Municipality requires that trees may only be cut in accordance with good forestry practices. In this regard, a good forestry practices tree cutting application would require the submission of a prescription approved by a qualified member of the OPFA.

An application made for a permit to cut, destroy or injure trees following good forestry practices is reviewed by a municipal By-Law officer to decide if the standards contained in the municipal tree cutting By-Law have been adhered to and if a permit to cut will be granted.

There has been significant discussion about the role of Municipal By-Law officers in the decisions about the appropriateness of prescriptions submitted by qualified members of the OPFA for permit applications and their implementation. Municipal By-Law officers include both OPFA members and non-members. Situations have arisen where municipal By-Law officers have not agreed with the prescriptions submitted as part of a permit application. By-Law Officers have the authority to refuse an application for any number of reasons. If OPFA members disagree with the refusal, the appeals process associated with the specific municipality is an option available to members of the OPFA.

The OPFA supports the hiring of By-Law officers who can attain membership with the OPFA to enforce tree By-Laws.

#### **In Cases Where Tree Cutting By-Laws Do Not Exist**

Members must use their professional judgement and ensure that they are compliant with the OPFA Code of Ethics and follow accepted professional forestry practices and any applicable legislation.

#### **OPFA Members Working With Municipal By-Law Officers**

##### **Tree Marking**

A municipal By-Law officer has the authority to judge whether the woodland is marked according to the prescription submitted with the application and may deny the permit or place conditions such that the marking is corrected to their satisfaction.

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## **Prescriptions**

Where a municipal tree cutting By-Law application requires the submission and adherence to a prescription prepared by a qualified member of the OPFA, the municipal By-Law officer plays a key role in ensuring that:

- The prescription has been approved and submitted by a qualified member of the OPFA (with an appropriate scope of practice),
  - Regardless of any By-Law wording providing the authority to prepare prescriptions (e.g. Tree Marker) this authority is limited to qualified members of the OPFA within their approved scope of practice,
  - A Provisional Member could prepare the prescription if under the supervision of a qualified member of the OPFA
- The prescription meets the requirements of the By-Law, e.g. good forestry practices, and
- The work is carried out in accordance with that prescription.

## **OPFA Members Who Are Municipal By-Law Officers**

OPFA members who are municipal By-Law officers and are acting within their approved scope of practice must comply with the OPFA Code of Ethics. This obligation may be met by following the suggestions set out below.

Should a municipal By-Law officer who is an OPFA member have a concern about a prescription approved by a qualified member of the OPFA and submitted as part of a tree harvest permit application, they should consider the following:

1. Review and consider the current silvicultural guide(s) and other related information relevant to the area;
2. Confirm whether the prescription meets the administrative standards and intent of the municipal tree cutting By-Law;
3. Approach the qualified member of the OPFA associated with the application to discuss the concerns and to attempt to find clarification and/or resolution of the issue.
4. If the issue remains unresolved, consider requesting additional information from the qualified member of the OPFA to justify or explain the prescription.
5. If the concerns have not been alleviated, a further review of the prescription by another qualified member of the OPFA may be considered.
6. Should the review suggest a prescription is so inappropriate that it constitutes an incident of professional misconduct, unskilled practice of forestry or unethical conduct, file a formal complaint with the OPFA.

## **The Importance of a Well Written Prescription**

To have a member of the Ontario Professional Foresters Association undertake an activity such as writing a prescription below acceptable standards or beyond their scope of practice and/or experience and competencies could cause disrepute to the profession in the eyes of the public. The standards outlined in the OPFA By-Laws read as follows:

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## Standard 1 - Conforming to Legislation

A qualified member of the OPFA shall undertake activities in conformity to all applicable legislation and in consideration of all applicable guidelines. To do this, the qualified member must maintain familiarity with the legislation, regulations, and guidelines which are applicable or relevant to the member's practice.

## Standard 2 - Understanding of Ecological Processes and Principles

A qualified member of the OPFA shall demonstrate an understanding of the relevant ecological processes related to forestry practices and shall practice professional forestry consistent with ecologically sound principles.

## Standard 3 - Competency

A qualified member of the OPFA shall undertake only such work as he/she is competent to perform by virtue of his or her training and experience.

## Standard 4 – Information Used

A qualified member of the OPFA shall ensure that the type, currency, and reliability of the information upon which he or she is basing professional forestry decisions, is suitable and sufficient for the intended purposes.

## Standard 5 – Communication with Clients

A qualified member of the OPFA shall provide the client with explicit and viable forestry options, within the standards of practice, to meet the client's stated objectives.

## **Qualified Members of the OPFA Preparing Prescriptions**

The qualified member of the OPFA will prescribe forestry practices which are consistent with the OPFA Code of Ethics and applicable legislation such as the Forestry Act and relevant municipal bylaws. Whether or not the landowner is the client, the qualified member of the OPFA is encouraged to personally ensure the landowner is aware of the options available and associated consequences of each option. The consequences need to describe how the different options affect landowner's objectives and how consistent the results of each option is to applicable laws.

Qualified members of the OPFA are advised to document the advice given the landowner and/or client advocating the use of forestry practices that are consistent with the OPFA Code of Ethics and applicable legislation. Documentation should include as a minimum, the date, time and location of any discussion, all participant names and a summary of the advice the qualified member of the OPFA provided to the landowner/client. A copy of prescriptions must be provided to the landowner and/or client.

Should qualified members of the OPFA require guidance in the development of a prescription or if they are unsure about the appropriateness of a prescription they are developing, they may wish to consider the following:

- Review and consider the current silvicultural guide(s) and other related information relevant to the area.

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- A member must not undertake or support any activity that is not within the limits prescribed by law (federal, provincial, or municipal) or outside of their approved scope of practice
- Whether there are alternative options or solutions and how other qualified members of the OPFA might view this situation if asked to review or comment on the member's work.
- Consult with professional colleagues for their professional opinions.
- If the member is satisfied that the prescription that he/she prepared meets all of the professional requirements the appeal option associated with each Municipality could be considered.

While a qualified member of the OPFA may agree to change a prescription he or she has prepared, it is not appropriate for any other person to “modify” a prescription or other professional work (typically signed and sealed) of a qualified member of the OPFA. Changes would create a new document for which the original author would no longer be responsible. The qualified member should retain a copy of the signed and sealed prescription to support any concern that the prescription has been altered.

### **4. Preparation of Prescriptions for Partial Harvesting or Continuous Cover Silviculture on Private Land**

The qualified member of the OPFA is encouraged to personally ensure the landowner is aware of the options available for the management of their land. The consequences of each available option should also be discussed to ensure the prescription aligns with the landowner's objectives and relevant laws.

In addition to providing a copy of the prescription, the qualified member of the OPFA is advised to document the advice given to the landowner and/or client advocating the use of good forestry practices. Documentation should include as a minimum, the date, time and location of any discussion, all participant names and a summary of the advice the qualified member provided to the landowner/client.

To have a qualified member of the OPFA undertake an activity such as the writing of a prescription that falls below acceptable standards or is outside of their scope of practice of experience/competencies could cause disrepute to the profession in the eyes of the public.

Under the Standards of Professional Forestry, Standard 2 states that:

- A qualified member of the OPFA shall demonstrate an understanding of the relevant ecological processes related to forestry practices and shall practice professional forestry consistent with ecologically sound principles.

The development of a prescription not supported by the best available science is not based on “ecologically sound principles” and would therefore normally be contrary to the standards of practice of professional forestry.

### **5. Minimum Expectations for Forest Operations Prescriptions on Private Land**

These prescriptions require a certain set of components to provide guidance to tree markers who will choose which trees will be cut, retained, or identified for other social or ecological purposes, and to allow effective review.

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Additional information may be required for specific situations, and further detail may be appropriate. The prescription must comply with all applicable federal, provincial, and local laws.

- Based on landowner objectives, and reflecting acceptable practices, the prescription should describe the intended long-term direction for a forest stand or a group of stands with similar attributes, together with the immediate actions to be taken.
- The prescription should provide sufficient documentation to enable review by one or more qualified members of the OPFA or review agencies which may audit or regulate harvesting or forest management on private land in the designated area, or for consideration should there be a complaint about the qualified member's practice.

The following are the minimum elements that must be met for every prescription:

## **1. Silvicultural prescription must be written by or prepared under the direction of the qualified Member of the Ontario Professional Foresters Association**

Those supervising individuals preparing prescriptions for landowners take professional responsibility for the work undertaken and must certify with their signature that the resulting prescription meets the standards of the OPFA including guidance provided through practice guidance documents. An OPFA member must not include their signature or seal on a prescription unless they wrote or prepared it themselves or supervised another person doing this.

## **2. Location, Map, Ownership, Client, and Contact Information**

This information must allow anyone unfamiliar with the site to be able to locate the property and understand exactly where within the property the prescription is to be applied. As well, it must specify who the landowner is, who the qualified member's client is (if not the landowner), and how each may be contacted. A suitable map with the treatment boundaries and relevant details should be part of the prescription.

## **3. Site and Stand Condition**

The site and stand must be described in enough detail to allow tree markers and other evaluators to understand the stands: composition, density, stage of development, regeneration status, quality, limitations, stand history, and potential. As well, any sensitive or specific features should be discussed here. This section provides a description of the data sources used, including any dates of the prescription approver's site inspections and inventory work. This background data should be retained on file for future reference for a minimum period equal to the dates mentioned in Section 10 below.

The prescription must provide current **stocking, stand structure or basal area** figures relevant to the silvicultural system being applied.

## **4. Habitat, Biodiversity, and Recreation Considerations**

Describe features to be protected or enhanced through tree marking, such as: trails, access, logging history, regeneration establishment and/or maintenance, and including guidelines for any Species at Risk. Wildlife habitat and cultural values protection decisions and direction must consider available science and management guidelines for the forest type and location and be appropriate for the landowner's objectives for the property.

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## 5. Last Silvicultural Operation

The prescription must provide the date and a brief description of the last stand disturbance or silvicultural operation, to the best of the author's ability.

## 6. Objectives

Prescriptions will have regard for existing approved management plans and through direct consultation with landowners (preferred) or through a landowner-signed document and will describe the following:

- i) **long-term** desired future forest condition and
- ii) objectives for the **current** silvicultural intervention (E.g. Partial harvest tree marking), including an indication of which **silvicultural system** is to be used and what stage this system is at (e.g. regeneration cut vs. removal cut). The objectives should be realistic expectations given the site and current forest conditions.

## 7. Silvicultural Tree Marking Direction

Prescriptions must give direction about the improvement of health, quality, species diversity, stand structure and/or size class distribution. Tree marking direction must comply with all applicable laws, including municipal By-Laws, and must consider the best available science and management guidelines for the forest type and location and be appropriate for the landowner's objectives for the property.

## 8. Boundary Marking

The location of access roads and paths and boundaries of operations must be consistent with the forest plan or silvicultural prescription. These boundaries may be marked in the forest or provided to the individuals conducting forestry operations.

## 9. Paint/Marks

Where individual trees are to be marked, a distinct approach must be used and recorded (symbols, paint colours, etc.).

## 10. Estimated Time of Next Silvicultural Intervention

Provide the year and a brief description of the next logical silvicultural intervention that would continue the path towards the long-term objective(s). The prescription may also recommend the timing of stand assessments.

## 11. Author and Legal Approval

The prescription must show the name of the prescription author, the date it was prepared, and the stamp, signature, and date of the qualified member of the OPFA who has authored or has supervised the preparation and has the authority to approve this type of prescription in this location.

## 12. Reference to Other Documents

Particularly on larger properties, some of the required information may be contained in other documents. Where it is not reasonable to repeat such information in the prescription and the

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documents are accessible, clear references and locations should be provided.

*In all instances qualified members of the OPFA are strongly encouraged to consult other professionals and qualified members when there are additional complexities associated with undertaking professional forestry services on private land that may be outside or on the limit of their approved scope of practice or competence. Examples of this might include potential impacts on other natural features, endangered species, or land ownership matters.*

## **6. Acknowledgements**

The OPFA wishes to acknowledge that this Practice Guidance has been developed with input from documents developed by the Association of British Columbia Forestry Professionals (ABCFP), the Association of Saskatchewan Forestry Professionals (ASFP) and the Association of Ontario Geoscientists along with the earlier work of the OPFA Private Lands Committee.