

Oregon struggles to track Forest Practices Act

Audit riddled with biases and flaws, some claim

By **TONY SCHICK**
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In February, Oregon State Forester Peter Daugherty sat in front of lawmakers during a budget hearing and reported his agency’s sterling compliance rate with the laws that govern private logging. “The audit showed an overall rule level compliance rate of 98%,” Daugherty told them. Others aren’t so sure about that. “We don’t know if it’s 98, 99 or 50,” said Brenda McComb, a retired Oregon State University professor who serves on the board overseeing Daugherty’s agency, the state Department of Forestry.

McComb, fellow forestry board member Cindy Deacon Williams and two consultants separately hired by environmental advocates are arguing the department’s work is riddled with biases and analytical flaws. One reviewer deemed them “sufficiently severe to preclude any defensible assessment of compliance rates.” In response, the Department of Forestry says it is confident in its numbers but has nonetheless commissioned another statistical review by Oregon State. It expects that to be completed this month. All this means the state has spent five years and close to a million dollars to find out how many people and companies follow state logging rules — and came away with an answer that’s now being called essentially worthless. “It’s just ridiculous,” Williams said. She first expressed her concerns about the numbers before the department cited them in legislative testimony. She now says she’d like to see the monitoring redone and the record corrected.

“You can’t legislate or guide policy in a vacuum of ignorance,” she said. “We simply don’t have the information that we need in order to know whether our policies are responsible and are achieving our aims.”

Is the law working? The effectiveness of Oregon’s Forest Practices Act is at the center of contentious debates about private logging. Thousands of timber harvests take place in Oregon every year, on vast corporate forests and small family-owned woodlots. The 288 rules of the Forest Practices Act govern them all. They dictate how many trees must be left standing alongside streams to keep them shady and cool for salmon. They govern forest road construction to lower the chances of a landslide. They direct foresters on when trees must be replanted, and more. Oregon’s comprehensive law was the first of its kind



A contractor sorts logs in southern Oregon.

Oregon Department of Forestry

when it was passed in 1971, but environmental advocates say it has since become the weakest state forestry law on the West Coast. It remains the law that state officials use in defending against claims from the federal government that Oregon hasn’t adequately protected coastal streams. It’s what industry lobbyists extol and environmental lobbyists rail against. Central to understanding the effectiveness of this law is the question of how well it’s being followed. So, back in 2011, the Oregon Legislature directed the Department of Forestry to conduct an annual study of Forest Practices Act compliance, using an independent contractor to collect data from a sampling of forest owners. The agency began by reviewing how well forestland owners and the timber industry were complying with rules on harvesting trees, building and maintaining forest roads and protecting water quality. Its work found an overall compliance rate of 98% in 2017, the most recent year completed. The state also calculates compliance rates for specific rules, ownership classes and regions. Forest industry representatives say they are confident in the accuracy of those numbers, as do several members of the

state’s forestry board. Joe Justice, a board member who works for Hancock Forest Management in Eastern Oregon, said state foresters use the audits to identify areas where they need to work with landowners before, during and after tree harvests. “Compliance audits are just one way the department monitors forest practices,” Justice said in an email. “A great deal of valuable information is gained from these audits including information and trends that help ODF focus training and education.” Marganne Allen, the department’s forest health and monitoring manager, said Oregon’s reported compliance rates are credible. She pointed out that they also fall in line with those reported by other states, which have found that landowners and timber operators are abiding by forestry laws at compliance rates that range from 61% to 99%, according to the Society of American Foresters. “This has been a very repeatable outcome over time,” Allen said. She said the latest findings also are consistent with previous department studies dating back to 2002. Department of Forestry officials say they are working to improve the way they check on logging-related

activities. The department plans to involve statisticians from Oregon State in reviewing future audits, the next of which will focus on how landowners plant trees after harvesting. The department also opened up its external review team, Allen said, but the environmental groups criticizing its latest audit declined to participate.

Flawed, selective method

A major concern they raised is who the department included and who is left out. The state made 345 inquiries with potential audit participants but ultimately studied only about one-third of them. Participation was voluntary. Some landowners refused to give state foresters access to their woodlots — something the law permits them to do. Don Stevens, a retired Oregon State statistician who reviewed the work at the

request of the Wild Salmon Center, is the reviewer who said the audit’s flaws undermine the credibility of the state’s reported forestry-rule compliance rates. He said the department’s sampling provides “enormous potential for nonresponse bias.” In other words, there’s no way to know if that method left out thousands of acres of forestland rife with violations. And should that be the case, the Department of Forestry’s overall picture of how well the Forest Practices Act has been followed could be wildly inaccurate. Stevens and others say the problems go beyond the collection of bad data. They say the department’s analysis of that data is also flawed. Chris Mendoza, an environmental consultant who has worked on compliance monitoring for the Washington Department of Natural Resources, reviewed the department’s work for the

Oregon Stream Protection Coalition. He equated the methods to finding out that 200 out of 1,000 motorists pulled over by police were exceeding the speed limit — and assuming those 200 were the only speeders out of all 100,000 cars on the highway that day. “If ODF intended to choose a method that selectively depicts the highest possible compliance rates for forest practices rules ... then ODF’s reporting ‘methods’ hits that mark,” Mendoza wrote in his assessment. Allen said her agency wanted to account for the fact that not all timber harvests are the same, and some landowners may be encountering the law more often than others. “You can have one harvest unit that has only, say, 100 feet of road,” she said. “Another may have 500 feet of road. So it’s important to get across some metric of not all harvest units are equal, and that they’ll have a different number of times that a given rule is applied.” She said no issues had been raised with this method in the past, but that she expected Oregon State’s expertise to inform how they approach it in the future. For some board members and advocates, the audit raised larger questions about how the agency works. Bob Van Dyk, of the Wild Salmon Center, noted that, save for members from the state Department of Environmental Quality, the audit’s external review committee was made up entirely of people from forest companies and industry trade groups. “This audit shows that the agency that’s charged with protecting our forest waters is too close to the timber industry that they regulate,” Van Dyk said. “And that we can’t be confident in the quality of the laws, nor in their implementation.”

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