

DIVISION 33
STATE FOREST LAND ACQUISITIONS
AND EXCHANGES

Highlights are requirement in ORS

629-033-0000

Scope

These rules apply to the acquisition and exchange of lands designated as state forests lands as provided in ORS 530.010.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0005

Definitions

(1) "Board" means the Oregon Board of Forestry.

(2) "Board of Forestry Lands" means lands owned by the Board of Forestry under ORS Chapter 530.

(3) "Department" means the State of Oregon, Department of Forestry.

(4) "District" means a defined geographic area that is an administrative unit of the Department, within which a District Forester manages the Department's programs.

(5) "State forest lands" means all forest lands managed by the State Forester under the direction of the Board of Forestry as provided in ORS Chapter 530.

(6) "Transaction" means an acquisition or exchange of state forest lands.

(7) "State Forester" means the Agency Director of the Oregon Department of Forestry and the Secretary to the Board of Forestry.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0010

Purpose for Acquisitions and Exchanges

The acquisition or exchange of state forest lands is appropriate when:

(1) The transaction furthers the purposes of ORS 530.010, the acquisition of lands chiefly valuable for the production of forest crops, watershed protection and development, erosion control, grazing, recreation or forest administrative purposes; and

(2) The exchange furthers the objectives of providing a full range of social, economic and environmental benefits to the people of Oregon for achieving greatest permanent value as defined in OAR 629-035-0020, as expressed in approved forest management plans; and

(3) The transaction results in the consolidation of state forest lands, or makes management of state-owned forest lands more economically feasible.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0015

Long Range Acquisition and Exchange Plans

(1) Each district of the Department shall prepare a long-range acquisition and exchange plan outlining the key parcels proposed for exchange or acquisition within that district. The acquisition and exchange plan shall describe how the plan aligns with ORS 530.010 and 530.040, and approved forest management plans, and furthers the objectives of achieving greatest permanent value as defined in OAR 629-035-0020. The long-range acquisition and exchange plan shall be reviewed by the Board of Forestry prior to approval by the State Forester. The State Forester shall review, update and approve long-range acquisition and exchange plans at least every ten years.

(2) Proposals for exchange or acquisition that are not part of an approved long-range acquisition and exchange plan may be submitted if an exchange or acquisition opportunity presents itself, and when in the opinion of the District Forester, that proposal meets the intent of OAR 629-033-0010. Such proposals shall be submitted through supervisory channels for review and approval by the State Forester prior to the Department entering into any written agreement with the proposed acquisition or exchange partner.

Stat. Auth.: ORS 526.016(4) & ORS 526.041
Stats. Implemented: ORS 530.010 & ORS 530.040
Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0020

Land Status, Designation, and Classification

- (1) ORS 530.040 requires that all lands received in exchange shall have the same status and be subject to the same provisions of law as the lands given in exchange. Status means the designation of the lands as Board of Forestry-owned state forest lands.
- (2) Any land transaction proposals shall state what Forest Land Base Designation and Forest Land Management Classification is in effect for the lands proposed to be given, and shall state what Forest Land Base Designation and Forest Land Management Classification is proposed for the lands being acquired.
- (3) Lands proposed to be acquired or exchanged shall be treated as amendments to the district land base designations and management classifications system as provided in OAR 629-035-0070, and shall be subject to a 30-day public comment period prior to approval of the transaction.

Stat. Auth.: ORS 526.016(4) & ORS 526.041
Stats. Implemented: ORS 530.010 & ORS 530.040
Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0025

Approvals

- (1) Exchanges of state forest lands between counties shall first be approved by the County Court or Board of County Commissioners of the counties affected.
- (2) All exchanges of state forest land that require a monetary payment in excess of ten percent of the value of the parcel(s) being acquired shall first be approved in concept by the Board of Forestry.
- (3) All acquisitions of forest lands proposed for ownership by the Board and designation as state forest lands must have approval of the County Court or Board of County Commissioners of the county affected.
- (4) All acquisitions or exchanges involving state forest lands shall be submitted to the Board for final approval prior to execution of deeds which consummate the transaction.
- (5) The Department shall obtain approval by the Attorney General of the title to all lands to be received in accordance with ORS 530.020.

Stat. Auth.: ORS 526.016(4) & ORS 526.041
Stats. Implemented: ORS 530.010 & ORS 530.040
Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0030

Public Hearings

- (1) As required by ORS 530.040(3), a public hearing on all acquisitions or exchanges of state forest land shall be held at the courthouse of the county or counties in which the lands are situated.
- (2) Notice of such hearing shall be given by publication in two successive issues of a newspaper of general circulation published in that county or counties, the first of which shall be given not less than 30 days prior to the date of the hearing.
- (3) The notice shall specify the time and place of the hearing, a description of lands to be given and received including a legal description and common name where applicable, and describe the proposed Forest Land Base Designation and Forest Land Management Classification for the lands being acquired. The notice shall also indicate how and where to obtain detailed maps outlining the exact location of the parcels involved and staff analysis of the transaction.
- (4) The 30-day notice required for public comment in OAR 629-033-0020(3) will commence on the date of the hearing described in subsection (2) above, and will run for 30 days. Public comments must be submitted by the closing of the public comment period and shall be sent to the State Forester's office in Salem.
- (5) The Department shall furnish the County Commissioners with complete copies of all comments or other pertinent documents submitted during the public comment period relative to the transaction prior to commencement of the County Commissioners public hearing meeting on the transaction.

Stat. Auth.: ORS 526.016(4) & ORS 526.041
Stats. Implemented: ORS 530.010 & ORS 530.040
Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0035

Monetary Consideration in Exchanges

The Department may consider the receipt of land, monetary consideration, or other assets to equalize values of the parcels being exchanged. The Department must, however, receive approval in concept from the Board of Forestry when the proposed monetary payment exceeds ten percent of the value of the parcel(s) being acquired. In no event shall monetary compensation exceed 25 percent of the appraised value of the acquired property, unless the Board finds extraordinary circumstances exist ~~that necessitate the exchange.~~

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0040

Timber Harvest of Potential Exchange Parcels

The Department may harvest a parcel that has been identified for exchange prior to approval of the exchange by the Board when:

- (1) The harvest of the parcel aligns with achieving the goals of applicable forest management plans and the rationale has been documented in annual operations plans; or
- (2) The Board approves the harvest prior to final completion of the exchange.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0045

Valuation of Acquisition or Exchange Parcels

(1) The value of any asset in an acquisition, including land, timber and other assets, is equal to the price a prudent purchaser would pay in accordance with accepted appraisal practices. Unless the Board of Forestry finds that unusual circumstances exist, the value received by the Department in an acquisition or exchange shall not equal less than the value of the property transferred.

(2) In assessing the value of lands to be given or acquired, the Department will conduct a biological assessment of plant and wildlife resources on the parcel(s), and a recreational resource assessment of the parcel(s) for the purpose of determining if the transaction furthers the purposes of OAR 629-033-0010 and the goals and objectives of Forest Management Plans. The assessment of biological and wildlife resources on the parcels shall be conducted by a qualified independent third party mutually agreeable to the transaction partners. The Board may consider such assessments in making its determination as to whether the proposed transaction furthers the purposes set out in OAR 629-033-0010.

(3) Unless the State Forester determines that the Department's land exchange program could be adversely affected by the disclosure, the Department may publish, as part of the Agenda prepared for the Board prior to a regularly-scheduled meeting, a ~~complete copy~~ an executive summary valuation of the appraisal of the parcels before final approval of the transaction.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0050

Mineral Interests

(1) As required by OAR 141-073-0115 the relinquishment of any mineral rights required in any exchange involving state forest land parcels less than ten acres in size shall be approved by the Division of State Lands.

(2) As required by OAR 141-073-0120 the relinquishment of any mineral rights required in any exchange of mineral rights involving state forest land parcels of ten acres or more shall be approved by the State Land Board.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01

629-033-0055

Appeal of Board Approval

(1) As used in this section, "Aggrieved Party" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character who:

- (a) Is adversely affected by a Board decision to approve a land transaction as provided under 629-033-0025(4) above; and
- (b) Provided timely written comments on the proposed transaction to the State Forester or the Board during the public comment period as specified in OAR 629-033-0030, ~~prior to the Board's final approval of the transaction,~~ explaining why the transaction fails to comply with these rules.
- (2) Final approval by the Board of all land acquisition and exchange transactions shall be given during a ~~at one of the Board's~~ regularly scheduled Board of Forestry Public Meeting as outlined in 629-033-0025(4) ~~above~~. Notice of the Request for Approval shall be published as part of the Agenda prepared for the Board prior to a regularly scheduled meeting. The Board shall not consider additional testimony or comments during the approval meeting ~~a regularly scheduled meeting~~ for land acquisition or exchange transactions on the agenda for consideration.
- (3) A written request for hearing may be filed by an aggrieved party with the State Forester no later than twenty calendar days after the public meeting at which Board approval of a land transaction was given. The request shall include:
- (a) A copy of the comments or testimony provided at the public hearing expressly on the party's behalf, pertaining to the transaction; and
- (b) ~~A statement that describes how the party will be adversely affected by the transaction.~~ A statement describing where in their written comments the issues were raised, specifics of how the party is adversely affected, and the remedy they seek through appeal.
- (4) Once a written request for a hearing has been made under subsection (3) of this section, the State Forester will postpone execution of any deeds that would consummate the transaction until issuance of a final order.
- (5) Requests for hearing which meet the requirements of this rule shall be heard in proceedings conducted as contested case hearings under ORS 183.413 to 183.470 and applicable Board rules on contested case procedures. In the event more than one party requests a hearing on a transaction, the requests shall be consolidated into a single proceeding. Issues for hearing shall be limited to those raised by the party in the timely filed comments at the public hearing. Parties may consolidate review of discovery and hearing process scheduling but may not represent issues of claimants other than themselves. The hearing officer shall issue a proposed order unless the Board delegates authority to issue a final order to the hearing officer. Appeals of final orders under this section shall be as provided in ORS 183.482.

Stat. Auth.: ORS 526.016(4) & ORS 526.041

Stats. Implemented: ORS 530.010 & ORS 530.040

Hist.: DOF 5-2001, f. & cert. ef. 9-14-01