

- DRAFT -
FORESTLAND CLASSIFICATION RULES
October 2, 2009

NOTE: THESE PROPOSED RULES ARE BASED ON SB 189 WHICH BECOMES EFFECTIVE ON JANUARY 1, 2010

OAR 629-045-0001

Definitions

(1) The definitions set forth in ORS 477.001, ORS 477.205, ORS 526.005, and ORS 526.305 shall apply to OAR 629, division 045, unless the context requires otherwise.

(2) The following words and phrases, when used in OAR 629, division 045, shall mean the following unless the context requires otherwise:

(a) "Actively managed" means that vegetation management activities are conducted on a continuing, annual basis and periodically through a calendar year, as is necessary to accomplish the landowner's objectives.

(b) "Forest Patrol Assessment roll" means the assessment roll process and the direct billing process described in ORS 477.270(1).

(c) "Locale" means the general geographic area which is contiguous to or which surrounds a specific site.

(d) "Periodically" means at least once every five years.

(e) "Potential" means the ability of a site to grow vegetation, notwithstanding current or past uses of the site nor the current or past presence of structures on the site, and regardless of how the site is zoned or taxed.

(f) "Routinely" means at least once each calendar year.

(g) "USDA" means the United States Department of Agriculture.

OAR 629-045-0002

Determination of forestland by a committee

(1) A committee shall periodically identify all lands which meet the following criteria:

(a) Is within the county or counties of its jurisdiction;

(b) Is within a forest protection district; and

(c) Is a woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar opening that is surrounded by or contiguous to land described in the first sentence of this subsection (c) and that has been included in areas classified as forestland under ORS 526.305 to 526.370.

(2) All lands which meet the criteria set forth in section (1) of this rule shall be considered to be forestland and shall be classified pursuant to OAR 629-045-0003 and 629-045-0004.

OAR 629-045-0003

Classification of forestland by a committee

(1) All lands identified as forestland, pursuant to OAR 629-045-0002, shall be classified by a committee as:

(a) Class 1, in accordance with the criteria set forth in section (2) of this rule;

(b) Class 2, in accordance with the criteria set forth in section (3) of this rule; or

(c) Class 3, in accordance with the criteria set forth in section (4) of this rule.

(2) Forestland shall be classified as Class 1 if;

(a) it is located west of the summit of the Cascade Mountains, or

AGENDA ITEM 4

Attachment 1

Page 1 of 5

(b) east of the summit of the Cascade Mountains and located in Hood River County or Wasco County and is primarily used for timber production.

(3) Forestland shall be classified as Class 2 if:

(a) It is located east of the summit of the Cascade Mountains; and

(b) It has a potential site productivity of at least 20 cubic feet per acre per year, at culmination of mean annual increment, for one or more tree species native to the locale.

(4) Notwithstanding the requirements of sections (2) and (3) of this rule, forestland may be classified as Class 3 if the requirements of both (a) and (b) of this section are met:

(a) The forestland is located:

(A) East of the summit of the Cascade Mountains; or

(B) West of the summit of the Cascade Mountains and south of the southern boundary of Lane County.

(b) At least one of the following criteria is applicable:

(A) The forestland has a potential site productivity of less than 20 cubic feet per acre per year, at culmination of mean annual increment, for one or more tree species native to the locale;

(B) The forestland is actively managed to support vegetation that does not include tree species native to the locale; or

(C) The forestland routinely contains enough flammable vegetation to meet the definition of "forestland" and historically has not supported natural growth of a tree species native to the locale.

OAR 629-045-0004

Classification requirements and limitations

In classifying lands pursuant to OAR 629-045-0003:

(1) A committee may determine potential site productivity:

(a) Directly, by tree growth and stocking measurements made in a locale; or

(b) Indirectly, by using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue site class maps, or other information determined by the State Forester to be of comparable quality.

(2) If western juniper is present in a locale, a committee may consider western juniper to be a tree species which is native to the locale.

(3) If trees that meet the definition of "Christmas tree" in ORS 571.505 are present in a locale, a committee shall consider such "Christmas trees" to be a tree species which is native to the locale.

(4) A committee may not consider the existence of structures, improvements, or clearings, when making classification decisions.

(5) A committee may not consider the existence of city limits, urban growth boundaries, zoning, or the absence or presence of an organized structural fire protection provider, when making classification decisions.

(6) Notwithstanding the requirements of OAR 629-045-0002 and 629-045-0003, if lands are actively managed for an agricultural purpose, such as by cropping, irrigation, plowing, or other practices that result in a substantially reduced likelihood of wildfire spread across the lands, such that the lands do not meet the definition of "forestland", a committee is not required to classify such lands.

OAR 629-045-0005**Mapping requirements and boundary recommendations**

(1) On the maps required by ORS 526.324 and 526.328, a committee shall set forth the outer margin of all forestland classified by the committee pursuant to OAR 629-045-0003 and 629-045-0004.

(a) Natural geographic features, human-made land features, public land survey lines, or political boundary lines shall be used to describe the outer margin.

(b) No outer margin shall enclose an area of less than 40 acres in size.

(c) No outer margin shall extend outside of a forest protection district.

(2) A committee shall recommend to the appropriate forest protection district any changes to the boundary of a forest protection district it believes are warranted.

(3) A committee shall recommend to the appropriate county governing body the creation of or changes to the boundary of Zone 1 lands, which have been or may be established pursuant to ORS 476.310 to 476.320, if the committee believes such creation or changes are warranted.

OAR 629-045-0006**Community meetings**

(1) Prior to holding the public hearing required by ORS 526.328(1), a committee shall hold one or more community meetings in each county of its jurisdiction.

(2) At a community meeting required by section (1) of this rule, a committee shall:

(a) Present to any interested persons information about its:

(A) Forestland identification process, completed pursuant to ORS 526.320 and OAR 629-045-0002; and

(B) Preliminary classification decision process, completed pursuant to ORS 526.324 and OAR 629-045-0003 and 629-045-0004.

(b) Make available for inspection the preliminary classification maps required by ORS 526.324.

OAR 629-045-0007**Formal written order requirements**

A committee shall:

(1) Attach to the formal written order required by ORS 526.328(2) a table which compares the Forest Patrol Assessment rates per acre, for the fiscal year in which the written order was filed with the county clerk, and the rates that would have been applicable if the acreages arising from the classification or reclassification in the order had been used instead.

(2) File the formal written order required by ORS 526.328(2) with the county clerk(s) within thirty days of its adoption by the committee. Any delay in meeting this thirty day requirement shall be promptly reported in writing to the State Forester. The State Forester may thereafter extend, in writing, the thirty day limitation.

OAR 629-045-0008**Limitations and requirements for forest protection district actions**

(1) A forest protection district shall extend to the Forest Patrol Assessment rolls all forestland classification or reclassification decisions made by a committee, pursuant to OAR 629-045-0003 and 629-045-0004, within six months of the date the applicable formal written order was filed with a county clerk pursuant to ORS 526.328(2). Any delay in meeting this six month requirement shall be promptly reported

in writing to the State Forester. The State Forester may thereafter extend, in writing, the six month limitation.

- (2) A forest protection district shall make no adjustments to the Forest Patrol Assessment roll, except:
- (a) As provided in section (1) of this rule;
 - (b) As necessary to correct obvious or minor administrative errors;
 - (c) As necessary to reflect court decisions arising from an appeal made pursuant to ORS 526.332; or
 - (d) As necessary to administer the contiguous lot combination provisions of ORS 477.295(3) to (6).

OAR 629-045-0009

Limitations and classification by the State Forester

(1) Pursuant to ORS 526.340, the State Forester may identify and classify forestland in a county, consistent with ORS 526.324 and 526.328, if:

- (a) The governing body of a county has failed to establish a committee within two years after the State Forester made a request for such establishment pursuant to ORS 526.310(1);
- (b) A committee failed to adopt and file a final classification, pursuant to ORS 526.328, within five years after the committee was first established; or
- (c) A committee failed to act in a manner consistent with ORS 526.310 to 526.328.

(2) Prior to identifying and classifying forestland in a county, pursuant to ORS 526.340(1)(b), the State Forester shall:

- (a) Allow a committee to work for at least two years after the committee was first established, before approaching the county governing body to identify and resolve any issue which might be creating an unreasonable delay in the committee's progress toward fulfillment of its responsibilities.
- (b) Work with the county governing body to identify and resolve any issue which might be creating an unreasonable delay in the committee's progress toward fulfillment of its responsibilities.

(3) Prior to identifying and classifying forestland in a county, pursuant to ORS 526.340(1)(c), the State Forester shall work with the county governing body to identify and resolve any issue which might be causing the committee to act in a manner inconsistent with ORS 526.310 to 526.328.

(4) If the State Forester determines it is desirable or necessary to remove and replace some or all of a committee's members in order to properly or timely fulfill a committee's responsibilities, the State Forester shall request the appropriate appointing authority to remove and replace such members, pursuant to ORS 526.310(2).

629-045-0010

Length of Committee Member Terms

The amendments to ORS 526.310(2), which become effective January 1, 2010, establish a four-year term for members of forestland classification committees, in the absence of other direction from the appointing authority. Unless otherwise provided for by the appointing authority, a committee member serving on January 1, 2010 may not serve more than four years after that date unless the member is reappointed. If a member is reappointed after January 1, 2010, the term of the reappointed member shall be four years, unless the appointing authority provides otherwise.

CURRENT RULES TO BE DELETED

629-045-0005

Class 1 or Class 2 Lands

~~(1) Lands classified as Class 1 or Class 2 pursuant to ORS 526.324 or 526.340 may include undeveloped grass lands if such lands are within one-eighth of one mile of forestland.~~

AGENDA ITEM 4

Attachment 1

Page 4 of 5

~~(2) Notwithstanding subsection (1) of this rule, no contiguous undeveloped grass lands greater than forty acres in size shall be classed as Class 1 or Class 2, unless in a narrow strip which is flanked on each side by forestland and which does not exceed one-fourth of one mile in width.~~

~~(3) Undeveloped grass lands are considered as "clearings" within the definition of forestland, insofar as such lands are intermingled with forestland, if it does not exceed the limits set forth in subsections (1) and (2) of this rule.~~

629-045-0010

Class 3 Lands

~~(1) Lands classified as Class 3 pursuant to ORS 526.324 or 526.340 may include undeveloped grass lands if such lands are within two miles of forestland.~~

~~(2) Undeveloped grass lands are considered as "clearings" within the definition of forestland, insofar as such lands are intermingled with forestland and do not exceed the limits set forth in subsection (1) of this rule.~~