

**DEPARTMENT OF FORESTRY**  
**FOREST LAND MANAGEMENT**  
**DIVISION 22**  
**FOREST RESOURCE TRUST**

**629-022-0030**

**Purpose and Trust Responsibilities**

(1) ~~The~~ Forest Resource Trust programs provides financial, technical and related assistance to nonindustrial private and other qualified private and local government ~~F~~orestland owners to establish ~~F~~orest ~~s~~Stands and improve management of ~~F~~orestlands for ~~T~~imber production, fish and wildlife, water quality and other environmental purposes.

(2) The Board of Forestry is responsible for the management of the Forest Resource Trust program. The State Forester is responsible for implementing the Trust program and policies adopted by the Board of Forestry.

Stat. Auth.: ORS 526.700 to ORS 526.730, ORS 526.745 & SB 81 & 193

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

**GENERAL PROVISIONS**

**629-022-0035**

**Applicability**

(1) Provisions in OAR 629-022-0030 through OAR 629-022-0120 apply to both the loan and cost share programs of the Forest Resource Trust.

(2) Provisions in OAR 629-022-00130 through OAR 629-022-0410 apply only to the loan program of the Forest Resource Trust.

(3) Provisions in OAR 629-022-0800 through OAR 629-022-0850 apply only to the cost share program of the Forest Resource Trust.

Stat. Auth.: ORS 526.700 to ORS 526.730, ORS 526.745

Stats. Implemented: ORS 526.695 - ORS 526.775

**629-022-0040**

**Definitions**

Defined words and terms are identified with upper case letters throughout these rules. As used in the Forest Resource Trust rules and contracts and agreements entered into under the Forest Resource Trust rules, unless the context requires otherwise:

(1) “Actual Trust Cost” means the portion of Incurred Costs paid by the Trust.

(~~2~~) “Adequately sStocked” means the number and size of the trees growing within a ~~F~~orest ~~s~~Stand meets the standards determined by the State Forester in OAR 629-022-0390.

(3) “Approved Consulting Services” means services and supplies to be provided by a Resource Management Professional approved by the State Forester as specified in a Forest Resource Trust loan program contract or cost-share agreement.

(4) “Approved Practices” means the schedule and manner of forest Practices, Environmental Restoration and related materials and supplies approved by the State Forester.

(5) “Budgeted Cost” means the expected cost of an Approved Practice or an Approved Consulting Service.

(6) “Carbon Offsets” means credits registered or used, transferred or sold to comply with air quality or other greenhouse gas mitigation measures for the purpose of compensating for emissions of carbon dioxide from other sources such as the burning of fossil fuels for energy production. Carbon Offsets are not considered to be a Forest Product as defined in OAR 629-22-040(15).

(7) A “Catastrophe” means an event or circumstance beyond the Landowner's control, resulting in all or part of a Forest Stand being incapable of producing harvest revenues to make repayment of Trust funds as described in OAR 629-022- 0300.

(8) “Consulting Services” means services and supplies to be provided by a Resource Management Professional necessary to conduct a Practice or Environmental Restoration.

~~(2) “Contract” means the Forest Resource Trust Contract that is signed by the State Forester and the landowner.~~

~~3-(9) “Conversion” means an Operation conducted on Underproducing Forestland with the objective of removing undesirable competing vegetation, including the incidental harvest of Forest Products and establishing an Adequately Stocked, Free to Grow Forest Stand.~~

(10) “Direct Cost Payment” means the disbursement of Forest Resource Trust funds on behalf of the Landowner for up to 100 percent of the Incurred Cost of an Approved Practice or Approved Consulting Service as specified in a Loan Program Contract.

(11) “Ecosystem Services” means environmental benefits arising from the conservation and management of forestland, including, but not limited to, fish and wildlife habitat, clean water and air, pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration, avoidance of carbon dioxide emissions and maintenance of soil productivity.

(12) “Environmental Restoration” means a practice that protects, restores or improves natural resources. For example, an Environmental Restoration practice may enhance wildlife habitat for a sensitive species such as the osprey or a threatened species such as the bald eagle; improve water quality, reduce water temperature, or provide large woody debris to a stream in a watershed enhancement area; improve the health of an insect damaged or diseased forest; or protect soils from erosion or degradation.

(13) “Final Harvest” means forest products are removed from the stand to create a Harvest Type 1, 2 or 3 condition, described as:

(a) “Harvest Type 1” means an Operation that requires reforestation but does not require wildlife leave trees. A Harvest Type 1 is an Operation that leaves a combined stocking level of Free To Grow seedlings, saplings, poles and larger trees that is less than the stocking level established by rule of the board that represents adequate utilization of the productivity of the site.

~~(b) “Harvest type 2” means an operation that requires wildlife leave trees but does not require reforestation. A harvest type 2 does not require reforestation because it has an adequate combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:~~

~~(A) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre;~~

~~(B) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre; or~~

~~(C) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre.~~

~~(eb) “Harvest Type 3” means an Operation that requires reforestation and requires wildlife leave trees. This represents a level of stocking below which the size of~~

Operations is limited under ORS 527.740 and 527.750.

(14) "Forestland" means land zoned in a county comprehensive plan for forest or farm use that is capable of producing commercial hardwood or softwood ~~Timber~~, regardless of the vegetation currently on the land.

(715) "Forest ~~Products~~" include, but are not limited to, logs, poles and pilings, lumber, chips, and pulp.

(816) "Forest ~~Stand~~" means the aggregation of all trees within the project boundary.

(179) "Free ~~To Grow~~" means the State Forester has determined that a ~~Forest Stand~~ has well distributed trees, of acceptable species and of good form and has a high probability of remaining or becoming vigorous, healthy and dominant over undesired competing vegetation.

(4018) "Harvest" means the ~~Forest Products~~ in a ~~Forest Stand~~ are cut, severed, removed or sold.

(19) "Incurred Costs" means the actual invoiced amount from a Provider of Services or a Provider of Supplies for completing an Approved Practice or Approved Consulting Service; or the Budgeted Cost for the Approved Practice or Approved Consulting Service; whichever is lower.

(20(41) "Landowner" means the ~~Person or Persons~~ who are eligible to apply for or receive financial and technical assistance through ~~trust funds, or are subject to a~~ Forest Resource Trust programs~~Contract~~.

(21) "Loan Program Contract" means the Forest Resource Trust contract that is signed by the State Forester and the ~~Landowner~~ as the means to receive financial and technical assistance under the ~~Forest Resource Trust's loan program~~.

(422) "Low ~~Site Forestland~~" means ~~Forestland~~ that is capable of annual wood production between 20 and 119 cubic feet per acre per year at culmination of mean annual increment (Cubic Foot Site Class IV, V and VI).

(23) "No Salvage Value" means ~~Forest Products~~ remaining within portions of the ~~Forest Stand~~ affected by a ~~Catastrophe that have no economic value or insufficient economic value such that any Salvage Operation resulting in the Harvest Type 1 or Harvest Type 3 Operation would meet the provisions of OAR 629-610-0070~~.

(24(213) "Nonindustrial ~~Private Forestland Owner~~" means:

(a) Any forest ~~Landowner~~ who has not owned a forest product manufacturing facility within the past 6 months that employed more than 6 people; and

(b) Is not owned or partially owned, or controlled, by any ~~Person~~ who has owned a forest products manufacturing facility within the past 6 months; that employed more than 6 people.

(425) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.

(15(26) "Person" means an individual, partnership, corporation, Limited Liability Company, trustee, business or other entity.

(4627) "Practice" means an operational ~~forest~~ activity identified in the project plan, ~~such as site preparation or tree planting, that results in stand establishment or the improved management of Forestland~~.

(4728) "Project" means the Practices, ~~Environmental Restoration and consulting services~~ required to establish ~~an adequately stocked, free to grow forest stand, described in the project plan in OAR 629-022-0130 a Forest Stand or improve the management of Forestland~~.

(29) "Provider of Services" means an individual, business, or other entity that has the knowledge, skills, equipment, and ability to plan, conduct or supervise ~~Approved Practices or Approved Consulting Services~~.

(30) "Provider of Supplies" means an individual, business, or other entity that provides supplies used to implement Approved Practices or Approved Consulting Services.

(31) "Qualified Private or Local Government Forestland Owner" means any Landowner that holds fee title to Forestland except state or federal government agencies.

~~(1832)~~ "Resource ~~m~~Management ~~p~~Professional" means a ~~p~~Person who the State Forester recognizes as having the ability to develop ~~H~~Landowner plans for managing the biological, economic, and environmental relationships of forest resources, and to identify appropriate activities to manage, protect, or enhance forest resources, and who has:

(a) A degree in forestry, biology or related sciences, plus at least a year of forestry consulting or employment experience; or

(b) An associate degree in forestry, biology or related sciences, plus at least 5 years of forestry consulting or employment experience.

~~(3319)~~ "Salvage" means ~~h~~Harvest of trees that are dead, dying or damaged and deteriorating.

~~(3420)~~ "State Forester" means the State Forester as defined in ORS 526.031 or any duly authorized representative or any successor thereto.

~~(3521)~~ "Timber" means all logs which can be measured in board feet and other ~~f~~Forest ~~p~~Products.

~~(3622)~~ "Trust" means the Forest Resource Trust as authorized in ORS 526.700 through 526.775.

(37) "Unapproved Costs" means Incurred Costs related to Practices or consulting services that were:

(a) Not approved or budgeted for payment by the Trust; or

(b) Approved Practices or consulting services that were not completed to the satisfaction of the State Forester.

~~(3823)~~ "Underproducing ~~f~~Forestland" means any ~~f~~Forestland that is capable of producing at least 20 cubic feet of wood fiber per acre per year at culmination of mean annual increment, but does not currently support the minimum number of ~~f~~Free ~~t~~To ~~g~~Grow trees required in the reforestation rules under the Forest Practices Act.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## **629-022-0050**

### **Project Criteria**

The State Forester must use the following criteria to evaluate and approve proposed Projects:

(1) The highest priority Projects are those favoring:

(a) Landowners with existing Loan Program Contracts or cost-share Ppractice plans in good standing that request additional funds to ensure that their Forest Stands reach Free To Grow, remain Adequately Stocked or otherwise remain in an improved forest management condition;

(b) Lands with a written forest management plan that encompasses the eligible land and has been created or updated within the last 5 years;

(c) Environmental Restoration or other Approved Practices consistent with conservation plans or strategies adopted by the Oregon Department of Fish and Wildlife;

(d) Landowners who contribute funds, labor, equipment and material; and

(e) Lands covered by a Stewardship Agreement as defined in ORS 541.423.

(2) Projects of medium priority are those including:

(a) Lands that are of higher site productivity based on the region in which they occur;

(b) Larger acreages;

- (c) Funding sources that are approved from other forestry incentive or loan programs;
- (d) Forest Products that are harvested during the Conversion.
- (3) The lowest priority Projects are those that meet the requirements of OAR 629-022-0110 but do not contain any of the priority considerations in subsection (1) and (2).  
Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745  
Stats. Implemented: ORS 526.695 - ORS 526.775

### **629-022-0060**

#### **Donations to the Trust Fund**

- (1) Any individual, partnership, corporation, organization or government agency may contribute funds to the Trust fund.
- (2) At the request of the donor, contributed funds may be targeted by the State Forester for either the loan or cost-share program and for specific Practices or Environmental Restoration in specific watersheds, counties or regions of Oregon.  
Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745  
Stats. Implemented: ORS 526.695 - ORS 526.775

### **629-022-0070**

#### **Carbon Offsets**

- In consideration of the benefits received through Forest Resource Trust programs, the State Forester may establish an interest in the rights to Carbon Offsets accruing to the Forest Stand through Loan Program Contracts or other instruments established in ORS 526.780, provided such action by the State Forester does not interfere with or affect the Harvest and sale of Forest Products by the Landowner.  
Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745  
Stats. Implemented: ORS 526.695 - ORS 526.775

### **629-022-0080**

#### **State Forester Exceptions to these Rules**

- The State Forester may issue an exception to these rules so as to approve Projects that:
  - (1) Assist a Landowner in meeting reforestation obligations under OAR 629-610-0070 where such approval will lead to the establishment of a Forest Stand that the Landowner agrees to manage above the reforestation stocking standards in the Forest Practices Act and in OAR 629-610-020 or as otherwise specified in the Loan Program Contract, until the conditions in OAR 629-022-0250, Life of the Contract, are met.
  - (2) Contain an Environmental Restoration that results in a non-forest native vegetation habitat condition (e.g., oak savanna) important to and consistent with conservation plans or strategies adopted by the Oregon Department of Fish and Wildlife.  
Stat. Auth.: ORS 526.700 to ORS 526.730, ORS 526.745  
Stats. Implemented: ORS 526.695 - ORS 526.775

## 629-022-0100

### Trust Responsibilities and Financing

~~(1) The Board of Forestry is responsible for the management of the Forest Resource Trust programs. The State Forester is responsible for implementing the trust programs and policies adopted by the Board of Forestry.~~

~~(2) The trust shall provide financing to establish healthy forest stands on underproducing forestland or to support the improved management of forestlands.~~

~~(3) The trust may provide financing to eligible landowners with existing contracts to ensure that their forest stands remain adequately stocked, and reach a free to grow condition or otherwise remain in a healthy, productive condition.~~

~~(4) No person shall receive more than \$100,000 from the trust during any two year period.~~

~~(a) In determining how much a person has received from the trust during any two year period, the person shall be deemed to have received all trust funds received by any entity in which the person has a personal, family, partnership, limited liability company, corporate or business interest. For example, a husband and wife who are tenants in common of forestland receiving trust funds during a two year period each shall be considered to have received the full amount of the funds attributed to that ownership. Similarly, each partner in a partnership receiving trust funds shall be considered to have received the full amount of the funds attributable to forestland owned by the partnership.~~

~~(b) For purposes of this rule, a person has a corporate interest if at any time during the prior 24 months, the person was a shareholder or officer in a privately held corporation, or was a majority shareholder in a publicly held corporation.~~

~~Stat. Auth.: ORS 526.700—ORS 526.730, ORS 526.745 & SB 81 & 193~~

~~Stats. Implemented: ORS 526.700—ORS 526.775~~

~~Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

## 629-022-0110

### Eligible Landowners and Land

(1) Only ~~n~~Nonindustrial ~~p~~Private ~~f~~Forestland owners with less than 5,000 acres of ~~f~~Forestland or up to 15,000 acres of ~~l~~Low ~~s~~Site ~~f~~Forestland in Oregon are eligible to receive funds under the cost-share program.

(2) Nonindustrial private and other qualified private and local government Forestland owners are eligible to receive funds under the loan program.

~~(3)~~ Eligible ~~f~~Forestland must be ~~u~~Underproducing ~~f~~Forestland or other Forestland that is:

(a) At least 10 contiguous acres in size;

(b) Zoned for forest or farm use, as identified in the county comprehensive plan;

(c) Located outside urban growth boundaries or residential zones, as identified in the county comprehensive plan;

(d) Free from all ~~r~~eforestation requirements under the Forest Practices Act;

~~(d)~~ Free of any "no tree cutting" or "no timber harvest" covenants or encumbrances;

~~(e)~~ Under no current petition before a county requesting a land use change to avoid reforestation under ORS 527.760; and

(g) Currently under no application for a claim for, or has received, economic compensation for or waiver from Forestland zoning restrictions or requirements of the Oregon Forest Practices Act.

~~(g) Under no active operation to convert underproducing forestland.~~

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & ~~293~~  
Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775  
Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## 629-022-0120

### Applying for Trust Funds

(1) Any ~~p~~P~~erson~~ may apply for ~~t~~T~~rust~~ funds, certifying on an application provided by the State Forester that:

- (a) Both the lands and the ~~p~~P~~erson~~ meet the requirements of OAR 629-022-0110; and
- (b) The ~~p~~P~~erson~~ requests a suspension of the reforestation requirements under OAR 629- 610-0070 when a proposed ~~p~~P~~roject~~ includes the ~~h~~H~~arvest~~ of ~~f~~F~~orest~~ ~~p~~P~~roducts~~.

(2) If the ~~p~~P~~erson~~ is a corporation, partnership or limited liability company, the applican~~tion~~ ~~shall~~~~must~~ provide the names and addresses of the stockholders, partners, members or any other ~~p~~P~~erson~~ having an ownership interest in the entity.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & ~~293~~  
Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775  
Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## LOAN PROGRAM

## 629-022-0130

### Project Plan

(1) A ~~H~~L~~andowner~~ meeting the requirements of ~~OAR 629-022-0100~~, 629-022-0110 and 629-022-0120 ~~shall~~~~must~~ submit a ~~p~~P~~roject~~ plan, ~~subject to the State Forester granting a reforestation suspension described in OAR 629-610-0070 if forest products are harvested during the conversion project.~~

(2) A ~~H~~L~~andowner~~ may receive technical assistance to develop the ~~p~~P~~roject~~ plan from the State Forester, other cooperating state or federal agencies, or a ~~r~~R~~esource~~ ~~m~~M~~anagement~~ ~~p~~P~~rofessional~~.

(3) The ~~p~~P~~roject~~ plan ~~shall~~~~must~~ include ~~a~~:

~~(a) Practices and Approved Consulting Services necessary to accomplish stand establishment on eligible Underproducing Forestlands or the improved management of eligible Forestland;~~

~~(b) Aa) Current aerial photograph showing project boundaries;~~

~~(eb) Project map or maps delineating the Project boundary on at an aerial photo and also appropriate scale at 4" = 1 mile or larger scale showing a legend, scale, north arrow, property boundary, the project boundary, topography, location of pPractices, acres, and where applicable to the Approved Practices in the Project plan, vegetative cover types, soil types within the pProject boundary, existing or proposed roads, and sensitive resource sites or streams that are protected by the Forest Practices Act; and~~

~~(c) A Ddescription of Eenvironmental rRestoration practices planned within the pProject boundary and the source of funding for the pPractices.~~

~~(4) The Project project plan shall include a description of the following required practices in the project:~~

~~(a) Site preparation to remove grass, brush or trees by mechanical, manual, prescribed fire, or chemical methods to prepare a seedling planting site;~~

~~(b) Acceptable tree seedlings, specifying appropriate seed zone, elevation, quality control standards, nursery source, availability dates, reservation, transportation, and handling and storage;~~

~~(c) Planting or interplanting, including the number of seedlings per acre by site class and species, the soil and air temperature limitations during planting, and seedling planting depth and root replacement;~~

~~(d) Fertilizer application that may be required to enhance seedling growth on low productivity lands;~~

~~(e) Seedling protection to reduce animal damage to seedlings; and~~

~~(f) Application of moisture conservation measures by either mechanical, manual or chemical methods.~~

~~(45) The project plan shall must~~ also include for each ~~p~~P~~r~~actice described in ~~the Project plan sections (3) (4) of this rule:~~

(a) Specifications for the ~~p~~P~~r~~actice;

(b) A time schedule for completion;

(c) ~~Budgeted Estimated e~~C~~o~~sts; and

(d) A description of any Forest Practices Act rules that need to be followed.

~~(56) When the l~~andowner retains a ~~r~~R~~e~~s~~o~~urce ~~m~~M~~a~~nagement ~~p~~P~~r~~ofessional to implement a ~~p~~P~~r~~oject, the ~~p~~P~~r~~oject plan shall must include the ~~r~~R~~e~~s~~o~~urce ~~m~~M~~a~~nagement ~~p~~P~~r~~ofessional fees described in OAR 629-022-0230.

~~(7) The project plan shall include a description of the recommended management practices that ensure the forest stand remains adequately stocked and reaches the free to grow condition.~~

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745

~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## **629-022-0140**

### **Approval of a Proposed Project**

(1) The State Forester shall must use the information in the l~~and~~owner's ~~p~~P~~r~~oject plan, described in OAR 629-022-0130, in a point rating system based on the ~~p~~P~~r~~oject criteria in OAR 629-022-~~00500500~~, to select ~~p~~P~~r~~ojects for funding, subject to the requirements of OAR 629-022-0150.

(2) When a ~~p~~P~~r~~oject is selected for funding, the State Forester shall must approve all ~~p~~P~~r~~actices, ~~Environmental Restoration, consulting services and Budgeted e~~C~~o~~sts ~~and fees~~ described in the ~~p~~P~~r~~oject plan in OAR 629-022-0130(3), (4) ~~and~~; (5) ~~and~~ (6). ~~Budegeted e~~C~~o~~sts ~~and fees shall beare~~ subject to the limitations in OAR 629-022-0220 and OAR 629-022-0230.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& SB 81 & 193~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## **629-022-0150**

### **The Trust Contract**

(1) A l~~and~~owner receiving ~~p~~P~~r~~oject approval for ~~t~~T~~r~~ust funding under ~~the loan program OAR 629-022-0140 shall must~~ execute a ~~Forest Resource Trust Loan Program Contract~~ with the State Forester.

(2) The ~~Loan Program e~~C~~o~~ntract shall must include:

(a) ~~An~~The approved ~~p~~P~~r~~oject plan;

(b) Financial agreements for repayment of ~~€T~~Trust funds under OAR 629-022-0300 through 629-022-0410; and

(c) A security instrument, if required by the State Forester, described in OAR 629-022-0160.

(3) No work ~~may~~shall begin on the ~~pP~~Practices described in the ~~pP~~Project plan that are subject to Direct Cost Payments by the Trust until the contract is signed by all parties.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745

~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## 629-022-0160

### Trust Security Instrument

(1) The ~~H~~landowner may be required by the State Forester to provide good and sufficient collateral to secure repayment of all funds paid to the ~~H~~landowner from the ~~€T~~Trust.

(2) Collateral ~~shall~~must be in the form of a ~~first mortgage or trust deed on the property~~a general lien upon all Forest Products grown or growing within the ~~pP~~Project boundary or boundaries and all improvements, fixtures, crops, trees and timber on the property and shall not exceed 75% of the sum of the fair market value of the land, trees and timber, plus the actual trust funds advanced under the contract.~~proceeds derived therefrom as specified in ORS 526.740.~~

~~(3) If legislation is passed that provides a new security instrument specifically for the trust, the landowner shall be provided the opportunity to substitute the collateral provided under section (2) of this rule with the new security instrument.~~

~~(2)~~Costs and fees related to the collateral and the security instrument, such as title policy premiums and escrow fees, ~~must~~shall be paid from ~~€T~~Trust funds but ~~may~~shall not be used to determine final payback amounts described in OAR 629-022-0300 through 629-022-0320. These costs and fees ~~shall~~are ~~be~~ subject to repayment following a breach of contract.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## Establishing a Forest Stand

## 629-022-0200

### Implementing the Project Plan; Payments

(1) The ~~H~~landowner ~~shall~~must implement the approved ~~pP~~Practices in the ~~pP~~Project plan and notify the State Forester when an Approved pPractice or an Approved Consulting Service, or a part of a ~~pP~~Practice or service, described in the ~~pP~~Project plan is complete.

(2) To request a Direct Cost Payment, ~~T~~the ~~H~~landowner ~~shall~~ must submit written invoices for the Incurred Cost of all services and supplies used to the completed the pPractices or consulting service described in the project plan~~notified in section (1) of this rule.~~

(3) The State Forester ~~must~~shall disburse ~~€T~~Trust funds to the land owner as dDirect eCost pPayments, ~~payable to both the landowner and the provider of the services or supplies~~, when the State Forester certifies that a ~~pP~~Practice is complete to the specifications and within the bBudgeted eCosts approved in the ~~pP~~Project plan in OAR 629-022-0140.

(4) Actual Trust costs ~~paid from the trust fund shall~~ must be used to determine final payback amounts described in OAR 629-022-0300 through 629-022-0320.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & ~~293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## 629-022-0210

### Landowner Obligations

(1) The Landowner ~~shall~~must:

(a) Complete all project pactices described in the project plan;

(b) Manage the forest stand in an adequately stocked and free to grow condition, as defined in OAR 629-022-0390;

(c) Comply with forest pactices standards required by state and federal law except for planting standards, which may be more than the required state minimums;

(d) Report any adverse changes in the condition of the forest stand to the State Forester; and

(e) Notify the State Forester before commencing any forest operations.

(2) The State Forester may periodically perform compliance inspections on all pactices described in the project plan. The State Forester ~~shall~~must have access to all lands described in the project plan to monitor, evaluate or certify as complete the pactices described in the project plan.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & ~~SB 81 & 193~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

## 629-022-0220

### Project Rates and Costs

(1) Costs for Approved Practices or Approved Consulting Services ~~Project costs~~ described in the Loan Program Contract ~~must project plan in OAR 629-022-0130 shall~~ be within Budgeted Costs ~~written rates~~ determined by the State Forester, based on the prevailing rates and wages in Oregon.

(2) Project costs paid from the trust fund may not exceed the ~~budgeted~~ project costs approved in OAR 629-022-0140(2), unless the Landowner requests ~~approval of a new budgeted cost and requests any~~ additional trust funds, ~~necessary to cover the cost increase,~~ and provides evidence justifying additional trust funds, prior to the completion of the project.

(3) The State Forester may approve additional trust funds when:

(a) The requirements of section (2) of this rule are met; and

(b) The Landowner agrees to amend the contract and the payback amounts, described in OAR 629-022-0300 through 629-022-0320 to reflect the higher trust fund expenditures.

(4) The trust fund ~~may~~shall not pay for:

~~(a) The cost of environmental restoration practices described in the project plan;~~

~~(a) Purchase of capital or expendable items, such as vehicles, ongoing road maintenancesurfacing, culverts,~~ sprayers, shovels, planting hoes, saws or safety equipment; or

~~(b) Landowner labor, materials or equipment.~~

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 & ~~293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## 629-022-0230

### Resource Management Professional Fees

(1) Resource ~~m~~Management ~~p~~Professional fees for Approved Consulting Services may be paid from ~~€~~Trust funds for field and office work required to write a ~~p~~Project plan described in OAR 629-022-0130 and to supervise the implementation and completion of all ~~p~~Practices in the ~~p~~Project plan described in OAR 629-022-0130~~(4) and (5)~~.

(2) The fees in section (1) of this rule ~~must~~shall be subject to:

(a) The ~~H~~andowner executing the contract under OAR 629-022-0150 and 629-022-0160; and

(b) The ~~H~~andowner submitting invoices for the professional fees charged for the Approved Consulting Services under OAR 629-022-0200.

(3) ~~Trust funds disbursed under this rule shall be payable to both the landowner and the resource management professional.~~

~~(4) Fees shall be within the budgeted cost rate determined by the State Forester, based on the prevailing resource management professional fees in Oregon.~~

~~(5)~~All ~~r~~Resource ~~m~~Management ~~p~~Professional fees paid from the ~~€~~Trust fund ~~must~~shall be included in the ~~a~~Actual ~~T~~rust ~~e~~Costs to determine final payback amounts described in OAR 629-022-0300 through 629-022- 0320.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## 629-022-0250

### Life of the Contract

The Loan Program eContract between the ~~H~~andowner and the ~~€~~Trust ~~shall~~must be terminated when:

(1) The ~~H~~andowner makes full payment described in OAR 629-022--0300; or

(2) A ~~e~~Catastrophe destroys the entire ~~f~~Forest ~~s~~Stand, leaving ~~n~~No ~~s~~Salvage ~~v~~Value; or

(3) Two hundred years, or as otherwise specified in the contract, elapse since the execution of the original contract.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

## 629-022-0300

### Repaying Trust Funds

(1) The ~~H~~andowner may terminate the Loan Program ~~e~~Contract at anytime during the life of the contract by repaying all ~~€~~Trust funds, including interest.

(2) The State Forester ~~must~~shall calculate the amount due by using the ~~a~~Actual ~~T~~rust ~~e~~Costs paid to the ~~H~~andowner to establish the ~~f~~Forest ~~s~~Stand described in the Loan Program eContract, with annual interest at the rate determined in OAR 629-022-0320. Interest is simple, prorated to the nearest full month, and begins on the date that payment or payments are made to the ~~H~~andowner.

(3) When there is a partial ~~h~~Harvest of ~~f~~Forest ~~p~~Products at any time during the life of the Loan Program eContract, the ~~H~~andowner must make payments of 50 percent of all net receipts, until all the ~~€~~Trust funds, including interest are paid.

(4) When there is a ~~f~~Final ~~h~~Harvest of ~~f~~Forest ~~p~~Products from the ~~Forest s~~Stand ~~described in the contract~~, the ~~l~~Landowner must make full repayment of ~~all the trust funds, including interest~~ the lowest of the following:

~~(a) The Actual Trust Cost plus interest attributable to that portion of the Forest sStand so harvested;~~  
~~or~~

~~(b) The~~ remaining amount of the ~~Actual Trust Cost plus interest~~; or

~~(c) The total of all net receipts.~~

(5) Repayment of ~~t~~Trust funds is first applied to the ~~a~~Actual ~~t~~Trust ~~e~~Cost paid to the ~~l~~Landowner and then to the accumulative interest, until repaying all the ~~t~~Trust funds, including interest.

(6) The ~~l~~Landowner ~~shall~~must make payments to the State Forester, to be deposited in the ~~t~~Trust fund, within 60 days of ~~completing the hHarvest oOperation triggering the need for payment.~~

~~receiving notice of payment from the State Forester.~~

Stat. Auth.: ORS 526.700 – ORS 526.730, ORS 526.745 ~~& 293~~

Stats Implemented: ORS 526.~~695700~~ – ORS 526.775

Hist: FB 1994, f & cert ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

### **629-022-0320**

#### **Interest Rate**

(1) The rate is 4.0 percent, simple interest.

(2) The interest rate ~~must~~shall be fixed when the ~~Loan Program e~~Contract is executed and ~~may~~shall not change during the life of the contract.

Stat. Auth.: ORS 526.700 - 526.730, 526.745 ~~& 293~~

Stats. Implemented: ORS 526.700 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 4-2006(Temp), f. & cert. ef. 5-2-06 thru 10-28-06;

Administrative correction, 11-16-06; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

### **629-022-0380**

#### **Catastrophe; Salvage Adjustments**

~~catastrophe means an event or circumstance beyond the landowner's control, resulting in all or part of a forest stand being incapable of producing harvest revenues to make repayment of trust funds as described in OAR 629-022-0300.~~

~~(12)~~ A ~~e~~Catastrophe may be caused by:

(a) Insects, diseases, fire or other casualties and accidents; or

(b) Storms, floods, droughts and other unusual environmental conditions.

~~(23)~~ When a ~~e~~Catastrophe damages individual trees or groups of trees within the ~~f~~Forest ~~s~~Stand:

(a) The ~~l~~Landowner ~~shall~~must pay the appropriate ~~fixed payback percentage rate~~amount on ~~s~~Salvaged ~~f~~Forest ~~p~~Products, as described in OAR 629-022-0300(3); ~~;~~ and ~~(4);~~ and

(b) The State Forester ~~must~~shall adjust the ~~f~~Forest ~~s~~Stand boundaries to reflect the ~~f~~Forest ~~s~~Stand capable of producing ~~h~~Harvest revenues. The ~~f~~Forest ~~s~~Stand boundaries ~~may~~shall not be adjusted to exclude land with unharvested merchantable ~~f~~Forest ~~p~~Products.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

### **629-022-0390**

### **Adequately Stocked Forest Stand**

The Landowner ~~shall~~must manage ~~f~~Forest ~~s~~Stands established with ~~€~~Trust funds at or above the reforestation stocking standards in the Forest Practices Act and in OAR 629-610-020 or as otherwise specified in the contract, until the conditions in OAR 629-022-0250, Life of the Contract, are met.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745

~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

### **Forest Resource Trust Administration**

#### **629-022-0400**

##### **Landowner Breach of Loan Program Contract**

A Loan Program ~~e~~Contract breach occurs when the Landowner fails to perform any term of the contract.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745 ~~& SB 81 & 193~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94

#### **629-022-0410**

##### **Remedies for Breach of Loan Program Contract**

(1) The Landowner ~~shall~~must pay liquidated damages for a breach of contract by repaying all Trust funds, with interest as calculated in OAR 629-022-0300(2).

(2) At any time Forest products are harvested in breach of contract, the Landowner ~~shall~~must pay liquidated damages in the form of a breach penalty.

(3) In addition to any other right as provided by law, the State Forester may assign a liquidated and delinquent account, as defined by the Oregon Accounting Manual, to the Department of Revenue or to a private collection agency.

(4) The breach penalty in section (2) of this rule may~~shall~~ include a reasonable administrative fee to recover the cost of collection services and other related costs, as described in ORS 293.231 through ORS 293.250.

Stat. Auth.: ORS 526.700 - ORS 526.730, ORS 526.745

~~& 293~~

Stats. Implemented: ORS 526.~~695700~~ - ORS 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07

#### ~~629-022-0500~~

##### ~~Project Criteria~~

~~(1) The State Forester shall use criteria to evaluate proposed projects under OAR 629-022-0140.~~

~~(2) The State Forester shall give high priority to projects by favoring:~~

~~(a) Lands with higher site productivity;~~

~~(b) Larger acreages; and~~

~~(c) Lower estimated forest stand establishment costs.~~

- ~~(3) The State Forester shall give medium priority to projects in which:~~
- ~~(a) A forest management plan that encompasses the eligible land is certified by the State Forester within the last 5 years;~~
  - ~~(b) Funding sources are approved from other forestry incentive or loan programs;~~
  - ~~(c) The landowner contributes funds, labor, equipment and material to the project;~~
  - ~~(d) Environmental restoration practices are planned by the landowner to be completed concurrently with the project, such as restoring fish and wildlife habitat, forest health, soil productivity or enhancing the watershed; and~~
  - ~~(e) Forest products are harvested during the conversion.~~

~~(4) The State Forester shall give low priority to projects where the landowner does not reinvest revenues generated under section (3)(e) of this rule.~~

~~Stat. Auth.: ORS 526.700—ORS 526.730, ORS 526.745 & SB 81 & 193~~

~~Stats. Implemented: ORS 526.700—ORS 526.775~~

~~Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

629-022-0600

#### Donations to the Trust Fund

~~(1) Any individual, partnership, corporation, organization or government agency may contribute funds to the trust fund.~~

~~(2) At the request of the donor, contributed funds may be targeted by the State Forester for projects or specific forest management practices in specific watershed, counties or regions of Oregon.~~

~~Stat. Auth.: ORS 526.700—ORS 526.730, ORS 526.745 & SB 81 & 193~~

~~Stats. Implemented: ORS 526.700—ORS 526.775~~

~~Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

629-022-0700

#### Carbon Offsets

~~(1) As used in this section of the rules, carbon offsets are used to comply with air quality objectives or regulations, and compensate for emissions of carbon dioxide from other sources. Such offsets can include sequestering atmospheric carbon in wood fiber.~~

~~(2) In consideration of the benefits received under the contract, the landowner acknowledges that the Board of Forestry retains ownership of and is the exclusive agent for marketing carbon offsets that result from trust fund payments, provided such marketing does not interfere with or affect the harvest and sale of forest products by the landowner.~~

~~Stat. Auth.: ORS 526.700—ORS 526.730, ORS 526.745 & SB 81 & 193~~

~~Stats. Implemented: ORS 526.700—ORS 526.775~~

~~Hist.: FB 4 1994, f. & cert. ef. 8-3-94~~

### **COST-SHARE PROGRAM**

#### **629-022-0800**

##### **Scope**

(1) Nonindustrial Private Forest Landowners meeting the requirements of OAR 629-022-0110 may apply pursuant to OAR 629-022-0120 for financial assistance under the cost-share program for the purpose of planning for or carrying out Practices, Consulting Services or Environmental Restoration that result in the establishment of Forest Stands or in the improved management of

Forestlands for timber production, fish and wildlife, water quality and other environmental purposes.

(2) The State Forester **must** maintain, and revise as necessary, a list of cost-share components that exemplify the Practices, Consulting Services and Environmental Restoration that are eligible for financial assistance under the cost-share program.

(3) Depending on the agreements entered for funds received by the Forest Resource Trust pursuant to ORS 526.725, the State Forester may place limits on the scope of cost-share components available for financial assistance under the cost-share program or place additional years on the requirement to maintain the effectiveness of the cost-share Practice as specified in OAR 629-022-0820(8) and OAR 629-022-0840(2).

(4) Landowners cannot apply for financial assistance under the cost-share program for Practices, Consulting Services or Environmental Restoration that have already been completed, or are in the process of being completed, at the time of application. Further, Landowners **may** not begin completing any Practices, Consulting Services or Environmental Restoration being applied for until the State Forester has approved or denied the Landowner's application under OAR 629-022-0810.

(5) Practices, Consulting Services or Environmental Restoration that are likely to result in Ecosystem Services that have a reasonable chance of securing a net economic benefit from payments for these services within the maintenance period for the effectiveness of the Practice as defined in OAR 629-022-0820(8) are not eligible for cost-share reimbursement payments.

Stat. Auth.: ORS 526.700 to ORS 526.730

Stats. Implemented: ORS 526.703

### **629-022-0810**

#### **Approval**

(1) Landowner applications for financial assistance under the cost-share program may not be approved until the State Forester has determined that cost-share program funds are available.

(2) The State Forester **must** evaluate the information in the Landowner's cost-share application to determine a project's priority for funding based on the Project criteria in OAR 629-022-0050 subject to any limitations set-forth under OAR 629-022-0810(3).

(3) The State Forester **must** maintain, and periodically update, a list of cost-share rates by cost-share component that exemplify the not-to-exceed cost-share reimbursement limits available to Landowners applying for financial assistance under the cost-share program.

(4) The State Forester **must** maintain, and periodically update, a list of Landowner self-labor and self-equipment use rates that exemplify the not-to-exceed cost-share reimbursement limits available to Landowners applying for financial assistance under the cost-share program.

(5) State Forester approval of the Landowner's cost-share application constitutes an agreement between the Forest Resource Trust and the Landowner that obligates the Forest Resource Trust cost-share program funds necessary to cover the sum of the not-to-exceed cost-share reimbursement limit for each cost-share component applied for and approved.

(6) For applications that are not approved, the State Forester **must** notify Landowner's of such. The State Forester **must** specify the reason for denying the Landowner's application including, but not limited to, a lack of available funds, low ranking of the application with respect to the Project criteria in OAR 629-022-0050, or incompleteness of the application.

Stat. Auth.: ORS 526.700 to ORS 526.730

Stats. Implemented: ORS 526.703

### **629-022-0820**

#### **Practice Plan and Other Landowner Obligations**

(1) Upon approval of the Landowner's cost-share application, the State Forester **must** prepare a Practice plan that provides the performance specifications and time period for completing each cost-share component approved in the Landowner's application.

(2) The Practice plan will list all the approved cost-share components and the corresponding cost-share not-to-exceed reimbursement rates for the approved application.

(3) The Practice plan is the basis by which the State Forester will determine acceptable performance by the Landowner for completing the cost-share component approved in the Landowner's application.

(4) Landowners agree to complete all the cost-share components listed in the Practice plan.

(5) Landowners can request modifications to the Practice plan based on new information not available at the time of application or a change in site conditions since the time of application.

(6) The State Forester is not obligated to approve the Landowner's requested modification to the Practice plan if the State Forester determines:

(a) The new information or the change in site conditions does not require a change to the Practice plan; or

(b) Funds to pay for the Practice plan modifications are not available.

(7) Landowners are responsible for obtaining the authorities, rights, easements, or other approvals necessary to implement the approved cost-share components of the Practice plan in accordance with all applicable laws and regulations including compliance with the Oregon Forest Practices Act.

(8) Upon receipt of a cost-share reimbursement payment, the Landowner agrees to maintain the effect of the implemented Practices or Environmental Restoration on the Forestland for at least 10 years from the year the cost-share reimbursement payment was received.

Stat. Auth.: ORS 526.700 to ORS 526.730

Stats. Implemented: ORS 526.703

### **629-022-0830**

#### **Payment Procedures**

(1) For the State Forester to approve a cost-share reimbursement payment, each cost-share component in the Practice plan must be completed according to the performance specifications and the time period identified in the Practice plan.

(2) To initiate the payment process, the Landowner must notify the State Forester of any completed cost-share component, identified in the Practice plan, for which cost-share reimbursement payment is being requested.

(3) The State Forester will review the completed cost-share components to certify that the components were completed according to the performance specifications and within the time period specified in the Practice plan.

(4) Upon certification by the State Forester that the cost-share components were completed according to the Practice plan, the State Forester will calculate the amount of the cost-share reimbursement payment to the Landowner using the appropriate cost-share rate, but not for an amount exceeding the "not-to-exceed reimbursement level" set in the Practice plan. Payment will

be made payable to the Landowner.  
Stat. Auth.: ORS 526.700 to ORS 526.730  
Stats. Implemented: ORS 526.703

#### **629-022-0840**

##### **Breach of Practice Plan**

(1) Any cost-share reimbursement payments under OAR 629-022-0830 are subject to repayment by the Landowner to the Trust if the Landowner fails to complete any cost-share components as specified in the Practice plan, and:

(a) Such incompleteness results in a failure in stand establishment; or

(b) Does not improve the management of the forestland subject to the cost-share application.

(2) Failure to maintain the effect of the implemented Practices or Environmental Restoration on the Forestland for at least 10 years from the date the last cost-share reimbursement payment was made will require the Landowner to repay all cost-share reimbursement payments to the Trust unless the State Forester determines that such failure was due to factors beyond the Landowner's control.

Stat. Auth.: ORS 526.700 to ORS 526.730

Stats. Implemented: ORS 526.703

#### **629-022-0850**

##### **Special Circumstances**

(1) When the State Forester denies a cost-share reimbursement payment because the completed cost-share component does not meet the performance specification or time period in the Practice plan, the Landowner may resubmit the payment request. The State Forester must approve the payment request when one of the following conditions **has been met**:

(a) The Landowner repeats the completion of the cost-share component and meets the performance specification in the Practice plan;

(b) The Landowner establishes that a reasonable effort was made and failure to meet the performance specification in the Practice plan was due to factors beyond the Landowner's control; or

(c) The Landowner establishes that the cost-share component, as performed, does not jeopardize the stand establishment or the improved management of Forestland the cost-share component was designed to achieve.

(2) In case of death or incompetence of any Landowner, the State Forester **must** approve cost-share reimbursement payments to the successor in title or other persons or entities in control of the Landowner if the successor agrees to:

(a) Complete all remaining cost-share components in the Practice plan; and

(b) Meet all other Landowner obligations in OAR 629-022-0820.

(3) When the Landowner sells, conveys or otherwise loses control of the Forestland prior to completion of the Practice plan, the Landowner is required to repay all cost-share reimbursement payments to the Trust unless the new Landowner agrees to:

(a) Implement the remaining cost-share components in the Practice plan; and

(b) Meet all other Landowner obligations in OAR 629-022-0820.

Stat. Auth.: ORS 526.700 to ORS 526.730

Stats. Implemented: ORS 526.703