Defining Special Forest Products and Firewood Permitting on State Forest Lands

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adopting OAR 629-028-0002, 629-028-0003, 629-028-0004; Amending OAR 629-028-0015, 629-028-0020, 629-028-0025; Amending and Renumbering 629-028-0005 to 629-028-0001

Statutory Authority:
ORS 164.813

Other Authority:
ORS 526 & ORS 530

Statutes Implemented:
ORS 164.813 & 164.814

Need for the Rule(s):

HB 2615 (2013 legislative session) places the role of identifying special forest products within the rulemaking authority of the Board of Forestry. Implementation of the definition must be operative by July 1, 2014, and new permit forms available for use by October 1, 2014. The definitions encapsulated under OAR 629-028-0005 will be amended to include a definition for special forest products. In addition, it is necessary to establish criteria by which new special forest products can be evaluated for future additions to or deletions from the definition; hence, adopting additional rules to capture that need is necessary.

Fiscal and Economic Impact:

OAR 629-028-0005 as proposed to be amended and renumbered, will eliminate confusion in identifying special forest products that can be harvested from private land. This definition needs to be in place by July 1, 2014, to satisfy the timeline established under House Bill 2615 (2013 Legislative Session). The Oregon Department of Forestry (ODF) estimates that the implementation of this rule language will add minimal time to administrative processes and generally only in the form of general questions asked at the front desk or on the phone. Private landowners and the law enforcement community will be responsible for any permission granted or enforcement that may be necessary in response to someone illegally harvesting forest products from private land. This rule language will strive to clear up any confusion with regard to what special forest products are, which in turn saves money and time on behalf of those enforcing ORS 164.813. The adoption of changes associated with Division 28 of Chapter 629 will have no negative fiscal or economic impacts.

Additionally, businesses, including small businesses, will not be negatively financially impacted by this proposed rule amendment.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
There should be no cost of compliance for other state agencies, units of local government or the public since this process is clarifying a definition that already exists.

2. Cost of compliance effect on small business (ORS 183.336):
   a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:
      There are approximately 1,500 small businesses associated with forestry, logging, wood product supply and forestry support activities that may be subject to these rule changes; however, identifying small businesses that may be directly tied to the harvesting and buying of special forest products, like mushrooms, is difficult. Those businesses appear to come and go based on market and availability of the people to
harvest and sell special forest products to the buyer. For the most part, these products are harvested from public land. It is not clear how much product comes from private land.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
Reporting, recordkeeping and other administrative activities (including professional services) required for compliance with these revised rules are expected to be unchanged. Sellers and buyers are already required to track permits and sales of product. Private landowners providing permission to those they allow to harvest special forest products from their properties have been utilizing forms available since 1995. This rulemaking effort will not change any administrative activities associated, other than clearly identifying what special forest products are. This will improve the tracking of products and the enforcement of the law that already exists.

c. Equipment, supplies, labor and increased administration required for compliance:
There will not be any change related to compliance. Compliance should improve.

How were small businesses involved in the development of this rule?
For this rule change, outreach was performed to include law enforcement, stakeholders representing forest landowners, buyers of special forest products, clubs and organizations associated with truffle harvesting, and public citizens. When developing the draft rule language, the Board of Forestry Regional Forest Practice Committees (RFPC) was used and will continue to be used as the advisory group; these committees have representatives from small business. Through media releases, small business owners were given opportunity to provide comments as well as attend the November 2013 Board of Forestry meeting. To date, five comments have been received as a result of the preliminary outreach efforts. Small business owners will continue to be given opportunities for comment through informal public meetings, public comment periods at RFPC meetings, and at public hearings. The Oregon Small Woodlands Association, who represents small family woodlands/business owners, will play a critical role in rule development as well, considering they were the group that presented the need for passage of HB2615.

Administrative Rule Advisory Committee consulted?: Yes
If not, why?:

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<tr>
<th>04-01-2014 5:00 p.m.</th>
<th>Sabrina Perez</th>
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<td>Last Day (m/d/yyyy) and Time for public comment</td>
<td>Printed Name</td>
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