
Oregon Department of Forestry

Forest Practice Administrative Rules and the Oregon Forest Practices Act



January 2024

This publication includes the Forest Practice Rules as they will appear on January 1, 2024.

The Forest Practice Rules are comprised of Divisions 600 through 680 of Chapter 629 Oregon Administrative Rules. Divisions 674 (Forest Practices Administration- Access to Notification and Written Plans), 676 (Forest Practices Administration- Regional Forest Practice Committees) and 680 (Resource Site Inventory and Protection Rules) of the forest practice rules are not included in this manual, however they are available on the Secretary of State web page. This publication also features Division 21 (Stewardship Agreements) rules and the Oregon Revised Statutes (ORS) that comprise the Oregon Forest Practices Act.

[Senate Bill 1501](#) (2022) directed the Board of Forestry to adopt rules implementing SB 1501, [SB 1502](#) (2022), and the [Private Forest Accord \(PFA\) Report](#). Resulting in substantial changes to the Forest Practice Rules and the Oregon Forest Practice Act. Rule changes since the February 2023 publication are shown in underlined text.

This document is being provided as a resource; the official copy of the rules can be found in the Oregon Administrative Rules Database on the Oregon Secretary of State's website and the official copy of Oregon Revised Statutes can be found on the Oregon Legislature's website.

Secretary of State's Oregon Administrative Rules Webpage:
https://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx

Oregon State Legislature's Oregon Revised Statutes Webpage:
https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

Oregon Forest Practices Act Webpage:
<https://www.oregon.gov/odf/working/pages/fpa.aspx>

Find your local ODF Office Webpage:
<https://www.oregon.gov/odf/aboutodf/pages/mapoffices.aspx>

Stewardship foresters are available to provide free technical assistance to private and small forestland owners. Find a forester Webpage:
<https://www.oregon.gov/odf/working/pages/findaforester.aspx>

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Division 600 DEFINITIONS

629-600-0050

Forest Practice Rules

OAR chapter 629, divisions 600 through 680 are known as the forest practice rules.

629-600-0100

Definitions (numbering is shown as it will be effective 1/1/24)

As used in OAR chapter 629, divisions 603 through 669 and divisions 680 through 699, unless otherwise required by context:

- (1) **"Abandoned resource site"** means a resource site that the State Forester determines is not active.
- (2) **"Abandoned roads"** are defined as roads that were constructed prior to 1972 and do not meet the criteria of active, inactive, or vacated roads. This does not include skid trails.
- (3) **"Active channel width"** means the stream width between the ordinary high-water lines, or at the channel bankfull elevation if the ordinary high-water lines are indeterminate.
- (4) **"Active resource site"** means a resource site that the State Forester determines has been used in the recent past by a listed species. 'Recent past' shall be identified for each species in administrative rule. Resource sites that are lost or rendered not viable by natural causes are not considered active.
- (5) **"Active roads"** are roads currently being used or maintained for the purpose of removing commercial forest products.
- (6) **"Adaptive management program committee"** (AMPC) means the adaptive management program committee described in OAR 629-603-0300.
- (7) **"Aquatic area"** means the wetted area of streams, lakes, and wetlands up to the high water level. Oxbows and side channels are included if they are part of the flow channel or contain freshwater ponds.
- (8) **"Aquatic resource"** as defined in section 40(1), chapter 33, Oregon Laws 2022 means:
 - (a) A species addressed in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, and the resources on which the species relies; or
 - (b) If a habitat conservation plan consistent with the Private Forest Accord Report has been approved, a species addressed in the habitat conservation plan and the resources on which the species relies.
- (9) **"Area of inquiry"** means an area along a Type N stream beginning at the confluence with a Type F or Type SSBT stream and extending:
 - (a) During Phase 1, to the first 250 feet encountered without a flow feature.
 - (b) After Phase 1, to the longer of the modeled end plus 250 feet, or beyond the modeled end to the end of the first 250 feet encountered without a flow feature.
- (10) **"Artificial reforestation"** means restocking a site by planting trees or through the manual or mechanical distribution of seeds.
- (11) **"Bankfull elevation"** means the point on a stream bank at which overflow into a floodplain begins.
- (12) **"Basal area"** means the area of the cross-section of a tree stem derived from DBH.
- (13) **"Basal area credit"** means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing enclosures.
- (14) **"Beaver"** means a member of the species *Castor canadensis*.
- (15) **"Best available science"** means the standards developed pursuant to OAR 629-603-0400(4).
- (16) **"Biological goals and objectives"** means the biological goals and objectives as set by the department for a habitat conservation plan to meet requirements of section 11 (1) chapter 33, Oregon Laws 2022.

- (17) **"Bog"** means a wetland that is characterized by the formation of peat soils and that supports specialized plant communities. A bog is a hydrologically closed system without flowing water. It is usually saturated, relatively acidic, and dominated by ground mosses, especially sphagnum. A bog may be forested or non-forested and is distinguished from a swamp and a marsh by the dominance of mosses and the presence of extensive peat deposits.
- (18) **"Bull Trout"** means fish species *Salvelinus confluentus*.
- (19) **"Certified steep slopes training"** means the State Forester has certified that a trainee has completed training and demonstrated sufficient knowledge to determine the field delineation of the final boundaries for slope retention areas.
- (20) **"Channel"** is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.
- (21) **"Channel migration zone" (CMZ)** means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream, except as modified by a permanent levee, dike, railroad lines, or any public transportation infrastructure. For this purpose, near term means the time scale required to grow a mature forest.
- (22) **"Chemicals"** means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliants, plant desiccants, and plant regulators, as defined in ORS 634.006(8); fertilizers, as defined in ORS 633.311; petroleum products used as carriers; and chemical application adjuvants, such as surfactants, drift control additives, anti-foam agents, wetting agents, and spreading agents.
- (23) **"Commercial"** means of or pertaining to the exchange or buying and selling of commodities or services. This includes any activity undertaken with the intent of generating income or profit; any activity in which a landowner, operator, or timber owner receives payment from a purchaser of forest products; any activity in which an operator or timber owner receives payment or barter from a landowner for services that require notification under OAR 629-605-0140; or any activity in which the landowner, operator, or timber owner barter or exchanges forest products for goods or services. This does not include firewood cutting or timber milling for personal use.
- (24) **"Common ownership"** means direct ownership by one or more individuals or ownership by a corporation, partnership, association, or other entity in which an individual owns a significant interest, as defined in section 16(1), chapter 33, Oregon Laws 2022.
- (25) **"Completion of the operation"** means harvest activities have been completed to the extent that the operation area will not be further disturbed by those activities.
- (26) **"Conflict"** means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.
- (27) **"Covered species"** means species for which incidental take under the federal Endangered Species Act is authorized in an incidental take permit and covered under a habitat conservation plan.
- (28) **"Culvert with imminent risk of failure"** is defined as a culvert in all waters of the state that:
- (a) Is actively diverting streams or ditchline runoff;
 - (b) Is actively eroding the road prism or stream channel in a manner that has the potential to undermine the integrity of the culvert;
 - (c) Is completely blocked, plugged, crushed, or buried;
 - (d) Has partially or completely failed fill; or
 - (e) Has high plugging potential as determined by the Stream Blocking Index or other comparable methodology, high magnitude of fill at risk, and high diversion potential in one or both directions.
- (29) **"Culvert with minimal risks to public resources"** is defined as a culvert in all waters of the state that:
- (a) Minimizes delivery of sediment to waters of the state;
 - (b) Has not diverted streams or ditchline runoff and does not have the potential to divert streams or ditchline runoff; and
 - (c) For Type F and Type SSBT streams:
 - (A) Provides passage for all species of adult and juvenile fish; and

- (B) Provides passage of expected bed load and associated large woody material likely to be transported during flood events.
- (30) **"Debris flow"** means a rapidly moving slurry of rock, soil, wood, and water, which is most often initiated by a landslide that delivers to and travels through steep, confined stream channels.
- (31) **"Debris flow traversal area sub-basins"** means catchments within U.S. Geological Survey Hydrologic Unit Code 4th field basins that contain debris flow traversal areas that have a probability of traversal in the upper 20 percent.
- (32) **"Debris torrent-prone streams"** are designated by the State Forester to include channels and confining slopes that drain watersheds containing high landslide hazard locations that are of sufficient confinement and channel gradient to allow shallow, rapid landslide movement.
- (33) **"Department"** means the Oregon Department of Forestry.
- (34) **"Department reporting and notification system"** means a forest activity electronic reporting and notice system operated by the State Forestry Department, used for a notification of operation and a permit to use fire or power-driven machinery, also known as the "E-Notification system" or "FERNS."
- (35) **"Designated debris flow traversal areas"** mean areas that the slopes model identifies as most likely to deliver debris flows to Type F or Type SSBT streams. These have a probability of traversal in the upper 50 percent, calculated consistent with the methods described in slopes model. The length of designated debris flow traversal area, as determined by the slopes model, is either:
- (a) The entire length of the designated debris flow traversal area that has a probability of traversal in the upper 20 percent; or
- (b) A maximum of 1,000 feet upstream of a Type F or Type SSBT stream confluence for a designated debris flow traversal area that has a probability of traversal between 20 percent and 50 percent alone or in combination with a designated debris flow traversal area that has a probability of traversal in the upper 20 percent.
- (36) **"Designated sediment source areas"** means areas that the slopes model identifies as most likely to experience landslides that initiate debris flows that will likely deliver to Type F or Type SSBT streams. These areas, as identified by the slopes model, may or may not contain trigger sources. The slopes model identifies the hillslope areas greater than one-quarter acre in size within debris flow traversal area sub-basins that provide the top 33 percent of the landslide-derived sediment to Type F or Type SSBT streams.
- (37) **"Diameter breast height"** (DBH) means the diameter of a tree inclusive of the bark measured four and one-half feet above the ground on the uphill side of the tree.
- (38) **"Domestic water use"** means the use of water for human consumption and other household human use.
- (39) **"Dying or recently dead tree"** means a tree with less than ten percent live crown or a standing tree which is dead, but has a sound root system and has not lost its small limbs. Needles or leaves may still be attached to the tree.
- (40) **"Eastern Oregon"** means the region east of the Cascade Crest as described in OAR 629-635-0220.
- (41) **"ELZ"** means an equipment limitation zone in which disturbance from equipment activity shall be minimized.
- (42) **"Estuary"** means a body of water semi-enclosed by land and connected with the open ocean within which saltwater is usually diluted by freshwater derived from the land. "Estuary" includes all estuarine waters, tidelands, tidal marshes, and submerged lands extending upstream to the head of tidewater. However, the Columbia River Estuary extends to the western edge of Puget Island.
- (43) **"Exposure categories"** are used to designate the likelihood of persons being present in structures or on public roads during periods when shallow, rapidly moving landslides may occur.
- (44) **"Filling"** means the deposit by artificial means of any materials, organic or inorganic.
- (45) **"Fish use"** means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state Endangered Species Act.

- (46) **"Fledging tree"** means a tree or trees close to the nest which the State Forester determines are regularly used by young birds to develop flying skills.
- (47) **"Flow feature"** means flowing water for 25 feet or more.
- (48) **"Flowing water"** means continuous visibly flowing surface water within a channel.
- (49) "Forage" means the plant species or other source of food that will be provided to substantially contribute, either directly or indirectly to nutrition of the target wildlife species or guild.
- (50) **"Ford"** means a type of stream crossing where the vehicle travels on the streambed or other installed structure with the wheels of the vehicle in the water if present.
- (51) **"Forest conservation area"** means the riparian forestland area that is not harvested that may be eligible for a forest conservation tax credit. The width of the eligible area is the difference between the outermost edge of the width of the riparian management area for the standard practice and the outermost edge of the width of the riparian management area for the small forestland owner minimum option. The length of the eligible area is the length of frontage that follows the same lengths as the standard practice.
- (52) **"Forest conservation tax credit"** means a tax credit available to small forestland owners who choose to follow the standard practice used by large forest landowners and claim a tax credit for some of the value committed to conservation.
- (53) **"Forest practice"** means any operation conducted on or pertaining to forestland, including but not limited to:
- (a) Reforestation of forestland;
 - (b) Road construction and maintenance;
 - (c) Harvesting of forest tree species;
 - (d) Application of chemicals;
 - (e) Disposal of slash; and
 - (f) Removal of woody biomass.
- (54) **"Forest Practices Technical Guidance"** means advisory guidance, developed by the State Forester through a stakeholder process, to assist landowners and resource professionals to implement the Oregon Forest Practices Act and forest practice rules.
- (55) **"Forest road inventory and assessment"** (FRIA) means the road inventory, project planning, and reporting process required of forestland owners that do not qualify to manage forestlands under the small forestland owner minimum option.
- (56) **"Forest tree species"** means any tree species capable of producing logs, fiber or other wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.
- (57) **"Forestland"** means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.
- (58) **"Free to grow"** means the State Forester's determination that a tree or a stand of well distributed trees, of acceptable species and good form, has a high probability of remaining or becoming vigorous, healthy, and dominant over undesired competing vegetation. For the purpose of this definition, trees are considered well distributed if 80 percent or more of the portion of the operation area subject to the reforestation requirements of the rules contains at least the minimum per acre tree stocking required by the rules for the site and not more than ten percent contains less than one-half of the minimum per acre tree stocking required by the rules for the site.
- (59) **"Fully functioning culvert in Type F or Type SSBT streams"** is defined as a culvert that is located in a Type F or Type SSBT stream, at the time of FRIA inspection, that meets the requirements of the forest practice rules as of January 1, 2022, and as described in the Forest Practices Technical Guidance for culverts existing prior to January 1, 2024.
- (60) **"Fully functioning culvert in Type N or D streams"** is defined as a culvert that is located in a Type N or Type D stream, and that, at the time of FRIA inspection, meets all requirements of the forest practice rules as of January 1, 2022.

- (61) **"Further review area"** means an area of land that may be subject to rapidly moving landslides as mapped by the State Department of Geology and Mineral Industries or as otherwise determined by the State Forester.
- (62) **"Geographic region"** means large areas where similar combinations of climate, geomorphology, and potential natural vegetation occur, established for the purposes of implementing the water protection rules.
- (63) **"Habitat conservation plan"** (HCP) means the federal agencies' planning document designed to accommodate economic development to the extent possible by authorizing the limited and unintentional take of listed species when it occurs incidental to otherwise lawful activities. The plan is designed not only to help landowners and communities but also to provide long-term benefits to species requirements as identified in the Endangered Species Act.
- (64) **"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.
- (65) **"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.
- (66) **"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.
- (67) **"Harvest type 4"** means an operation that commercially thins or spaces residual trees that does not require reforestation or retention of wildlife leave trees.
- (68) **"Headwall"** means steep, concave slopes that can concentrate subsurface water, which can lead to increased landslide susceptibility. Headwalls are typically located at the head of stream channels, draws, or swales. Headwalls have slope gradients of 65 percent or greater in the Tyee Core Area and 70 percent or greater in the rest of the state, as measured in the axis of the headwall. Landslides that occur in headwalls are more likely to initiate channelized debris flows that can travel down streams (also known as debris torrents) than landslides that occur in other areas of the slope.
- (69) **"High landslide hazard location"** means a specific site that is subject to initiation of a shallow, rapidly moving landslide. The following criteria shall be used to identify high landslide hazard locations:
- (a) The presence, as measured on site, of any slope in Western Oregon (excluding competent rock outcrops) steeper than 80 percent, except in the Tyee Core Area, where it is any slope steeper than 75 percent;
 - (b) The presence, as measured on site, of any headwall or draw in Western Oregon steeper than 70 percent, except in the Tyee Core Area, where it is any headwall or draw steeper than 65 percent; or
 - (c) Notwithstanding the slopes specified in (a) or (b) above, field identification of atypical conditions by a geotechnical specialist may be used to develop site specific slope steepness thresholds for any part of the state where the hazard is equivalent to (a) or (b) above. The final determination of equivalent hazard shall be made by the State Forester.
- (70) **"High water level"** means the stage reached during the average annual high flow. The "high water level" often corresponds with the edge of streamside terraces, a change in vegetation, or a change in soil or litter characteristics.
- (71) **"Hydrologic disconnection"** means the removal of direct routes of drainage or overland flow of road runoff to waters of the state.

- (72) **"Hydrologic function"** means soil, stream, wetland and riparian area properties related to the storage, timing, distribution, and circulation of water.
- (73) **"Important springs"** are springs in arid parts of Eastern Oregon that have established wetland vegetation, flow year-round in most years, are used by a concentration of diverse animal species, and, by reason of sparse occurrence, have a major influence on the distribution and abundance of upland species.
- (74) **"Inactive roads"** are roads used for forest management purposes exclusive of removing commercial forest products.
- (75) **"Independent research and science team"** (IRST) means the independent research and science team described in OAR 629-603-0400.
- (76) **"IRST housing agency"** means a public body that houses and supports the Independent Research and Science Team as described in OAR 629-603-0450.
- (77) **"Key components"** means the attributes which are essential to maintain the use and productivity of a resource site over time. The key components vary by species and resource site. Examples include fledging trees or perching trees.
- (78) **"Lake"** means a body of year-round standing open water.
- (a) For the purposes of the forest practice rules, lakes include:
- (A) The water itself, including any vegetation, aquatic life, or habitats therein; and
- (B) Beds, banks or wetlands below the high water level which may contain water, whether or not water is actually present.
- (b) "Lakes" do not include water developments as defined in this rule.
- (79) **"Lamprey"** means a member of the fish genera *Entosphenus* or *Lampetra*.
- (80) **"Landowner"** means any individual, combination of individuals, partnership, corporation, or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.
- (81) **"Landslide mitigation"** means actions taken to reduce potential landslide velocity or re-direct shallow, rapidly moving landslides near structures and roads so risk to persons is reduced.
- (82) **"Large lake"** means a lake greater than eight acres in size.
- (83) **"Large wood key piece"** means a portion of a bole of a tree, with or without the rootwad attached, that is wholly or partially within the stream, that meets the length and diameter standards appropriate to stream size and high water volumes established in the "Guide to Placement of Wood, Boulders and Gravel for Habitat Restoration," developed by the Oregon Department of Forestry, Oregon Department of Fish and Wildlife, Oregon Department of State Lands, and Oregon Watershed Enhancement Board, January 2010.
- (84) **"Lateral Type Np stream"** means any Type Np stream that is not a Terminal Type Np stream.
- (85) **"Live tree"** means a tree that has 10 percent or greater live crown.
- (86) **"Local population"** means the number of birds that live within a geographical area that is identified by the State Forester. For example: the area may be defined by physical boundaries, such as a drainage or subbasin.
- (87) **"Main channel"** means a channel that has flowing water when average flows occur.
- (88) **"Modeled end"** means the upper-most point of perennality on a perennial stream shown on department maps and the department's reporting and notification system as described OAR 629-635-0200(18). The modeled end may change over time in different phases or as updated by Oregon Department of Fish and Wildlife pursuant to the methods for field surveys as described in OAR 629-635-0200(11).
- (89) **"Natural barrier to fish use"** is a natural feature such as a waterfall, increase in stream gradient, channel constriction, or other natural channel blockage that prevents upstream fish passage.
- (90) **"Natural reforestation"** means restocking a site with self-grown trees resulting from self-seeding or vegetative means.
- (91) **"Nest tree"** means the tree, snag, or other structure that contains a bird nest.
- (92) **"Nesting territory"** means an area identified by the State Forester that contains, or historically contained, one or more nests of a mated pair of birds.
- (93) **"Operation"** means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:

- (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.
 - (b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood that is:
 - (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;
 - (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;
 - (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and
 - (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.
 - (c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.
 - (d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.
 - (e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.
 - (f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.
 - (g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.
- (94) **"Operator"** means any person, including a landowner or timber owner, who conducts an operation.
- (95) **"Ordinary high-water line"** means the line on the bank or shore to which the high-water ordinarily rises annually in season, as defined in ORS 274.005.
- (96) **"Other wetland"** means a wetland that is not a significant wetland or stream-associated wetland.
- (97) **"Parcel"** means a contiguous single ownership recorded at the register of deeds within the county or counties where the property is located, including any parcel(s) touching along a boundary, but a railroad, road, stream, or utility-right-of-way may intersect the parcel. Single ownership is defined in ORS 527.620(14).
- (98) **"Perch tree"** means a tree identified by the State Forester which is used by a bird for resting, marking its territory, or as an approach to its nest.
- (99) **"Plan for an Alternate Practice"** means a document prepared by the landowner, operator or timber owner, submitted to the State Forester for written approval describing practices different than those prescribed in statute or administrative rule.
- (100) **"Pre-existing culvert"** is defined as a culvert with minimal risks to public resources that is also:
- (a) A fully functioning culvert in a Type F or Type SSBT stream; or
 - (b) A fully functioning culvert in a Type N or Type D stream.
- (101) **"Relief culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.
- (102) **"R-ELZ"** means an equipment limitation zone in which disturbance from equipment activity shall be minimized and all trees less than six inches DBH and shrub species are retained where possible.
- (103) **"Removal"** means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.
- (104) **"Removal"** means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.
- (105) **"Repeat Violator"** means an operator, timber owner, or landowner for which a finding has been made by the State Forester under section 46(6), chapter 33, Oregon Laws 2022.
- (106) **"Replacement tree"** means a tree or snag within the nesting territory of a bird that is identified by the State Forester as being suitable to replace the nest tree or perch tree when these trees become unusable.

- (107) **"Research agenda"** means the plan developed by the AMPC pursuant to OAR 629-603-0200(5)(a).
- (108) **"Resource site"** is defined for the purposes of protection and for the purposes of requesting a hearing.
- (a) For the purposes of protection:
- (A) For threatened and endangered bird species, "resource site" is the nest tree and all identified key components.
- (B) For sensitive bird nesting, roosting and watering sites, "resource site" is the nest tree, roost tree or mineral watering place, and all identified key components.
- (C) For significant wetlands "resource site" is the wetland and the riparian management area as identified by the State Forester.
- (b) For the purposes of requesting a hearing under ORS 527.670(4) and 527.700(3), "resource site" is defined in OAR 629-680-0020.
- (109) **"RH Max"** means the maximum distance described for any particular small Type Np stream.
- (110) **"Riparian area"** means the ground along a water of the state where the vegetation and microclimate are influenced by year-round or seasonal water, associated high water tables, and soils which exhibit some wetness characteristics.
- (111) **"Riparian management area"** means an area along each side of specified waters of the state within which vegetation retention and special management practices are required for the protection of water quality, hydrologic functions, and fish and wildlife habitat.
- (112) **"Road management blocks"** means geographically distinct ownership blocks for which a landowner is encouraged to conduct a Forest Road Inventory and Assessment.
- (113) **"Road prism"** means the area of the ground containing the road surface, cut slope, and fill slope.
- (114) **"Salmon"** means any of the five salmon species that exist in Oregon. These species are:
- (a) Chinook salmon (*Oncorhynchus tshawytscha*);
- (b) Coho salmon (*Oncorhynchus kisutch*);
- (c) Chum salmon (*Oncorhynchus keta*);
- (d) Sockeye salmon (*Oncorhynchus nerka*); and
- (e) Pink salmon (*Oncorhynchus gorbuscha*).
- (115) **"Saplings and poles"** means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.
- (116) **"Seedlings"** means live trees of acceptable species of good form and vigor less than one inch in DBH.
- (117) **"Seeps"** means features similar to springs, except without a well-defined point or points of groundwater surface discharge and usually very low flow.
- (118) **"Shallow, rapidly moving landslide"** means any detached mass of soil, rock, or debris that begins as a relatively small landslide on steep slopes and grows to a sufficient size to cause damage as it moves down a slope or a stream channel at a velocity difficult for people to outrun or escape.
- (119) **"Side channel"** means a channel other than a main channel of a stream that only has flowing water when high water level occurs.
- (120) **"Significant violation"** as defined in section 40(15), chapter 33, Oregon Laws 2022:
- (a) **"Significant violation" means:**
- (A) Violation of ORS 527.670(6) by engaging in an operation without filing the requisite notification;
- (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680(2)(a), (3), or (5); or
- (C) A violation resulting in major damage to a resource described in ORS 527.710(2) for which restoration is expected to take more than 10 years.
- (b) **"Significant violation" does not include:**
- (A) Unintentional operation in an area outside an operating area of an operation for which sufficient notification was filed pursuant to ORS 527.670(6);

- (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680 (2)(a), (3), or (5), where an operator demonstrates that it did not receive the order; or
 - (C) Failure to timely notify the State Forester of an intent to continue an operation into the next calendar year.
- (121) **"Significant wetlands"** means those wetland types listed in OAR 629-680-0310, that require site specific protection, as follows:
- (a) Wetlands that are larger than eight acres;
 - (b) Estuaries;
 - (c) Bogs; and
 - (d) Important springs in Eastern Oregon.
- (122) **"Significantly disproportionately impacted"** means a small forestland owner parcel that:
- (a) If it contains a dwelling, is 10 acres or more in size;
 - (b) Has a total encumbrance from all small forestland minimum option riparian management areas, as described in OAR 629-643-0140, greater than 20% of the forested acreage of the parcel; and
 - (c) Generates timber revenue that is relied upon to sustain management activities on forest properties, cover annual costs of ownership, provide regular contributions to income, or more than 5% of the revenue is contributed to a planned estate investment as demonstrated by a Forest Management Plan.
- (123) **"Slope retention areas"** means the 50 percent, at a minimum, of designated sediment source areas in each harvest unit that will be left unharvested.
- (124) **"Slopes model"** means the department's computer-generated model to identify designated debris flow traversal areas, designated sediment source areas, and trigger sources.
- (125) **"Small forestland"** means forestland that has an owner that owns or holds common ownership interest in less than 5,000 acres of forestland in this state, regulated under section 5(1)(b), chapter 33, Oregon Laws 2022.
- (126) **"Small forestland owner"** pursuant to section (16), chapter 33, Oregon Laws 2022 and section 2, chapter 34, Oregon Laws 2022, means a landowner who:
- (a) Owns or holds in common ownership interest in less than 5,000 acres of forestland in this state;
 - (b) Has harvested no more than an average yearly volume of two million board feet of merchantable forest products from the landowner's forestlands in this state, when averaged over the three years prior to:
 - (A) The date the department receives a harvest notification from the landowner; or
 - (B) If applying for a Small Forestland Investment in Stream Habitat Program grant, the date the landowner submits a grant application; and
 - (c) Affirms that they do not expect to exceed an average yearly volume of two million board feet of merchantable forest products to be harvested from the landowner's forestlands in this state for 10 years after the department receives the harvest notification or grant application; or
 - (d) Emergency exception: Any landowner who exceeds the two million board feet average harvest threshold from their land in the three years prior to submitting a harvest notification or grant application to the department, or who expects to exceed the threshold during any of the following 10 years, shall still be deemed a "small forestland owner" if the landowner establishes to the department's reasonable satisfaction that the harvest limits were, or will be, exceeded to raise funds to pay estate taxes or for a compelling and unexpected obligation, such as for a court-ordered judgment or for extraordinary medical expenses.
- (127) **"Small forestland owner minimum option"** means the option to harvest timber allowed to a small forestland owner under rules adopted under the Oregon Forest Practices Act.
- (128) **"Snag"** means a tree which is dead but still standing, and that has lost its leaves or needles and its small limbs.
- (129) **"Sound snag"** means a snag that retains some intact bark or limb stubs.

- (130) **"Springs"** means features where groundwater discharges to land surface or a surface water body at a well-defined point or points. Spring volumes range from small, intermittent trickles to millions of gallons per day, depending on the groundwater source and hydraulic head.
- (131) **"SSBT use"** means a stream with salmon, steelhead, or bull trout present or otherwise used by salmon, steelhead, or bull trout at any time of the year as determined by the State Forester.
- (132) **"State Forester"** means the State Forester or the duly authorized representative of the State Forester.
- (133) **"Steelhead"** means the anadromous life history variant of *Oncorhynchus mykiss*.
- (134) **"Stream"** means a channel, such as a river or creek, which carries flowing surface water during some portion of the year.
- (a) For the purposes of the forest practice rules, streams include:
- (A) The water itself, including any vegetation, aquatic life, or habitats therein;
- (B) Beds and banks below the high water level which may contain water, whether or not water is actually present;
- (C) The area between the high water level of connected side channels;
- (D) Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and
- (E) Stream-associated wetlands.
- (b) "Streams" do not include:
- (A) Ephemeral overland flow (such flow does not have a channel); or
- (B) Road drainage systems or water developments as defined in this rule.
- (135) **"Stream adjacent failures"** means all slopes greater than 70 percent immediately adjacent to Type F or Type SSBT streams that are either:
- (a) Actively failing and delivering sediment, where erodible material and exposed soils are present and prone to continued shallow-rapid slope instability, with active features such as tension cracks, scarps, ground surface shearing, and oversteepened toes; or
- (b) Unstable due to the toe interacting directly with erosive forces of a stream, such that there is likely a slope failure extending beyond the standard width of the riparian management area.
- (136) **"Stream-associated wetland"** means a wetland that is not classified as significant and that is next to a stream.
- (137) **"Structural exception"** means the State Forester determines that no actions are required to protect the resource site. The entire resource site may be eliminated.
- (138) **"Structural protection"** means the State Forester determines that actions are required to protect the resource site. Examples include retaining the nest tree or perch tree.
- (139) **"Stumpage value"** means the value of standing timber based on the value that would be received for the timber if harvested and delivered to a mill, minus the cost of harvest and delivery to the mill.
- (140) **"Target wildlife"** means a wildlife species or wildlife guild expected to benefit from the installation of a wildlife food plot.
- (141) **"Temporal exception"** means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.
- (142) **"Temporal protection"** means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.
- (143) **"Terminal Type Np stream"** means the largest Type Np stream by basin size that is immediately upstream of the end of a Type F or Type SSBT stream.
- (144) **"Timber owner"** means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.
- (145) **"Tree leaning over the channel"** means a tree within a riparian management area if a portion of its bole crosses the vertical projection of the high water level of a stream.
- (146) **"Trigger sources"** means areas within designated sediment source areas that the slopes model identifies as most likely to trigger a high-volume debris flow. These areas have the top 20 percent probability of triggering a top 33 percent high-volume debris flow.

- (147) **"Type Core Area"** means a location with geologic conditions including thick sandstone beds with few fractures. These sandstones weather rapidly and concentrate water in shallow soils creating a higher shallow, rapidly moving landslide hazard. The Type Core Area is located within coastal watersheds from the Siuslaw watershed south to and including the Coquille watershed, and that portion of the Umpqua watershed north of Highway 42 and west of Interstate 5. Within these boundaries, locations where bedrock is highly fractured or not of sedimentary origin as determined in the field by a geotechnical specialist are not subject to the Type Core Area slope steepness thresholds.
- (148) **"Type D stream"** means a stream that has domestic water use, but no fish use.
- (149) **"Type F stream"** means a stream with fish use, or both fish use and domestic water use.
- (150) **"Type N stream"** means a stream that meets the criteria of a Type Np or Ns stream.
- (151) **"Type Np stream"** means all perennial streams that are not Type SSBT or Type F.
- (152) **"Type Ns stream"** means all seasonal stream reaches that are not Type SSBT, Type F or Type Np streams.
- (153) **"Type SSBT stream"** means a stream that is classified as a Type F stream and has SSBT use.
- (154) **"Unit"** means an operation area submitted on a notification of operation that is identified on a map and that has a single continuous boundary. Unit is used to determine compliance with ORS 527.676 (down log, snag and green live tree retention), 527.740 and 527.750 (harvest type 3 size limitation), and other forest practice rules.
- (155) **"Vacated roads"** are roads that have been made impassable and are no longer to be used for forest management purposes or commercial forest harvesting activities.
- (156) **"Verified end"** means the upper-most point of perennality established pursuant to field verification as required by 629-635-0200(18)(c).
- (157) **"Water bar"** means a diversion ditch or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation and duff so that it does not gain the volume and velocity which causes soil movement or erosion.
- (158) **"Water development"** means water bodies developed for human purposes that are not part of a stream such as waste treatment lagoons, reservoirs for industrial use, drainage ditches, irrigation ditches, farm ponds, stock ponds, settling ponds, gravel ponds, cooling ponds, log ponds, pump chances, or heli-ponds that are maintained for the intended use by human activity.
- (159) **"Waters of the state"** include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.
- (160) **"Western Oregon"** means the region west of the Cascade Crest as described in OAR 629-635-0220.
- (161) **"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include marshes, swamps, bogs, and similar areas. Wetlands do not include water developments as defined in this rule.
- (162) **"Wildlife food plot"** means a small forestland area that, instead of being used for growing and harvesting of a forest tree species, is planted in vegetation or has vegetation capable of substantially contributing to wildlife nutrition.
- (163) **"Wildlife guild"** means a grouping of wildlife that has similar characteristics and fulfills similar ecological roles in the environment.
- (164) **"Wildlife leave trees"** means trees or snags required to be retained as described in ORS 527.676(1).
- (165) **"Written plan"** means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted.

Division 603

ADAPTIVE MANAGEMENT

629-603-0000

Adaptive Management Program Purpose

- (1) The purpose of the adaptive management program rules is to provide science-based recommendations and technical information to assist the Board of Forestry in determining when it is necessary or advisable to adjust rules, guidance, and training programs to achieve the biological goals and objectives.
- (2) OAR 629-603-0000 through 629-603-0600 shall be known as the adaptive management program rules.
- (3) It is the policy of the State of Oregon that regulation of forest practices for the protection of aquatic species shall, in addition to other statutory requirements, be subject to a process of adaptive management, whereby forest practice rules are:
 - (a) Monitored for effectiveness relative to the biological goals and objectives; and
 - (b) Modified if necessary to achieve the biological goals and objectives.
- (4) The adaptive management program is established to implement the policy stated in section (3) of this rule.
- (5) The purpose of the adaptive management program is to:
 - (a) Ensure timely and effective change as needed to meet biological goals and objectives.
 - (b) Provide predictability and stability of the process of changing regulation so landowners, regulators, and interested members of the public can understand and anticipate change.
 - (c) Apply best available science to decision-making.
 - (d) Effectively meet biological goals and objectives with less operationally expensive prescriptions when feasible.
- (6) For the purposes of this rule division, the following definitions apply:
 - (a) "Adaptive management program committee" (AMPC) means the adaptive management program committee described in OAR 629-603-0300.
 - (b) "Best available science" means the standards developed pursuant to OAR 629-603-0400(4).
 - (c) "Biological goals and objectives" means the biological goals and objectives as set by the department for a habitat conservation plan to meet requirements of section 11 (1) chapter 33, Oregon Laws 2022.
 - (d) "Independent research and science team" (IRST) means the independent research and science team described in OAR 629-603-0400.
 - (e) "IRST housing agency" means a public body that houses and supports the Independent Research and Science Team as described in OAR 629-603-0450.
 - (f) "Research agenda" means the plan developed by the AMPC pursuant to OAR 629-603-0200(5)(a).

629-603-0100

Adaptive Management Program Overview

- (1) The adaptive management program must:
 - (a) Conduct effectiveness monitoring by assessing the degree to which the rules facilitating particular forest conditions and ecological processes achieve the biological goals and objectives. This assessment may include evaluation of cumulative effects.
 - (b) Conduct research inquiry and validation monitoring **to**:
 - (A) Determine if additional scientific inquiry is needed to fill knowledge gaps related to biological goals and objectives; and
 - (B) Test and improve existing and new models and methodologies used to design and implement forest practice rules intended to meet the biological goals and objectives.
- (2) The adaptive management program participants include:

- (a) The Adaptive Management Program Committee (AMPC) described in OAR 629-603-0300 and its composition specified in section 36, chapter 33, Oregon Laws 2022;
 - (b) The Independent Research and Science Team (IRST) described in OAR 629-603-0400 and its composition specified in section 38, chapter 33, Oregon Laws 2022; and
 - (c) The Adaptive Management Program Coordinator described in OAR 629-603-0500.
- (3) The Board of Forestry and the department shall encourage access to land for the purpose of conducting studies and monitoring contemplated by Division 603 rules. The AMPC and the IRST may each prepare a report to the board describing instances where access to land has been insufficient to achieve the purposes of this rule division. If presented with such a report, the board shall consider whether to initiate rulemaking or other measures to address any research and monitoring problems arising from lack of access to land.
- (4) The State Forester shall report to the board annually about the status of adaptive management program efforts.
- (5) The board intends that the process of continuous improvement be applied to the adaptive management program. The department shall conduct performance audits once every six years per Generally Accepted Government Auditing Standards. The first audit must be completed by January 1, 2029. The performance audits will evaluate whether the program achieved the purposes outlined in OAR 629-603-0000(5).
- (6) Adaptive management program studies will focus on issues related to the biological goals and objectives. However, studies may address issues that are not related to the biological goals and objectives only if the studies do not impair research and monitoring on issues related to the biological goals and objectives.
- (7) Adaptive management program research may test whether:
- (a) Operationally less expensive prescriptions can effectively meet biological goals and objectives; and,
 - (b) More risk averse prescriptions are necessary to meet biological goals and objectives.
- (8) The following topics shall be prioritized in the initial phase of the adaptive management program:
- (a) Literature review for eastern Oregon steep slopes;
 - (b) Requirements of baseline and trend monitoring of road rules; and
 - (c) Amphibians.
- (9) The AMPC may determine when section (8) of this rule is satisfied and therefore those topics are no longer priorities. In the event the AMPC makes these findings, the department shall present the AMPC findings to the board.

629-603-0130

Adaptive Management Program Budget

- (1) It is the intent of the Board of Forestry that the State Forester and its cooperators place a high priority on the adaptive management program, which requires securing adequate resources to conduct the necessary work of the AMPC, the IRST, the Adaptive Management Program Coordinator, and other entities as needed. The State Forester shall work with its cooperators and the legislature to secure the necessary resources, funding, and coordination for an effective adaptive management program.
- (2) The board shall determine the budget for:
- (a) The IRST Housing Agency described in OAR 629-603-0450;
 - (b) Participation grants for the AMPC and the IRST per OAR 629-603-0160;
 - (c) IRST research projects;
 - (d) Analyses per OAR 629-603-0100(7) as provided by OAR 629-603-0200(5)(e); and
 - (e) Other aspects of the adaptive management program that may arise, notwithstanding the process described in section (3) of this rule.
- (3) The AMPC shall create a detailed, preliminary budget of the funds from section (2)(c) of this rule for the research agenda per OAR 629-603-0200(5)(a), for a subsequent board vote per OAR 629-603-0200(5)(d).

629-603-0160

Adaptive Management Participation Grants

- (1) Organizations on the AMPC and the IRST are eligible for participation grants to compensate the organization for organizational resources the organization dedicated to support the AMPC or the IRST. The Department of Forestry, Department of Fish and Wildlife, Department of Environmental Quality, and federal agencies on the AMPC are not eligible for participation grants.
- (2) The Board of Forestry shall determine the budget available for participation grants every biennium pursuant to OAR 629-603-0130(2)(b). The budgeted funds shall be equally divided by the number of members from eligible organizations who apply for the grants.
- (3) The board shall award individual participation grants to eligible organizations who request these grants.
- (4) If an eligible organization on the IRST has more than one member on the IRST, each eligible organization shall receive individual participation grants for each of their members.
- (5) Notwithstanding section (2) of this rule, the board may choose to award some members higher grant amounts if the members have significantly higher workloads than other AMPC or IRST members.

629-603-0200

Adaptive Management Program Process Steps

- (1) This rule specifies communications between the Board of Forestry, the AMPC, and the IRST to implement the adaptive management program. To the extent there needs to be communications not identified in this rule for adaptive management program success, the Adaptive Management Program Coordinator will facilitate these communications.
- (2) By January 31, 2024:
 - (a) The AMPC shall:
 - (A) Complete their charter per OAR 629-603-0300(2); and
 - (B) Develop the initial list of research topics including the priorities in OAR 629-603-0100(8). Following completion of this list, the AMPC shall integrate the list into a Research Agenda developed via sections (3) through (5) of this rule.
 - (b) The IRST shall complete their charter per OAR 629-603-0400(2) and determine best available science per OAR 629-603-0400(4).
- (3) Step 1: The AMPC shall develop preliminary research question(s).
 - (a) The AMPC shall succinctly specify preliminary research questions that include the following:
 - (A) The type of research and monitoring per OAR 629-603-0100(1)(a) or (b);
 - (B) The rule, biological goals and objectives, or other issue being studied;
 - (C) The objective of the research;
 - (D) A brief description of the context of the research question; and
 - (E) Other information the AMPC deems necessary for the IRST's work per section (4) of this rule.
 - (b) The board may direct the AMPC to develop additional preliminary research questions.
 - (c) The AMPC shall send the preliminary research questions to the IRST annually on a date specified in the AMPC charter developed pursuant to OAR 629-603-0300(2).
- (4) Step 2: The IRST shall prepare a proposal for each preliminary research question.
 - (a) Within 45 days of receiving a preliminary research question from the AMPC per subsection (3)(c) of this rule, the IRST shall inform the AMPC of the timeframe to complete a research proposal described in subsection (4)(c) of this rule.
 - (b) The IRST shall hone each preliminary research question into a final research question. The IRST shall communicate with the AMPC via the Adaptive Management Program Coordinator to allow the AMPC an opportunity to provide input to ensure that the AMPC's original intent is maintained in the final research question. Following this communication, the IRST shall finalize the research question.

- (c) The IRST shall develop, or direct through a third party the development of, a research proposal for each finalized research question. Each research proposal shall include:
 - (A) A literature review that specifies the need for or the type of monitoring, research, commissioned studies, or other means of scientific inquiry necessary to answer the finalized research question described in subsection (4)(b) of this rule;
 - (B) A preliminary estimate of the budget for each year of the research, and a timeline to complete the research project with specific deliverables; and,
 - (C) A preliminary description of research project requirements, scope of work including an estimate of the timeline and key milestones, and an estimate of the degree to which knowledge may be improved if the research proposal is implemented.
 - (d) The IRST may develop multiple research proposals to address each research question. Each proposal must include all the elements of subsection (4)(c) of this rule. If multiple research proposals are developed, the IRST shall compare their costs versus the knowledge benefits of the research proposals.
 - (e) The IRST shall send proposal(s) from subsections (4)(c) and (4)(d) of this rule to the AMPC within the timeframe communicated from the IRST to the AMPC pursuant to subsection (4)(a) of this rule.
- (5) Step 3: The AMPC shall develop a research agenda.
- (a) The AMPC shall develop a multi-year research agenda that includes:
 - (A) Prioritized research projects;
 - (B) Key milestones for each research project;
 - (C) A timeline for progress on research projects; and,
 - (D) A comprehensive IRST budget, including annual budget for each year of each project.
 - (b) In prioritizing the research projects, the AMPC shall consider:
 - (A) Biennial appropriations from the legislature;
 - (B) Priorities outlined in OAR 629-603-0100(8);
 - (C) Research proposals received from the IRST per subsection (4)(e) of this rule;
 - (D) Board direction;
 - (E) Requirements for continuity of research projects under agreement or out for RFP review; and,
 - (F) Other information as appropriate.
 - (c) The AMPC shall send the research agenda to the board no later than July 15 of odd-numbered years.
 - (d) The department shall present the budget in the research agenda developed pursuant to subsection (5)(a) of this rule to the board for a vote at the September board meeting of odd-numbered years.
 - (e) The AMPC may request the department to hire a third party to complete analyses per OAR 629-603-0100(7).
- (6) Step 4: The IRST shall implement the research agenda approved by the board pursuant to subsection (5)(d) of this rule.
- (a) No later than November 1 of odd-numbered years, the IRST shall develop an annual work plan to implement the research agenda approved by the board in subsection (5)(d) of this rule.
 - (b) The IRST shall develop request for proposals (RFP) in an open, competitive process for research projects in the research agenda. The RFP shall include:
 - (A) Research project objectives, deliverables, and deadlines;
 - (B) A statement of work;
 - (C) The level of rigor needed for successful research project completion;
 - (D) The required expertise and capacity of proposers;
 - (E) The data as a deliverable;
 - (F) The expectations for a detailed final report;

- (G) An after-action review meeting between the IRST and the contractor and other cooperators; and,
 - (H) Other RFP elements required by the IRST Housing Agency specified in OAR 629-603-0450.
- (c) RFPs may include requirements for:
- (A) Contractor and other cooperator presentations to the AMPC, the board, or other entities as appropriate.
 - (B) A summary report. If the contractor and other cooperators are required to produce a summary report for the agreement, it must contain the elements listed in section (6)(g) of this rule.
- (d) The RFP announcement and award process shall follow procedures of the IRST Housing Agency, with the IRST selecting the RFP successful proposer.
- (e) If an IRST member applies for an RFP, the IRST shall ensure RFP selections follow conflict of interest standards as established by the Oregon Government Ethics Commission.
- (f) The IRST shall develop and manage agreements for RFP successful proposer.
- (g) If the agreement in subsection (6)(f) of this rule did not require development of a summary report, the IRST shall complete the summary report within 90 days of receiving the contractor and other cooperator's detailed final report in paragraph (6)(b)(F) of this rule. The summary report shall be written for a lay audience and include:
- (A) Methods sufficient to allow others to understand what was done and to evaluate the results and conclusions;
 - (B) A detailed description of the results; and
 - (C) Discussion and conclusions about:
 - (i) Effectiveness: In studies examining alternative prescriptions, the likely effectiveness of each prescription shall be reported.
 - (ii) Causal links: An assessment of how the results of relevant new research findings developed by the IRST or through outside research clarify or support causal links between forest practices and aquatic resources, and implications regarding how well forest practice rules or rule sets are likely to address these linkages.
 - (iii) Magnitude of impact: An assessment of the magnitude of impact on covered species or biological goals and objectives on a sliding scale.
 - (iv) Timescale of effects observed, and the immediacy of likely changes in the environment.
 - (v) Scope of inference.
 - (vi) Scientific uncertainty versus confidence: An assessment of the scientific uncertainty and confidence in the results.
- (7) Step 5: Within 30 days of completion of the last of the reports described in paragraphs (6)(b)(F) and (6)(c)(B) and subsection (6)(g) of this rule, the IRST shall send both reports to the AMPC and the board.
- (8) Step 6: The AMPC and the board shall assess the IRST reports described in section (7) of this rule and determine next steps per the following process.
- (a) The AMPC shall consider reports described in paragraphs (6)(b)(F) and (6)(c)(B) and subsection (6)(g) of this rule from the IRST. Within 90 days of receipt of these reports from the IRST, the AMPC shall send its report to the board. This AMPC report shall include:
 - (A) Alternative actions, including a no action alternative, to address research findings identified in the IRST reports.
 - (B) The AMPC may recommend one or more of the alternatives. Recommendations shall include:
 - (i) Reasoning for the recommendation.
 - (ii) If a recommendation for a rule change, a clear description of the proposed rule change.

- (iii) If a recommendation for additional scientific inquiry, a clear description of the preliminary research question.
- (iv) If a recommendation for any other policy action, including rule guidance and training, a clear description of the proposed policy action.
- (C) Minority reports may be included in reports to the board.
- (b) By the second regular board meeting after receipt of the AMPC report, the AMPC shall present their recommendations to the board for a vote.

629-603-0300

Adaptive Management Program Committee

- (1) The purpose of the Adaptive Management Program Committee (AMPC) is to complete work described in division 603 of OAR chapter 629 and section 36(7), chapter 33, Oregon Laws 2022.
- (2) The AMPC shall develop its operating procedures through a charter approved by the AMPC. The charter shall include:
 - (a) A values statement on the purpose of the AMPC, including the need for ongoing good relationships.
 - (b) Ground rules for AMPC member interactions.
 - (c) Determination of what constitutes a substantial decision per section 36(8), chapter 33, Oregon Laws 2022.
 - (d) Process for selecting chairperson(s). The chairperson shall have the usual duties and powers of a presiding officer.
 - (e) Roles, expectations, and representation on subcommittees.
 - (f) Regular deadlines including the deadline specified in OAR 629-603-0200(3)(c).
 - (g) Measures to maintain and improve the long-term effectiveness of AMPC, including:
 - (A) Succession management procedures;
 - (B) Onboarding of new AMPC members; and
 - (C) Regular review and updating of the AMPC charter.
- (3) After the Board of Forestry appoints the first AMPC members pursuant to sections 36(5)(a) and 37, chapter 33, Oregon Laws 2022, members' terms may be renewed by a vote by the board. If an AMPC member's term is not renewed by the board or there is any other vacancy of a voting member on the AMPC, then the entity described in sections 36(3), 36(4), 36(5)(a) chapter 33, Oregon Laws 2022 shall propose two new candidates for a vote from the board for AMPC appointment.
- (4) The AMPC shall conduct their meetings per the AMPC charter, and all AMPC meetings shall be conducted as public meetings consistent with Oregon Public Meetings Law. The AMPC will provide for public testimony at meetings unless the chairperson determines that doing so would be detrimental to the conduct of the AMPC's business.
- (5) An organization on the AMPC may designate someone to serve as an interim member in place of their current member. The interim member will have all the rights and responsibilities of that organization's voting status per Section 36, Chapter 33, Oregon Laws 2022. The organization must submit in writing to the adaptive management program coordinator:
 - (a) The name of the interim member; and,
 - (b) The duration of their interim status, not to exceed one year.

629-603-0400

Independent Research and Science Team

- (1) The purpose of the Independent Research and Science Team (IRST) is to complete work described in division 603 of OAR chapter 629 and section 38(8), chapter 33, Oregon Laws 2022.
- (2) The IRST shall develop its operating procedures through a charter approved by the IRST. The charter shall include:
 - (a) A values statement on the purpose of the IRST, including the need for ongoing good relationships;
 - (b) Ground rules for IRST member interactions;
 - (c) Measures to obtain research expertise or review from outside the IRST;

- (d) Determination of what constitutes a substantial decision per section 38(9)(b), chapter 33, Oregon Laws 2022;
 - (e) Process for selecting chairperson(s). The chairperson shall have the usual duties and powers of a presiding officer;
 - (f) Process for nominating new members to fill vacancies and add new disciplinary expertise pursuant to section 38(6), chapter 33, Oregon Laws 2022;
 - (g) Role, expectations, and representation on subcommittees; and
 - (h) Measures to maintain and improve the long-term effectiveness of the IRST, including:
 - (A) Succession management procedures;
 - (B) Onboarding of new IRST members; and
 - (C) Regular review and updating of the IRST charter.
- (3) An IRST member's term may be renewed upon a two-thirds vote of the rest of the IRST and then ratification by the board. A two-thirds vote of the other IRST members, or a majority vote of the board, may remove an IRST member before the end of their term.
 - (4) The IRST shall develop standards for best available science for the adaptive management program that include:
 - (a) Types of sources of best available science;
 - (b) Process for determining what is best available science based on criteria set by the IRST, including an assessment of study quality and relevance;
 - (c) Testable hypotheses as a crucial element for successful research;
 - (d) A peer review process that is transparent and addresses both study designs and study reports. The IRST shall not grant anonymity to authors, handling editors, or peer-reviewers before January 1, 2028. After January 1, 2028, the IRST may modify the anonymity requirements to peer reviewers by a substantial decision of the IRST; and
 - (e) Other elements the IRST determines are necessary.
 - (5) The IRST may update the best available science standards developed pursuant to section (4) of this rule.
 - (6) The IRST shall conduct their meetings per the IRST charter, and all IRST meetings shall be conducted as public meetings consistent with Oregon Public Meetings Law. The IRST will provide for public testimony at meetings unless the chairperson determines that doing so would be detrimental to the conduct of the IRST's business.
 - (7) The IRST may pursue scientific inquiry via various avenues, including:
 - (a) Literature review;
 - (b) Field monitoring;
 - (c) Original research;
 - (d) Commissioned studies; and,
 - (e) Other means of scientific inquiry.

629-603-0450

Housing Agency for IRST

- (1) The department shall have an agreement with Oregon State University-Institute for Natural Resources to house the Independent Research and Science Team with an initial six-year agreement. At the end of the initial term, and for all periods thereafter, the department shall develop an agreement with a public body every six years to house and support the work of the IRST. The agreements shall align with Division 603 rules. As used in this rule, the term "public body" has the meaning provided in ORS 174.109.
- (2) Every six years, the Board of Forestry shall consider the location of the IRST Housing Agency in alignment with performance audits per OAR 629-603-0100(5). As part of this review, the AMPC must submit a report to the board evaluating performance of the IRST Housing Agency. The AMPC report shall reflect all the views of the AMPC members and does not require a vote of the AMPC.
- (3) The IRST will oversee the IRST Housing Agency's work to:
 - (a) Help refine research questions and associated proposals per OAR 603-629-0200(4);

- (b) Draft requests for proposals to address research projects per OAR 603-629-0200(6);
- (c) Post requests for proposals using standard public bidding processes per OAR 603-629-0200(6);
- (d) Develop agreements for successful proposers of request for proposals per OAR 603-629-0200(6);
- (e) Administer agreements mentioned in subsection (3)(d) of this rule per standard agreement processes for the Housing Agency per OAR 603-629-0200(6);
- (f) As requested by the IRST, draft reports summarizing the results of funded research, per OAR 603-629-0200(6)(g);
- (g) Provide administrative functions for the IRST including:
 - (A) Coordinate and host IRST meetings and ensure they adhere to Oregon Public Meetings Law;
 - (B) Draft and maintain the IRST charter per OAR 603-629-0400(2); and
 - (C) Provide other administrative functions as needed.
- (h) Provide other support duties as needed.

629-603-0500

Adaptive Management Program Coordinator

The State Forester will appoint an Adaptive Management Program Coordinator to serve as the program administrator. The Adaptive Management Program Coordinator will be a neutral facilitator whose primary function is to assist the program by:

- (1) Facilitating communication between, and coordinating the work of, adaptive management program participants listed in OAR 629-603-0100(2);
- (2) Reporting to the Board of Forestry on annual progress of adaptive management program pursuant to OAR 629-603-0100(4), in addition to appearances as needed to present AMPC reports and other adaptive management program work;
- (3) Managing budgets for participation grants described in OAR 629-603-0160 for the AMPC and the IRST;
- (4) Coordinating agreements for regular performance audits of the adaptive management program per OAR 629-603-0100(5); and
- (5) Performing other duties as needed.

629-603-0600

Rulemaking Topics

In addition to requirements specified in section 39, chapter 33, Oregon Laws 2022 and other law, the Board of Forestry may use the adaptive management program rulemaking process for rules that are not intended to achieve the biological goals and objectives.

- (1) The board shall ensure that the use of the adaptive management process for issues unrelated to the biological goals and objectives does not impair the ability of the adaptive management program to address issues related to the biological goals and objectives.
- (2) If the board directs the AMPC and the IRST to address issues unrelated to the biological goals and objectives, the IRST shall consult with experts in that non-aquatic research discipline to support IRST projects and reports.

Division 605

PLANNING FOREST OPERATIONS

629-605-0100

Compliance

- (1) The operator, landowner, or timber owner shall comply with the practices described in the forest practice statutes and rules unless approval has been obtained from the State Forester for a plan for an alternate practice which is designed to result in the same effect or to meet the same purpose or provide equal or better results as those practices described in statute or administrative rule.
- (2) The State Forester may approve a plan for an alternate practice to waive or modify forest practice rules when:
 - (a) The State Forester determines that a federal or state agency, a college or university, or a private landowner has submitted an application to the State Forester for a bona fide research project involving activities not in accordance with the rules; or
 - (b) The State Forester determines that waiving or modifying a specific practice will result in less environmental damage than if the practice is applied; or
 - (c) After consulting with the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester determines that waiving or modifying a specific practice will improve soil, water quality, fish habitat, or wildlife habitat; or
 - (d) The State Forester determines that the alternate practice is necessary to provide for public safety or to accomplish a land use change.
 - (e) The State Forester determines that the alternate practice is necessary to establish a wildlife food plot, while providing overall maintenance of forest resources as described in ORS 527.710.
- (3) When the State Forester's approval does not follow the written recommendations of the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester shall maintain a written explanation of the reasons for approving the alternate practices.
- (4) The State Forester may approve a plan for an alternate practice to waive or modify rules for resource sites identified in OAR 629-680-0100 (Threatened or Endangered Fish and Wildlife Species), 629-680-0200 (Sensitive Bird Nesting, Roosting and Watering Sites), 629-680-0300 (Significant Wetlands), or 629-680-0400 (Biological Sites) when:
 - (a) The county has an adopted program under OAR 660-016-0005 and 660-016-0010 that has evaluated the resource sites; and
 - (b) Applying the forest practice rules for the identified resource sites would regulate or prevent operations, or uses, allowed under the acknowledged county comprehensive plan.

629-605-0105

Notice of Federal Endangered Species Act

Compliance with the forest practices rules does not substitute for or ensure compliance with the federal Endangered Species Act. Nothing in these rules imposes any state requirement to comply with the federal Endangered Species Act. Landowners and operators are advised that federal law prohibits a person from taking certain threatened or endangered species which are protected under the Endangered Species Act.

629-605-0110

Annual Review

The State Forester shall, at least once each year, meet with other state agencies concerned with the forest environment to review the Forest Practice Rules relative to sufficiency. The State Forester shall then report to the Board of Forestry a summary of such meeting or meetings together with recommendations for amendments to rules, new rules, or repeal of rules.

629-605-0120

Consultation

Department personnel shall consult with personnel of other state agencies concerned with the forest environment situations where expertise from such agencies is desirable or necessary.

629-605-0130

Compliance with the Rules and Regulations of the Department of Environmental Quality

Each operation, as defined by ORS 527.620, shall be conducted in full compliance with the rules and regulations of the Department of Environmental Quality relating to air and water pollution control. In addition to all other remedies, any violation thereof shall be subject to all remedies and sanctions available by law, rule, or regulation to the Department of Environmental Quality.

629-605-0140

Notification to the State Forester — Types of Operations

Under the provisions of ORS 527.670:

- (1) Notification to the State Forester shall be given for the following types of operations:
 - (a) Harvesting of forest tree species including, but not limited to, felling, bucking, yarding, decking, loading or hauling.
 - (b) Construction, reconstruction and improvement of roads, including reconstruction or replacement of crossing structures on any streams.
 - (c) Site preparation for reforestation involving clearing or the use of heavy machinery.
 - (d) Application of chemicals.
 - (e) Clearing forestland for conversion to any non-forest use.
 - (f) Disposal or treatment of slash.
 - (g) Pre-commercial thinning.
 - (h) Cutting of firewood, when the firewood will be sold or used for barter.
 - (i) Surface mining.
 - (j) Establishing and ending the use of wildlife food plots.
- (2) Notification to the State Forester shall not be required for the following types of activities, which may or may not be operations:
 - (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.
 - (b) Routine road maintenance, such as grading, ditch cleaning, culvert cleaning, cross drain installation that is not in a stream, or rocking.
 - (c) Tree planting or tree seed applications, except when trees or seeds are treated with rodenticides.
 - (d) Cutting of firewood, when the firewood will not be sold or used for barter.
 - (e) Harvesting or collection of minor forest products, such as boughs, cones and hardwood burls.
 - (f) Road reconstruction of an emergency nature where delay for notification procedures presents a greater potential for resource damage than the operation. Within 48 hours after starting an emergency road reconstruction operation, the operator shall contact the State Forester and report the operation. When asked by the State Forester, the operator shall be able to demonstrate that an emergency actually existed.
 - (g) The establishment, management, or harvest of hardwood timber, including but not limited to hybrid cottonwood, that is:
 - (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;
 - (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;
 - (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and
 - (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.
 - (h) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.
 - (i) The establishment, management or harvest of ornamental, street, or park trees within an urbanized area, as that term is defined in ORS 221.010.

- (j) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.
 - (k) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.
 - (l) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.
- (3) Exemption from notification of certain types of operations does not relieve the operator's responsibility for complying with the applicable forest practice rules.

629-605-0150

Notification to the State Forester – When, Where and How

- (1) The operator, landowner or timber owner shall notify the State Forester as required by ORS 527.670(6), at least 15 days before starting an operation.
- (2) The State Forester may waive the 15-day waiting period required in section (1) of this rule, except as prohibited in ORS 527.670(9) for aerial applications of chemicals and 527.670(10) for operations requiring a written plan under 527.670(3)(a), (b) and (c). Waivers may be granted when the State Forester has already previewed the operation site or has otherwise determined the operation to have only minor potential for resource damage. Waivers shall be made in writing, and on an individual notification basis.
- (3) Once an operation is actually started following proper notification of the State Forester, the operation may continue into the following calendar year without further notification under 527.670(6), provided:
 - (a) There are no changes to the information required on the notification;
 - (b) The operator gives written notice to the State Forester of their intent to continue the operation within the first two months of the following calendar year; and
 - (c) The operation actively continues within the first six months of the following calendar year.
- (4) No notification is valid after the second calendar year, unless:
 - (a) The landowner or operator submits a written request to extend the notification before the end of the second calendar year;
 - (b) There are no changes to the information submitted on the original notification; and
 - (c) The State Forester approves the request.
- (5) Notwithstanding sections (3) and (4) of this rule, nothing in this rule relieves an operator, landowner or timber owner of the responsibility to comply with ORS 477.625, requiring a permit to use fire or power-driven machinery; or ORS 321.550, requiring notification of intent to harvest provided to the Department of Revenue through the department for tax collection purposes.
- (6) For the purposes of ORS 527.670 a notification will be considered received only when the information required by the State Forester is complete and the necessary forms are on file at the department district or unit office responsible for the area in which the operation will take place. Notifications not properly completed shall be promptly returned to the party submitting them. Properly completed notifications submitted to an incorrect department office will be forwarded to the correct office.
- (7) Notifications required by ORS 527.670(6) shall be completed in detail, on forms provided by the State Forester. The notification shall include a map to scale, or aerial photograph that is corrected for distortion, on which the boundary of the operation unit is clearly marked. When more than one type of operation activity or more than one unit is submitted on a single notification, each operation unit shall be identifiable as to the type of operation activity, by legal subdivision, and drawn on a map to scale, aerial photograph corrected for distortion, or other appropriate means. Operations involving harvesting in more than one county may not be combined on the same notification because of tax collection requirements.
- (8) When operations include the application of chemicals, properly completed notifications shall include the common name of the chemicals to be used; the brand name, if known at the time of

notification; the application method; and, for fertilizers, the intended application rate per acre. Public information on allowable application rates of commonly applied forest chemicals will be maintained at department field offices. Additional information on chemical applications shall be collected and recorded by operators at the time of application, and made available upon request to the State Forester, pursuant to OAR 629-620-0600.

- (9) The operator, landowner or timber owner, whichever filed the original notification, shall contact the State Forester and report any subsequent change to information contained in the notification. Additions to the geographic location, however, shall require a separate notification.
- (10) The operator who filed a notification pursuant to ORS 527.670(6), shall inform the State Forester of the completion of each activity identified in the notification of operation under the following conditions:
 - (a) When there is an active operation, inform the State Forester of the completion of the activity by the end of the calendar year of the notification; or
 - (b) If the original notification is continued into the following calendar year, the requirement in section (10)(a) does not apply until end of the calendar year of the continued notification.

629-605-0160

Forest Practices Regions

The state is divided into three regions to better achieve the purposes of the forest practice rules. These regions are:

- (1) Eastern Oregon Region Boundary: All land east of the summit of the Oregon Cascade Range as described by the following boundary: Beginning at a point on the Columbia River near the junction of Interstate 84 and State Highway 35, thence southerly along State Highway 35 to the north line of Section 5, T2S-R10E; thence east to the NE corner Section 5; thence southeasterly approximately 1.5 miles to a point of intersection with Forest Road No. 1720 in Section 9, T2S-R10E; thence easterly along said road and along Forest Road No. 44 to the east line of Section 12, T2S-R10E; thence southerly along the western boundaries of Wasco, Jefferson, Deschutes, and Klamath Counties to the southern boundary of Oregon.
- (2) Northwest Oregon Region Boundary: All land west of the summit of the Oregon Cascade range as described in the Eastern Oregon Region Boundary, north of the south boundary of Lane County.
- (3) Southwest Oregon Region Boundary: All land west of the summit of the Cascade Range as described in the Eastern Oregon Region Boundary; south of the south boundary of Lane County.

629-605-0170

Written Plans

- (1) Definition of “Directly Affect” and “Physical Components” For the purpose of section (4) of this rule:
 - (a) “Physical components” means materials such as, but not limited to, vegetation, snags, rocks and soil; and
 - (b) “Directly affect” means that physical components will be moved, disturbed, or otherwise altered by the operation.
- (2) Statutory Written Plans for Operations near Type F, Type SSBT and Type D Streams. An operator must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting an operation that requires notification under OAR 629-605-0140, and that is within 100 feet of a Type F, Type SSBT or Type D stream.
- (3) Statutory Written Plans for Operations near Wetlands larger than Eight Acres, Bogs or Important Springs in Eastern Oregon. An operator must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting an operation that requires notification under OAR 629-605-0140, and that is within 100 feet of a significant wetland that is a wetland larger than eight acres (not an estuary), a bog, or an important spring in Eastern Oregon as identified in 629-645-0000 (Riparian Management Areas and Protection Measures for Significant Wetlands).

- (4) Waiver of Statutory Written Plans. The State Forester may waive, in writing, the requirement for a written plan described in sections (2) and (3) unless the operation activity will directly affect the physical components of the riparian management area for Type F, Type SSBT, Type D streams or significant wetlands. The department shall publish Forest Practices Technical Guidance to explain how to implement this rule.
- (5) Statutory Written Plans for Operations near Wildlife Sites and Estuaries. An operator must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting an operation that requires notification under OAR 629-605-0140, and that is within 300 feet of any:
 - (a) Specific site involving threatened or endangered wildlife species, or sensitive bird nesting, roosting, or watering sites; as listed by approximate legal description, in a document published by the Department of Forestry titled "Cooperative Agreement Between the Board of Forestry and the Fish and Wildlife Commission, March 28, 1984."
 - (b) Resource site identified in OAR 629-665-0100 (Species Using Sensitive Bird Nesting, Roosting and Watering Sites), 629-665-0200 (Resource Sites Used By Threatened and Endangered Species).
 - (c) Significant wetland that is classified as an estuary identified in OAR 629-645-0000 (Riparian Management Areas and Protection Measures for Significant Wetlands).
 - (d) Nesting or roosting site of threatened or endangered species listed by the U.S. Fish and Wildlife Service or by the Oregon Fish and Wildlife Commission by administrative rule.
- (6) Statutory Written Plans and Stewardship Agreements. The written plan requirements in section (2), (3) and (5) of this rule do not apply to operations that will be conducted pursuant to a stewardship agreement entered into under ORS 541.973.
- (7) Statutory Written Plan Requirements and Notification of Protected Resource Sites. The State Forester shall notify the operator of the presence of any site listed in section (2), (3) or (5) of this rule at any time the State Forester determines the presence of those sites.
- (8) The State Forester shall notify the operator that a written plan is required if:
 - (a) The operation will be within 100 feet of any sites listed in sections (2) or (3) of this rule and the operation will directly affect the physical components of a riparian management area associated with any of those sites; or
 - (b) The operation will be within 300 feet of any site listed in section (5) of this rule.
- (9) Statutory Written Plan Hearing Provisions. Written plans required under sections (2), (3) or (5) of this rule shall be subject to the hearings provisions of ORS 527.700 (Appeals from orders of State Forester hearings procedure; stay of operation); and shall be subject to the provisions of 527.670(8) through (12) (Commencement of operations; when notice and written plan required; appeal of plan) prescribing certain waiting periods and procedures.
- (10) Non-Statutory Written Plans.
 - (a) An operator must submit a written plan as required by ORS 527.670(2) and the rules listed below unless the State Forester waives the written plan requirement. Written plans required by the rules listed below are not subject to the provisions of ORS 527.700(3) or ORS 527.670(10), (11) and (12).
 - (A) 629-605-0190(1) — Operating near or within sites that are listed in the "Cooperative Agreement Between the Board of Forestry and the Fish and Wildlife Commission, March 28, 1984" or sites designated by the State Forester;
 - (B) 629-605-0190(2) — Operating near or within habitat sites of any wildlife or aquatic species classified by the Department of Fish and Wildlife as threatened or endangered;
 - (C) 629-623-0700(1) — Conducting timber harvesting or road construction operations with intermediate or substantial downslope public safety risk;
 - (D) 629-623-0700(2) — Constructing a stream crossing fill over a debris torrent-prone stream with intermediate or substantial downslope public safety risk;
 - (E) 629-623-0700(3) — Locating a waste-fill area within a drainage containing debris torrent-prone streams with intermediate or substantial downslope public safety risk;

- (F) 629-630-0700(3)(d) Cable yarding across streams classified as medium or large Type Np;
 - (G) 629-630-0915(2) Harvesting timber where yarding will occur within stream adjacent failures identified upslope of the Type F or Type SSBT stream riparian management area.
 - (H) 629-630-0920(8) Harvesting timber where yarding will occur within stream adjacent failures identified upslope of the Type F or Type SSBT stream riparian management area.
 - (I) 629-650-0005 — Operating within 100 feet of a large lake;
 - (J) 629-665-0020(2) — Operating near a resource site requiring special protection; and
 - (K) 629-665-0210(1) — Operating near a Northern Spotted Owl resource site.
- (b) An operator must submit a written plan as required by ORS 527.670(2) and the rules listed below and the State Forester shall not waive the written plan requirement. Written plans required by the rules listed below are not subject to the provisions of ORS 527.700(3) or ORS 527.670(10), (11) and (12).
- (A) 629-625-0100(2)(a) — Activities creating risks identified in 629-625-0100(2)(a) outside of 100 feet of Type F, Type SSBT, Type D streams and Significant Wetlands or creating risks identified in 629-625-0100(2)(a) to other Waters of the State;
 - (B) 629-625-0100(2) — Conducting machine activity in Type N streams or lakes;
 - (C) 629-625-0100(2)(c) — Constructing roads in RMA of Type N streams or lakes;
 - (D) 629-625-0100(2)(d) — Constructing or reconstructing any crossings of Waters of the State excluding Type F, Type SSBT, or Type D streams or Significant Wetlands;
 - (E) 629-625-0100(2)(e) — Activities in a critical location outside of 100 feet of Type F, Type SSBT, Type D streams, or Significant Wetlands;
 - (F) 629-625-0100(4) — Placing woody debris or boulders in Type N stream channels for stream enhancement;
 - (G) 629-625-0320(1)(b)(B) — Constructing or reconstructing any water crossing with fill over 15 feet deep in any Type N stream, wetland that does not meet the definition of significant wetland, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, or canals;
 - (H) 629-625-0410(5) — Temporary placement of fill within the RMA of any Type N stream, wetland that does not meet the definition of Significant Wetland, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, or canals;
 - (I) 629-630-0905(4) — Harvesting timber in a unit that contains designated debris flow traversal areas;
 - (J) 629-630-0910(6) — Harvesting timber in a unit that contains designated sediment source areas and slope retention areas; and
 - (K) 629-630-0920(4) — Harvesting timber in a unit that contains designated debris flow traversal areas.
- (11) If an operator, timber owner or landowner is required to submit a written plan to the State Forester under section (10) of this rule:
- (a) The State Forester shall review the written plan and may provide comments to the person who submitted the written plan;
 - (b) Provided that notice has been given as required by ORS 527.670 and OAR 629-605-0150, the operation may commence on the date the State Forester provides comments. If no comments are provided the operation may commence at any time after 14 calendar days following the date the written plan was received;
 - (c) Comments provided by the State Forester under subsection (a) of this section, to the person who submitted the written plan are for the sole purpose of providing advice to the operator, timber owner or landowner regarding whether the operation described in the

written plan is likely to comply with ORS 527.610 to 527.770 and rules adopted thereunder. Comments provided by the State Forester do not constitute an approval of the written plan or operation;

- (d) If the State Forester does not comment on a written plan, the failure to comment does not mean an operation carried out in conformance with the written plan complies with ORS 527.610 to 527.770 or rules adopted thereunder nor does the failure to comment constitute a rejection of the written plan or operation;
 - (e) In the event that the State Forester determines that an enforcement action may be appropriate concerning the compliance of a particular operation with ORS 527.610 to 527.770 or rules adopted thereunder, the State Forester shall consider, but is not bound by, comments that the State Forester provided under this section.
- (12) **Written Plan Content.** Written plans required under OAR 629-605-0170 must contain a description of how the operation is planned to be conducted in sufficient detail to allow the State Forester to evaluate and comment on the likelihood that the operation will comply with the Forest Practices Act or administrative rules.
- (13) Written plans required under OAR 629-605-0170 will be considered received when complete with the following information:
- (a) A map showing protected resource(s) and the harvest area; and
 - (b) The specific resource(s) that require protection; and
 - (c) The practices that may affect the protected resource(s) such as road and landing location, disposal of waste materials, felling and bucking and post operation stabilization measures; and
 - (d) The specific techniques and methods employed for resource protection such as road and landing design, road construction techniques, drainage systems, buffer strips, yarding system and layout; and
 - (e) Additional written plan content required in individual rules.
- (14) In addition to the other requirements in this rule, written plans for operations within 100 feet of domestic water use portions of Type F, Type SSBT or Type D streams must contain a description of the practices and methods that will be used to prevent sediment from entering waters of the state.
- (15) Modification of a written plan shall be required when, based on information that was not available or was unknown at the time the original written plan was reviewed, the State Forester determines the written plan no longer addresses compliance with applicable forest practice rules. Written plans with modifications required under this section shall not be subject to the provisions of ORS 527.670(10) and (11) relating to waiting periods for written plans.

629-605-0173

Plans for an Alternate Practice

- (1) Operators must obtain written approval of a plan for an alternate practice from the State Forester before conducting forest practices utilizing protection standards or methods different than those specified in rule or statute.
- (2) Plans for an alternate practice must include sufficient information to allow the State Forester to assess the plan to determine that the practices described in the plan will yield results consistent with ORS 527.610 to 527.770 and administrative rules adopted thereunder.
- (3) Plans for alternate practices proposed as part of a written plan required by ORS 527.670(3) shall be subject to the hearings provisions of 527.700(3) (Appeals from orders of State Forester hearings procedure; stay of operation); and shall be subject to the provisions of 527.670(10), (11) and (12) (Commencement of operations; when notice and written plan required; appeal of plan) prescribing certain waiting periods and procedures.
- (4) An operator must comply with all provisions of an approved plan for an alternate practice.
- (5) The following rules require an operator to submit a plan for an alternate practice and obtain approval from the State Forester of the plan before starting the specified practice or operation:

- (a) 629-605-0100(2)(a) — Waiving or modifying the rules or statutes for a bona fide research project conducted by a federal or state agency, a college or university, or a private landowner;
- (b) 629-605-0100(2)(b) — Waiving or modifying a specific practice when doing so will result in less environmental damage than if the practice is applied;
- (c) 629-605-0100(2)(c) — Waiving or modifying a specific practice when doing so will improve soil, water quality, fish habitat, or wildlife habitat;
- (d) 629-605-0100(2)(d) — Waiving or modifying rules to provide for public safety or to accomplish a land use change;
- (e) 629-605-0100(4) — Waiving or modifying rules for resource sites when a county has an adopted program under OAR 660-016-0005 and OAR 660-016-0010 that has evaluated the resource sites;
- (f) 629-605-0173(1) — Conducting forest practices utilizing protection standards or methods different than those specified in rule or statute;
- (g) 629-605-0175(2) — Conducting operations that result in a single harvest type 3 unit, or combinations of harvest type 3 units, that exceed the contiguous 120 acre limit on a single ownership;
- (h) 629-605-0175(7) — Waiving the harvest type 3 acreage limitations for conversions or disasters described in ORS 527.740(4);
- (i) 629-605-0180(3) — Describing reasonable measures to resolve conflicts between an operation and protection of a resource site requiring a written plan under OAR 629-605-0170(5)(a) or (d);
- (j) 629-605-0500 — Modifying the protection requirements for streams, lakes, wetlands and riparian management areas for reasons of forest health or because of hazards to public safety or property;
- (k) 629-610-0020(3) — Waiving or modifying the reforestation requirements following a stand improvement operation where the residual stand conditions will result in enhanced long-term tree growth;
- (l) 629-610-0020(10) — Modifying or waiving reforestation stocking levels if the purposes of the reforestation rules will be achieved or for a research project conducted by a public agency or educational institution;
- (m) 629-610-0030(3) — Utilizing natural reforestation methods when an operation results in a reforestation requirement;
- (n) 629-610-0040(3) — Extending the time allowed for reforestation when natural reforestation methods are utilized;
- (o) 629-610-0050(2) — Counting hardwoods to meet more than 20% of the applicable stocking standards when an operation results in a reforestation requirement;
- (p) 629-610-0060(1) — Counting non-native tree species to meet the applicable stocking standards when an operation results in a reforestation requirement;
- (q) 629-610-0070(1) — Suspending the reforestation rules for the salvage or conversion of low value forest stands when participating in a forest incentive program;
- (r) 629-610-0090(1) — Exempting the reforestation requirements for the purpose of developing forestland for a use that is not compatible with the maintenance of forest tree cover;
- (s) 629-610-0100(5) — Waiving or modifying the reforestation requirements for the purposes of establishing a wildlife food plot.
- (t) 629-615-0300(5) — Modifying the protection requirements for riparian areas, aquatic areas and wetlands when the need for prescribed burning outweighs the benefits of protecting components required to be left;
- (u) 629-620-0400(7)(d) — Modifying the protection requirements for aerial application of fungicides or nonbiological insecticides;
- (v) 629-625-0320(3) — Modifying the culvert sizing requirements of 629-625-320(2)(a) to reduce the height of fills where roads cross wide flood plains;

- (w) 629-643-0100(8) — Modifying the vegetation retention requirements in the riparian management area along Type F and Type SSBT streams in Western Oregon to allow the removal of trees upslope of roads which pose a safety hazard;
- (x) 629-643-0105(10) — Modifying the vegetation retention requirements in the riparian management area along Type N streams in Western Oregon to allow the removal of trees upslope of roads which pose a safety hazard;
- (y) 629-643-0120(8) — Modifying the vegetation retention requirements in the riparian management area along Type F and Type SSBT streams in Eastern Oregon to allow the removal trees upslope of roads which pose a safety hazard;
- (z) 629-643-0125(8) — Modifying the vegetation retention requirements in the riparian management are along Type N streams in Eastern Oregon to allow the removal of trees upslope of roads which pose a safety hazard;
- (aa) 629-643-0400(1) — Utilizing site specific vegetation retention prescriptions for streams and riparian management areas;
- (bb) 629-645-0020(1) — Utilizing site specific vegetation retention prescriptions for significant wetlands;
- (cc) 629-645-0050(3) — Modifying the vegetation retention requirements for significant wetlands for reasons of forest health;
- (dd) 629-650-0040(3) — Modifying the vegetation retention requirements for lakes for reasons of forest health;
- (ee) 629-665-0020(1)(b)(C) — Structural or temporal exceptions when proposed forest practices conflict with a resource site;
- (ff) 629-665-0110(3) — Structural replacement of an osprey site;
- (gg) 629-665-0110(4) — Temporal exceptions near an osprey site;
- (hh) 629-665-0120(3) — Structural exceptions of a great blue heron site;
- (ii) 629-665-0120(5) — Temporal exceptions near a great blue heron site.

629-605-0175

Harvest Type 3 Units Exceeding 120 Acres

- (1) The purpose of this rule is to describe the process that operators shall follow to gain approval of a plan for an alternate practice for a harvest type 3 unit that is between 120 and 240 acres in size.
- (2) Operators must obtain written approval of a plan for an alternate practice from the State Forester before conducting operations that result in a single harvest type 3 unit, or combinations of harvest type 3 units, that exceed the contiguous 120 acre limit on a single ownership.
- (3) For each unit on which a harvest type 3 is proposed to exceed the contiguous 120 acre limit, the plan for an alternate practice shall:
 - (a) Describe the planned harvest including, but not limited to, the elements of a written plan listed in OAR 629-605-0170;
 - (b) Include a detailed map of the planned harvest that shows the specific unit boundaries; and
 - (c) Demonstrate that the larger harvest size will result in increased protection of, or reduced adverse impact on, any or all of the resources and values protected by the Oregon Forest Practices Act. For the purposes of this rule, resources and values includes:
 - (A) Air quality, water resources, soil productivity, and fish and wildlife resources as described in ORS 527.710(2);
 - (B) The resource sites needing protection as listed in ORS 527.710(3);
 - (C) Scenic resources within visually sensitive corridors as provided in ORS 527.755; and
 - (D) Public safety related to landslides.
- (4) The State Forester shall review the operator's compliance with the Oregon Forest Practices Act and deny approval of the plan for an alternate practice submitted under this rule when the operator has:
 - (a) Received citations for violating a forest practice rule or statute within the past year; or
 - (b) Failed to comply with an order to cease further violation, an order to repair damage, or an order to correct an unsatisfactory condition under ORS 527.680(2).

- (5) Plans for an alternate practice submitted under this rule shall not be subject to appeal under ORS 527.700(3).
- (6) Single harvest type 3 units or combinations of harvest type 3 units may not exceed 240 contiguous acres on a single ownership, except when the units have been reforested as described in ORS 527.750(1)(a), (b) and (c).
- (7) The harvest type 3 acreage limitations do not apply for conversions or disasters described in ORS 527.740(4) when the operator obtains approval from the State Forester of a plan for an alternate practice before conducting operations.

629-605-0180

Interim Process for Protecting Sensitive Resource Sites Requiring Written Plans

Protection practices for sites requiring written plans under OAR 629-605-0170(5)(a) or (d) shall be determined for each site as follows:

- (1) The State Forester shall notify the operator and landowner of the presence of a site requiring a written plan, and request their input into the decision making process.
- (2) The State Forester shall, when practical, inspect the proposed operation with the landowner or landowner's representative, the operator, and the appropriate representative of the Department of Fish and Wildlife. The State Forester shall then determine if the proposed forest practice is in conflict with the protection of the sensitive resource site.
- (3) If planned forest practices are determined to conflict with protection of the sensitive resource site, the written plan must describe reasonable measures sufficient to resolve the conflict in favor of the resource site. Reasonable measures to resolve the conflict in favor of the resource site may include but are not limited to preparing and implementing a habitat management plan, obtaining approval of a plan for an alternate practice, limiting the timing of forest practices, redesigning the proposed practices in favor of site protection and excluding the forest activities outright.
- (4) If planned forest practices are determined not to conflict with protection of the sensitive resource site, the written plan shall describe how the operation will be conducted in compliance with existing forest practice rules. No additional protection measures shall be required.

629-605-0190

Written Plans for Operations Near Critical, Threatened, or Endangered Wildlife Habitat Sites

Operators must submit a written plan to the State Forester before operating near or within:

- (1) Critical wildlife or aquatic habitat sites that are listed in a 1984 cooperative agreement between the Board of Forestry and the Fish and Wildlife Commission or sites designated by the State Forester; or
- (2) Habitat sites of any wildlife or aquatic species classified by the Department of Fish and Wildlife as threatened or endangered.

629-605-0200

Compliance with Statutory Requirements

- (1) In addition to all other requirements of administrative rule promulgated under the Forest Practices Act, operators, landowners and timber owners who conduct forest operations shall comply with the requirements in:
 - (a) ORS 527.740 (Harvest type 3 unit limitations);
 - (b) ORS 527.750 (Exceeding harvest type 3 size limitations);
 - (c) ORS 527.755 (Scenic highways and visually sensitive corridors); and
 - (d) ORS 527.676 (Live and dead wood retention in harvest type 2 and 3 units greater than 25 acres).
- (2) Failure to comply with requirements in section (1) of this rule may be subject to any of the enforcement mechanisms provided in the Oregon Forest Practices Act under ORS 527.680, 527.690, 527.990 or 527.992.

629-605-0210

Harvest Type 3 Units within Single Ownerships

- (1) For the purposes of ORS 527.740 and this rule, "single ownership" as defined in 527.620, shall be interpreted broadly to prohibit manipulation of ownership entities or property transfers intended to avoid the provisions of 527.740, restricting the size of harvest type 3 units, as defined by 527.620. "Single ownership" shall not be interpreted to restrict lawful operations on bona fide separate ownerships.
- (2) Nothing in ORS 527.740 is intended to restrict the location of a harvest type 3 unit or harvest type 3 unit acreage of one landowner based on the harvest type 3 unit of a wholly separate ownership.

629-605-0220

Judicial Determinations of Rule Validity

It is the intent of the Board that if any section of a rule is declared invalid or is remanded by the Court of Appeals under ORS 183.400, the remaining sections of the rule will remain valid.

629-605-0400

Forest Activity Safety

Compliance with worker safety regulations is essential for ensuring the safety of operators and their employees. Regulation of forest practices must be achieved in a manner which allows operators to comply with applicable federal and state safety requirements. In administering the forest practice rules to meet the resource protection goals, especially requirements related to working near snags, residual green trees and unstable material, the State Forester shall use appropriate discretion.

629-605-0500

Modification of Requirements for Forest Health and Public Safety

Protection requirements for streams, lakes, wetlands and riparian management areas may be modified by approval of a plan for an alternate practice by the State Forester for reasons of forest health or because of hazards to public safety or property. Hazards to public safety or property include hazards to river navigation and hazards to improvements such as roads, bridges, culverts, or buildings. Forest health concerns include fire, insect infestations, disease epidemics, or other catastrophic events not otherwise addressed in OAR 629-643-0300. Such modifications of protection requirements should prevent, reduce or alleviate the forest health conflict or hazard while meeting the intent of the protection goals as much as possible.

Division 607

SMALL FORESTLAND OWNER

629-607-0000

Purpose and Goals

- (1) OAR 629-607-0000 through 629-607-0800 shall be known as the small forestland owner rules.
- (2) Small forestland owners play a vital and distinct role from industrial forestland owners to manage and conserve Oregon's private forests. Small forestland owners often differ from large owners as to management goals and financial resources, and they also own a disproportionate share of lowland fish and wildlife habitat.
- (3) Goals for this division include helping small forestland owners:
 - (a) Comply with the Forest Practices Act and rules;
 - (b) Meet the biological goals and objectives for aquatic resources;
 - (c) Practice standard harvest and road management rules;
 - (d) Implement minimum options;
 - (e) Use the forest conservation tax credit;
 - (f) Seek funding under the Small Forestland Investment in Stream Habitat program;
 - (g) Minimize the number of land-use conversions of timberlands to other uses; and
 - (h) Receive financial and educational support to encourage small forestland owners to follow the standard harvest and road management rules.
- (4) The State Forester shall create a Small Forestland Owner Assistance Office, pursuant to section 19, chapter 33, Oregon Laws 2022. This office shall:
 - (a) Provide supporting services, including but not limited to:
 - (A) Verify landowner eligibility;
 - (B) Education, training, and outreach;
 - (C) Help small forestland owners with road condition assessments in OAR 629-625-0920 and written plans under ORS 527.670(10) and OAR 629-605-0170;
 - (D) Tracking, recording, reporting, and monitoring; and
 - (E) Regulatory and technical assistance.
 - (b) Manage the Small Forestland Investment in Stream Habitat Program Fund;
 - (c) Manage the forest conservation tax credit as described in OAR 629-607-0400 through OAR 629-607-0800;
 - (d) Manage fifth-field watershed calculations, and communicate status, limits, and availability over a one-year planning period (OAR 629-643-0140(4)); and
 - (e) Coordinate outreach efforts with agencies and partner organizations, including the Partnership for Forestry Education, to inform small forestland owners on the Small Forestland Investment in Stream Habitat Program, road condition assessments, the forest conservation tax credit, and other programs administered by the Small Forestland Owner Assistance Office.

629-607-0100

Small Forestland Owner Alternatives

- (1) Forest practice rules apply to small forestland owners, unless addressed directly or by reference in the rules.
- (2) Resource protection standards may have a disproportionate economic or operational impact on small forestland owner parcels or highly encumber harvest operations. The State Forester shall provide:
 - (a) Small forestland owner minimum options:
 - (A) Along riparian management areas as described in OAR 629-643-0140, 629-643-0141, 629-643-0142, 629-643-0143, and 629-643-0145;
 - (B) Along fish streams with stream adjacent failures as described in OAR 629-630-0920;
 - (C) Near seeps or springs as described in OAR 629-643-0145; and

- (D) On steep slopes with designated debris flow traversal areas as described in OAR 629-630-0920;
- (b) An exemption from the requirements of the Forest Road Inventory and Assessment program as described in OAR 629-625-0920; and
- (c) Plans for alternate practice as allowed under OAR 629-605-0173.
- (3) For small forestland owner parcels that are significantly disproportionately impacted as defined in 629-600-0100, the State Forester shall:
 - (a) Exempt the small forestland owner from the watershed cap described in OAR 629-643-0140; and
 - (b) Allow the small forestland owner to count all trees retained in the riparian management areas described in OARs 629-643-0141, 629-643-0142 and 629-643-0143, towards the wildlife leave tree retention requirements described in ORS 527.676.

629-607-0200

Program Participation

- (1) Small forestland owners intending to implement minimum options as described in OAR 629-607-0100, exclusively available to small forestland owners, shall do the following:
 - (a) Notify the State Forester of intent by submitting a notification of operations and certify that they meet the definition of a small forestland owner in OAR 629-600-0100.
 - (b) Provide, at the request of the State Forester, additional information including but not limited to:
 - (A) Documentation of full land ownership or partial ownership, which affirms total ownership of forestland of less than 5,000 acres in Oregon;
 - (B) Records of harvests of board feet of merchantable forest products harvested from the Oregon owned forestlands removed in the last three years; and
 - (C) A statement of affirmation that the landowner does not expect to exceed an average yearly volume of 2 million board feet of merchantable forest products from the Oregon owned lands for the next 10 years, following the time of notification.
 - (c) At the discretion of the State Forester, the department may deem a landowner to qualify as a small forestland owner and allow that landowner access to options and incentives of the program even if they have an exceedance of harvest volumes in (1)(b)(B) or (1)(b)(C), if the small forest landowner provides documentation of a need for the funds to:
 - (A) Pay estate taxes;
 - (B) Pay for a court ordered judgment;
 - (C) Pay extraordinary medical expenses; or
 - (D) For a compelling or unexpected obligation.
- (2) Small forestland owners wishing to access the incentives or minimum management options specifically afforded to them may register as a small forestland owner or complete a road condition assessment (OAR 629-625-0920) at any time prior to conducting a forest operation and may do so through the notification process or through other means as provided by the department.
- (3) If a small forestland owner indicates intent to exercise a standard practice in lieu of the small forestland owner minimum option, they must receive notice from the department within the 15-day waiting period if the tax credit is not available in the current tax year.
- (4) Small forestland owners that implement provisions specifically afforded to them as minimum management options or participate in an incentive program administered by the Small Forestland Owner Assistance Office, shall allow access to the department, or extension of the department, for project implementation inspections, rule compliance, and effectiveness monitoring.

629-607-0250

Notification Requirements

- (1) Small forestland owners as defined in OAR 629-600-0100 shall submit:
 - (a) A notification of operation not less than 15 days prior to the expected start date of the operation; and

- (b) Include other required information not less than 15 days prior to the expected start date of the operation as otherwise required in OAR 629-605-0150.
- (2) If the State Forester requests additional documentation, the small forestland owner shall provide the requested information for review before the notification will be considered complete.
- (3) At the time of notification, small forestland owners conducting operations around or adjacent to protected streams and associated riparian management areas shall indicate their intention of implementing:
 - (a) The standard practice;
 - (b) The small forestland owner minimum option;
 - (c) The forest conservation tax credit option; or
 - (d) An option exclusively available for significantly disproportionately impacted parcels as described in OAR 629-607-0100.
- (4) Small forestland owners exercising a small forestland owner minimum option shall submit a written plan with the notification consistent with the requirements in OAR 629-605-0170, and which also includes the following information:
 - (a) Classification of the applicable stream;
 - (b) Accounts for the horizontal lineal feet of riparian area adjacent to, or inside the operation area; and
 - (c) Specifies as to whether the riparian measurements given are for one or both sides of the riparian management area.
- (5) Small forestland owners shall submit a road condition assessment when filing a notification, in lieu of the forest road inventory and assessment (OAR 629-625-0920), for operations that result in using a road to haul timber. The road condition assessment shall include all roads in the parcel, defined in OAR 629-600-0100, where the harvest is planned. Notifications for operations not resulting in timber hauling do not require a road condition assessment to be completed.
- (6) Small forestland owners intending to exercise an option exclusively available for significantly disproportionately impacted parcels, as described in OAR 629-607-0100, must submit for approval a Forest Management Plan demonstrating the parcel is “significantly disproportionately impacted” as defined in OAR 629-600-0100.
- (7) The State Forester must review the small forestland owner notification during the 15-day waiting period. The department will provide notice to the small forestland owner if:
 - (a) Additional information is required from the small forestland owner;
 - (b) The small forestland owner preferred minimum option is not available; or
 - (c) There are protected resources present or other considerations to ensure compliance.
- (8) Upon completion of an operation, a small forestland owner shall provide notice and reportable details consistent with requirements in OAR 629-605-0150. Notification to State Forester - When, Where and How; OAR 629-605-0170 Statutory Written Plans; OAR 629-605-0140 Notification to the State Forester - Types of Operation. If a small forestland owner conducts a timber harvest under the provisions of OAR 629-643-0140(4) Small Forestland Owner Minimum Option Vegetation Retention Prescription Requirements, they must report to the State Forester within 90 days.

629-607-0300

Small Forestland Investment in Stream Habitat Program

- (1) The department shall establish the Small Forestland Investment in Stream Habitat (SFISH) Program Fund as a grant program to fund projects on small forestland owner lands. The Small Forestland Owner Assistance Office shall manage the SFISH Program in consultation with the Department of Fish and Wildlife.
- (2) The SFISH Program shall make funding available to qualified small forestland owners for the purposes of improving fish habitat on their forestlands for the following projects:
 - (a) Replace fish stream water crossing structures, not bridges, mostly culverts that are no longer functioning, or still functioning but not designed consistent with requirements of OAR 629-625-0320;
 - (b) Repair abandoned roads; or

- (c) Reconstruct, vacate, or relocate roads with a perched fill that present a significant hazard to fish-bearing streams. Not more than 10 percent of available SFISH funds may be used for perched fill remediation projects in any year.
- (3) To be eligible for the SFISH Program, in addition to a landowner meeting the definition of a small forestland owner in OAR 629-600-0100, the small forestland owner must provide the following information:
 - (a) Documentation showing that no more than an average yearly volume of two million board feet of merchantable forest products has been harvested from the landowner's forestland in the state of Oregon when averaged over a three-year period prior to the date the Small Forestland Owner Assistance Office receives the grant application;
 - (b) A statement of affirmation to the Small Forestland Owner Assistance Office that the landowner does not expect to exceed an average yearly volume of two million board feet of merchantable forest products to be harvested from the landowner's forestland in Oregon during the 10 years following the date the Small Forestland Owner Assistance Office awards grant-funds, and
 - (c) A road condition assessment containing the information detailed in OAR 629-625-0920, that includes an assessment of all roads, abandoned roads, culverts, and fish passage barriers located on the parcel of land, as defined in OAR 629-600-0100, on which a grant-funded SFISH project may occur.
- (4) The SFISH Program shall optimize state funding by prioritizing funding for site locations determined to have a high conservation value. Examples of high conservation value sites will include but are not limited to:
 - (a) Areas of known chronic sedimentation;
 - (b) Fish passage barriers;
 - (c) Stream diversions, or sites with a high diversion potential;
 - (d) Areas of known hydrologic connectivity; or
 - (e) Roads with a perched fill posing a significant hazard to fish-bearing streams.
- (5) The SFISH Program will consider the greatest resource benefit, and prioritize funding projects which best address the following:
 - (a) Removal of fish passage barriers consistent with Department of Fish and Wildlife requirements under ORS 509.585 and OAR 635-412-0015, as implemented through the forest practice rules;
 - (b) Minimize the potential for sediment delivery to waters of the state;
 - (c) Minimize stream diversions at water crossings;
 - (d) Minimize hydrologic connectivity between roads and waters of the state;
 - (e) Remove perched fill that presents a significant hazard to fish-bearing streams through reconstruction, relocation, or vacating; or
 - (f) Length of time that the grant has been submitted and under consideration for funding; or
 - (g) Meet high-value conservation objectives as determined by the department in consultation with other state and federal agencies.
- (6) The Small Forestland Owner Assistance Office in coordination with the Department of Fish and Wildlife, will prioritize funding for the following projects on high conservation value sites:
 - (a) Water crossing structure, not bridge, mostly culvert replacements on fish streams;
 - (b) Repair of abandoned roads; and
 - (c) Perched fills that present a significant hazard to fish-bearing streams.
- (7) The small forestland owner will collaborate with the Small Forestland Owner Assistance Office on projects approved for SFISH funding to determine project details, which include but are not limited to specifications, timing, efficiencies, involvement, and other factors as necessary. The small forestland owner and the Small Forestland Owner Assistance Office will work together and mutually agree on the most efficient and effective way to complete projects.

629-607-0400

Forest Conservation Tax Credit – Process for Determining Eligibility

- (1) To be eligible to apply for a forest conservation tax credit, a small forestland owner shall:

- (a) Certify that they meet the definition and criteria of a small forestland owner as described in OAR 629-600-0100 and the criteria for this tax credit under chapter 34, section (2), Oregon Laws 2022. The State Forester may require additional information for program participation as outlined in OAR 629-607-0200(1)(b).
 - (b) Submit a notification of operation for a timber harvest type 1, type 2, or type 3 to the State Forester as required by ORS 527.670(6) to harvest timber adjacent to riparian areas, as described in OAR 629-643-0100 through 629-643-0135. The harvest area must be greater than or equal to the portion of area the small forestland owner elects not to harvest.
 - (c) Elect to follow the standard practice vegetation retention requirements as described in OAR 629-643-0100 through 629-643-0135.
 - (d) Indicate at the time of submitting the notification of operation the intent to apply for a forest conservation tax credit.
- (2) After filing the notification of operation, but no later than three months after completing the timber harvest, the small forestland owner shall submit documentation of the stumpage values and costs of appraisal to the Small Forestland Owner Assistance Office.
 - (3) After receiving the notification of operation, documentation of stumpage values and costs associated with appraisal, and filing a deed restriction from the small forestland owner, the Small Forestland Owner Assistance Office shall evaluate and approve the stumpage value or request additional documentation as needed. Once stumpage values are approved, the office shall issue a certificate of eligibility to both the small forestland owner and the Department of Revenue.
 - (4) After receiving certification, a small forestland owner shall sign and record the deed restriction, in the county where the eligible forest conservation area is located, which prohibits the owner and the owner's successors in interest from conducting a harvest or otherwise removing trees within the forest conservation area.
 - (5) If the small forestland owner is taxed as a trust, partnership, or S corporation, the entity can distribute the forest conservation tax credit to owners or beneficiaries, as allowed by law.
 - (6) A nonresident small forestland owner shall follow the same process as a resident of this state for obtaining eligibility for the forest conservation tax credit.
 - (7) Type 4 harvests are not eligible to claim a forest conservation tax credit.
 - (8) In addition to all other requirements of administrative rule promulgated under the Forest Practices Act, small forestland owners shall comply with the requirements under chapter 34, Oregon Laws 2022.
 - (9) If a future legislature cancels the forest conservation tax credit, the State Forester will remove all restrictions on using the small forestland owner minimum option within a fifth field watershed for riparian areas where a credit has not been issued, though the department will continue to track the frequency of harvests under the small forestland owner minimum option. If a future legislature reinstates the forest conservation tax credit, the State Forester will renew the system.

629-607-0450

Forest Conservation Tax Credit Area

- (1) The width of the forest conservation area is the difference between the outermost edge of the standard practice width as described in OAR 629-643-0100 through 629-643-0135 and the outermost edge of the small forestland owner minimum option width as described in OAR 629-643-0141 through 629-643-0142. The length of the forest conservation tax credit area is the length of frontage that follows the same lengths as the standard practice option requirements as defined in OAR 629-643-0100 through 629-643-0135.
- (2) A small forestland owner may apply for a forest conservation tax credit for an amount that is one half of the stumpage value left between the inside edge of the small forestland owner minimum option and the edge of dry stream channel areas required to be retained for Small Type Np tributaries to Type F or Type SSBT streams as described in OAR 629-643-0105, 629-643-0125, and 629-643-0130. To be eligible for the forest conservation tax credit, the small forestland owner shall field survey the stream and have 100 feet or more of surveyed dry channel between two flow features downstream of the RH max.

- (3) Once a forest conservation tax credit has been issued for a riparian management area, the small forestland owner and any future owners must adopt the standard practice in that riparian management area for a period of 50 years from the date the certification was issued.
- (4) Landowners shall not remove trees within a forest conservation area except for incidental tree removal, personal use (e.g., provision of firewood), and public safety purposes consistent with the purposes for which the tax credit has been granted under chapter 34, Oregon Laws 2022. Small forestland owners should consult with the Small Forestland Owner Assistance Office prior to removing trees from the forest conservation area.

629-607-0500

Forest Conservation Tax Credit – Stumpage Value Certification

- (1) For the purposes of this rule only, "professional forester" means a person that is engaged in the business of appraising or valuing timber or forestland as described in ORS 674.100.
- (2) To determine the value of the tax credit, the small forestland owner shall use one of the following methods using standard measuring techniques of professional foresters:
 - (a) Conversion return method;
 - (b) Actual comparison method; or,
 - (c) Cash flow modeling method.
- (3) Small forestland owners shall submit documentation for the conversion method or actual comparison method to the Small Forestland Owners Assistance Office to be eligible for the forest conservation tax credit that includes all the following:
 - (a) The cruising measurements of merchantable volume of timber by:
 - (A) Tree species; and,
 - (B) Log grades (based on size and log quality).
 - (b) The value of logs, by species and grade, delivered to a milling operation, shown by:
 - (A) A statement from a milling operation with their current payout for delivered logs by species and grade;
 - (B) Log value summaries prepared by professional organizations; or,
 - (C) Other commonly accepted methods of determining log values.
 - (c) The costs of delivery, determined by either:
 - (A) Estimated cost of all activities required to harvest trees and deliver them to a milling operation. Costs may include activities such as timber falling, yarding, and transportation to a mill, and other miscellaneous costs such as a harvest tax; or,
 - (B) Actual costs per MBF associated with adjacent harvested area when the timber in the forest conservation area is similar to the timber harvested.
 - (d) Stumpage values equal to the total delivered log values less than the costs associated with delivery.
 - (e) Verification of any appraisal costs to determine stumpage value.
 - (f) Other documentation as requested by the Small Forestland Owner Assistance Office to verify calculations and values.
- (4) Small forestland owners shall submit documentation for the cash flow modeling method to the Small Forestland Owners Assistance Office to be eligible for the forest conservation tax credit to include the following:
 - (a) For pre-merchantable stands: age of stand, site index, species, trees per acre, harvest rotation age, estimated harvest costs, and a timber appraisal which includes cruise information and sampling methodology, growth and yield value used; log pond values, and value determination methodology;
 - (b) For merchantable stands:
 - (A) Merchantable volume of timber by grade, sort, and species; and,
 - (B) Log Pond values, by species and grade, delivered to a milling operation, as shown by:
 - (i) A statement from a milling operation with their current payout for delivered logs by species and grade;

- (ii) Log value summaries (mill pond value queries) prepared by professional organizations; or,
 - (iii) Other commonly accepted methods of determining log values.
 - (C) Estimated harvest costs.
 - (c) Verification of any appraisal costs to determine cash flow modeling values; and,
 - (d) Other documentation as requested by the Small Forestland Owner Assistance Office to verify calculations and values.
- (5) After receiving the documentation of stumpage values, the Small Forestland Owner Assistance Office shall review and request additional information, if necessary.
- (6) The Small Forestland Owner Assistance Office shall certify the amount of the forest conservation tax credit and provide the small forestland owner with an eligibility certificate.

629-607-0600

Forest Conservation Tax Credit - Transfer to Heirs

- (1) Upon the death of a small forestland owner who has been granted a forest conservation tax credit and where there is a credit balance remaining, the executor of the small forestland owner's estate shall provide notarized written notice to the Small Forest Owner Assistance Office informing the office that the remaining forest conservation tax credit shall be transferred to heirs or devisees of the small forestland owner. At a minimum, the written notice must include all the following:
- (a) Full legal name of the small forestland owner to which the certificate of the forest conservation tax credit was originally issued;
 - (b) Full legal name of heir(s) and or devisee(s) eligible to receive the remaining forest conservation tax credit;
 - (c) Percentage(s) amount of forest conservation tax credit remaining to be divided amongst each listed heir and or devisee;
 - (d) An attestation that no harvesting has occurred within the original certified forest conservation area.
- (2) The executor of the small forestland owner's estate may be required to provide additional documentation to the Department of Revenue (e.g., a probate judgement or additional tax identification information), for verification and forest conservation tax credit tracking.
- (3) After receiving and reviewing documentation provided by the executor of the estate, the Small Forestland Owner Assistance Office shall provide heirs or devisees of the estate an amended certification. Heirs or devisees must provide documentation prescribed by the Department of Revenue to maintain the forest conservation tax credit.
- (4) If the small forestland owner, or the owner's estate heir or devisees, elects to conduct a timber harvest in the forest conservation area, or if the State Forester determines a harvest has occurred in violation of the deed restriction, the Small Forestland Owner Assistance Office shall revoke the certification and notify the Department of Revenue in a manner consistent with ORS 315.061.

629-607-0700

Forest Conservation Tax Credit – Deed Restriction

- (1) The Small Forestland Owner Assistance Office shall provide the small forestland owner with the appropriate deed restriction document for recording with the county where the eligible forest conservation area is located.
- (2) After filing the deed restriction, the small forestland owner shall submit documentation of the recording to the Small Forestland Owner Assistance Office.

629-607-0750

Forest Conservation Tax Credit – Deed Restriction Removal

- (1) If the small forestland owner, or their estate heirs or devisees, elect to conduct a timber harvest in the forest conservation area for which the forest conservation tax credit has been claimed or otherwise elects to remove the harvest restriction:
- (a) The small forestland owner shall notify the Small Forestland Owner Assistance Office in writing that they elect to have the forest conservation tax credit removed.

- (b) The small forestland owner shall repay the Department of Revenue any tax credit that has been deducted from their tax liability with interest from the due date of the original return(s) where the tax credit was taken and shall forfeit any unused tax credit. The repayment procedure and interest rate shall be prescribed by the Department of Revenue.
 - (c) The Small Forestland Owner Assistance Office shall provide the small forestland owner with form(s) to provide evidence that the tax credit has been repaid and to remove the deed restriction from the county records.
 - (d) The small forestland owner shall notify the Small Forestland Owner Assistance Office in writing and provide documentation that repayment to the Department of Revenue is complete.
 - (e) The Small Forestland Owner Assistance Office shall verify the original forest conservation area has not been harvested. After verification, the Small Forestland Assistance Office shall modify their records to reflect that there is no longer a restriction on that riparian management area and shall provide the small forestland owner with appropriate documentation to have the deed removed.
 - (f) The small forestland owner shall be responsible for providing the county with documentation to have the deed restriction removed and for any county recording fees.
- (2) If a subsequent small forestland owner wishes to conduct a timber harvest in the forest conservation area for which the forest conservation tax credit has been claimed or otherwise elects to remove the harvest restriction:
- (a) The subsequent small forestland owner shall notify the Small Forestland Owner Assistance Office in writing that they elect to have the forest conservation tax credit removed.
 - (b) The subsequent small forestland owner shall pay the Department of Revenue an amount equal to the full certified tax credit received by the previous owner with interest from the date of transfer of the title to the successor owner. The repayment procedure and interest rate shall be prescribed by the Department of Revenue.
 - (c) The Small Forestland Owner Assistance Office shall provide the small forestland owner with form(s) to provide evidence that the tax credit has been repaid and to remove the deed restriction from the county records.
 - (d) The small forestland owner shall notify the Small Forestland Owner Assistance Office in writing and provide sufficient documentation that the repayment to the Department of Revenue has been satisfied.
 - (e) The Small Forestland Assistance Office shall verify the original forest conservation area has not been harvested. After verification, the Small Forestland Assistance Office shall modify their records to reflect that there is no longer a restriction on that riparian management area and provide the small forestland owner with the appropriate documentation to have the deed restriction removed.
 - (f) The small forestland owner shall be responsible for providing the county with documentation to have the deed restriction removed and for any county recording fees.

629-607-0800

Forest Conservation Tax Credit – Appeal Rights

A small forestland owner who wishes to appeal a decision made by the State Forester regarding the forest conservation tax credit shall use the following procedure:

- (1) A small forestland owner shall notify the State Forester in writing that they disagree with the decision and explain why they disagree within 90 days of the determination; and
- (2) If there is an impasse with the State Forester, the person may write the Small Forestland Owner Assistance Office, within 30 days of the State Forester’s determination, requesting an appeal to the Board of Forestry stating the basis for the appeal. The appeal is filed when it is received in the Small Forestland Owner Assistance Office in accordance with ORS 527.700.

Division 610
FOREST PRACTICES REFORESTATION RULES

629-610-0000

Purpose

- (1) Timely reforestation of forestland is an essential factor in assuring continuous growing and harvesting of forest tree species, considering landowner objectives and consistent with the sound management of timber and other forest resources. Reforestation or other forms of revegetation are also important for the continued productivity and stabilization of soils exposed as a result of operations.
- (2) OAR 629-610-0000 through 629-610-0100 shall be known as the reforestation rules.
- (3) The purpose of the reforestation rules is to establish standards to ensure the timely replacement and maintenance of free to grow forest tree cover following forest operations at or above stocking levels that will use the tree growth potential of forestlands in Oregon.
- (4) The reforestation rules are designed to:
 - (a) Define forestland subject to reforestation requirements;
 - (b) Describe the conditions under which reforestation shall be required;
 - (c) Specify the minimum number of trees per acre;
 - (d) Specify the maximum time period allowed for establishment of such trees after an operation reduces stocking;
 - (e) Describe the acceptable species for reforestation;
 - (f) Describe the conditions under which revegetation shall be required in lieu of reforestation; and
 - (g) Specify the conditions under which an exemption from the reforestation requirements may be approved.
- (5) Except as described below, the reforestation rules shall become effective on January 1, 1995 and shall be applied as follows:
 - (a) Operations completed after January 1, 1995 must comply with the reforestation rules;
 - (b) Except as provided in subsection (c) operations completed before January 1, 1995 must comply with the applicable reforestation requirements of ORS 527.745 and OAR 629-024-0400 to 0404, 629-024-0500 to 0503, and 629-024-0600 to 0604 as they existed on September 6, 1994;
 - (c) Landowners subject to subsection (b) may request to have the reforestation rules apply to an operation at any time following January 1, 1995. The State Forester shall approve such requests so long as the landowner will fully apply the reforestation rules on the operation.

629-610-0010

Forestlands Suitable for Reforestation

- (1) Any forestland which is capable of annual wood production of at least 20 cubic feet per acre at culmination of mean annual increment (Cubic Foot Site Class VI or better) shall be subject to the requirements of the reforestation rules.
- (2) Potential site productivity is determined directly by tree growth and stocking measurements throughout the operation area or determined indirectly using applicable USDA Natural Resources Conservation Service soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue western Oregon site class maps, or other information determined by the State Forester to be of comparable quality.

629-610-0020

Reforestation Stocking Standards

- (1) The landowner shall increase tree stocking to a level that meets the applicable productivity-based stocking standards described in sections (4), (5) and (6) of this rule within the time limits established by OAR 629-610-0040 whenever post-operation free to grow tree stocking in all or a portion of the operation area is below the applicable stocking standards and:

- (a) Trees or snags of acceptable species are harvested; or
- (b) Free to grow tree stocking is reduced as a result of the operation.
- (2) Reforestation is not required on those portions of the operation area:
 - (a) Where adequate free to grow tree stocking remains after the completion of the operation;
 - (b) That are not disturbed by operation activities; or
 - (c) On soils or sites not meeting the minimum productivity requirements of OAR 629-610-0010.
- (3) The State Forester shall approve a plan for an alternate practice to waive or modify the reforestation requirements following a stand improvement operation such as a precommercial thinning, commercial thinning, overstory removal, or other partial cut harvest if the State Forester determines that the residual stand conditions after such an operation will result in enhanced long-term tree growth and there is a high probability the purpose of the reforestation rules will be achieved.
- (4) For Cubic Foot Site Class I, II and III forestlands (capable of producing at least 120 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
 - (a) 200 free to grow seedlings per acre; or
 - (b) 120 free to grow saplings and poles per acre; or
 - (c) 80 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or
 - (d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.
- (5) For Cubic Foot Site Class IV and V forestlands (capable of producing between 50 and 119 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
 - (a) 125 free to grow seedlings per acre; or
 - (b) 75 free to grow saplings and poles per acre; or
 - (c) 50 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or
 - (d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.
- (6) For Cubic Foot Site Class VI forestlands (capable of producing between 20 and 49 cubic feet per acre per year at culmination of mean annual increment), the minimum tree stocking standards are:
 - (a) 100 or more free to grow seedlings per acre; or
 - (b) 60 free to grow saplings and poles per acre; or
 - (c) 40 square feet of basal area per acre of free to grow trees 11-inches DBH and larger; or
 - (d) An equivalent combination of seedlings, saplings and poles, and larger trees as calculated in section (7) of this rule.
- (7) In both even-aged and uneven-aged stands, the stocking of residual seedlings, saplings and poles, and larger trees shall be weighted to determine stand stocking and potential reforestation requirements. For this purpose, seedlings, saplings and poles, and trees 11-inches DBH and larger are proportionally equivalent in the following ratios: 100 free to grow seedlings are equivalent to 60 free to grow saplings and poles, which are equivalent to 40 square feet of basal area of free to grow trees 11-inches DBH and larger.
- (8) Live conifer trees 11-inches DBH and larger left standing in harvested areas to meet the green tree and snag retention requirements of ORS 527.676 shall be counted towards meeting the tree stocking standards if the trees are free to grow.
- (9) For the purposes of determining compliance with the tree stocking requirements of the reforestation rules, tree stocking in riparian management areas within an operation area will be considered separately from stocking in the rest of the operation area.
- (10) Landowners may submit plans for alternate practices that do not conform to the reforestation stocking levels established under these rules. A plan for alternate practices may be approved if the State Forester determines that there is a high probability that the purpose of the reforestation rules will be achieved, or if the plan carries out an authorized research project conducted by a public agency or educational institution.

629-610-0030

Natural Reforestation Methods

- (1) Natural reforestation methods may be the best means to meet a variety of resource management objectives on some forestlands. Successful natural reforestation requires careful, flexible, site-specific pre-harvest planning and post-harvest monitoring.
- (2) Reforestation may be difficult on Cubic Foot Site Class VI forestlands due to factors such as poor soils, harsh climate and competing vegetation. Reforestation in wetland areas may be difficult because of high water tables, competing vegetation, and inaccessibility. Careful reforestation planning is needed before operations are conducted on these sites. On Cubic Site Class VI forestlands and in wetlands, the use of silvicultural systems that promote natural regeneration and the retention of good quality residual trees after operations often have a higher probability of success than artificial reforestation methods.
- (3) When an operation will result in a reforestation requirement and natural reforestation methods are planned, the landowner shall obtain written approval from the State Forester of a plan for an alternate practice which describes how reforestation will be accomplished. Information in the plan shall include:
 - (a) A description of the seed sources that will be used;
 - (b) Site preparation and vegetation competition control methods;
 - (c) An estimate of the time needed to obtain an adequately stocked free to grow stand;
 - (d) How progress towards natural reforestation will be evaluated; and
 - (e) Alternative strategies that will be used if natural reforestation does not progress as planned.
- (4) The plan for an alternate practice required in section (3) of this rule must be submitted no later than twelve months after tree stocking is reduced.
- (5) Plans for an alternate practice for the use of natural reforestation methods shall be approved by the State Forester if a determination is made that the information provided accurately indicates there is a high probability the purpose of the reforestation rules will be achieved.

629-610-0040

Time Allowed for Reforestation

- (1) The time period for compliance with the reforestation rules begins at the completion of the operation or 12 months after tree stocking has been reduced, whichever comes first.
- (2) The landowner shall begin reforestation, including any necessary site preparation, within 12 months when reforestation is required.
- (3) The landowner shall complete planting or seeding within 24 months unless a plan for an alternate practice for natural reforestation has been approved by the State Forester.
- (4) By the end of the sixth full calendar year, the landowner shall have established a free to grow stand of trees which meets or exceeds the minimum stocking level required by OAR 629-610-0020.
- (5) When natural reforestation methods are planned, the time limits for evidence of successful germination and for establishing a free to grow stand of trees which meets or exceeds the minimum stocking level required for the site shall be established in the approved plan for an alternate practice required for such methods.
- (6) If reforestation cannot be accomplished within the specified time due to circumstances determined by the State Forester to be beyond the landowner's control, the State Forester shall extend the time to accomplish reforestation. Such circumstances may include, but are not limited to:
 - (a) Nursery failure;
 - (b) Inadequate seedling availability following salvage harvesting;
 - (c) Extreme drought;
 - (d) Insect infestation;
 - (e) State smoke management restrictions on the burning of slash;
 - (f) Wildfire or disease damage; or
 - (g) Severe wildlife damage that could not be reasonably anticipated or controlled by the landowner.

- (7) Extensions shall be made only upon a determination by the State Forester, based on timely written evidence provided by the landowner, that documents the landowner made reasonable attempts to comply with the reforestation requirements of the rules.
- (8) Where an extension is granted for reforestation failure on land suitable for reforestation or in cases where a violation of the reforestation rules is cited, the landowner shall be required to take remedial action to achieve the required stocking standards within a time prescribed by the State Forester using recognized stand establishment methods.

629-610-0050

Acceptable Species for Reforestation and Residual Stand Stocking

- (1) The State Forester shall determine if tree species are acceptable for artificial reforestation, natural reforestation, and as residual seedling, sapling and pole, or larger tree stocking based on all of the following criteria:
 - (a) The species must be ecologically suited to the planting site;
 - (b) The species must be capable of producing logs, fiber, or other wood products suitable in size and quality for the production of lumber, sheeting, pulp or other commercial forest products; and
 - (c) The species must be marketable in the foreseeable future.
- (2) Up to 20 percent of the site-based stocking levels required by 629-610-0020 may be met by using free to grow hardwood trees remaining after harvest if the trees are of species meeting the requirements of section (1) of this rule. An approved plan for an alternate practice is required before more than 20 percent of the required stocking may be met with residual, post-operation hardwood trees. Approval for the use of higher levels of hardwood residual stocking shall be based on a determination by the State Forester that there is a high probability the purpose of the reforestation rules will be achieved.
- (3) Landowners are encouraged to reforest with a mixture of acceptable tree species, where appropriate, to reduce the risk of insect and disease losses and to promote stand diversity. Seedlings or seeds used for artificial reforestation should be from seed sources that are genetically adapted to the growing site.

629-610-0060

Use of Non-Native Tree Species

- (1) When an operation will result in a reforestation requirement, and the landowner intends to plant or seed a tree species not native to the operation area, the landowner shall submit for approval a plan for an alternate practice to the State Forester which describes the tree species and how it will be used to meet the reforestation requirements. Information in the plan must include:
 - (a) The tree species that will be used;
 - (b) Evidence that the species is ecologically suited to the planting site;
 - (c) Evidence that the species is capable of producing commercial forest products that will be marketable in the foreseeable future; and
 - (d) Available research or field test findings which demonstrate the tree species has been successfully used in reforesting sites similar to the operation area.
- (2) A plan for an alternate practice for the use of non-native tree species must be submitted for approval no later than twelve months after tree stocking is reduced and prior to planting. Plans for an alternate practice for the use of non-native tree species shall be approved by the State Forester if a determination is made that the information provided indicates there is a high probability the purpose of the reforestation rules will be achieved.
- (3) For the purpose of this rule, any tree species that the State Forester determines has naturally existed and reproduced in the operation area or on similar sites shall be considered a native species.

629-610-0070

Suspension of the Reforestation Rules

- (1) A landowner must submit to the State Forester a plan for an alternate practice to suspend the reforestation rules for the salvage or conversion of low value forest stands, to establish forest stands that are adequately stocked and free to grow.
- (2) (a) The State Forester may approve the plan for an alternate practice when the harvest area is a conversion of underproducing forestland, or a salvage of forest stands where the merchantable trees are dead or dying due to wildfire, insects, diseases or other factors beyond the landowner's control and the State Forester determines:
 - (A) The landowner is approved for funding from a forest incentive program, for which the State Forester is the technical advisor; and
 - (B) The gross harvest revenues will not exceed the total costs of harvest, taxation, and reforestation.
- (b) For the purposes of this rule, "conversion of underproducing forestland" means an operation that:
 - (A) Is conducted on forestland that is subject to the reforestation requirements;
 - (B) Does not currently support the minimum number of free to grow trees required under OAR 629-610-0020;
 - (C) Has the objective of removing undesirable competing vegetation and establishing an adequately stocked, free to grow forest stand; and
 - (D) May include the incidental harvest of forest products.
- (3) To determine whether subsection (2)(a)(B) of this rule is met on a harvest operation that has not started, the State Forester shall make a field observation of the harvest area to determine:
 - (a) The estimated merchantable volume;
 - (b) The value of the merchantable volume by applying current local market values; and
 - (c) The estimated harvest, taxation, and reforestation costs.
- (4) When the State Forester is not able to determine the projected revenues and projected costs from the field observation described in subsection (3) of this rule, the State Forester may require the landowner to submit one or more of the following:
 - (a) A third party estimate, by species and grade, of the volumes and values of logs to be delivered to the mill;
 - (b) The projected costs of harvesting the forest products, including, but not limited to, harvest planning and administration, road construction and maintenance, felling and bucking, yarding, and loading and hauling;
 - (c) The projected severance, harvest, and income taxes;
 - (d) The projected costs of reforestation, including planning and administration, site preparation, trees, tree planting, tree protection, and moisture conservation; or
 - (e) The projected costs of any other measures necessary to establish a forest stand in an adequately stocked and free to grow condition, as specified in the reforestation rules.
- (5) To determine whether subsection (2)(a)(B) of this rule is met on a harvest operation that has started, but is not yet complete, the landowner shall submit to the State Forester one or more of the following:
 - (a) The contracts executed to sell and harvest forest products, including but not limited to, all logging costs and receipts;
 - (b) All the forest products scaling summaries showing gross and net volumes, by species and corresponding mill receipts showing payment; or
 - (c) Any tax forms, records or reports submitted by the landowner that detail the gross and net volumes of forest products harvested, by species, plus logging and management costs used to determine harvest and severance taxes.
- (6) Operations that are complete are not eligible for a suspension of the reforestation rules.
- (7) The State Forester shall revoke the suspension of the reforestation rules at any time within 6 years of completing the operation if the landowner fails to establish a forest stand:
 - (a) According to the specifications and time lines required under the applicable forest incentive program; or

- (b) In an adequately stocked and free to grow condition, as specified in the reforestation rules.

629-610-0080

Revegetation When Reforestation is Not Required

When reforestation is not required or planned, the landowner shall ensure sufficient revegetation of the site to provide continuing soil productivity and stabilization within 12 months of the completion of the operation. Revegetation required by this rule may be planted or naturally established, and shall consist of trees, shrubs, grasses, or forbs suitable for soil stabilization and productivity protection. Landowners are encouraged to revegetate the operation area with native plants.

629-610-0090

Exemption from Reforestation for Land Uses Not Compatible with Forest Tree Cover

- (1) A landowner, through a plan for an alternate practice, may request all, or portions of, an operation area be exempted from the reforestation requirements for the purpose of developing forestland for a use that is not compatible with the maintenance of forest tree cover. Approval of a plan for an alternate practice shall be obtained for such an exemption from the State Forester and shall only be granted for the smallest land area necessary to carry out the intended change in land use. Reforestation shall be required on the portions of operation areas not directly involved in the land use change.
- (2) In seeking approval of the plan for an alternate practice, the landowner shall provide written documentation to the State Forester which establishes:
 - (a) The specific portion of the operation area necessary for the proposed change in land use;
 - (b) The intended change in land use and the incompatibility of the land use with forest tree cover;
 - (c) The intended change in land use is authorized under local land use and zoning ordinances, and all necessary permits and approvals have been obtained, or will be obtained within 12 months following the reduction in tree stocking; and
 - (d) The county assessor and local planning department have been notified in writing of the proposed change in land use.
- (3) Reasonable progress towards the change in land use, as determined by the State Forester, shall be made within 12 months of the completion of the operation. Evidence of reasonable progress towards a change to an agricultural use may include activities such as stump removal, cultivation, fencing, and planting or seeding of crops or pasture. Evidence of reasonable progress towards a change to a use involving building a structure may include activities such as stump removal, excavation, and construction.
- (4) The change in land use shall be completed and continuously maintained within 24 months of the completion of the operation.
- (5) If the change in land use cannot be accomplished within the specified time due to circumstances beyond the landowner's control, the State Forester shall extend the time to accomplish the change in land use. Such circumstances may include, but are not limited to, governmental delays in reviewing and processing permits and approvals, but do not include delays where a landowner is appealing the denial of a permit or approval if the State Forester does not have reason to believe the landowner will prevail on appeal. Extensions shall be made only upon a determination by the State Forester, based on written evidence provided by the landowner, that the landowner made reasonable attempts to comply. Landowners who need extensions are encouraged to contact the State Forester as soon as possible after the circumstances occur.
- (6) The State Forester shall determine if the change in land use has been completed by:
 - (a) The presence or absence of improvements necessary for use of the land for the intended purpose; and
 - (b) Evidence of established and continuously maintained use of the land for the intended purpose.
- (7) To remain exempt from the reforestation requirements the landowner shall continuously maintain the land in the new use until at least six calendar years following the completion of the operation.

629-610-0100

Exemption from Reforestation for Wildlife Food Plots

- (1) For the purposes of this rule only, “small forestland” means forestland as defined in ORS 527.620 that:
 - (a) Has an owner that owns or holds common ownership interest in at least 10 acres of Oregon forestland but less than 5,000 acres of Oregon forestland; and
 - (b) Constitutes all forestland within a single tax lot and all forestland within contiguous parcels owned or held in common ownership by the owner.
- (2) A landowner may utilize a portion of their property for the establishment of one or more wildlife food plots. The establishment of wildlife food plots in lieu of reforestation is an allowable forest operation under ORS 527.678. The purpose of this rule is to allow landowners to establish or increase the area of food or forage available to wildlife, and to exempt a percentage of their property from reforestation requirements following timber harvest.
- (3) Wildlife food plots are considered forestland as defined in ORS 527.620. Wildlife food plots provide an intended benefit to the landowner, and additional benefits to the State through providing or enhancing food resources for wildlife.
- (4) A landowner is eligible to utilize wildlife food plots as a management choice on their property if:
 - (a) The ownership size in Oregon is greater than 10 acres but less than 5,000 acres;
 - (b) The area to be used for a wildlife food plot must currently be in a forest use; and
 - (c) The wildlife food plot area would otherwise be subject to the reforestation rules described in OAR 629-610-0000 through 629-610-0100.
- (5) Based on the area of small forestland ownership, the combined size of wildlife food plots shall not exceed:
 - (a) 2.5 percent of the small forestland, if the small forestland is 500 acres or less in size (combined size of wildlife food plots equals 0.25 to 12.5 acres);
 - (b) 2.0 percent of the small forestland, if the small forestland is more than 500 acres but not more than 1,000 acres in size (combined size of wildlife food plots equals 10 to 20 acres);
 - or
 - (c) 1.0 percent of the small forestland, if the small forestland is over 1,000 acres but less than 5,000 acres in size (combined size of wildlife food plots equals 10 to 50 acres).
- (6) To establish and maintain a wildlife food plot in lieu of reforestation, a landowner shall:
 - (a) Provide notification to the State Forester per OAR 629-605-0140 through 0150.
 - (b) Create a plan for alternate practice that includes the following:
 - (A) Landowner contact information;
 - (B) The acreage of the small forestland where the wildlife food plot is desired;
 - (C) A map showing location and acreage of proposed and existing wildlife food plots;
 - (D) A narrative that describes the target wildlife, the forage expected to substantially contribute to the nutritional requirements of the target wildlife species or guild, the activities required to maintain the wildlife food plot, and a timeline of planned establishment and maintenance activities; and
 - (E) A strategy for the monitoring and management of plant and animal species that may prevent the establishment of the target forage species.
 - (c) Provide the plan for alternate practice to the State Forester for approval, and as a mechanism for tracking compliance with the wildlife food plot rules. The State Forester shall provide feedback on the plan, and may consult with the Oregon Department of Fish and Wildlife or other agencies as appropriate.
 - (d) Establish the wildlife food plot in a manner consistent with the desired outcomes for the plot, as described in the plan for alternate practice. Establishment activities must include the creation of forage for the target wildlife species or guild. In addition, wildlife food plot establishment may also incorporate cover, nesting habitat, or resting habitat for the target wildlife species or guild.
 - (e) Establish the wildlife food plot through the use of habitat manipulation, planting of forage, or a combination of techniques for the target wildlife species or guild. Habitat manipulation and planting of forage includes, but is not limited to, complete or partial

- removal of trees and other vegetation, tillage of soil, planting or seeding of forage vegetation of sufficient nutrition for the target wildlife species or guild, or other practices needed for maintenance of the plot to promote a specific seral stage of vegetation.
- (f) Make reasonable progress towards establishing the wildlife food plot, as determined by the State Forester, within 12 months of completion of the harvest operation that requires reforestation.
 - (g) Fully establish the wildlife food plot within 24 months of completion of the harvest operation that requires reforestation.
 - (h) Ensure the forage vegetation chosen is supported by the environment in which it is being established. Not all vegetation is suitable to be used in the variety of forest soils and land types that occur in Oregon. Designation of specific seed mixes or plant species is beyond the scope of these rules. However, the landowner shall:
 - (A) Source plants and seed to avoid introduction of invasive species to forestlands. This includes, but is not limited to, the introduction of invasive plant, insect, or disease species through the movement of live plant material, seed, or soil.
 - (B) Ensure vegetation chosen for establishment is not on the Oregon Department of Agriculture's noxious weed list.
 - (i) Maintain the wildlife food plot in accordance with the plan for alternate practice.
 - (j) Provide documentation to the State Forester of activities conducted to establish and maintain the wildlife food plot. This documentation shall be provided upon full establishment of the wildlife food plot, and upon request by the State Forester thereafter. Documentation may include, but is not limited to, receipts for work completed and photographs of the wildlife food plot showing that it is in the intended state per the plan for alternate practice. The landowner may also request the State Forester conduct an inspection of the wildlife food plot.
- (7) If the State Forester determines that the landowner has not maintained the wildlife food plot in its intended state per the plan for alternate practice, the reforestation rules as otherwise required in OAR 629, division 610, become applicable and the landowner shall be required to reforest the wildlife food plot.
- (8) To end the use of a wildlife food plot, a landowner shall:
 - (a) Provide notification to the State Forester per OAR 629-605-0140 through 0150.
 - (b) Reforest the wildlife food plot in accordance with the reforestation rules, as described in OAR 629, division 610.
- (9) The landowner shall follow the requirements as outlined in sections (6) and (8) of this rule in order to relocate the wildlife food plot, modify the wildlife food plot size, change the target wildlife species or guild, or end the use of a wildlife food plot.

Division 611

FOREST PRACTICE AFFORESTATION INCENTIVE RULES

629-611-0000

Purpose

- (1) The purpose of OAR 629-611-0000 to 629-611-0020 is to implement ORS 526.490, providing an incentive for landowners to convert parcels of idle land or land in other uses to commercial forest use.
- (2) The provisions of ORS 526.490 shall be called the afforestation incentive and OAR 629-611-0000 to 629-611-0020 shall be known as the afforestation incentive rules.
- (3) The afforestation incentive in these rules is a one-time exemption from most tree retention requirements in the forest practice rules as described in section (5) of this rule.
- (4) For the purposes of the afforestation incentive rules, "planted" trees means those trees that a landowner establishes as an initial forest stand to qualify for the incentive and includes:
 - (a) All trees the landowner plants or causes to be planted; and
 - (b) All naturally established trees that are established within ten years prior to, or following, the date the parcel is certified as qualified for the incentive.
- (5) Notwithstanding forest practice rule provisions prohibiting harvest of trees, the afforestation incentive allows landowners to harvest all planted trees on certified afforestation incentive parcels with the following limitations:
 - (a) The afforestation incentive applies only to the land and timber located more than 20 feet from the high water level of the following streams:
 - (A) Type F streams;
 - (B) Type SSBT streams;
 - (C) Type D streams; or
 - (D) Large or medium Type N streams.
 - (b) Any forest operations on such parcels must comply with all forest practice rules that require practices other than restrictions on harvesting the planted trees.
 - (c) A planted tree that later becomes a key component of a specified resource site normally requiring protection under the forest practice rules may be harvested; however, the State Forester may temporarily prohibit harvesting during an annual critical period of use of the site, as provided in the specified resource site protection rules.
 - (d) (*For information only*) Federal law prohibits a person from taking threatened or endangered species. Taking, under the federal law, may include significant alteration of habitat on any class of land ownership. Compliance with the afforestation incentive rules is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.

629-611-0010

Qualifications and Procedures

- (1) To qualify for the afforestation incentive, a parcel or any separate portion thereof must meet all of the following requirements:
 - (a) It must be at least five contiguous acres.
 - (b) The State Forester must obtain evidence that, regardless of its use prior to July 1, 1972, from that date until the time of afforestation it has been idle or exclusively in uses other than commercial activities related to the growing and harvesting of forest tree species. Forestland in understocked condition, identified consistent with (c) below, may qualify for the incentive if the stocking was reduced or limited by causes other than a forest operation occurring after July 1, 1972.
 - (c) No acre may be certified as part of an afforestation incentive parcel if, prior to the establishment of a well-stocked, free to grow stand of forest trees, the acre's stocking, if any, was 25 square feet of basal area or more.

- (d) Afforestation must have begun on the parcel on or after September 9, 1995, the date ORS 526.490 became effective.
- (2) To gain certification of a parcel as eligible for the afforestation incentive, a landowner must request inspection by the State Forester within two to five years following stand establishment.
- (3) A request for inspection and certification of a parcel shall be accompanied by the following:
 - (a) A map that depicts the parcel or portion thereof in relation to public lands survey subdivisions and access roads for the purpose of locating and inspecting the parcel, and that will be sufficient to identify the parcel at the time of harvest;
 - (b) Photographs documenting the condition of the parcel as idle land or land in other than adequately-stocked commercial forest use prior to stand establishment; and
 - (c) Written permission of the owner to enter the property as necessary to inspect and determine whether the parcel qualifies for the afforestation incentive.
- (4) To be certified eligible for the afforestation incentive, the parcel's afforestation must meet or exceed the reforestation rule standards for acceptable species, adequate stocking, and free to grow condition found in OAR 629 division 610 of the forest practice rules. Pre-existing free to grow forest tree stocking may be counted toward meeting those standards.
- (5) Landowners who qualify parcels for the afforestation incentive by meeting the requirements of sections (1) to (4) of this rule shall be issued a certificate by the State Forester describing the parcel and the exemption from harvest restrictions to which the landowner is entitled.
- (6) The afforestation incentive is a one-time exemption for each individual parcel or portion thereof, applying only to planted trees established to initially certify each parcel. These trees constitute the parcel's first rotation stand for either even-aged or uneven-aged management. The certification date shall be considered the beginning of the first rotation so that, at the time of harvesting, no trees other than the planted trees shall be included in the exemption.
- (7) To ensure recognition of the afforestation incentive at the time of harvest, many years after certification of a parcel, landowners are encouraged to record the certificate issued by the State Forester with the appropriate county clerk as specified under ORS 205.130.
- (8) In order to exercise the exemption from tree harvesting restrictions under ORS 526.490(3), the landowner must present a record of the certificate to the State Forester whenever first rotation trees are to be harvested.

629-611-0020

Fee for Inspection and Certification

The State Forester shall charge a fee to persons requesting certification to offset the costs of inspecting parcels and preparing certificates. This fee shall be \$50 per parcel plus \$2 per acre for each acre in excess of five acres, to a maximum of \$200 per parcel.

Division 615

TREATMENT OF SLASH

629-615-0000

Purpose

- (1) OAR 629-615-0000 to 0300 shall be known as the treatment of slash rules.
- (2) For the purposes of these rules, treatment of slash is recognized as a necessary tool for the protection of reproduction and residual stands from the risk of fire, insects, and disease, to prepare the site for future productivity and to minimize the risk of material entering streams. Such treatment may employ the use of mechanical processes, fire, chemical or other means to minimize competitive vegetation and residue from harvesting operations.

629-615-0100

Maintenance of Productivity and Related Values

- (1) Operators shall plan and conduct forest operations in a manner which will provide adequate consideration to treatment of slash to protect residual stands of timber and reproduction to optimize conditions for reforestation of forest tree species, to maintain productivity of forestland, to maintain forest health, and to maintain air and water quality and fish and wildlife habitat.
- (2) Operators shall dispose of or disperse unstable slash accumulations around landings to prevent their entry into streams.

629-615-0200

Mechanical Site Preparation Near Waters of the State

- (1) When mechanical site preparation is necessary in riparian management areas or near waters of the state, operators shall conduct the operations in a way that sediment or debris does not enter waters of the state.
- (2) When using mechanical site preparation, operators shall provide adequate distance between disturbed soils and waters of the state to filter sediment from run-off water.
- (3) Operators shall not use mechanical site preparation in riparian management areas:
 - (a) On slopes over 35 percent, with the exception of excavator-type equipment used during dry periods; or
 - (b) On sites with evidence of surface or gully erosion; or
 - (c) Where exposure or compaction of the subsoil is likely to occur.
- (4) During mechanical site preparation, operators shall not place debris or soil in waters of the state or where it may enter waters of the state.

629-615-0250

Protection of Soil Productivity During Mechanical Site Preparation

On land clearing projects where mechanical methods are used, operators shall minimize compaction and movement of topsoil to protect soil productivity.

629-615-0300

Prescribed Burning

- (1) Prescribed burning is a tool used to achieve reforestation, maintain forest health, improve wildlife habitat and reduce wildfire hazard. Prescribed burning is to be done consistent with protection of air and water quality, and fish and wildlife habitat. The purpose of this rule is to ensure that necessary prescribed burning is planned and managed to maximize benefits and minimize potential detrimental effects.
- (2) When planning and conducting prescribed burning, operators shall:
 - (a) Comply with the rules of Oregon's "Smoke Management Plan."
 - (b) Adequately protect reproduction and residual timber, humus and soil surface.

- (c) Consider possible detrimental effects of prescribed burning upon riparian management areas, streams, lakes, wetlands, and water quality, and how these effects can be best minimized.
 - (d) Lay out the unit and use harvesting methods that minimize detrimental effects to riparian management areas, streams, lakes, wetlands, and water quality during the prescribed burning operation.
 - (e) Fell and yard the unit to minimize accumulations of slash in channels and within or adjacent to riparian management areas.
 - (f) Minimize fire intensity and amount of area burned to that necessary to achieve reforestation, forest health, or hazard reduction needs.
- (3) Operators shall describe in a written plan how detrimental effects will be minimized when burning within 100 feet of Type F, Type SSBT and Type D streams, within 100 feet of large lakes, within 100 feet of wetlands larger than eight acres (non estuaries), bogs and important springs in eastern Oregon and within 300 feet of estuaries; especially when burning on highly erosive soils, for example decomposed granite soils and slopes steeper than 60 percent.
- (4) During prescribed burning operations, operators shall protect components such as live trees, snags, downed wood, and understory vegetation required to be retained by OAR 629-635-0310 through 629-650-0040. When the operator has taken reasonable precautions to protect the components, but some detrimental effects occur, the intent of the rule is met if the overall integrity of the riparian management area is maintained. Operators shall not salvage trees killed by prescribed fire in a riparian management area if the trees were retained for purposes of 629-635-0310 through 629-655-0000.
- (5) When the need for prescribed burning outweighs the benefits of protecting components required to be left within the riparian area, aquatic area and wetlands, protection requirements may be modified through a plan for an alternate practice. Approval of such a plan shall consider the environmental impacts and costs of alternative treatments.
- (6) *(For information only)* When water is to be withdrawn from the waters of the state for use in mixing pesticides or for slash burning, ORS 537.141 requires operators to notify the Water Resources Department and the Department of Fish and Wildlife. Notification to the State Forester does not satisfy this requirement.

Division 620

CHEMICAL AND OTHER PETROLEUM PRODUCT RULES

629-620-0000

Purpose

- (1) OAR 629-620-0000 through 629-620-0800 shall be known as the chemical and other petroleum product rules. In addition to the application of chemicals, operators should be aware that certain requirements of these rules also apply to the use of other petroleum products, such as fuel and lubricants, on any forest operation.
- (2) Operators are encouraged to voluntarily use integrated pest and vegetation management processes. The use of pesticides is one of a variety of integrated pest management strategies that forest landowners may implement to minimize the impact of forest pests in an environmentally and economically sound manner to meet site specific objectives. When properly used, pesticides and other chemicals can be effective tools in the growing and harvesting of forest tree species.
- (3) The purpose of the forest practice chemical and other petroleum product rules is to establish requirements that will ensure:
 - (a) Chemicals and other petroleum products used on forestland do not occur in the soil, air, or waters of the state in quantities that would be injurious to water quality or to the overall maintenance of terrestrial wildlife or aquatic life; and
 - (b) The vegetative components of riparian management areas and sensitive resource sites receive protection on herbicide operations consistent with the purposes of the reforestation rules, the requirements of the sensitive resource site rules, and the vegetation retention goals of the water protection rules.
- (4) All distances listed in the chemical and other petroleum product rules shall be measured horizontally.
- (5) Operations involving the use of chemicals and other petroleum products on forestland are also subject to the pesticide control laws administered by the Department of Agriculture, hazardous waste laws administered by the Department of Environmental Quality, hazard communication rules administered by the Occupational Safety and Health Division, and the water use laws administered by the Water Resources Department. Maximum contaminant levels in drinking water for certain pesticides are established by the Health Division.

629-620-0100

Preventing, Controlling, and Reporting Leaks and Spills of Chemicals and Other Petroleum Products

- (1) The operator shall maintain equipment used for transportation, on-site storage, or application of chemicals in a leak proof condition. If there is evidence of chemical leakage, the operator shall suspend the further use of such equipment until the deficiency has been corrected.
- (2) Operators shall take adequate precautions to prevent leaks or spills of other petroleum products, such as fuel, motor oil, and hydraulic fluid, from entering the waters of the state.
- (3) Operators shall take immediate and appropriate action to stop and contain leaks or spills of chemicals and other petroleum products.
- (4) The operator shall immediately report to the State Forester any chemical spills and other petroleum product spills resulting from the operation that enter, or may enter, the waters of the state. Such notification will not exempt the operator from any requirements of other local, state, and federal agencies to report chemical or other petroleum product spills.

629-620-0200

Protection of Water Quality During Mixing of Chemicals

- (1) Whenever water is taken from any stream or water impoundment for use in the mixing of chemicals, the operator shall prevent chemicals from entering the waters of the state by taking at least the following precautions:
 - (a) Providing an air gap or reservoir between the water source and the mixing tank; and
 - (b) Using pumps, suction hoses, feed hoses, and check valves that are used only for water.
- (2) *(For information only)* When water is to be withdrawn from the waters of the state for use in mixing pesticides or for slash burning, ORS 537.141 requires operators to notify the Water Resources Department and the Department of Fish and Wildlife. Notification to the State Forester does not satisfy this requirement.

629-620-0300

Locations of Mixing, Transfer, and Staging Areas for Chemicals and Other Petroleum Products

- (1) Operators shall conduct the following activities only in locations where spillage of chemicals or other petroleum products will not enter the waters of the state:
 - (a) Mixing chemicals;
 - (b) Transferring chemicals or other petroleum products between equipment or containers including, but not limited to, fueling of aircraft or heavy equipment;
 - (c) Cleaning tanks or equipment used during chemical applications;
 - (d) Landing and staging aircraft.
- (2) Notwithstanding section (1), operators shall not locate chemical mixing and staging areas for aerial chemical applications within 100 feet of Type F, Type SSBT or Type D streams.

629-620-0400

Protection of the Waters of the State and Other Resources When Applying Chemicals

- (1) When applying chemicals aerially or from the ground, operators shall protect waters of the state and other forest resources by following the requirements of the chemical product label and by meeting the additional protection measures listed in this rule.
- (2) When applying herbicides near or within riparian management areas or waters of the state, operators shall maintain vegetation required to be protected by the water protection rules.
- (3) Weather conditions such as temperature, relative humidity, wind speed, wind direction, atmospheric temperature inversions, and precipitation may strongly affect the deposition and drift of chemicals during aerial and pressurized, ground-based chemical applications. Operators shall apply chemicals only under weather conditions which will protect non-target forest resources and comply with the product label and the other sections of this rule.
- (4) Except where the product label or sections (2), (6), or (7) apply more stringent requirements, when applying chemicals by aircraft, operators shall not directly apply chemicals within 60 feet of:
 - (a) Significant wetlands;
 - (b) The aquatic areas of Type F, Type SSBT and Type D streams;
 - (c) The aquatic areas of large lakes;
 - (d) The aquatic areas of other lakes with fish use; or
 - (e) Other areas of standing open water larger than one-quarter acre at the time of the application.
- (5) Except where the product label or sections (2) or (6) apply more stringent requirements, when applying chemicals from the ground, operators shall not directly apply chemicals within 10 feet of:
 - (a) Significant wetlands;
 - (b) The aquatic areas of Type F, Type SSBT and Type D streams;
 - (c) The aquatic areas of large lakes;
 - (d) The aquatic areas of other lakes with fish use; or
 - (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

- (6) Operators shall not directly apply fertilizers within 100 feet of Type D streams and the domestic use portions of Type F or Type SSBT streams. For other waters of the state, no untreated strips are required to be left by operators when applying fertilizers, except that operators shall not directly apply fertilizers to:
- (a) The aquatic areas of other Type F or Type SSBT streams or to large and medium Type N streams;
 - (b) Significant wetlands;
 - (c) The aquatic areas of large lakes;
 - (d) The aquatic areas of other lakes with fish use; or
 - (e) Other areas of standing open water larger than one-quarter acre at the time of the application.
- (7) (a) Except as allowed under subsections (d) and (e), operators shall not directly apply fungicides or non-biological insecticides by aircraft, within 300 feet of:
- (A) Significant wetlands;
 - (B) The aquatic areas of Type F, Type SSBT and Type D streams;
 - (C) The aquatic areas of large lakes;
 - (D) The aquatic areas of other lakes with fish use; or
 - (E) Other areas of standing open water larger than one-quarter acre at the time of the application.
- (b) Operators shall not directly apply fungicides or non-biological insecticides by aircraft within 60 feet of the aquatic areas of Type N streams containing flowing water at the time of application.
- (c) For the purpose of this rule, "biological insecticide" means any insecticide containing only naturally occurring active ingredients including, but not limited to, viruses, bacteria, semiochemicals (pheromones), or fungi.
- (d) Plans for alternate practices that modify the requirements of subsections (a) and (b) may be approved by the State Forester. Approvals of such plans shall be based on a written finding by the State Forester determining that:
- (A) Such a modification is essential to control a fungus or a population of an insect species to reduce damage to, and to better provide for, the overall maintenance of forest resources protected under the Forest Practices Act;
 - (B) The operational or weather condition constraints placed on the application by the plan for alternate practice, in addition to the requirements of the forest practice rules and the product label, will reduce the potential for the fungicide or non-biological insecticide to drift outside the operation area or to enter the waters of the state; or
 - (C) Adequate documentation has been submitted by the operator indicating the toxicity to humans, fish populations, or to aquatic invertebrate populations of the fungicide or non-biological insecticide to be applied is lower than the documented toxicity of the fungicide chlorothalonil or the non-biological insecticide carbaryl, as used in forestry prior to September 4, 1996.
- (e) The requirements of sections (a) and (b) do not apply to pest eradication programs conducted on forestland by the Department of Agriculture.
- (8) The operator shall make all aerial chemical applications parallel to the edge of the water when applying chemicals within 100 feet of:
- (a) Significant wetlands;
 - (b) The aquatic areas of Type F, Type SSBT and Type D streams;
 - (c) The aquatic areas of large lakes;
 - (d) The aquatic areas of other lakes with fish use; or
 - (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

629-620-0500

Disposal of Chemical Containers

Operators shall dispose of chemical containers in accordance with the Department of Environmental Quality's disposal requirements. Operators may apply flushing solution resulting from cleaning of chemical containers to the operation area.

629-620-0600

Daily Records of Chemical Applications

- (1) Whenever pesticides are aerially applied or applied using a pressurized, ground-based, broadcast application system on forestland, the operator shall maintain a daily record of application operations which includes:
 - (a) The legal description of the location of the operation area actually treated with chemicals;
 - (b) The acreage actually treated with chemicals;
 - (c) Brand name or EPA registration number of the chemicals used, the carrier used, and the application rate;
 - (d) Date and time of application;
 - (e) Air temperature, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
 - (f) Relative humidity, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
 - (g) Wind velocity and direction, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
 - (h) The name of the person making the application, including the contractor's name and pilot's name when applied aerially, or the contractor's name and/or employee's name for ground application.
- (2) Whenever pesticides are applied on forestland using methods other than those described in section (1) of this rule, the operator shall maintain a daily record of all information listed in subsections (a), (b), (c), (d), and (h) of section (1).
- (3) Whenever fertilizers are applied on forestland, the operator shall maintain a record of all information listed in subsections (a), (b), (d), and (h) of section (1) of this rule and shall also record the application rate and the formulation used.
- (4) The records required in sections (1), (2), and (3) of this rule shall be maintained by the operator for three years from the date of application and be made available at the request of the State Forester.

629-620-0700

Chemical and Other Petroleum Product Rules: Effectiveness Monitoring and Evaluation

- (1) In cooperation with state agencies, landowners, and other interested parties, the department shall conduct monitoring to evaluate the effectiveness of the chemical and other petroleum product rules. The monitoring shall determine the effectiveness of the rules to meet the goals of the Forest Practices Act and the purposes stated in the rules, as well as their workability and operability.
- (2) It is the Board of Forestry's intent that the department and its cooperators place a high priority on assessing the monitoring needs and securing adequate resources to conduct the necessary monitoring. The department shall work with its cooperators and the Legislature to secure the necessary resources, funding and coordination for effective monitoring.
- (3) The department shall report to the Board of Forestry annually about current monitoring efforts and, in a timely manner, present findings and recommendations for changes to practices. The Board of Forestry shall consider the findings and recommendations and take appropriate action.

629-620-0800

Notification of Community Water System Managers When Applying Chemicals

- (1) The purpose of this rule is to ensure that community water system managers are appropriately notified of planned chemical operations so that they can coordinate their monitoring activities with planned operations.
- (2) This rule applies to community water systems where the surface water drainage area upstream of their intake is 100 square miles or less. The State Forester shall maintain a list of community water systems for which notification is required. A community water system with a drainage area of more than 100 square miles upstream of its intake may request to be added to the list based upon its ability to conduct effective monitoring in the watershed. The list shall be available at department field offices where notifications are submitted.
- (3) When chemicals will be aerially applied within 100 feet, or applied from the ground within 50 feet of domestic portions of Type F, Type SSBT or Type D streams, and the water use is by a community water system as designated under section (2) of this rule, the operator shall notify the water system manager of a planned chemical operation at least 15 days before the operation commences.
- (4) The operator shall provide the following additional information before commencing the operation if requested by the manager of the affected water system at the time of notification required in section (3) above:
 - (a) The application technology that will be used;
 - (b) Practices that will be followed to minimize drift toward the stream;
 - (c) Any monitoring efforts that will be conducted by the landowner; and
 - (d) The planned time schedule for the application.

Division 623

SHALLOW, RAPIDLY MOVING LANDSLIDES AND PUBLIC SAFETY

629-623-0000

Purpose

- (1) Shallow, rapidly moving landslides may be a public safety risk affected by forest operations. There is a high natural landslide hazard in certain locations. In the short term, forest practices regulations can reduce the risk to people who are present in locations prone to shallow, rapidly moving landslides. In the long term, effective protection of the public can only be achieved through the shared responsibilities of homeowners, road users, forestland owners, and state and local governments to reduce the number of persons living in or driving through locations prone to shallow, rapidly moving landslides during heavy rainfall periods.
- (2) OAR 629-623-0000 through 629-623-0800 shall be known as the shallow, rapidly moving landslide and public safety rules.
- (3) The purpose of the shallow, rapidly moving landslides and public safety rules is to reduce the risk of serious bodily injury or death caused by shallow, rapidly moving landslides directly related to forest practices. These rules consider the exposure of the public to these safety risks and include appropriate practices designed to reduce the occurrence, timing, or effects of shallow, rapidly moving landslides.
- (4) These rules are based on the best scientific and monitoring information currently available. The department will continue to monitor factors associated with shallow, rapidly moving landslides and also review new research on this issue. The department will recommend rule changes if this new information suggests different forest practices may be appropriate.

629-623-0100

Screening for High Landslide Hazard Locations and Exposed Population

Screening for High Landslide Hazard Locations and Exposed Population

- (1) The State Forester will use further review area maps and/or other information to screen proposed operations for high landslide hazard locations that may affect exposed populations. Operators are encouraged to acquire available maps and other information and to conduct their own public safety screening.
- (2) Upon notification by the State Forester, operators shall identify portions of the operation that contain high landslide hazard locations and shall also identify structures and paved public roads within further review areas below the operation area.

629-623-0200

Exposure Categories

- (1) The State Forester will verify the information provided by operators in OAR 629-623-0100 and use this information to determine the exposure category for the operation.
- (2) Exposure Category A includes habitable residences, schools, and other buildings where people are normally present during periods when wet season rain storms are common.
- (3) Exposure Category B includes paved public roads averaging over 500 vehicles per day as determined, if possible, during periods when wet season rain storms are common.
- (4) Exposure Category C includes barns, outbuildings, recreational dwellings not included in Exposure Category A, low-use public roads, and other constructed facilities where people are not usually present when wet season rain storms are common.

629-623-0250

Shallow, Rapidly Moving Landslide Impact Rating

- (1) The State Forester will publish technical guidance for evaluating and rating shallow, rapidly moving landslide impact potential for any exposed population. Impact rating factors may include, but are not limited to: the location of the structure or road in relationship to the debris torrent-

prone stream or steep slope; channel confinement; channel gradient; channel junction angles; and debris in the channel.

- (2) Shallow, rapidly moving landslide impact potential is rated as unlikely, moderate, serious and in limited cases, extreme.
- (3) The State Forester may require the landowner to submit a geotechnical determination of shallow, rapidly moving landslide impact rating for the proposed operation.
- (4) The impact rating may include the potential for the failure of a structure in the direct path of a rapidly moving landslide resulting in a substantial risk of serious bodily injury or death to the exposed population below that structure.
- (5) The State Forester will make the final impact rating.

629-623-0300 Public Safety Risk Levels

- (1) The exposure categories described in OAR 629-623-0200 and the impact rating described in 629-623-0250 are used to determine the downslope public safety risk level and the applicable forest practice rules that apply to the operation, as described in Sections (2) through (10) of this rule.

Substantial downslope public safety risk

- (2) For Exposure Category A, substantial downslope public safety risk exists if the impact rating is extreme or serious.
- (3) For Exposure Category B, substantial downslope public safety risk exists if the impact rating is extreme and the State Forester informs the operator that these site specific conditions warrant substantial public safety risk practices.
- (4) Substantial Downslope Public Safety Risk operations are regulated by OARs 629-623-0400, 629-623-0450, 629-623-0600, and 629-623-0700.

Intermediate downslope public safety risk

- (5) For Exposure Category A, intermediate downslope public safety risk exists if the impact rating is moderate.
- (6) For Exposure Category B, intermediate downslope public safety risk exists if the impact rating is serious.
- (7) For Exposure Category C, intermediate downslope public safety risk exists if the impact rating is extreme and the State Forester informs the operator that these site specific conditions warrant intermediate public safety risk practices.
- (8) Intermediate Downslope Public Safety Risk operations are regulated by OARs 629-623-0500, 629-623-0550, 629-623-0600, 629-623-0700, and 629-630-0500.

Low downslope public safety risk

- (9) All other operations not described in sections 2, 3, 5, 6 and 7 of the rule are determined to have low downslope public safety risk.
- (10) Low Downslope Public Safety Risk operations are regulated by OAR 629-630-0500 and by OAR 629-625-0000 through 0700 and all other applicable rules.

Applicability of regulations and use of leave trees

- (11) As required by ORS 195.256(4), forest practice rules shall not apply to risk situations arising solely from the construction of a building permitted under ORS 195.260(1)(c).
- (12) Leave trees required to comply with timber harvesting rules for shallow, rapidly moving landslides and public safety may also be used to comply with ORS 527.676 except those required to be retained in riparian management areas by OAR 629-643-0000 through 629-643-0500.

629-623-0400

Restriction of Timber Harvesting — Substantial Public Safety Risk

- (1) Operators shall not remove trees from high landslide hazard locations with substantial downslope public safety risk unless a geotechnical report demonstrates to the State Forester that any landslides that might occur will not be directly related to forest practices because of very deep

soil or other site-specific conditions. Removal of dead or diseased trees or trees from sites that have already failed is allowed if the operator demonstrates to the State Forester that the operation results in no increased overall downslope public safety risk.

- (2) Operators shall leave a sufficient number and arrangement of trees adjacent to high landslide hazard locations to reduce the likelihood of trees retained in these locations blowing down.

629-623-0450

Restriction of Road Construction — Substantial Public Safety Risk

- (1) Operators shall not construct new roads on high landslide hazard locations or other very steep slopes with substantial downslope public safety risk.
- (2) Operators may reconstruct existing roads in high landslide hazard locations when the written plan required by OAR 629-623-0700 incorporates site-specific practices as directed by a geotechnical specialist and demonstrates that road reconstruction will reduce landslide hazard.

629-623-0500

Timber Harvesting — Intermediate Public Safety Risk

- (1) The purpose of this rule is to manage canopy closure on high landslide hazard locations with intermediate downslope public safety risk.
- (2) For harvesting operations that remove all or most of the largest trees, operators shall ensure that no more than half the area of high landslide hazard locations on a single ownership within the drainage or hillslope directly above the affected structure or road are in a 0 to 9 year-old age class or with reduced canopy closure in other age classes;
- (3) For thinning or partial cutting operations, operators shall retain a vigorous stand that allows rapid canopy closure.
- (4) Landowners shall use reforestation and stand management practices that result in rapid canopy closure.
- (5) For timber harvesting operations, landowners shall describe in the written plan required by OAR 629-623-0700 how they will manage the high landslide hazard locations on their ownership within the affected drainage or hillslope with intermediate downslope public safety risk.

629-623-0550

Road Construction — Intermediate Public Safety Risk

- (1) When constructing roads on high landslide hazard locations or other very steep slopes with intermediate downslope public safety risk, operators shall follow site-specific practices as directed by a geotechnical specialist.
- (2) In addition to the road construction and maintenance rules in OAR 629-625-0100 through 629-625-0440, written plans shall include:
 - (a) An evaluation of cutslope stability that demonstrates major cutslope failure is very unlikely; and
 - (b) A description of measures to be taken to prevent water from draining onto high landslide hazard locations.

629-623-0600

Protection Along Debris Torrent-Prone Streams

- (1) The purpose of this rule is to reduce or eliminate woody debris loading, and to retain large standing trees in locations where they might slow debris torrent movement along debris torrent-prone streams with substantial or intermediate downslope public safety risk.
- (2) During timber harvesting operations, operators shall fell and yard trees in a manner to minimize slash and other debris accumulations in debris torrent-prone stream channels where there is substantial or intermediate downslope public safety risk.
- (3) Operators shall remove logging slash piles and continuous logging slash deposits from debris torrent-prone stream channels where there is substantial or intermediate downslope public safety risk.

- (4) Operators shall leave, and during felling and yarding activity, protect large standing trees along the likely depositional reaches of debris torrent-prone streams, as determined by the State Forester, in locations where there is substantial or intermediate downslope public safety risk. Leave trees shall:
 - (a) Be larger than 20 inches in diameter breast height;
 - (b) Be within 50 feet of the edge of the active channel along both sides of the stream;
 - (c) Be left for a distance of 300 feet or the depositional length of the channel, whichever is less, as measured from the beginning of the forested portion of the stream reach above the road or structure;
 - (d) Not include trees that pose a greater public safety risk because of windthrow or other risks as determined by the State Forester.

629-623-0700

Written Plans to Evaluate Public Safety Risk

- (1) To allow evaluation of public safety risk and the appropriate methods for reducing this risk, operators shall submit a written plan for all timber harvesting or road construction operations with intermediate or substantial downslope public safety risk as described in OAR 629-623-0300. Written plans shall include:
 - (a) A determination of public safety risk (OAR 629-623-0300);
 - (b) A map showing those portion(s) of the operation containing high landslide hazard locations;
 - (c) The location of all existing and proposed new roads crossing high landslide hazard locations;
 - (d) A detailed road design for all new or reconstructed roads crossing high landslide hazard locations;
 - (e) The location of habitable structures (Exposure Category A) and paved public roads (Exposure Category B) below the operation and within further review areas;
 - (f) Locations where timber harvesting will not occur;
 - (g) Locations where partial cutting will occur and the specific silvicultural prescription; and
 - (h) Additional information related to the operation as requested by the State Forester.
- (2) Operators shall submit a written plan for proposed stream crossing fills constructed across debris torrent-prone streams with substantial or intermediate downslope public safety risk.
- (3) Operators shall submit a written plan for proposed waste fill areas within a drainage containing debris torrent-prone streams where there is substantial or intermediate downslope public safety risk.

629-623-0800

Hazard Mitigation and Risk Reduction Projects

- (1) Completed landslide mitigation projects can be used to lower the shallow, rapidly moving landslide impact rating as described in OAR 629-623-0250.
 - (a) The landowners who own structures and are directly affected by the impact rating must agree to landslide mitigation.
 - (b) Structural measures designed and inspected by a geotechnical specialist are the preferred mitigation strategy.
- (2) Landowners may remove trees on high landslide hazard locations above habitable structures or paved public roads where the public safety risk from trees blowing over is equal to or higher than the public safety risk from landslides. Supporting evidence for removing these trees must be included in the written plan required by OAR 629-623-0700.
- (3) A homeowner may submit evidence in the form of a risk management plan to the State Forester to lower the exposure category (OAR 629-623-0200) from Exposure Category A to Exposure Category B. Risk management plans shall include:
 - (a) An evacuation plan that substantially reduces the risk to residents and visitors during periods when shallow, rapidly moving landslides may occur;

- (b) A copy of the property title showing full disclosure of the elevated landslide hazard on that property, including a statement that it is the homeowner's responsibility to inform residents and visitors of the elevated landslide hazard and of the necessity to comply with the evacuation plan;
- (c) Assumption by the homeowner of all liability for injury and property damage associated with shallow, rapidly moving landslides initiating within the operation; and
- (d) The signatures of the homeowner and of a notary public.

Division 625

FOREST ROAD CONSTRUCTION AND MAINTENANCE

629-625-0000

Purpose

- (1) Forest roads are essential to forest management and contribute to providing jobs, products, tax base, and other social and economic benefits.
- (2) OAR 629-625-0000 through 629-625-0920 shall be known as the road construction and maintenance rules.
- (3) The purpose of the road construction and maintenance rules is to establish standards for locating, designing, constructing, and maintaining efficient and beneficial forest roads; locating and operating rock pits and quarries; identifying active and inactive roads that have fish passage barriers or contribute sediment to waters of the state, to correct conditions; and to vacate roads, rock pits, and quarries that are no longer needed in manners that provide the maximum practical protection to maintain forest productivity, water quality, and fish and wildlife habitat.
- (4) To achieve the goals of the division, all roads will be designed, constructed, improved, maintained, or vacated to:
 - (a) Prevent or minimize sediment delivery to waters of the state;
 - (b) Ensure passage for covered species during all mobile life-history stages;
 - (c) Prevent or minimize drainage or unstable sidecast in areas where mass wasting could deliver sediment to public resources or threaten public safety;
 - (d) Prevent or minimize hydrologic alterations of the channel;
 - (e) Prevent or minimize impacts to stream bank stability, existing stream channel, and riparian vegetation;
 - (f) To the maximum extent practicable, hydrologically disconnect forest roads and landings from waters of the state; and
 - (g) Avoid, minimize, and mitigate loss of wetland function.
- (5) The road construction and maintenance rules shall apply to all forest practices regions unless otherwise indicated.

629-625-0100

Written Plans for Road Construction

- (1) A properly located, designed, and constructed road greatly reduces potential impacts to water quality, forest productivity, fish, and wildlife habitat. To prevent improperly located, designed, or constructed roads, a written plan is required in the sections listed below.
- (2) In addition to the requirements of the water protection rules, operators must submit a written plan to the State Forester before:
 - (a) Constructing a road where there is an apparent risk of road-generated materials entering waters of the state from direct placement, rolling, falling, blasting, landslide, or debris flow;
 - (b) Conducting machine activity in Type F, Type SSBT, Type D streams, Type N streams, lakes, or significant wetlands;
 - (c) Constructing roads in riparian management areas;
 - (d) Constructing or reconstructing any water crossing, in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals, as described in OAR 629-625-0320 Water Crossing Structures; or
 - (e) Constructing roads in critical locations, as described in OAR 629-625-0200(3): Road Location.
- (3) Operators shall submit a written plan to the State Forester before constructing roads on high landslide hazard locations. Operators and the State Forester shall share responsibility to identify high landslide hazard locations and to determine if there is public safety exposure from shallow, rapidly moving landslides using methods described in OAR 629-623-0000 through 0300. If there

- is public safety exposure, then the practices described in OAR 629-623-0400 through 0800 shall also apply.
- (4) In addition to the requirements of the water protection rules, operators shall submit a written plan to the State Forester before placing woody debris or boulders in stream channels for stream enhancement.
- (5) In addition to the written plan requirements of OAR 629-605-0170(12) and (13), the operator shall include an assessment of the following factors in their written plan for all water crossings as described by OAR 629-625-0320:
- (a) Operator transportation needs, road location, road management objectives, and land ownership;
 - (b) The specific resources that may be impacted by construction or reconstruction of the water crossing, including aquatic species, habitats, and conditions; floodplain values, terrestrial species, and water uses;
 - (c) The specific risk factors at the watershed-scale, including geologic or geomorphic hazards, event history, past and projected land management, crossing maintenance history, regional channel stability, and projected watershed conditions over the life of the crossing structure;
 - (d) The specific risk factors at the site scale, including channel stability, potential for blockage by debris, floodplain constriction, large elevation changes across infrastructure, channel sensitivity to change, consequences of site failure to resources, and potential stream geomorphic changes over the life of the crossing structure;
 - (e) The specific techniques and methods employed for resource protection; and
 - (f) Additional information relevant to the proposed crossing structure as determined by the State Forester.
- (6) Regarding water crossing structures for fills over 15 feet, if the conditions outlined in OAR 629-625-0320(1)(b)(B) are met operators shall submit a written plan to the State Forester.
- (7) In addition to the written plan requirements in OAR 629-605-0170(12) and (13), written plans for Type F and Type SSBT streams shall include the following:
- (a) Stream name;
 - (b) Stream size;
 - (c) Stream type;
 - (d) Stream basin;
 - (e) Watershed tributary area;
 - (f) Calculated 100-year peak flow, developed consistent with Forest Practices Technical Guidance under OAR 629-625-0300(3)(a);
 - (g) Measured stream gradient;
 - (h) Bankfull channel width;
 - (i) Structure location;
 - (j) Structure type;
 - (k) Structure size, including but not limited to culvert diameter, rise, span, length, and bridge width;
 - (l) Planned culvert grade or elevation change;
 - (m) Planned culvert embedment depth range;
 - (n) Planned culvert embedment material;
 - (o) Calculated structure flow capacity;
 - (p) Bridge freeboard, as applicable;
 - (q) Road name or number;
 - (r) Road surface type;
 - (s) Drainage plan;
 - (t) Installation time frame;
 - (u) Equipment access;
 - (v) Stream isolation method, including but not limited to stream diversions, bypasses, pumping; and
 - (w) Expected riparian management area tree removal.

629-625-0200

Road Location

- (1) The purpose of this rule is to ensure roads are located where potential impacts to waters of the state are minimized and hydrologic connectivity between roads and waters of the state is reduced to the maximum extent practicable.
- (2) When locating roads, operators shall designate road locations which minimize the risk of materials entering waters of the state and minimize disturbance to channels, lakes, wetlands, and floodplains.
- (3) Critical Locations. Operators shall avoid locating roads in critical locations. When alternate routes that avoid critical locations are not legally feasible due to ownership boundaries or other legal impediments, physically feasible due to safety considerations, or would have a greater environmental risk, operators may locate roads in critical locations, consistent with sections (4) and (5) of this rule. Critical locations include:
 - (a) High landslide hazard locations. If there is public safety exposure, then the practices described in OAR 629-623-0400 through 0800 shall also apply.
 - (b) Slopes over 60 percent with decomposed granite-type soils.
 - (c) Within 50 feet of stream channels or lakes, excluding crossings and approaches to crossings.
 - (d) Within significant wetlands as described in OAR 629-600-0100, stream-associated wetlands as described in OAR 629-600-0100, or other wetlands greater than 0.25 acres in size.
 - (e) Any active stream channel, exclusive of stream crossings in compliance with OAR 629-625-0320.
 - (f) Locations parallel to, and within a riparian management area for a distance exceeding a cumulative 500 feet of road length measured from the first point of entry into the riparian management area to the last point of exit from the riparian management area, exclusive of stream crossings in compliance with OAR 629-625-0320.
 - (g) High landslide hazard locations where rock is likely to be highly sheared or otherwise unstable so that it is not possible to excavate a stable cutslope. If such a cutslope failure may divert road surface drainage to a high landslide hazard location and could trigger a debris flow below the road with potential for delivery to a stream, that road shall not be constructed unless the operator demonstrates that the cutslope can be stabilized by buttressing or other means.
 - (h) Locations cutting through the toe of active or recently active deep-seated landslide deposits and where a reactivated landslide would likely enter waters of the state.
 - (i) Highly dissected, steep slopes where it is not possible to fit the road to the topography with full bench end haul construction.
- (4) Critical Locations Written Plan. All written plans for road construction in critical locations shall be reviewed on site and reviewed by the State Forester with consultation from a qualified professional as appropriate for the site, including, but not limited to, the department, Department of Environmental Quality, and Department of Fish and Wildlife. Onsite review and consultation must occur within 14 days from the date the written plan was received, otherwise the operator may continue with operations, consistent with the written plan and consistent with written plan review timelines in ORS 527.670(10) and OAR 629-605-0170(10) and (11).
- (5) Operators must outline all road construction in critical locations in a written plan. The written plan shall include a narrative describing why alternative routes are not feasible or would have greater environmental risk.
- (6) Operators shall minimize the number of stream crossings.
- (7) To reduce the duplication of road systems and associated ground disturbance, operators shall make use of existing stable and functioning roads where practical. Where roads traverse land in another ownership and will adequately serve the operation, operators shall investigate options for using those roads before constructing new roads. Operators who submit notifications that include new road construction shall affirm that options, if they exist, were investigated.

629-625-0300

Road Design

- (1) The purpose of OAR 629-625-0300 through 629-625-0330 is to provide design specifications for forest roads that protect water quality.
- (2) Operators shall design and construct roads to limit the alteration of natural slopes and drainage patterns to that which will safely accommodate the anticipated use of the road and will also protect waters of the state.
- (3) The department shall publish Forest Practices Technical Guidance that explains how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state, in support of the following rules:
 - (a) OAR 629-625-0320(3)(a) to explain how to implement the rule for the 100-year peak flow, at a minimum, every 10 years to incorporate the most recent peak flow data.
 - (b) OAR 629-625-0200(5) to explain and describe the content of written plans for road construction in critical locations.
 - (c) OAR 629-625-0320(10) to explain how to implement rules for the construction and reconstruction for all water crossings updated every 10 years, at a minimum.
 - (d) OAR 629-625-0320(10)(c) to explain how to develop a chemical spill prevention and response plan.
 - (e) OAR 629-625-0320(10)(d) to explain how to implement rules for in-water work, worksite isolation, and dewatering updated every ten years, at a minimum.
 - (f) OAR 629-625-0320(10)(d)(A)(ii) to explain how to implement rules for replacing stream crossing structures outside normal in-water work periods.
 - (g) OAR 629-625-0330(1) to explain how to implement rules to hydrologically disconnect forest roads and landings from waters of the state.
 - (h) OAR 629-625-0910(6) to explain how to identify abandoned roads and bring them into compliance with the forest practice rules.
 - (i) OAR 629-625-0800(1) to explain how to avoid or minimize and mitigate for all road and landing construction near or within a significant wetland, stream-associated wetland, or wetlands greater than 0.25 acres in size when impacts are unavoidable.

629-625-0310

Road Prism

- (1) Operators shall use variable grades and alignments to avoid less suitable terrain so the road prism is the least disturbing to protected resources, avoids steep sidehill areas, wet areas, and potentially unstable areas as safe, effective vehicle use requirements allow.
- (2) Operators shall end-haul excess material from steep slopes or high landslide hazard locations where needed to prevent landslides.
- (3) Operators shall design roads no wider than necessary to accommodate the anticipated use and minimize environmental impacts to waters of the state and covered species from new road construction. The running surface width shall average not more than 32 feet for double lane roads and 20 feet for single lane roads, exclusive of ditches plus any additional width necessary for safe operations for fill widening or on curves, turnouts, and landings.
- (4) Operators shall design cut and fill slopes to minimize the risk of landslides.
- (5) Operators shall stabilize road fills as needed to prevent fill failure and subsequent damage to waters of the state using compaction, buttressing, subsurface drainage, rock facing, or other effective means.
- (6) Operators shall utilize end-haul construction and not place fill within the riparian management area of a stream or within 75 feet of a stream channel where a riparian management area is not required, excluding crossings and approaches to crossings.

629-625-0320

Water Crossing Structures

- (1) Operators shall design and construct all water crossing structures in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals to:
 - (a) Minimize excavation of side slopes near the channel.
 - (b) Minimize the volume of material in the fill.
 - (A) Operators shall minimize fill material by restricting the width and height of the fill to the amount needed for safe use of the road by vehicles, and by providing adequate cover over the culvert or other drainage structure.
 - (B) Fills over 15 feet deep contain a large volume of material that can be a considerable risk to downstream beneficial uses if the material moves downstream by water. Consequently, for any fill over 15 feet deep operators shall submit to the State Forester a written plan that describes the fill and drainage structure design. Written plans shall include a design that minimizes the likelihood of:
 - (i) Surface erosion;
 - (ii) Embankment failure; and
 - (iii) Downstream movement of fill material.
 - (C) The operator shall armor fills against erosion where large fills over 15 feet deep are determined to be necessary by the State Forester.
 - (c) Prevent erosion of the fill and channel.
 - (d) Minimize hydrologic connectivity for adjacent roadway.
 - (e) Avoid or minimize alterations or disturbances to stream channel, bed, bank, or bank vegetation to that which is necessary to construct the water crossing structure. Operators shall limit the alteration or disturbance of stream bed, bank, or bank vegetation to that which is necessary to construct the project.
 - (f) Plant disturbed stream banks with native woody species or stabilize with other erosion control techniques.
 - (g) Ensure that streamflow is not likely to be diverted out of its channel if the crossing fails.
 - (h) Preserve water quality and unobstructed flow.
 - (i) Route and deposit temporarily turbid water from crossing projects to the forest floor in an upland area, or above the 100-year flood level if present, to allow removal of fine sediment and other contaminants prior to discharge to waters of the state.
 - (j) When the State Forester determines that installing a water crossing in a flowing stream will cause excessive sedimentation and turbidity, and sedimentation and turbidity would be reduced if stream flow were diverted, operators shall divert stream flow using a bypass flume or culvert, or by pumping the stream flow around the work area. In this situation, operators may install culverts within 0.25 miles of a Type F or Type SSBT stream or within two miles of a hatchery intake.
 - (k) For water crossing structures on Type F and Type SSBT streams, operators shall, consistent with the rules in this section:
 - (A) Avoid or minimize impacts to fish and their spawning and rearing habitat;
 - (B) Minimize the loss of fish life during the project; and
 - (C) Ensure free and unimpeded fish passage at all flows when fish are expected to move through the life of the structure.
- (2) In selecting a crossing design strategy, operators constructing or reconstructing crossings in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals shall first consider vacating the water crossings. For water crossings in all Type F and Type SSBT streams where vacating the water crossing is not feasible or desired by the landowner, permanent channel-spanning structures shall be prioritized before other crossing strategies. This section does not require the landowner to utilize any specific crossing design strategy.

- (3) Operators shall design and construct permanent water crossings to:
- (a) Convey, at a minimum, the 100-year peak flow in Type N and D streams and in Type F and Type SSBT streams. When determining the size of the culvert needed to convey a flow corresponding to the 100-year return interval, operators shall select a size adequate to preclude the ponding of water higher than the top of the culvert.
 - (b) Operators shall design permanent water crossing culverts in Type F and Type SSBT streams using the stream simulation approach. Water crossing design in Type F and Type SSBT streams shall consider and incorporate the stream's geomorphic processes and anticipated changes over the life of the structure. Operators shall design water crossings in Type F and Type SSBT streams to allow for the movement of water, wood, sediment, and organisms to the maximum extent feasible and minimize obstacles to stream processes. The design of the water crossings in Type F and Type SSBT streams shall avoid fragmentation of aquatic habitats by replicating the natural conditions of the stream being crossed. Where the operator determines it is not possible to achieve stream simulation, operators may propose alternatives if the alternative can accommodate a 100-year peak flow and does not obstruct fish passage.
 - (c) The State Forester may require a larger crossing design if division staff determines, in consultation with department specialists, that the structure size designed to pass the 100-year peak flow is inadequate to:
 - (A) Avoid delivery of sediment to the water being crossed;
 - (B) Avoid stream diversion potential; and
 - (C) Provide opportunity for the passage of expected bed load and associated large woody debris during flood events.
- (4) Permanent Channel-Spanning Structures. For permanent channel-spanning structures, including long and short-span bridges, and open-bottom culverts, that span the entire bankfull width of the stream, operators shall design and construct the structure to conform with all the following:
- (a) Permanent channel-spanning structures have at least three feet of clearance between the bottom of the bridge structure and the water surface at the 100-year peak flow, unless engineering justification shows a lower clearance will allow the free passage of anticipated sediment and large wood.
 - (b) Place the bridge structure or stringers in a manner to minimize damage to the stream bed.
 - (c) Tie or firmly anchor one end of each new, or reconstructed, permanent log or wood bridge if any of the bridge structure is within 10 vertical feet of the 100-year flood level.
 - (d) When earthen materials are used for bridge surfacing, install only clean sorted gravel, a geotextile lining or equivalent barrier, and install curbs of sufficient size to a height above the surface material to prevent surface material from falling into the stream bed.
 - (e) Place wood removed from the upstream end of bridges at the downstream end of bridges in such a way as to minimize obstruction of fish passage to the extent practical, while avoiding significant disturbance of sediment in connection with maintenance activities.
 - (f) Abutments, piers, piling, sills, and approach fills shall not constrict the flow so as to cause any appreciable increase (not to exceed 0.2 feet) in backwater elevation (calculated at the 100-year flood level) or channel wide scour and shall be aligned to cause the least effect on the hydraulics of the watercourse.
 - (g) Excavation for and placement of the foundation and superstructure is outside the ordinary high-water line unless the construction site is separated from the stream by an approved dike, cofferdam, or similar structure.
 - (h) Cure wood or other materials treated with preservatives sufficiently to minimize leaching into the water or bed. The use of creosote or pentachlorophenol is not allowed. Cure structures containing concrete sufficiently prior to contact with water to avoid leaching.
 - (i) Design permanent channel-spanning structures in Type F and Type SSBT streams using stream simulation and comply with the following:
 - (A) Channel-spanning structures shall not constrict clearly defined channels; and
 - (B) Channel-spanning structures shall establish a low-flow channel that will allow for fish movement during low-flow periods.

- (5) Permanent Water Crossing Culverts. For permanent water crossing culverts in all streams, operators shall design and construct culverts to conform with all the following:
- (a) Design and install culverts so they will not cause scouring of the stream bed and erosion of the banks in the vicinity of the project.
 - (b) Design the culvert to avoid stream diversion potential.
 - (c) The culvert and its associated embankments and fills must have sufficient erosion protection to withstand the 100-year peak flow. Erosion protection may include armored overflows or the use of clean coarse fill material.
 - (d) Place wood removed from the upstream end of culverts at the downstream end of culverts in such a way as to minimize obstruction of aquatic organism passage to the extent practical, while avoiding significant disturbance of sediment in connection with maintenance activities.
 - (e) Limit disturbance of the bed and banks to what is necessary to place the culvert and any required channel modification associated with it. Revegetate, or stabilize with other erosion control techniques, affected bed and bank areas outside the culvert and associated fill with native woody species. Maintain native woody species for one growing season.
 - (f) Do not install permanent water crossing culverts that are less than 18 inches in diameter.
- (6) Permanent Water Crossing Culverts in Fish Streams. For permanent water crossing culverts in Type F and Type SSBT streams, operators shall conform to (5)(a) through (f) and design and construct culverts using a stream simulation as follows:
- (a) For no slope culverts and those up to one percent gradient, the minimum culvert diameter or span is at least equivalent to the active channel width. For other culvert installations, the minimum culvert diameter or span is at least 1.2 times the active channel width, plus 2 feet.
 - (b) Alignment and slope. The alignment and slope of the culvert shall mimic the natural flow of the stream when possible. The slope of the reconstructed streambed within the culvert shall approximate the average slope of the adjacent stream from approximately ten channel widths upstream and downstream of the site in which it is being placed, or in a stream reach that represents natural conditions outside the zone of the road crossing influence.
 - (c) Embedment. If a culvert is used, bury the bottom of the culvert into the streambed not less than 30 percent and not more than 50 percent of the culvert height for round culverts and for pipe arch culverts not less than 15 percent and no more than 30 percent For bottomless culverts, design the footings or foundation for the deepest anticipated scour depth.
 - (d) Maximum length. If the design for a new crossing on a new road would require a culvert longer than 150 feet, utilize a channel spanning structure unless the site-specific design constraints preclude the use of a channel spanning structure.
 - (e) Culvert bed materials. Culvert bed materials shall have a similar composition to natural bed materials that form the natural stream channels adjacent to the road crossing in the reference reach. Design the culvert to allow sufficient transported bed material to maintain the integrity of the streambed over time.
 - (A) New water crossings in Type F and SSBT streams shall require manual placement of culvert bed materials during bed construction.
 - (B) Operators may select natural accumulation for reconstruction of water crossings where feasible. Operators that select natural accumulation of culvert bed materials shall document in the written plan the site conditions and design elements that will facilitate natural accumulation in sufficient detail to allow the State Forester to evaluate and comment on the likelihood that the operation will comply with the requirements under (1)(k) and the requirements of (3) and (6) of this rule.
 - (i) The threshold to determine that natural accumulation has occurred shall be when the culvert meets the embedment standard under subsection (6)(c) of this rule.

- (ii) The operator shall provide the following information in the notification for an extension of a natural accumulation project to the State Forester:
 - (I) An assessment of current culvert bed material accumulation within the culvert; and
 - (II) An assessment of the material available for transport and accumulation within the culvert.
 - (iii) If the culvert does not meet the natural accumulation threshold under (i) after the second winter season following the installation of the crossing and no later than July 1, the operator shall submit a new notification to the State Forester detailing how the operator will mechanically place culvert bed materials in order to achieve (6)(c) before September 30 of the same year. The department shall visually inspect the culvert by December 30 of that year to confirm the crossing meets (6)(c).
 - (f) Water velocity. The maximum velocity in the culvert shall not exceed the maximum velocity in the narrowest channel cross-sections.
- (7) Fords. For fords, operators shall design and construct those structures to meet all the following criteria:
 - (a) The entry and exit points of a new ford must not be within 100 feet upstream or downstream of another ford within a property ownership.
 - (b) Use fords only during periods of no or low stream flow (whether dry or frozen) to minimize the delivery of sediment to the stream.
 - (c) Install fords only in a dry streambed or when a site is de-watered. The written plan shall describe sediment control and flow routing plans and the project, as implemented, must meet the criteria outlined in the written plan.
 - (d) Approaches to the structure shall not dam the floodplain where substantial overbank flow occurs.
 - (e) The ford shall cross as near to perpendicular to the channel to minimize the disturbance area and reduce post-installation maintenance.
 - (f) The ford shall minimize the acceleration of flow through the ford.
 - (g) For Type F and Type SSBT streams, any ford structure shall:
 - (A) Be no wider than 16 feet;
 - (B) Installed and maintained to ensure scour has not created a barrier to fish passage; and
 - (C) Installed and maintained to ensure free and unimpeded fish passage at all flows when fish are expected to move through the structure.
- (8) Temporary Water Crossings. For temporary water crossings, operators shall design and construct those structures to conform with the following:
 - (a) Design temporary water crossings in Type N and Type D streams to pass at minimum the flows expected during crossing use with a minimum culvert diameter of 18 inches.
 - (b) Use temporary water crossings in Type F and Type SSBT streams only during the in-water work period defined by the Department of Fish and Wildlife, or when the department in consultation with the Department of Fish and Wildlife and applicant can agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection.
 - (c) Identify temporary water crossings on the forest practices notification and written plan as required in OAR 629-625-0100(2)(d), along with a vacating date.
 - (d) Only use temporary water crossings on Type N and Type D streams:
 - (A) In Western Oregon if installed after June 1 and removed no later than September 30 of the same year;
 - (B) In Eastern Oregon if installed after July 1 and removed no later than October 15 of the same year; or
 - (C) When the department and applicant agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection.

The department may consult with Department of Fish and Wildlife before extending the dates.

- (e) Install temporary water crossings in the dry streambed or in isolation from stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area. The State Forester may grant an exception to the operator if siltation or turbidity is reduced by placing the culvert in the flowing stream as an alternative to dewatering.
 - (f) Limit the bypass reach to the minimum distance necessary to complete the project.
 - (g) Vacate temporary water crossings to the specifications outlined in OAR 629-625-0650.
 - (h) The State Forester may waive removal of the water crossing if the operator secures an amended written plan, and the structure and its approaches meet the requirements of a permanent water crossing structure as outlined in Sections (4) to (7) of this rule.
 - (i) Limit the disturbance of the bed and banks to that which is necessary to place the temporary water crossing and any required channel modification associated with it.
- (9) Other Design Strategies. The operator shall submit their design strategies to the State Forester for approval:
- (a) Submit any alternative water crossing strategy that does not conform with sections (4) to (8) of this rule to the State Forester as a plan for alternative practice. The State Forester may approve the plan for alternate practice in consultation with Department of Fish and Wildlife.
 - (b) The State Forester may consider other designs if they can meet or exceed the standards in sections (4) to (8) of this rule.
- (10) Construction of Water Crossings. In the construction of water crossings, operators shall do the following:
- (a) Comply with all relevant forest road construction and maintenance rules in the construction or reconstruction of all water crossings. Nothing in this section affects existing requirements of Department of Fish and Wildlife.
 - (b) Runoff, Erosion and Sediment. Operators shall control runoff, erosion, and sediment through the following actions:
 - (A) Include a site-specific erosion and sediment control plan as part of a written plan prior to beginning work. This plan must include, but is not limited to:
 - (i) A site plan with a description of the methods of erosion or sediment control;
 - (ii) Methods for confining, removing, and disposing of excess construction materials; and
 - (iii) Measures to disconnect road surface and ditch water from all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals.
 - (B) Treat areas of bare soil that could deliver sediment to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals. Treatments must include, but are not limited to:
 - (i) Prior to project construction, establish effective drainage; before September 30 in Western Oregon and October 15 in Eastern Oregon. Effective drainage may be established at other times when the department and applicant can agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection;
 - (ii) Before the start of the rainy season and no later than September 30 in Western Oregon and October 15 in Eastern Oregon, mulch or seed areas of bare soil, or any combination thereof to reduce surface erosion; and
 - (iii) Upon completion of construction, apply native seed, invasive species-free mulch, or any combination thereof to sites with the potential for sediment delivery to all typed waters and lakes, bays, ponds, impounding

reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals. Operators must apply invasive species-free mulch to stay in place.

- (c) Pollution Control. To control pollution, operators shall do the following:
- (A) The operator shall maintain a spill prevention and response plan on site during construction.
 - (B) The operator shall not allow uncured concrete or concrete by-products to enter waters of the state during construction. The operator shall seal all forms for concrete to prevent uncured concrete from entering waters of the state.
 - (C) The operator shall take measures to ensure that all materials and equipment used for construction, monitoring, and fish salvage are free of aquatic invasive species.
 - (D) The operator shall not use wood treated with creosote or pentachlorophenol for parts of the structure in or over the active channel, including pilings, beams, structural supports, and decking.
 - (E) The operator shall not allow chemicals or any other toxic or harmful materials to enter into waters of the state.
- (d) In-Water Work, Worksite Isolation, and Dewatering. To address in-water work, worksite isolation and dewatering needs of water crossing projects, operators shall do the following:
- (A) Develop an in-water work plan for water crossings in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals in their written plan. The plan may include, but is not limited to, fish salvage, worksite isolation, and dewatering. The written plan shall address in detail all in-channel construction activities and how the activities will adhere to all relevant forest practice rules forest road requirements. For all streams, the written plan shall describe:
 - (i) Activities during the in-water work period defined by the Department of Fish and Wildlife; or
 - (ii) Activities outside the in-water work period when the department, in consultation with Department of Fish and Wildlife, and applicant can agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection.
 - (B) Construct water crossings in compliance with Department of Fish and Wildlife fish passage and in-water work period requirements.
 - (C) For all water crossings in Type F and Type SSBT streams, operators shall do the following:
 - (i) Worksite isolation:
 - (I) Operators must isolate any work area within the width of the bankfull channel from water in the active channel at times when fish are reasonably certain to be present in a Type F or Type SSBT stream.
 - (II) When constructing water crossings in Type F and Type SSBT streams with any stream bypass, operators shall have an exclusion and recovery plan to ensure safe capture and relocation of fish trapped in the work zone when stream flow has been diverted.
 - (III) Prior to construction site dewatering, operators shall capture and relocate fish to avoid direct mortality to the maximum extent practicable.
 - (IV) Operators shall salvage fish to the maximum extent practicable at any in-water construction site where dewatering and resulting isolation of fish may occur.
 - (V) Operators shall remove all isolation features after construction is complete and submit a written salvage report to the department.

- (ii) Dewatering:
 - (I) Operators shall not dewater areas known to be occupied by lamprey, unless the operator submits a lamprey salvage plan to the State Forester in consultation with the Department of Fish and Wildlife.
 - (II) Operators shall conduct dewatering of the isolated area in a manner that prevents sediment-laden water from reentering the stream.
 - (III) Operators shall limit dewatering to the shortest linear extent of the stream as practicable.
 - (IV) Operators shall conduct dewatering over a sufficient period to allow species to naturally migrate out of the work area.
- (11) Monitoring. Landowners shall develop and implement a monitoring program for periodic inspections of all Type F and Type SSBT stream crossings that includes:
 - (a) Visual inspection to confirm that the crossing is functional; and
 - (b) Monitoring occurs at least once every 5 years.

629-625-0330

Drainage

- (1) All active, inactive, and vacated forest roads and landings shall be hydrologically disconnected to the maximum extent practicable from waters of the state to minimize sediment delivery from road runoff and reduce the potential for hydrological changes that alter the magnitude and frequency of runoff. Operators shall locate drainage structures based on the priority listed below. When there is a conflict between the requirements of sections (2) through (7) of this rule, the lowest numbered section takes precedence and the operator shall not implement the later numbered and conflicting section.
- (2) Operator shall not install cross-drains and ditch-relief culverts in a way that causes stream diversion.
- (3) Operators shall not concentrate road drainage water into headwalls, slide areas, high landslide hazard locations, or steep erodible fillslopes.
- (4) Operators shall not divert water from stream channels into roadside ditches.
- (5) Operators shall install drainage structures at approaches to stream crossings to divert road runoff from entering the stream. If placement of a single drainage structure cannot be placed in a location where it can effectively limit sediment from entering the stream, then additional drainage structures, road surfacing, controlling haul, or other site-specific measures shall be employed so that the drainage structure immediately prior to the crossing will effectively limit sediment from entering the stream. Operators may also use best management practices to manage sediment at the outflow of the drainage structure nearest to the crossing.
- (6) Operators shall provide drainage when roads cross or expose springs, seeps, or wet areas.
- (7) Operators shall provide a drainage system that minimizes the development of gully erosion of the road prism or slopes below the road using grade reversals, surface sloping, ditches, culverts, waterbars, or any combination thereof. For new road construction, operators shall use outsloping to the maximum extent practicable when site-specific conditions allow for its safe and effective use.
- (8) The department shall publish Forest Practices Technical Guidance to assist operators with road drainage rule compliance and to explain how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

629-625-0400

Road Construction

OARs 629-625-0400 through 629-625-0440 provide standards for disposal of waste materials, drainage, stream protection, and stabilization to protect water quality during and after road construction.

629-625-0410

Disposal of Waste Materials

- (1) Operators shall place debris, sidecast, waste, and other excess materials associated with constructing, maintaining, or vacating roads in stable locations outside of the riparian management area where these materials may not enter all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals or otherwise degrade aquatic resources after construction.
- (2) Operators shall select stable areas for the disposal of end-haul materials and shall prevent overloading areas which may become unstable from additional material loading.
- (3) If other alternatives present are unstable or there is a higher potential for delivery of waste materials to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals, operators may place waste materials within the riparian management area but no closer than 75 feet from all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals. To place waste materials within the riparian management area but no closer than 75 feet from a water of the state, operators must submit written plan that describes site-specific measures that prevent or minimize the entry of these materials to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals.
- (4) If the protections of a riparian management area are not required, operators shall place waste materials at a minimum of 75 feet from all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals.
- (5) Operators shall develop a written plan for temporary placement of waste materials within the riparian management area that is necessary for constructing or vacating roads and crossings that describes site-specific measures that prevent or minimize the entry of these materials to waters of the state and the timeframe for removal of those waste materials.
- (6) Woody debris, rocks, or other materials placed for erosion control or for habitat restoration are exempt from this rule.

629-625-0440

Stabilization

- (1) Operators shall establish effective drainage and stabilize exposed material, which is potentially unstable or erodible to avoid potential delivery of sediment to waters of the state, by use of seeding, mulching, riprapping, leaving light slash, pull-back, or other effective means, as soon as practicable after completing operations or prior to the start of the rainy season. These areas include, but are not limited to, unsurfaced road grades, cut slopes, fill slopes, ditchlines, waste disposal sites, rock pits, and other areas with the potential for sediment delivery to waters of the state.
- (2) During wet periods operators shall construct roads in a manner which prevents sediment from entering waters of the state.
- (3) Operators shall not incorporate slash, logs, or other large quantities of organic material into road fills.

629-625-0500

Rock Pits and Quarries

- (1) The development, use, and abandonment of rock pits or quarries which are located on forestland and used for forest management shall be conducted using practices which maintain stable slopes and protect water quality.
- (2) Operators shall not locate quarry sites in channels.
- (3) When using rock pits or quarries, operators shall prevent overburden, solid wastes, or petroleum products from entering waters of the state.
- (4) Operators shall stabilize banks, headwalls, and other surfaces of quarries and rock pits to prevent surface erosion or landslides.

- (5) When a quarry or rock pit is inactive or vacated, operators shall leave it in the conditions described in section (4) of this rule, shall remove from the forest all petroleum-related waste material associated with the operation, and shall dispose of all other debris so that such materials do not enter waters of the state.

629-625-0600

Road Maintenance

- (1) The purpose of this rule is to protect water quality and ensure hydrologic disconnection of roads from waters of the state to the maximum extent practicable by timely maintenance of all active and inactive roads. Road surface must be maintained as necessary to:
 - (a) Minimize erosion of the surface and the subgrade;
 - (b) Minimize direct delivery of surface water to waters of the state;
 - (c) Minimize sediment entry to waters of the state;
 - (d) Direct any groundwater that is captured by the road surface onto stable portions of the forest floor;
 - (e) Ensure properly functioning and durable drainage features; and
 - (f) For existing roads with inboard ditch, avoid overcleaning of ditchlines.
- (2) Operators shall inspect and maintain culvert inlets and outlets, drainage structures, and ditches before and during the rainy season as necessary to minimize the likelihood of impeding flow and the possibility of structure failure.
- (3) Operators shall provide effective road surface drainage, such as water barring, surface crowning, constructing sediment barriers, or outsloping prior to the rainy and runoff seasons.
- (4) When applying road oil or other surface stabilizing materials, operators shall plan and conduct the operation in a manner as to prevent entry of these materials into waters of the state.
- (5) Operators shall maintain and repair active and inactive roads as needed to minimize damage to waters of the state. This may include maintenance and repair of all portions of the road prism during and after intense winter storms, as safety, weather, soil moisture, and other considerations permit.
- (6) Operators shall place material removed from ditches in a stable location.
- (7) Operators shall install drainage structures on ditches that capture groundwater.
- (8) Where needed to protect water quality, as directed by the State Forester, operators shall place additional cross drainage structures on existing active roads within their ownership prior to hauling to meet the requirements of OAR 629-625-0330.
- (9) In order to maintain fish passage through water crossing structures, operators shall:
 - (a) Maintain conditions at the structures so that passage of adult and juvenile fish is not impaired during periods when fish movement normally occurs;
 - (b) As reasonably practicable, keep structures cleared of woody debris and deposits of sediment that would impair fish passage; and
 - (c) Adhere to other fish passage requirements under the authority of ORS 509.580 through 509.910 and OAR 635-412-0005 through 635-412-0040 administered by other state agencies that may be applicable to water crossing structures.

629-625-0650

Vacating Forest Roads and Water Crossings

- (1) The purpose of this rule is to ensure that when landowners choose to vacate roads under their control, the roads are left in a condition where road-related damage to waters of the state is unlikely.
- (2) To vacate a forest road, landowners shall effectively block the road to prevent continued use by vehicular traffic and shall take all reasonable actions to leave the road in a condition where road-related damage to waters of the state is unlikely.
- (3) To vacate a water crossing, landowners shall completely and permanently remove all water crossing structures, including bridges, culverts, fords, and associated fills. Vacating water crossings must re-establish the natural drainage with no additional maintenance required.

- (4) To vacate a road, a forest landowner must complete procedures of (a) through (c) of this subsection:
 - (a) Outslope, water bar, or storm-proof roads or otherwise leave roads in a condition suitable to control erosion and maintain water movement within wetlands and natural drainages.
 - (b) Leave ditches in a suitable condition to reduce erosion.
 - (c) Remove water crossing structures and fills on waters of the state unless the department determines other measures would adequately protect public resources.
- (5) To vacate a water crossing, a forest landowner must complete procedures (a) through (g) of this subsection:
 - (a) Re-establish channel connectivity.
 - (b) Meet the Department of Fish and Wildlife fish passage definition in OAR 635-412-0005 and comply with Department of Fish and Wildlife in-water work period requirements.
 - (c) Ensure that vacating does not result in an artificial fish passage barrier at the time of project completion.
 - (d) Remove all water crossing structures and all imported road fill material.
 - (e) Restore the channel, banks, and side slopes to:
 - (A) Establish the natural streambed and banks as close to the original location as possible to restore or enhance stream conditions and processes to an equivalent width, depth, gradient, and substrate composition as the channel segments upstream and downstream from the crossing;
 - (B) Ensure stable side slopes that do not exceed a 2 horizontal to 1 vertical ratio, unless matching the natural stream bank or valley walls;
 - (C) Incorporate large wood, if appropriate, to expedite restoration of the channel and fish habitat;
 - (D) Require erosion control to address sediment delivery from exposed slopes;
 - (E) Place all excavated material in stable locations and outside of the floodplain;
 - (F) Ensure zero or near-zero road related hydrologic connectivity at the entire site; and
 - (G) Plant exposed stream banks or valley walls with native trees or shrubs to help expedite development of a functioning riparian condition.
 - (f) The landowner shall notify the State Forester that a road or crossing is vacated. The State Forester has 30 days to determine whether the road or crossing has been vacated and to notify the landowner in writing. If the State Forester does not respond within 30 days, the road is presumed to be vacated.
 - (g) Roads and crossings are exempt from maintenance under this section only after sections (4) and (5) of this section is completed.
 - (h) The department shall publish Forest Practices Technical Guidance to assist operators with rule compliance and to explain how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

629-625-0700

Wet Weather Road Use

- (1) The purpose of this rule is to reduce delivery of fine sediment to streams caused by the use of forest roads during wet periods that may adversely affect downstream water quality in Type F, Type SSBT or Type D streams.
- (2) Operators shall use durable surfacing or other effective measures that resist deep rutting or development of a layer of mud on top of the road surface on road segments that drain directly to streams on active roads that will be used for log hauling during wet periods.
- (3) Operators shall cease active road use where the surface is deeply rutted or covered by a layer of mud and where runoff from that road segment is causing a visible increase in the turbidity of Type F, Type SSBT or Type D streams as measured above and below the effects of the road.
- (4) The department shall publish Forest Practices Technical Guidance to explain how wet weather road use can avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

629-625-0800

Construction in Wetlands

Avoid or minimize all road and landing construction near or within significant wetlands as described in OAR 629-680-0310, stream-associated wetlands, or wetlands greater than 0.25 acres in size. Where impacts are unavoidable, operators must first minimize impacts and then mitigate for them in the following priority order options (1) through (4) of this rule:

- (1) Operators shall avoid impacts to significant wetlands, stream-associated wetlands, and other wetlands greater than 0.25 acres in size by selecting the least environmentally damaging landing location, road location and road length. Operators must attempt to minimize road length when avoiding wetlands.
- (2) When road or landing construction in a significant wetland, stream-associated wetland, or other wetlands greater than 0.25 acres in size cannot be avoided, the operator shall build a temporary road or landing that:
 - (a) Minimizes impacts by reducing the subgrade width, fill acreage, and spoil areas; and
 - (b) Removes temporary fills or road sections upon the completion of the project.
- (3) Permanent road construction in a significant wetland, stream-associated wetland, or other wetlands greater than 0.25 acres in size, operators must mitigate impacts by:
 - (a) Reducing or eliminating impacts over time by preserving or maintaining areas; or
 - (b) Replacing affected areas by creating new wetlands or enhancing existing wetlands.
- (4) Filling or draining more than 0.25 acres of a significant wetland, any stream-associated wetland, or other wetlands greater than 0.25 acres in size requires the operator to replace by substitution or enhance the road or landing construction site for the lost wetland functions and values. The objective of successful replacement by substitution of lost wetland area is approximately on a two-for-one basis and of the same type and in the same general location. The objective of enhancing wetland function is to provide for an equivalent amount of function and values to replace that which is lost.
- (5) The department shall publish Forest Practices Technical Guidance to assist operators with rule compliance and to explain how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

629-625-0900

Forest Road Inventory and Assessment

- (1) The purpose of the Forest Road Inventory and Assessment (FRIA) is to reduce chronic and catastrophic sediment entry to waters of the state and to ensure passage for covered species during all mobile life-history stages by identifying existing roads not meeting the forest practice rules and bring those roads into compliance with the forest practice rules.
- (2) OAR 629-625-0900 does not apply to small forestland owners, as defined in OAR 629-600-0100. Small forestland owners shall submit a road condition assessment when they submit a notification of operation for a timber harvest that will use a road to haul timber, as described in OAR 629-625-0920.
- (3) The department shall publish Forest Practices Technical Guidance for compliance with the Forest Road Inventory and Assessment process to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.
- (4) The Forest Road Inventory and Assessment rules apply to segments of roads located on a large forest landowners' property, excluding roads that are owned or controlled by a government entity, including, but not limited to, the United States, and federally recognized Indian Tribes. For the purposes of this section, both ownership and control mean any right, interest, or agreement that precludes the large forest landowner from being able to conduct road work without prior authorization.
- (5) Pre-inventory. Landowners shall submit a pre-inventory of high conservation value sites on each road management block to the State Forester no later than January 1, 2025.
 - (a) Landowners shall include high conservation value sites in the pre-inventory that address the following sites:

- (A) Areas of known chronic sedimentation. Consideration will be given to areas where log hauling will occur during the 5-year inventory phase.
- (B) Fish passage barriers known to be of significant concern. Priorities will be based on locations where fish passage would provide the greatest benefit to native migratory fish consistent with OAR 635-412-0015 and other criteria as determined by the Department of Fish and Wildlife in consultation with the department and consistent with the Oregon Fish Passage Barrier Data Standard developed by the Department of Fish and Wildlife Fish Screening and Passage Program.
- (C) Ongoing stream diversions at stream crossings and areas with stream diversion potential.
- (D) Areas of known hydrologic connectivity.
- (b) From the list of high conservation value sites identified, landowners shall prioritize projects on high conservation value sites within the pre-inventory submission that:
 - (A) Remove fish passage barriers consistent with Department of Fish and Wildlife requirements;
 - (B) Minimize the potential for sediment delivery to waters of the state;
 - (C) Minimize stream diversions at water crossings;
 - (D) Minimize hydrologic connectivity between roads and waters of the state; and
 - (E) Meet other relevant criteria as determined by the department in consultation with other state and federal agencies.
- (c) Landowners shall meet with the department and Department of Fish and Wildlife to review the pre-inventory list no later than January 1, 2026.
 - (A) The department shall meet with the Department of Fish and Wildlife to review the list and coordinate to ensure that high conservation value sites are prioritized based on habitat values, road conditions, sediment delivery to waters of the state, hydrologic connectivity, and fish passage in alignment with the barrier assessment and inventory prioritization under the Department of Fish and Wildlife Fish Passage Program.
 - (B) The department and the Department of Fish and Wildlife may propose additional projects to the pre-inventory list if they believe that high conservation value sites have not been addressed.
 - (C) The department shall coordinate with the Department of Fish and Wildlife to ensure that information collected in the pre-inventory process is standardized and is in a format consistent with the Oregon Fish Passage Barrier Data Standard.
- (d) Landowners shall address prioritized pre-inventory projects after review from the department and Department of Fish and Wildlife beginning no sooner than January 1, 2026, and no later than January 1, 2029.
- (e) Landowners shall report annually to the department and Department of Fish and Wildlife on the status and completion of pre-inventory projects through January 1, 2029.
- (6) Landowners shall submit an initial inventory of all active, inactive, and known vacated or abandoned roads no later than January 1, 2029.
 - (a) The initial inventory shall include three documents:
 - (A) Paper or electronic maps showing the roads within each road management block;
 - (B) A work matrix documenting actions necessary to bring all roads into compliance with the forest practice rules. The document shall include prioritization of work; and
 - (C) A Forest Road Inventory and Assessment initial inventory plan describing how the landowner intends to bring the road network into compliance no later than January 1, 2044. The plan shall include:
 - (i) Actions likely to be addressed in the upcoming year;
 - (ii) A general description of how work will occur during the Forest Roads Inventory and Assessment period; and

- (iii) A description of how the landowner is prioritizing work with the goal of optimizing environmental benefits.
 - (D) At minimum, the FRIA initial inventory submission shall include:
 - (i) The location and length of active roads, inactive roads, and vacated roads within each road management block.
 - (ii) The location of streams within the road management block, classified as:
 - (I) Fish;
 - (II) Non-fish;
 - (III) SSBT;
 - (IV) Fish presence unknown; or
 - (V) Streams that are 303(d) listed shall be depicted as such in addition to fish use designation.
 - (iii) Known or potential road-related fish passage barriers. Data collected shall be consistent with the Oregon Fish Passage Barrier Data Standard in consultation with Department of Fish and Wildlife.
 - (iv) Prioritization of known or potential road related fish passage barriers. Prioritization of fish passage barriers shall be done in a manner consistent with the Department of Fish and Wildlife Fish Passage Program.
 - (v) The location and status of all water crossing culverts including:
 - (I) Date of installation, if known; and
 - (II) Assessment of culvert material used.
 - (vi) Each water crossing culvert shall be classified as one of the following:
 - (I) A fully functioning culvert in a Type F or Type SSBT stream;
 - (II) A fully functioning culvert in a Type N or Type D stream;
 - (III) A culvert with imminent risk of failure;
 - (IV) A culvert with minimum risks to public resources; or
 - (V) Undetermined status. Culverts with undetermined status must be prioritized for improvement. The status may be changed as more detailed information is gathered.
 - (b) The FRIA initial inventory submission shall identify each road segment as:
 - (A) Meeting the forest practice rules;
 - (B) Not meeting the forest practice rules;
 - (C) Vacated in compliance with OAR 629-625-0650; or
 - (D) Abandoned.
- (7) In the year following submitting the initial inventory but no later than January 1, 2029, landowners shall submit annual inventory reports and plans until January 1, 2044, which shall include:
 - (a) Updates to the maps required by OAR 629-625-0900(6)(a)(A) reflecting:
 - (A) Work accomplished during the prior year;
 - (B) Additional information discovered; and
 - (C) Potential changes in prioritizations.
 - (b) Update to the work matrix required by OAR 629-625-0900(6)(a)(B) showing:
 - (A) Improvements completed;
 - (B) Work to be completed;
 - (C) Additional information discovered; and
 - (D) Changes in prioritization.
 - (c) Update to the annual plan required by OAR 629-625-0900(6)(a)(C) reflecting:
 - (A) Work conducted in the prior year;
 - (B) Work likely to be completed in the upcoming year; and
 - (C) General plan to complete all necessary work no later than the January 1, 2044.
- (8) The documents required by OAR 629-625-0900(7) must contain all the following:
 - (a) Total length of forest roads improved, including as a subset, length improved by compliance with OAR 629-625-0330(1) Drainage.

- (b) Total length of forest roads still requiring improvement.
- (c) Total length of forest roads planned for improvement in the upcoming year.
- (d) Total length of forest roads vacated.
- (e) Total length of forest roads planned to be vacated in the upcoming year.
- (f) Number of fish barriers brought into compliance with OAR 629-625-0320 Water Crossing Structures.
- (g) Number of fish barriers to be improved in the upcoming year.
- (h) Certification by the landowner that they remain on track for completing required improvements no later than January 1, 2044.
- (9) Landowners shall improve all road segments identified in the initial inventory as not meeting the forest practice rules so that those segments either meet the Forest Practice Administrative Rules or are vacated no later than January 1, 2044.
- (10) For culverts that meet the definition of pre-existing culverts, landowners shall:
 - (a) Inspect them every five years when the installation date is not known; and
 - (b) Maintain them to end of service life or until they no longer meet the definition of pre-existing culverts.
- (11) For culverts that do not meet the definition of pre-existing culverts, landowners shall:
 - (a) Prioritize them for improvement during the initial inventory;
 - (b) Bring them into compliance with Forest Practice Rules no later than January 1, 2044; or
 - (c) For culverts not meeting the definition of pre-existing, consult with the Department of Fish and Wildlife to assign them a status of low priority and maintain them to the end of their service life when they meet the following criteria:
 - (A) The culvert is partially functioning to provide fish passage and the cost of repair or replacement is disproportionate to the benefits of the repair or replacement; or
 - (B) The culvert provides valuable wetland or pond habitat.
- (12) For culverts meeting the definition of having imminent risk of failure, landowners shall repair or replace the culvert as soon as practicable but no later than two years after having been identified.

629-625-0910

State-led Abandoned Roads Inventory

- (1) The department in consultation with the U.S. Environmental Protection Agency shall lead a cooperative effort to identify abandoned roads. The purpose of this effort is to identify abandoned roads and bring them into compliance with the forest practice rules to reduce the potential of abandoned roads to produce chronic sediment and increase the risks of mass wasting and stream diversions.
- (2) After identifying abandoned roads, the department and cooperators shall identify abandoned roads with a high level of risk to waters of the state or infrastructure. The State Forester shall provide the results of the inventory to landowners no later than January 1, 2026. The department shall use the following criteria listed in order of importance to identify risk levels:
 - (a) Ongoing stream diversion at stream crossings.
 - (b) Diversion potential at stream crossings.
 - (c) Likelihood of hydrologic connectivity.
 - (d) Comparative risk of chronic sediment produced.
 - (e) Risk of contribution to mass wasting.
 - (f) Other criteria as determined by the department in consultation with other state and federal agencies.
- (3) Following the identification of high-risk abandoned road segments, the department in coordination with landowners shall identify high-priority abandoned road segments from the list of high-risk locations. Considerations for designating a segment as high priority shall include:
 - (a) Importance of the HUC-6 watershed to recovering salmonids;
 - (b) Number of stream crossings based on full-densified stream network;
 - (c) Cost of improvements in comparison to the benefits; and
 - (d) Other criteria as determined by the department in consultation with other state and federal agencies.

- (4) Landowners shall complete a field verification of all high priority abandoned road segments identified in section (3).
- (a) The department, Department of Environmental Quality, and Department of Fish and Wildlife shall, when necessary, review landowner verifications of high priority sites and improvement plans.
- (b) Landowners shall include the following information in their field verification of high priority abandoned road segments:
- (A) Confirmation that the high-priority site is on an abandoned road.
- (B) Determination whether the segment is diverting the stream or has diversion potential.
- (C) Determination regarding whether the segment is actively contributing sediment or has a high risk of contributing significant quantities of sediment to waters of the state. Indicators of risk of contributing significant quantities of sediment may include:
- (i) A sediment deposit reaching the high-water line of a defined channel of a flood prone area;
- (ii) A channel that extends from a road drainage structure outlet to the high-water line of a defined channel or a flood-prone area;
- (iii) Evidence of surface flow between the drainage structure outlet and a defined channel or a flood-prone area;
- (iv) Turbid water reaching all typed waters, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals during runoff events;
- (v) Evidence of direct sediment entry into a watercourse or a flood-prone area from road surfaces or drainage structures and facilities (e.g., ponded sediment, sediment deposits, delivery of turbid runoff from drainage structures during rainfall events);
- (vi) Gullies or other evidence of erosion on road surfaces or below the outlets of road drainage facilities or structures, including ditch drain (relief) culverts, with transport or a high likelihood of transport to a watercourse;
- (vii) Native-surfaced roads exhibiting erosion;
- (viii) Native-surfaced roads composed of erodible soil types (e.g., granitic soils);
- (ix) Rilled, gullied, or rutted road approaches to crossings;
- (x) Existing ditch drain (relief) culverts or other road drainage structures with decreased capacity due to damage or impairment (e.g., crushed or bent inlets, flattened dips due to road grading);
- (xi) Decreased structural integrity of ditch drain (relief) culverts, waterbreaks, or other road drainage structures (e.g., excessive pipe corrosion, breached water-breaks, or rutted road segments); or
- (xii) Ditch scour or downcutting resulting from excessively long undrained ditches with infrequent ditch drain (relief) culverts or other outlet structures or facilities. This condition can also result from design inadequacies (e.g., spacing not altered for steep ditch gradient), inadequate erosion prevention practices (e.g., lack of armoring), or ditches in areas of erodible soils.
- (D) Analysis of net benefit for waters of the state to improve the abandoned road segment.
- (E) Determination regarding practicability of alternatives to improve the abandoned road segment and address the following risks:
- (i) Ongoing stream diversions at stream crossings;
- (ii) Diversion potential at stream crossings;
- (iii) Likelihood of hydrologic connectivity;
- (iv) Comparative risk of chronic sediment produced; and

- (v) Risk of contribution to mass wasting.
- (F) The alternatives may include vacating the segment, no action, and any other reasonable alternative. Landowners shall propose the most practicable alternative as part of the annual report.
- (5) Landowners shall add the verified high-priority abandoned road segments to the Forest Roads Inventory and Assessment initial inventory.
- (6) Landowners shall improve the abandoned road segment as part of the Forest Roads Inventory and Assessment process when, in consultation with the department, the following criteria are met:
 - (a) The high-priority location is an abandoned road;
 - (b) The high-priority location is actively contributing or has high risk of contributing significant quantities of sediment to waters of the state;
 - (c) The improvements would be a net benefit to waters of the state; and
 - (d) Improvements are practicable.

629-625-0920

Road Condition Assessment

- (1) The purpose of this rule is to ensure that roads used for harvest and owned by small forestland owners, as defined by OAR 629-600-0100, comply with the standards of the forest practice rules.
- (2) The requirements of the Forest Road Inventory and Assessment program described in OAR 629-625-0900 do not apply to small forestland owners.
- (3) When a small forestland owner submits a notification including the harvest of timber using the department's reporting and notification system, they shall complete the department road condition assessment. Notifications for activities other than timber harvest shall not require completion of a road condition assessment. The small forestland owner is encouraged to complete the road condition assessment for all roads in their parcel without a planned timber harvest.
- (4) The road condition assessment shall include all roads in the parcel owned by the small forestland owner where the harvest will take place, including the following descriptions:
 - (a) The road condition that contributes to active or potential delivery of sediment to waters of the state;
 - (b) Water crossing's locations and the status of compliance with the forest practice rules;
 - (c) Potential fish passage barriers on Type F and Type SSBT streams;
 - (d) Abandoned roads; and
 - (e) Roads with a perched fill that present a significant hazard to fish-bearing streams.
- (5) The department, in consultation with the Department of Fish and Wildlife, shall review eligibility for state grants to improve the road conditions described in section (4)(c), (d), and (e) of this rule.
- (6) The small forestland owners are not required to undertake the following road improvements projects, without funding by the State of Oregon:
 - (a) Replacement of culverts for Type F and Type SSBT streams;
 - (b) Repair of abandoned roads; or
 - (c) Reconstructing, vacating, or relocating roads with a perched fill that present a significant hazard to fish-bearing streams.
- (7) If the State of Oregon, under the small forestland investment in stream habitat program described in OAR 629-607-0300, fails to fund an eligible and approved road improvement project for a small forestland owner, the non-implementation of those projects shall not prevent the small forestland owner from using the road for any purpose, except for the following conditions:
 - (a) The road is actively delivering sediment to waters of the state; or
 - (b) The road has one or more culverts with an imminent risk of failure, as defined in OAR 629-600-0100.
- (8) If the road condition assessment identifies necessary road repairs, other than the road conditions in section (7)(a) and (b) of this rule, there shall be no time limit in which the small forestland owner must complete those repairs, though the obligation to improve roads when used for harvest remains.

Division 630 HARVESTING

629-630-0000

Purpose

- (1) OAR 629-630-0000 through 629-630-0925 shall be known as the harvesting rules.
- (2) Harvesting of forest tree species is an integral part of forest management by which wood for human use is obtained and by which forests are established and tended.
- (3) Harvesting operations result in a temporary disturbance to the forest environment.
- (4) The purpose of the harvesting rules is to establish standards for forest practices that will maintain the productivity of forestland, minimize soil and debris entering waters of the state, and protect wildlife and fish habitat.
- (5) The harvesting rules are intended to reduce the potential for sediment delivery to waters of the state from ground disturbance and drainage alterations that may be caused by harvesting.
- (6) The purpose of the timber harvesting on steep slopes rules, as identified in OAR 629-630-0900 through 629-630-0925, is to retain trees in designated areas to provide the beneficial elements of landslides while mitigating the potential negative effects of forest management activities on unstable slopes.
- (7) The harvesting rules shall apply to all forest practices regions unless otherwise indicated.
- (8) OAR 629-630-0900 through 629-630-0925, do not replace or modify OAR 629-623-0000 through 629-623-0800 Shallow, Rapidly Moving Landslides and Public Safety rules.

629-630-0100

Skidding and Yarding Practices

- (1) For each harvesting operation, operators shall select a logging method and type of equipment appropriate to the given slope, landscape, and soil properties in order to minimize soil deterioration and to protect water quality.
- (2) Operators shall avoid ground-based yarding on unstable, wet, or easily compacted soils unless operations can be conducted without damaging soil productivity through soil disturbance, compaction or erosion.
- (3) Operators shall locate skid trails where sidecasting is kept to a minimum.
- (4) Operators shall locate skid trails on stable areas so as to minimize the risk of material entering waters of the state.
- (5) Operators shall avoid excavating skid trails on slumps or slides.
- (6) Operators shall limit cable logging to uphill yarding whenever practical. When downhill cable yarding is necessary, operators shall use a layout and system which minimizes soil displacement.

629-630-0150

Ground-Based Harvesting On Steep Or Erosion-Prone Slopes

- (1) Slopes over 60 percent are subject to the requirements of Sections (4) through (8) of this rule.
- (2) Slopes over 40 percent where soils consist of decomposed granite-type materials, or other highly erodible materials as determined by the State Forester, are considered erosion-prone and subject to the requirements of Sections (4) through (8) of this rule.
- (3) Methods that avoid development of compacted or excavated trails are the preferred alternative for operating on steep or erosion-prone slopes. If the operation will result in excavated or compacted skid trails, operators shall apply sections (5) through (8) of this rule.
- (4) If skid trails are located on steep or erosion-prone slopes, operators shall locate them at least 100 feet from any stream channels.
- (5) Operators shall locate skid trails where water can drain off the skid trail and onto undisturbed soils.
- (6) Skid trails shall not be located straight up and down steep or erosion prone slopes for a distance exceeding 100 feet unless effective drainage and sediment filtration can be achieved.

- (7) Operators shall install effective cross ditches on all skid roads located on steep or erosion-prone slopes.
- (8) Operators shall limit the amount of ground with disturbed soils on steep or erosion-prone slopes as described in Sections (2) and (3) of this rule to no more than ten percent of the steep or erosion-prone slopes within the operation area.

629-630-0200

Landings

- (1) Operators shall minimize the size of landings to that necessary for safe operation.
- (2) Operators shall locate landings on stable areas so as to minimize the risk of material entering waters of the state.
- (3) Operators shall avoid locating landings in riparian management areas. When no feasible alternative landing locations exist, operators shall submit a written plan to the State Forester before locating landings in riparian management areas.
- (4) Operators shall not incorporate slash, logs, or other large quantities of organic material into landing fills.
- (5) Operators shall deposit excess material from landing construction in stable locations well above the high water level.

629-630-0300

Drainage Systems

- (1) Operators shall construct dips, grade reversals or other effective water diversions in skid trails and fire trails as necessary to minimize soil displacement and to ensure runoff water is filtered before entering waters of the state.
- (2) Operators shall drain skid trails by water barring or other effective means immediately following completion of the operation and at all times during the operation when runoff is likely.
- (3) Operators shall establish effective drainage on landings during and after use.

629-630-0400

Treatment of Waste Materials

- (1) Operators shall leave or place all debris, slash, sidecast and other waste material associated with harvesting in such a manner to prevent their entry into waters of the state.
- (2) Where sidecast material or exposed soils are potentially unstable or erodible, the operator shall stabilize it by pullback, spreading out, seeding or other effective means.
- (3) Operators shall remove from the forest all petroleum-product-related waste material associated with the operation including, but not limited to, crankcase oil, filters, grease and oil containers.
- (4) Operators shall dispose of all other debris such as machine parts, old wire rope, and used tractor tracks so that such materials do not enter waters of the state.

629-630-0500

Harvesting on High Landslide Hazard Locations

- (1) Operators and the State Forester shall share responsibility to identify high landslide hazard locations for timber harvesting and road construction to protect natural resources and public safety.
- (2) For operations with potential downslope risk to public safety from shallow, rapidly moving landslides, the shared responsibility includes identifying and evaluating the risk using methods described in OAR 629-623-0100 through 0300. For intermediate and substantial levels of risk, the practices described in OAR 629-623-0400 through 0800 shall also apply. The department shall publish Forest Practices Technical Guidance to explain how to implement this rule.
- (3) Operators shall not construct skid roads on high landslide hazard locations.
- (4) Operators shall not operate ground-based equipment on high landslide hazard locations.
- (5) Operators shall prevent deep or extensive ground disturbance on high landslide hazard locations during log felling and yarding operations.

- (6) Operators concerned about the application of these standards to a specific operation may consult with the State Forester to obtain an evaluation of their harvesting plan and its likelihood of compliance with the standards.

629-630-0600

Felling; Removal of Slash

- (1) Operators shall fell, buck, and limb trees in ways that minimize disturbance to channels, soils and retained vegetation in riparian management areas, streams, lakes and all wetlands greater than one-quarter acre, and that minimize slash accumulations in channels, significant wetlands and lakes.
- (2) During felling operations operators shall:
 - (a) Whenever possible, fell all conifer trees away from riparian management areas, streams, lakes and significant wetlands, except for trees felled for stream improvement projects.
 - (b) On steep slopes, use felling practices such as jacking, line pulling, high stumps, whole tree yarding, or stage-cutting as necessary and feasible to prevent damage to vegetation retained in riparian management areas, soils, streams, lakes and significant wetlands.
 - (c) When hardwoods must be felled into or across streams, lakes or significant wetlands, operators shall:
 - (A) Buck and yard the trees to minimize damage to beds, banks and retained vegetation.
 - (B) When it can be done consistently with protecting beds and banks, yard hardwood trees or logs away from the water before limbing.
- (3) Operators shall minimize the effects of slash that may enter waters of the state during felling, bucking, limbing or yarding by:
 - (a) Removing slash from Type F, Type SSBT, Type D streams, large or medium Type Np streams, small Type Np streams within the RH Max, lakes and significant wetlands as an ongoing process (removal within 24 hours of the material entering the stream) during the harvest operation.
 - (b) Not allowing slash to accumulate in Type Ns streams and small Type Np streams upstream of the RH Max, lakes or wetlands in quantities that threaten water quality or increase the potential for mass debris movement.
 - (c) Placing any slash that is removed from streams, lakes, or wetlands above high water levels where it will not enter waters of the state.

629-630-0700

Yarding; Cable Equipment Near Waters of the State

- (1) Operators shall maintain the purposes and functions of vegetation required to be retained in riparian management areas and minimize disturbance to beds and banks of streams, lakes, all wetlands larger than one-quarter acre, and retained vegetation during cable yarding operations.
- (2) Operators shall minimize the yarding of logs across streams, lakes, significant wetlands, and other wetlands greater than one-quarter acre whenever harvesting can be accomplished using existing roads or other practical alternatives.
- (3) Operators may use cable yarding corridors through retained trees if the numbers and widths of yarding corridors are minimized. Operators shall submit a written plan to the State Forester when yarding across any of the waters listed in subsections (a) through (g) of this section:
 - (a) Type F streams;
 - (b) Type SSBT streams;
 - (c) Type D streams;
 - (d) Large or medium Type Np streams;
 - (e) Small Type Np or Type Ns streams located within designated debris flow traversal areas, as described in OAR 629-630-0905;
 - (f) Lakes; or
 - (g) Significant wetlands.

- (4) When cable yarding across any of the waters listed in subsections (a) through (f) of this section is necessary, it shall be done by swinging the yarded material free of the ground in the aquatic areas and riparian areas.
- (a) Type F streams;
 - (b) Type SSBT streams;
 - (c) Type D streams;
 - (d) Large or medium Type Np streams;
 - (e) Lakes; or
 - (f) Significant wetlands.
- (5) Cable yarding across streams classified as Type Ns, small Type Np, stream-associated wetlands, designated debris flow traversal areas, seeps, and springs, or other wetlands greater than one-quarter acre shall be done in ways that minimize disturbances to the stream channel or wetland and minimize disturbances of retained streamside vegetation, including one-end log suspension where feasible.
- (6) Operators shall minimize disturbance from cable yarding near streams to maintain soil function, retain understory vegetation, and protect habitat for fish, amphibians, and other wildlife.
- (a) The following equipment limitation zones shall be applied to streams and associated riparian management areas as described in division 643 Water Protection Rules Vegetation Retention Along Streams rules.
 - (A) An “R-ELZ” means an equipment limitation zone in which disturbance from equipment activity shall be minimized and all trees less than 6 inches DBH and shrub species are retained where possible.
 - (i) In Western Oregon, the R-ELZ is 35 feet.
 - (ii) In Eastern Oregon, the R-ELZ is 30 feet.
 - (B) An “ELZ” means an equipment limitation zone in which disturbance from equipment activity shall be minimized.
 - (i) In Western Oregon, the ELZ is 35 feet.
 - (ii) In Eastern Oregon, the ELZ is 30 feet.
 - (b) Operators shall take corrective action(s) when soil disturbance from cabled logs exceeds 20 percent of the total area within any R-ELZ or ELZ within an operation unit. Corrective action(s) shall be designed to replace the equivalent of lost functions in consultation with the State Forester. Examples include, but are not limited to, water bars, grass seeding, logging slash, mulching, downed log placement in accordance with ORS 527.676(1), with a preference for utilizing on-site materials.
 - (c) The department shall publish Forest Practices Technical Guidance, developed in consultation with Department of Fish and Wildlife to assist operators with selecting appropriate corrective measures.

629-630-0800

Yarding; Ground-based Equipment Near Waters of the State

- (1) Operators shall maintain the purposes and functions of vegetation required to be retained in riparian management areas, and minimize disturbances to beds and banks of streams, lakes, all wetlands larger than one-quarter acre, and retained vegetation during ground-based yarding operations.
- (2) Operators shall not operate ground-based equipment within any stream channel except as allowed in the rules for temporary stream crossings.
- (3) Operators shall minimize the number of stream crossings.
- (4) For crossing streams that have water during the periods of the operations, operators shall:
 - (a) Construct temporary stream crossing structures such as log crossings, culvert installations, or fords that are adequate to pass stream flows that are likely to occur during the periods of use. Structures shall be designed to withstand erosion by the streams and minimize sedimentation.
 - (b) Choose locations for temporary stream crossing structures which minimize cuts and fills or other disturbances to the stream banks.

- (c) Minimize the volume of material in any fills constructed at a stream crossing. Fills over eight feet deep contain such a large volume of material that they can be a considerable risk to downstream beneficial uses should the material move downstream by water. For any fill for a temporary crossing that is over eight feet deep, operators shall submit to the State Forester a written plan that includes a description of how the fills would be constructed, passage of water, and the length of time the fills would be in the stream.
 - (d) Design temporary structures so that fish movement is not impaired on Type F or Type SSBT streams.
 - (e) Remove all temporary stream crossing structures immediately after completion of operations or prior to seasonal runoff that exceeds the water carrying capacity of the structures, whichever comes first. When removing temporary structures, operators shall place fill material where it will not enter waters of the state.
- (5) For stream crossings where the channels do not contain water during the periods of the operations, operators are not required to construct temporary crossings as long as disturbances are no greater than what would occur if structures were constructed. Soil that enters the channels during the yarding operations must be removed after completion of the operation or prior to stream flow, whichever comes first. When removing such materials from the channels, operators shall place the materials in locations where they will not enter waters of the state.
- (6) Operators shall construct effective sediment barriers such as water bars, dips, or other water diversion on stream crossing approaches after completion of operations, or prior to rainy season runoff, whichever comes first.
- (7) Machine activity near (generally within 100 feet) streams, lakes, and other wetlands greater than one-quarter acre shall be conducted to minimize the risk of sediment entering waters of the state and preventing changes to stream channels. Operators shall only locate, construct, and maintain skid trails in riparian management areas consistent with the harvesting rules.
- (8) Operators shall minimize ground-based equipment and subsequent disturbance near streams to maintain soil function, retain understory vegetation, and protect habitat for fish, amphibians, and other wildlife.
- (a) The following equipment limitation zones shall be applied to streams and associated riparian management areas as described in division 643 Water Protection Rules Vegetation Retention Along Streams rules:
 - (A) An “R-ELZ” means an equipment limitation zone in which disturbance from equipment activity shall be minimized and all trees less than 6 inches DBH and shrub species are retained where possible.
 - (i) In Western Oregon, the R-ELZ is 35 feet.
 - (ii) In Eastern Oregon, the R-ELZ is 30 feet.
 - (B) An “ELZ” means an equipment limitation zone in which disturbance from equipment activity shall be minimized.
 - (i) In Western Oregon, the ELZ is 35 feet.
 - (ii) In Eastern Oregon, the ELZ is 30 feet.
 - (b) Operators shall take corrective action(s) when soil disturbance from ground-based equipment exceeds 10 percent of the total area within any R-ELZ or ELZ within an operation unit. Corrective action(s) shall be designed to replace the equivalent of lost functions in consultation with the State Forester. Examples include but are not limited to water bars, grass seeding, logging slash, mulching, downed log placement in accordance with 527.676(1), with a preference for utilizing on-site materials.
 - (c) The department shall publish Forest Practices Technical Guidance, developed in consultation with Department of Fish and Wildlife, to assist operators with selecting appropriate corrective measures.
- (9) Operators shall locate and construct skid trails so that when high stream flow occurs water from the stream will not flow onto the skid trail.
- (10) Operators shall minimize the amount of exposed soils due to skid trails within riparian management areas. Except at stream crossings, operators shall not locate skid trails

within 35 feet of Type F, Type SSBT or Type D streams. Operators shall provide adequate distances between all skid trails and waters of the state to filter sediment from runoff water.

629-630-0900

Western Oregon Harvests; Slopes Model

- (1) For the purpose of OAR 629-630-0905 through 629-630-0925, designated debris flow traversal areas and designated sediment source areas are determined by the slopes model and displayed on department maps and the department's reporting and notification system. The slopes model also identifies which designated sediment source areas contain trigger sources, which help prioritize designated sediment source areas for selection as slope retention areas. Department maps and the department's reporting and notification system display designated sediment source areas and distinguishes those with trigger sources. The slopes model designations can be viewed at the time of submitting a notification of operation to the State Forester.
- (2) Definitions in section (1) of this rule are defined in OAR 629-600-0100.
- (3) All trees retained, as required for OAR 629-630-0905 through 629-630-0925, that otherwise meet the requirements for leave trees may count toward requirements for wildlife leave trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676. Operators are encouraged to leave trees that meet the requirements for wildlife leave trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, immediately adjacent to seeps and springs, as described in OAR 629-655-0000.

629-630-0905

Western Oregon Harvesting; Standard Practice; Designated Debris Flow Traversal Areas

- (1) For Western Oregon, operators shall not harvest timber located in designated debris flow traversal areas.
- (2) Operators shall retain all trees within 25 feet slope distance from either side of the active channel, or center of the draw if no channel is present for areas identified by the slopes model as designated debris flow traversal areas.
- (3) Changes in stream classification for a stream, based on field surveys for fish-use consistent with OAR 629-635-0200, shall not change the department's maps used for notifications of operations that identify designated debris flow traversal areas.
- (4) Operators shall submit a written plan, described in OAR 629-630-0925, for timber harvest units containing designated debris flow traversal areas.
- (5) Cable yarding, which may require cutting, but not removal, of trees, is permitted through designated debris flow traversal areas, but the number, size, and location of yarding corridors shall be designed to minimize impacts to the integrity of designated debris flow traversal areas. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.

629-630-0910

Western Oregon Harvesting; Standard Practice; Designated Sediment Source Areas and Slope Retention Areas

- (1) Slope retention areas encompass field identified headwalls. The department shall publish Forest Practices Technical Guidance to explain how to implement this rule.
- (2) Changes in stream classification for a stream, based on field surveys for fish-use consistent with OAR 629-635-0200, shall not change the department's maps used for notifications of operations that identify designated sediment source areas.
- (3) Landowner representatives shall identify at least 50 percent of the designated sediment source areas as slope retention areas for timber harvesting in Western Oregon as follows:
 - (a) If the number of designated sediment source areas is an odd number, the landowner representative shall round up to the next even number and identify half of the number as slope retention areas.
 - (b) Prioritize designated sediment source areas for selection of slope retention areas as follows:

- (A) Designated sediment source areas with trigger sources; and
 - (B) Larger designated sediment source areas.
- (4) The landowner representative may adjust the distribution and location of slope retention areas, notwithstanding section (3) of this rule, if the selected slope retention areas:
 - (a) Clearly reduce worker safety, as described in OAR chapter 437, Division 7, Forest Activities; or
 - (b) Cause more resource impact, such as additional road or landing construction, excessive sidehill yarding, or other yarding practices that clearly increase ecological impacts.
 - (5) The landowner representative shall have received certified steep slopes training to determine the field delineation of the final boundaries for slope retention areas. The department shall develop and provide certification training opportunities to landowner representatives when the slopes model has been added to the department's reporting and notification system.
 - (6) After clearly marking in the field the boundaries of the slope retention areas, the landowner representative shall submit a written plan, described in OAR 629-630-0925, for timber harvest units containing designated sediment source areas and slope retention areas.
 - (7) Operators shall not harvest timber located in the slope retention areas.
 - (8) Cable yarding, which may require cutting, but not removal, of trees, is permitted only through slope retention areas that do not contain trigger sources, but the number, size, and location of yarding corridors shall be designed to minimize soil and vegetation disruptions that may increase slope instability. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.
 - (9) Operators shall not construct skid roads or operate ground-based equipment in slope retention areas.

629-630-0915

Statewide Harvesting; Standard Practice; Stream Adjacent Failures

- (1) Operators shall extend the riparian management areas, described in OAR 629-643-0100 and OAR 629-643-0120, on all identified stream adjacent failures, as defined in OAR 629-600-0100. The riparian management area shall encompass the perimeter of the stream adjacent failure, defined in OAR 629-600-0100, however, the width of the riparian management area shall only extend to the lesser of:
 - (a) The distance of 170 feet from the edge of a Type F or Type SSBT channel; or
 - (b) The distance to the slope break, defined as 20 percent or greater reduction in slope gradient.
- (2) The landowner representative shall submit a written plan, described in OAR 629-605-0170(13), for timber harvest units where yarding is planned to occur within stream adjacent failures.
- (3) The landowner shall submit a written plan that describes how the number, size, and location of yarding corridors were selected to minimize impacts to the integrity of stream adjacent failures.
- (4) Cable yarding, which may require cutting, but not removal, of trees, is permitted through stream adjacent failures, but the number, size, and location of yarding corridors shall minimize impact to the integrity of the feature. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.
- (5) The operator shall make all riparian management area width measurements using the slope distance and shall measure them from the edge of the active channel or channel migration zone.
- (6) The department shall publish Forest Practices Technical Guidance to assist operators in identifying channel migration zones.

629-630-0920

Small Forestland Owner Minimum Option; Harvesting on Features Identified in the Slopes Model and Stream Adjacent Failures

- (1) Western Oregon, Designated Debris Flow Traversal Areas for harvest type 1, harvest type 2 or harvest type 3 operations. For forestlands in Western Oregon that are managed under the small forestland owner minimum option, operators shall not harvest timber within 50 percent of the

length of the designated debris flow traversal area for each harvest type 1, harvest type 2, or harvest type 3 unit. The State Forester will:

- (a) Assist small forestland owners in determining designated debris flow traversal areas in a planned harvest unit, prioritizing vegetation retention requirements for Type SSBT streams over Type F streams.
 - (b) Exempt small forestland owners from the designated debris flow traversal areas requirements for harvest type 4 units.
- (2) Operators shall retain all trees within 25 feet slope distance on either side of the active channel identified in OAR 629-630-0920(1), or center of the draw if no channel is present for areas identified by the slopes model as designated debris flow traversal areas.
- (3) Changes in stream classification for a stream, based on field surveys for fish-use consistent with OAR 629-635-0200, shall not change the department's maps used for notifications of operations that identify designated debris flow traversal areas.
- (4) Operators shall submit a written plan, described in OAR 629-630-0925, for timber harvest units containing designated debris flow traversal areas, except for harvest type 4 units.
- (5) Cable yarding, which may require cutting, but not removal, of trees, is permitted through designated debris flow traversal areas, but the number, size, and location of yarding corridors shall be designed to minimize impacts to the integrity of designated debris flow traversal areas. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.
- (6) Western Oregon, Designated Sediment Source Areas. For forestlands in Western Oregon that are managed under the small forestland owner minimum option, landowners are exempt from the rule requirements for timber harvesting in designated sediment source areas and slope retention areas.
- (7) Statewide, Stream Adjacent Failures. Operators shall extend the riparian management areas, described in OAR 629-643-0100 and OAR 629-643-0120, on all identified stream adjacent failures, as defined in OAR 629-600-0100. The riparian management area shall encompass the perimeter of the stream adjacent failure, defined in OAR 629-600-0100, however, the width of the riparian management area shall only extend to the lessor of:
 - (a) The distance of 30 feet from the outer edge of the small forestland owner minimum option; or
 - (b) The distance to the slope break, defined as 20 percent or greater reduction in slope gradient.
- (8) The landowner representative shall submit a written plan, described in OAR 629-605-0170(13), for timber harvest units where yarding is planned to occur within stream adjacent failures.
- (9) The landowner shall submit a written plan that describes how the number, size, and location of yarding corridors were selected to minimize impacts to the integrity of stream adjacent failures.
- (10) Cable yarding, which may require cutting, but not removal, of trees, is permitted through stream adjacent failures, but the number, size, and location of yarding corridors shall minimize impact to the integrity of the feature. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.
- (11) The operator shall make all riparian management area width measurements using the slope distance and shall measure them from the edge of the active channel or channel migration zone.
- (12) The department shall publish Forest Practices Technical Guidance to assist operators in identifying channel migration zones.

629-630-0925

Written Plans to Evaluate Harvesting on Features Identified in the Slopes Model

To evaluate timber harvesting on features identified by the slopes model, operators shall submit a written plan that describes how the operation is planned to be conducted in sufficient detail to allow the State Forester to evaluate and comment on the likelihood that the operation will comply with the Forest Practices Act or administrative rules. The written plan shall include at a minimum:

- (1) A unit map including, where applicable:
 - (a) Locations of slopes model designated debris flow traversal areas;

- (b) Locations of slopes model designated sediment source areas and those selected as slope retention areas; and
 - (c) Identification of approximate yarding corridors relative to (1)(a) and (b).
- (2) Description of the rationale and appropriate documentation for the following that apply:
 - (a) Selection of the 50 percent designated debris flow traversal areas for Western Oregon forestlands that are managed under the small forestland owner minimum option;
 - (b) Selection of slope retention areas, including justification for choosing areas to satisfy the minimum 50 percent designated sediment source area requirement, as described in OAR 629-630-0910(3) and (4);
 - (c) How the number, size, and location of yarding corridors were designed to minimize impacts to the designated debris flow traversal areas; and
 - (d) How the number, size, and location of yarding corridors were designed to minimize soil and vegetation disruptions that may increase slope instability in slope retention areas.
- (3) Additional administrative information related to the operation as required by individual rules or as requested by the State Forester.

Division 635
WATER PROTECTION RULES: PURPOSE, GOALS, CLASSIFICATION
AND RIPARIAN MANAGEMENT AREAS

629-635-0000

Purpose, Goals, Classification and Riparian Management Goals

The definitions in OAR 629-600-0100 apply to the Water Protection Rules, unless otherwise defined in the specific rules.

629-635-0100

Purpose and Goals

- (1) The leading use on private forestland is the growing and harvesting of trees, consistent with sound management of soil, air, water, fish and wildlife resources. There is a unique concentration of public resource values in and near waters of the state because these areas are critical for the overall maintenance of fish and wildlife and for maintaining water quality. Consequently, the policies of the Forest Practices Act, including encouraging economically efficient forest practices, are best achieved by focusing protection measures in riparian management areas, where the emphasis is on providing water quality and fish and wildlife habitat.
- (2) OAR 629-635-0000 through 629-660-0060 are known as the water protection rules.
- (3) The purpose of the water protection rules is to protect, maintain and, where appropriate, improve the functions and values of streams, lakes, wetlands, and riparian management areas. These functions and values include water quality, hydrologic functions, the growing and harvesting of trees, and fish and wildlife resources.
- (4) Plans for alternate practices may be used to alter vegetation retention requirements in the water protection rules based on local site conditions. The plans may include but are not limited to site specific vegetation retention prescriptions as described in OAR 629-643-0400 (for streams) and 629-645-0020 (for wetlands). The operator may:
 - (a) Evaluate site specific conditions in waters and riparian management areas; and
 - (b) Develop plans for alternate practices that will:
 - (A) Enhance, maintain, or restore when degraded conditions exist, riparian functions in streams, wetlands, and lakes; or
 - (B) Meet the purposes and goals of the water protection rules while providing opportunities to complete ecological, restoration, or operational objectives for various riparian area site conditions.
- (5) The overall goal of the water protection rules is to provide resource protection during operations adjacent to and within streams, lakes, wetlands and riparian management areas so that, while continuing to grow and harvest trees, the protection goals for fish, amphibians, other wildlife, and water quality are met.
 - (a) The protection goal for water quality (as prescribed in ORS 527.765) is to ensure through the described forest practices that, to the maximum extent practicable, non-point source discharges of pollutants resulting from forest operations do not impair the achievement and maintenance of the water quality standards.
 - (b) The protection goal for fish is to establish and retain vegetation consistent with the vegetation retention objectives described in OAR 629-643-0000 (streams), 629-645-0000 (significant wetlands), and 629-650-0000 (lakes) that will maintain, enhance, or restore water quality and provide aquatic habitat components and functions such as shade, large wood, and nutrients.
 - (c) The protection goal for wildlife is to establish and retain vegetation consistent with the vegetation retention objectives described in OAR 629-643-0000 (streams), 629-645-0000 (significant wetlands), and 629-650-0000 (lakes) that will maintain, enhance, or restore water quality and habitat components such as live trees of various species and size classes, shade, snags, downed wood, and food within riparian management areas. For wildlife species not necessarily reliant upon riparian areas, habitat in riparian

management areas is also emphasized in order to capitalize on the multiple benefits of vegetation retained along waters for a variety of purposes.

629-635-0120

Watershed Specific Practices for Water Quality Limited Watersheds and Threatened or Endangered Aquatic Species

- (1) The objective of this rule is to describe a process for determining whether additional watershed specific protection rules are needed for watersheds that have been designated as water quality limited or for watersheds containing threatened or endangered aquatic species.
- (2) The Board of Forestry shall appoint an interdisciplinary task force, including representatives of forest landowners within the watershed and appropriate state agencies, to evaluate a watershed, if the board has determined based on evidence presented to it that forest practices in a watershed are measurably limiting to water quality achievement or species maintenance, and either:
 - (a) The watershed is designated by the Environmental Quality Commission as water quality limited; or
 - (b) The watershed contains threatened or endangered aquatic species identified on lists that are adopted by rule by the State Fish and Wildlife Commission, or are federally listed under the Endangered Species Act of 1973 as amended.
- (3) The board shall direct the task force to analyze conditions within the watershed and recommend watershed-specific practices to ensure water quality achievement or species maintenance.
- (4) The board shall consider the report of the task force and take appropriate action.
- (5) Nothing in this rule shall be interpreted to limit the Board's ability to study and address concerns for other species on a watershed basis.

629-635-0200

Water Classification

- (1) The purpose of this water classification system is to match the physical characteristics and beneficial uses of a water body to a set of appropriate protection measures.
- (2) For the purposes of applying appropriate protection measures, the State Forester shall classify waters of the state as streams, wetlands, or lakes as described in this rule.
- (3) The State Forester shall further classify streams according to their beneficial uses and size. The department shall incorporate the Department of Fish and Wildlife findings regarding fish use and perenniality into the department's reporting and notification system consistent with sections (11) and (18) of this rule. The department shall work with the Department of Fish and Wildlife to establish procedures for incorporating such findings into the department's reporting and notification system no later than December 31, 2023. The State Forester shall classify domestic water use streams using information from the Water Resources Department. For an operator to apply streamside protection, the State Forester shall make this information publicly available in the department's reporting and notification system.
- (4) To maintain a statewide data layer describing fish distribution and perenniality, the State Forester shall provide Department of Fish and Wildlife information regarding a water body's size and beneficial use.
- (5) For purposes of protection, the State Forester shall further classify streams into one of the following five beneficial use categories, as defined in OAR 629-600-0100:
 - (a) Type F;
 - (b) Type SSBT;
 - (c) Type D;
 - (d) Type Np; or
 - (e) Type Ns.

- (6) For purposes of classification, a stream is considered to have domestic water use only if a water use permit has been issued by the Oregon Water Resources Department.
- (7) A channel is considered to have domestic water use upstream of an intake for the distances indicated below:
 - (a) For domestic water use that is a community water system (as defined under OAR 333-061-0020), Type D classification shall initially apply to the length of stream that was designated as Class I under the classification system that was in effect on April 22, 1994, which is that shown on district water classification maps at the time of adoption of this rule.
 - (b) For domestic water use that is not a community water system, Type D classification shall be initially applied for the shortest of the following distances:
 - (A) The distance upstream of the intake to the farthest upstream point of summer surface flow;
 - (B) Half the distance from the intake to the drainage boundary; or
 - (C) 3,000 feet upstream of the intake.
 - (c) Type D classification shall apply to tributaries off the main channel as long as the conditions of subsections (7)(a) or (b) of this rule apply.
 - (d) A representative of a community water system or other domestic use water permit holder may request that the State Forester designate additional lengths of channels upstream of a domestic water intake or reservoir as Type D. The representative or permit holder must present evidence that the additional stream protection is needed. The State Forester will decide whether or not to extend Type D classification to these other channels based on evidence presented by the requesting party showing that protection measures associated with Type N classification would be insufficient to prevent adverse detrimental temperature increases, turbidity increases, or other adverse water quality changes at the domestic water use intake or reservoir.
 - (e) The process and criteria described in subsection (7)(a), and the criteria under section (7) of this rule will be used to evaluate the extent of Type D classification for new community water systems.
 - (f) The State Forester will decide whether or not to extend the length of Type D classification within 30 days of the presentation of evidence.
- (8) The domestic water use classification may be waived by the State Forester at the request of a landowner who is the sole domestic water use permit holder for an intake and who owns all the land along upstream channels that would be affected by the classification related to that intake. This waiver shall not affect the classification related to downstream domestic water use intakes.
- (9) A stream or lake will be considered to have fish use if inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.
- (10) The fish use classification does not apply to waters where fish were introduced through a fish stocking permit that includes documentation that the stream had no fish prior to stocking.
- (11) For the purposes of classifying streams for fish use, the State Forester shall use the procedures in this section:
 - (a) As of July 1, 2023, the State Forester shall classify streams for fish use according to the fish distribution model developed by using the Fransen (Brian R. Fransen, Steven D. Duke, L. Guy McWethy, Jason K. Walter & Robert E. Bilby. 2006. A Logistic Regression Model for Predicting the Upstream Extent of Fish Occurrence Based on Geographical Information Systems Data, North American Journal of Fisheries Management, 26:4, 960-975) or Penaluna (2022, in publication) models if reviewed by the Department of Fish and Wildlife and is approved based on findings that the model is equal or better than Franson 2006 upon publication. The State Forester shall make the results of the fish use distribution model publicly available in the department's reporting and notification system.
 - (b) If the State Forester has not incorporated Penaluna (2022, in publication) by July 1, 2023, then the State Forester shall incorporate the fish use layer developed pursuant to Penaluna

(2022, in publication) after July 1, 2023, upon publication provided the Department of Fish and Wildlife makes the findings required in (a) and requests the modification. Otherwise, the State Forester shall replace the model in (a) with an alternate fish use distribution model if developed pursuant to the adaptive management process described in OAR 629-603-0000 through 629-603-0600, provided that any such model is first reviewed and approved by the Department of Fish and Wildlife.

- (c) The State Forester shall use field surveys to correct the modeled fish distribution under the following conditions:
- (A) A field survey conducted prior to May 1, 2023, and accepted by the department for purposes of informing compliance with the forest practice rules shall be incorporated into the department's reporting and notification system, provided that either:
- (i) The survey is submitted to the Department of Fish and Wildlife prior to January 1, 2023, and not disqualified by May 1, 2023, for failure to meet the criteria in the Private Forest Accord Report (February 2, 2022); or
- (ii) The survey is submitted by the landowner or the department to the Department of Fish and Wildlife after January 1, 2023, but no later than January 1, 2028, and not disapproved by the Department of Fish and Wildlife within ninety days following submission for failure to meet the criteria in the Private Forest Accord Report (February 2, 2022).
- (B) A field survey conducted prior to January 1, 2023 not yet accepted by the department for purposes of informing compliance with the forest practice rules shall be incorporated into the department's reporting and notification system, provided that either:
- (i) The survey is submitted to the Department of Fish and Wildlife prior to January 1, 2023 and not disqualified by May 1, 2023 for failure to meet the requirements of the survey protocol in effect as of the date of the survey; or
- (ii) The survey is submitted by the landowner or the department to the Department of Fish and Wildlife after January 1, 2023, but no later than January 1, 2028, and not disapproved by the Department of Fish and Wildlife within ninety days following submission for failure to meet the requirements of the survey protocol in effect as of the date of the survey.
- (C) A field survey conducted after May 1, 2023 shall be incorporated into the department's reporting and notification system, provided that either:
- (i) The survey is submitted to the Department of Fish and Wildlife and not disqualified within 21 days following submission for failure to satisfy the Department of Fish and Wildlife's protocols for fish use field surveys; or,
- (ii) The survey is otherwise reviewed and approved by the Department of Fish and Wildlife.
- (D) A field survey submitted to the Department of Fish and Wildlife pursuant to (11)(c)(A)(i) or (11)(c)(B)(i) above, but disapproved after May 1, 2023 for failure to satisfy the relevant criteria shall be removed from the department's reporting and notification system, provided that an operator who submitted a notification in reliance on the survey prior to its removal shall be allowed to continue to rely on such survey for purposes of such notified forest operations.
- (E) If the Department of Fish and Wildlife does not approve a field survey submitted pursuant to (11)(c)(C)(i) within twenty-one days for failure to meet the requirements of the survey protocol in effect as of the date of the survey, the survey shall be removed from the department's reporting and notification system. An operator who submitted a notification in reliance on the survey prior to its removal shall be allowed to continue to rely on such survey for purposes of such notified forest operations. Where surveys conflict, the department will use the

survey deemed to have the higher level of confidence by the Department of Fish and Wildlife. The selected survey shall control for purposes of the department's reporting and notification system.

- (d) For streams that were initially classified as fish use based on the model, an operator may request that the State Forester conduct a fish presence survey 12 to 24 months before an operation's scheduled start date to verify the designation of fish use in stream segments associated with the operation.
 - (A) The State Forester shall make a good faith effort to conduct the requested surveys and shall prioritize requests from landowners who do not have the financial or technical resources to conduct the surveys themselves.
 - (B) As an option, the landowner may conduct the fish presence survey as specified in (e).
 - (C) If neither the landowner nor the State Forester can conduct the survey before the operation begins, the fish use classification based on the model shall apply.
 - (D) If a field survey is conducted by the State Forester, the Department of Fish and Wildlife shall have a 21-day period to review and approve or object to the field survey. If no objection occurs, the survey shall be accepted and the fish use designation will be updated in the department's notification and reporting system.
 - (e) To be used for stream classification under this section, field surveys for fish use must be conducted according to the protocol in "Surveying Forest Streams for Fish Use," published by the Department of Forestry and the Department of Fish and Wildlife.
 - (f) If approved by the Department of Fish and Wildlife, the State Forester may use other information to determine the upstream extent of fish use.
 - (g) An operator may request an exception to Type F stream classification above an artificial obstruction to fish passage that is documented by field survey as the end of fish use. The State Forester, in consultation with the Department of Fish and Wildlife, shall grant the request after determining that the artificial obstruction is likely to continue to prevent fish passage for a period of time exceeding that needed to regrow trees to a size that would provide key pieces of large wood.
 - (h) When an exception to Type F stream classification is made above an artificial obstruction to fish passage in accordance with (g), the State Forester shall classify the stream as either Type D or Type N as appropriate and operators must apply the corresponding vegetation retention requirements described in OAR 629-643-0100 through 629-643-0500.
 - (i) For the purposes of ORS 215.730(1)(b)(C), Type N streams are equivalent to "Class II streams."
- (12) For the purposes of stream classification, the State Forester, in consultation with Department of Fish and Wildlife shall use the procedures in this section to determine if a stream has fish use or both fish use and SSBT use.
- (a) Streams where the upstream extent of fish use is determined using field methods that also observe SSBT use where those stream segments have not previously been identified as having SSBT use, will be added to the Type SSBT classification in accordance with the Data Standard and Update Protocol referenced in OAR 629-635-0200(13).
 - (b) For streams where SSBT use is based on observations or habitat, and where that use exists farther upstream than the upstream extent of fish use identified by field methods, the State Forester shall use the farthest upstream segment with SSBT use to reclassify the end of fish use.
 - (c) For streams where SSBT use is based on observations or habitat, and where that use exists farther upstream than the upstream extent of fish use identified by non-field methods, the State Forester shall use the farthest upstream segment with SSBT use to reclassify the end of fish use.
 - (d) For streams where SSBT use is based on concurrence of professional opinion, and where that use exists farther upstream than the upstream extent of fish use identified by field

- methods, the State Forester shall use the farthest upstream segment with fish use to reclassify the end of SSBT use.
- (e) For streams where SSBT use is based on concurrence of professional opinion, and where that use exists farther upstream than the upstream extent of fish use identified by non-field methods, the State Forester shall use the farthest upstream segment with SSBT use to reclassify the end of fish use. The State Forester shall re-survey, using field methods, for the upstream extent of fish use upon written request from a landowner whose land immediately adjoins a Type SSBT stream segment described in this subsection.
- (f) A landowner may provide evidence to the State Forester that clearly identifies a waterfall or chute type of natural barrier to SSBT use based on field methods described in (11). The State Forester shall evaluate that evidence and make a determination on whether or not to adjust the extent of SSBT use within 30 days of presentation of evidence.
- (13) The State Forester will use the standards and procedures in this section to determine if a stream is Type SSBT.
- (a) The State Forester will initially classify SSBT use stream segments based on the Fish Habitat Distribution Database on July 1, 2017, excluding historical use stream segments and stream segments identified using habitat evaluation based on modeling according to the Oregon Fish Habitat Distribution Data Standard, Version 3.0, February 2015 (Data Standard) and Oregon Department of Fish and Wildlife Fish Habitat Distribution Data Update Protocol, September 2005 (Update Protocol).
- (b) When advised by the Department of Fish and Wildlife that new or higher quality data are available on the distribution of SSBT use, the State Forester will evaluate the need to reclassify SSBT use stream segments. Otherwise, evaluation of new or higher quality data and subsequent reclassification of SSBT use stream segments will occur at least every four years.
- (c) As needed, the State Forester will reclassify SSBT use stream segments, except for stream segments added based on concurrence of professional opinion as defined in the Data Standard.
- (d) The State Forester will apply SSBT use stream segments to operations described in notifications submitted after the date the stream segments are classified as Type SSBT.
- (e) If the Data Standard or Stewardship Plan is revised substantively in any way, the State Forester and the Board of Forestry will evaluate if changes to this rule are required.
- (f) Until the State Forester and the Board of Forestry have reviewed and approved revisions to the Data Standard or Stewardship Plan per subsection (13)(e), the State Forester will not reclassify SSBT use stream segments based on information from the new portions of the Department of Fish and Wildlife Data Standard or Update Protocol.
- (14) In Eastern Oregon, the State Forester shall determine the classification of a Type Np stream as lateral type Np stream or terminal type Np stream, as defined in OAR 629-600-0100. The department's reporting and notification system will identify small Type Np streams. Where the location of the modeled end changes based on a valid field survey, as described in (18), then the State Forester shall promptly reclassify upstream segments as lateral or terminal type Np streams.
- (15) For each of the five beneficial use categories listed in (4), streams shall be categorized further according to three size categories: large, medium, and small. The size categories are based on average annual flow.
- (a) Small streams have an average annual flow of two cubic feet per second or less.
- (b) Medium streams have an average annual flow greater than two and less than 10 cubic feet per second.
- (c) Large streams have an average annual flow of 10 cubic feet per second or greater.
- (16) The assignment of size categories to streams on forestland will be done by the State Forester as follows:
- (a) The State Forester will index average annual flow to the upstream drainage area and average annual precipitation. The methodology is described in Forest Practices Technical Guidance. The State Forester shall calculate average annual flow for streams and publish

- the appropriate size classes in stream classification maps within the department's reporting and notification system.
- (b) Actual measurements of average annual flow may substitute for the calculated flows described in the Forest Practices Technical Guidance.
 - (c) Any stream with a drainage area less than 200 acres shall be assigned to the small stream category regardless of the flow index calculated in (15)(a).
- (17) Wetlands shall be classified further as indicated below:
- (a) Significant wetlands, which are:
 - (A) Wetlands larger than 8 acres;
 - (B) Estuaries;
 - (C) Bogs; and
 - (D) Important springs in Eastern Oregon.
 - (b) Stream-associated wetlands that are less than 8 acres are classified according to the stream with which they are connected.
 - (c) All other wetlands, including seeps and springs are classified according to their size as either "other wetlands greater than one-quarter acre" or "other wetlands less than one-quarter acre."
- (18) By July 1, 2023, the State Forester shall update all published maps and the department's reporting and notification system to include flow duration for streams in Western Oregon and Eastern Oregon. The State Forester shall maintain in the department's reporting and notification system a map of perennial flow utilizing the following:
- (a) Phase 1 Initial Mapping. The State Forester shall initially map perennial flow of Type N Streams using U.S. Geological Survey NHD high resolution data. The NHD stream layer may assist operational field surveys as described in OAR 629-643-0130 or 629-643-0143 but shall not provide for a modeled end. During this phase landowners shall apply the riparian management area prescriptions to all small Type N streams as described in OAR 629-643-0130 and OAR 629-643-0143, whether or not a stream is mapped as perennial. This requirement ends once the State Forester implements the Phase 2 model.
 - (b) Phase 2 Model. When advised by Department of Fish and Wildlife that an approved flow duration model sufficient for regulatory purposes is available, the State Forester shall promptly publish the information, including the modeled end, in all maps and the department's reporting and notification system, and in no event later than July 1, 2025.
 - (c) Field Verification. The operator may conduct field surveys for verification of the modeled end in accordance with Department of Fish and Wildlife field protocols for model verification. Once the verified end is approved by the Department of Fish and Wildlife, the State Forester shall substitute the verified end for the modeled end in all maps and the department's reporting and notification system.

629-635-0210

Designation of Waters; Notice to Landowners; Reconsideration

- (1) The State Forester shall maintain a map showing the classification of waters of the state to assist operators who complete a notice of operations as required by ORS 527.670(6). The State Forester shall include in the map streams, lakes and significant wetlands of known classification and shall make the map publicly available. For streams, the State Forester shall ensure the maps indicate the size class and, when known, flow duration as perennial or seasonal; extent of fish use; extent of SSBT use; and domestic water use classification.
- (2) Once a water of the state has been classified according to OAR 629-635-0200, the State Forester shall not change the classification without written notice to the landowners immediately adjoining the portion(s) of water to be reclassified. Notice to landowners shall include the reason for the change of classification and applicable rules.
- (3) Any landowner whose land immediately adjoins the water to be reclassified, any landowner who has received a water right or was granted an easement affecting the water classification, or any state resource agency may request reconsideration of classifications of waters of the state by the State Forester. Such a request shall be in writing and shall identify on a map the portion of the

stream or water of the state which should be reconsidered. The request shall present evidence that the current classification is not consistent with OAR 629-635-0200.

- (4) The State Forester, in consultation with Department of Fish and Wildlife and Water Resources Department, shall have up to 14 days to provide a final decision on a request for reconsideration of water classification. Until such a decision is provided, operators shall conduct any operation based upon the most protective potential water classification.

629-635-0220

Geographic Regions

For the purposes of assigning protection measures to waters of the state, the State Forester has defined two geographic regions west and east of the Cascade Crest in Oregon, depicted as Western Oregon and Eastern Oregon, respectively. The boundaries and names of the geographic regions are displayed in Figure 1. Geographic regions are not “forest regions” established pursuant to ORS 527.640.

Figure 1: Western Oregon and Eastern Oregon Geographic Regions



629-635-0300

Riparian Management Areas and Water Quality Protection Measures

- (1) Riparian management area widths are designated to provide adequate areas along streams, lakes, and significant wetlands to retain the physical components and maintain the functions necessary to accomplish the purposes and to meet the protection objectives and goals for water quality, fish, and wildlife set forth in OAR 629-635-0100.
- (2) Specified protection measures, such as for site preparation, yarding and stream channel changes, are required for operations near waters of the state and within riparian management areas to maintain water quality.
- (3) Operators shall apply the specified water quality protection measures and protect riparian management areas along each side of streams and around other waters of the state as described in OAR 629-635-0310 through 629-660-0060.
- (4) Operators may vary the width of the riparian management area above or below the average specified width depending upon topography, operational requirements, vegetation, fish and

wildlife resources and water quality protection as long as vegetation retention and protection standards are met. However, the average width of the entire riparian management area within an operation must equal or exceed the required width.

629-635-0310

Riparian Management Area Measurements for Streams and Wetlands

- (1) The riparian management area measurement widths for streams in each geographic region for both the standard practice prescriptions and small forest owner minimum option prescriptions are provided for each stream type and size classification in OAR 629-643-0100 through 629-643-0500. The measurement widths apply to each side of the stream.
 - (a) Except as indicated in section (2), the operator shall measure the riparian management area width using the slope distance. The operator shall measure the riparian management area from the edge of the active channel, or channel migration zone if a channel migration zone is present, as defined in OAR 629-600-0100, and consistent with this rule.
 - (b) Notwithstanding the distances designated in subsection (1)(a), where wetlands or side channels extend beyond the designated riparian management area widths, the operator shall expand the riparian management area as necessary to entirely include any stream-associated wetland or side channel plus at least 25 additional feet.
- (2) In situations where the slope immediately adjacent to the stream channel is steep exposed soil, a rock bluff or talus slope, operators shall measure the riparian management area as a horizontal distance until the top of the exposed bank, bluff or talus slope is reached. From that point, the remaining portion of the riparian management area shall be measured as a slope distance.

Division 643

WATER PROTECTION RULES: VEGETATION ALONG STREAMS

629-643-0000

Vegetation Retention Goals for Streams; Desired Future Conditions

- (1) The purpose of this rule is to describe the vegetation retention measures for streams, the measures' purposes, and how the measures shall be implemented. The vegetation retention requirements for streams, as described in OAR 629-643-0100 through 629-643-0500, are designed to produce desired future conditions for the wide range of stand types, channel conditions, and disturbance regimes that exist in Oregon's forestlands.
- (2) Sections (3) through (6) of this rule, including tables in OAR 629-643-0300, are effective until replaced by the Board of Forestry as part of the post-disturbance harvest rulemaking directed by section 6(2)(a), chapter 33, Oregon Laws 2022 that is to occur no later than November 30, 2025.
- (3) The desired future condition for streamside areas that require forested buffers is to grow and retain vegetation so that, over time, average conditions across the landscape become similar to the conditions of mature streamside stands. Oregon has a tremendous diversity of forest tree species and stand density along waters of the state. The age of mature streamside stands varies by tree species. Mature stands generally occur between 80 and 200 years of stand age. Hardwood stands and some conifer stands may become mature at an earlier age. Mature forests provide ample shade over the channel, an abundance of large wood in the channel, channel-influencing root masses along the edge of the high-water level, and regular inputs of nutrients through litter fall. Mature forests are generally composed of multi-aged trees of appropriate and varied density, native tree species well suited to the site, a mature understory, snags, and downed wood.
- (4) For the forests specified in (3) above, the rule standards for desired future conditions and located in Western Oregon or the inner zone in Eastern Oregon can be developed by using normal conifer yield tables for the average upland stand consistent with the geographic region to estimate the conifer basal area for average unmanaged mature streamside stands (at age 120). For alternative vegetative prescription basal area targets for catastrophic events, see the tables in OAR 629-643-0300. For site specific vegetation retention prescriptions basal area targets, see the table in OAR 629-643-0400. These rule standards provide guidance for operators to implement site specific alternate plans, described in OAR 629-643-0300, and to develop site specific vegetation prescriptions, described in OAR 629-643-0400.
- (5) The desired future condition for streamside areas that do not require tree retention areas, as defined in OAR 629-643-0130, is to have sufficient streamside vegetation to support the functions and processes important to downstream fish use waters and domestic water use, and to provide habitat for amphibians and other wildlife across the landscape. Such functions and processes include but are not limited to:
 - (a) Maintaining downstream cool water temperature and other water quality parameters;
 - (b) Influencing sediment production;
 - (c) Stabilizing banks; and
 - (d) Contributing nutrients and organic matter.
- (6) In many cases, the operator may achieve the desired future condition for streams by applying the standard vegetation retention and small forestland owner minimum option prescriptions as described in OAR 629-643-0100, 629-643-0105, 629-643-0120, 629-643-0125, 629-643-0130, 629-643-0135, 629-643-0141, 629-643-0142, 629-643-0143, and 629-643-0145. In other cases, the existing streamside vegetation may not be able to develop into the desired future condition in a timely manner. In these cases, the operator may apply an alternative vegetation retention prescription as described in OAR 629-643-0300 or develop a site-specific vegetation retention prescription as described in OAR 629-643-0400. For the purposes of these water protection rules, "in a timely manner" means that the trees within the riparian management area will substantially move towards the desired future condition more quickly than if the trees are left untreated.

629-643-0100

Western Oregon; Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams

- (1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Western Oregon Type F and Type SSBT streams, as shown in Table 1. The riparian management area distances described in Table 1 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0141.

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 & 50</u>	<u>75 feet for 500 feet, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet¹</u>	<u>See OAR 629-643-0150</u>

¹ 20 feet outside of Type Np vegetation retention requirements

- (2) Within an operation, the operator shall not combine or average together the vegetation retention requirements for stream segments of streams that are in different size categories.
- (3) The operator shall retain:
- (a) All trees and vegetation within the distances from the edge of the active channel or the channel migration zone, as described in Table 1; and
- (b) All trees leaning over the channel.
- (4) Within riparian management areas the operator shall retain all downed wood and snags that are not safety or fire hazards. The operator shall leave snags felled for safety or fire hazard reasons where they are felled unless used for stream improvement projects.
- (5) The operator may fall, move, or harvest vegetation, snags, and trees within the distances described in Table 1 as allowed in other rules for road construction and temporary stream crossings (OAR 629-625-0000 through 629-625-0920), yarding corridors (OAR 629-630-0000 through 629-630-0925), or for stream improvement (OAR 629-643-0200).
- (6) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
- (a) The operator shall ensure these activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition; and
- (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (7) The operator may count retained trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, as follows:
- (a) For all medium and large Type F and Type SSBT streams, the operator may count retained trees within the outer 20 feet of the distances described in Table 1 when those retained trees otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (b) For all small Type F and Type SSBT streams, the operator may count retained trees within the distances described in Table 1 that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (8) If the vegetation retention requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of

the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:

- (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
- (b) An equivalent basal area is retained elsewhere within the harvest unit adjacent to the tree retention area or designated debris flow traversal areas.

629-643-0105

Western Oregon Standard Practice Vegetation Retention Prescription for Type N Streams

- (1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Western Oregon Type N streams, as shown in Table 1. The riparian management area distances described in Table 1 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0141.

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 & 50</u>	<u>75 feet for 500 feet, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet¹</u>	<u>See OAR 629-643-0150</u>

¹ 20 feet outside of Type Np vegetation retention requirements

- (2) The standard practice prescriptions and riparian management widths apply to Type N streams, depending on whether the stream classification is perennial (Np) or seasonal (Ns). The State Forester shall classify a Type N stream as Np or Ns following the process described in OAR 629-635-0200(18)(b) and (c).
- (3) For large and medium Type N streams, the operator shall:
 - (a) Retain all trees and vegetation within 75 feet from the edge of the active channel or channel migration zone.
 - (b) Retain all trees leaning over the channel.
- (4) For small Type Np streams flowing into a Type SSBT stream, the operator shall retain all trees within:
 - (a) 75 feet from the edge of the active channel for a maximum distance of 500 feet upstream of the confluence of the Type SSBT stream; and
 - (b) 50 feet from the edge of the active channel for a maximum additional distance of 650 feet upstream beyond the distance required by (a);
 - (A) The operator shall determine the total distance of the tree retention area upstream of the confluence, as described in (a) and (b), according to the process in OAR 629-643-0130
 - (B) This distance may extend to the RH max of 1,150 feet.
 - (c) For locations upstream of the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (5) For small Type Np streams flowing into a Type F stream, the operator shall retain all trees within 75 feet from the edge of the active channel for a distance not to exceed RH max of 600 feet upstream of the confluence with the Type F stream.

- (a) The operator shall determine the total distance of the tree retention area according to the process in OAR 629-643-0130.
- (b) For locations upstream of the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (6) Within riparian management areas, the operator shall retain all downed wood and snags that are not safety or fire hazards. The operator shall leave all snags felled for safety or fire hazard reasons where they are felled unless used for stream improvement projects.
- (7) The operator may fall, move, or harvest vegetation, snags, and trees within the distances described in Table 1 as allowed in other rules for road construction and temporary stream crossings (OAR 629-625-0000 through 629-625-0920), yarding corridors (OAR 629-630-0000 through 629-630-0925), or for stream improvement (OAR 629-643-0200).
- (8) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
 - (a) The operator shall ensure that such activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition.
 - (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (9) For all Type Np or Type Ns streams, the operator may count all retained trees within the distances described in Table 1 that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (10) If the vegetation retention requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
 - (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
 - (b) An equivalent basal area shall be retained elsewhere within the harvest unit adjacent to the tree retention area or designated debris flow traversal areas.
- (11) For a Type Ns streams, the operator shall apply a 35-foot ELZ to each side of the channel as required in OAR 629-630-0700 and 629-630-0800.

629-643-0120

Eastern Oregon; Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams

- (1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Eastern Oregon Type F and Type SSBT streams, as shown in Table 2. The riparian management area distances described in Table 2 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0142.

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet

Type D	30	=	30	=	30 or 20 feet ³	=	See OAR 629- 643-0150
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¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

- (2) Within an operation, the operator shall not combine or average together the vegetation retention requirements for stream segments of streams that are in different size categories.
- (3) The operator shall retain:
- (a) All trees and vegetation within the inner zone, as described in Table 2, from the edge of the active channel or channel migration zone;
- (b) All trees leaning over the channel; and
- (c) A minimum of 60 square feet of basal area per acre within the outer zone and:
- (A) The outer zone distances for each stream size, as described in Table 2, for the outer zone, as measured from the edge of the inner zone. To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.
- (B) The remainder of the trees shall consist of trees greater than eight inches DBH.
- (C) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.
- (D) Retained trees shall be well distributed within the outer zone, limited by existing site or stand condition
- (E) Notwithstanding (A) through (D) above, the distribution, species, and size of retained trees shall be left on site in a way that promotes fire resiliency and overall stand health.
- (F) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (4) The operator shall adhere to an ELZ in the outer zone, as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (5) The operator may fall, move, or harvest vegetation, snags, and trees within the distances described in Table 2 and as allowed in other rules for road construction and temporary stream crossings (OAR 629-625-0000 through 629-625-0920), yarding corridors (OAR 629-630-0000 through 629-630-0925), or for stream improvement (OAR 629-643-0200).
- (6) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
- (a) The operator shall ensure that such activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition.
- (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (7) The operator may count all retained trees in the outer zone that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (8) If the vegetation requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
- (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
- (b) The operator retains an equivalent basal area elsewhere within the harvest unit adjacent to the tree retention area.

629-643-0125

Eastern Oregon; Standard Practice Vegetation Retention Prescription for Type N Streams

(1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Eastern Oregon Type N streams, as shown in Table 2. The riparian management area distances described in Table 2 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0142.

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet ³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

(2) The standard practice prescriptions and riparian management widths apply to Type N streams, depending on whether the stream classification is perennial (Np) or seasonal (Ns). The State Forester shall determine the classification of a Type N stream as Np or Ns following the process described in OAR 629-635-0200(18).

(a) To apply the appropriate vegetation requirements as described in Table 2, a small Type Np stream shall be classified as either terminal or lateral.

(b) The State Forester shall provide maps that show the stream class.

(3) For large and medium Type Np streams, the operator shall:

(a) Retain all trees and vegetation within the inner zone.

(b) Retain all trees leaning over the channel.

(A) For the outer zone, a minimum of 60 square feet of basal area per acre beyond the 30-foot inner zone, using the distances shown for the stream size described in Table 2. The operator shall measure the outer zone starting from the edge of the inner zone. To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.

(B) The remainder of the trees shall consist of trees greater than eight inches DBH.

(C) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.

(D) Retained trees shall be well distributed within the outer zone unless limited by existing site or stand conditions.

(E) Notwithstanding (A) through (D) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health and shall be described in the written plan.

(F) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.

- (c) Adhere to an ELZ in the outer zone, for 30 feet extending from the outer edge of the inner zone.
- (d) For locations upstream from the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (4) For a small terminal Type Np stream flowing into a Type F or Type SSBT stream, the operator shall retain all trees within:
 - (a) 30 feet from the edge of the active channel, for a maximum distance of 500 feet upstream of the confluence with the Type F or Type SSBT stream. The operator shall determine the total distance of the tree retention area above the confluence according to the requirements in OAR 629-643-0130. This distance may extend to the RH max of 500 feet.
 - (b) Outside of 30 feet and extending to 60 feet from the active channel, the outer zone retention requirements shall apply upstream for the same distance required in (a) as follows:
 - (A) A minimum of 60 square feet of basal area per acre.
 - (B) To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.
 - (C) The remainder of the trees shall consist of trees greater than eight inches DBH.
 - (D) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.
 - (E) Retained trees shall be well distributed within the outer zone limited by existing site or stand conditions.
 - (F) Notwithstanding (A) through (E) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health.
 - (G) The operator shall submit to the State Forester a written plan that describes how the operator shall meet these requirements and the desired future condition for the outer zone.
 - (c) The operator shall adhere to an ELZ in the outer zone for 30 feet, extending from the outer edge of the inner zone.
 - (d) For locations upstream from the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (5) For small lateral Type Np streams flowing into a Type F or Type SSBT stream, the operator shall retain all trees within 30 feet from the edge of the active channel for a maximum distance of 250 feet upstream of the confluence with the Type F or Type SSBT stream.
 - (a) The operator shall determine the total distance of the tree retention area above the confluence according to the process in OAR 629-643-0130.
 - (b) The operator shall adhere to an ELZ in the inner zone for 30 feet, extending from the edge of the active channel.
 - (c) For locations upstream of the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (6) For small Type Ns streams flowing into Type F or Type SSBT stream within 30 feet of the active channel, the operator shall:
 - (a) Adhere to an R-ELZ for 750 feet extending the from the confluence and retain all shrubs and trees under six inches DBH to the extent that is practical due to site conditions.
 - (b) Adhere to an ELZ upstream of the R-ELZ and for the remainder of the Type Ns channel.
- (7) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
 - (a) The operator shall ensure that such activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition.

- (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (8) If the vegetation retention requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
- (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
- (b) An equivalent basal area is retained elsewhere within the harvest unit adjacent to the tree retention area.
- (9) For all Type N streams, the operator may count all retained trees in the outer zone that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.

629-643-0130 Standard Practice Requirements for Small Type N Streams

- (1) For purposes of determining the vegetation retention area and streamside retention requirements for a small Type Np stream that flows into a Type F or Type SSBT stream.
- (2) The operator shall apply the tree retention requirements based on the stream’s location (Western Oregon or Eastern Oregon) and fish use classification (Type F or Type SSBT) immediately downstream from the small Type Np stream, as shown in Tables 1 through 4 for small Type Np streams.

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 & 50</u>	<u>75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet¹</u>	<u>See OAR 629-643-0150</u>

¹ 20 feet outside of Type Np vegetation retention requirements

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance¹</u>
	<u>Inner</u>	<u>Outer²</u>	<u>Inner</u>	<u>Outer²</u>	<u>Inner</u>	<u>Outer²</u>	
<u>Type F or SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>=</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>=</u>	<u>30</u>	<u>=</u>	<u>30 or 20 feet³</u>	<u>=</u>	<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance¹</u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet²</u>	<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance¹</u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer²</u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

- (3) If the operator uses the standard practice, the operator shall use small Type Np tree retention area distances for width and the RH max as described in Tables 1 and 2. If a small forestland owner uses the small forestland owner minimum option, the small forestland owner shall use the small Type Np tree retention area distances for width and RH max described in Tables 3 and 4. The following requirements are considered the standard practice for small Type Np streams. For small forestland owners, operational field survey and tree retention requirements are available in OAR in 629-643-0143.
- (4) If the Department of Fish and Wildlife has established a verified end pursuant to a model verification field survey, then:
- (a) The applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
- (A) The verified end, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area; or
- (B) The RH max, in which case the end of the tree retention area shall be perpendicular to the stream channel.
- (b) An R-ELZ shall extend between the RH max and the verified end, when the verified end is upstream of the RH max.
- (c) An ELZ shall extend upstream to the remainder of the Type N channel.
- (5) If the Department of Fish and Wildlife has not established a verified end pursuant to field survey, then the operator shall determine the extent of vegetation retained relative to either a modeled end, or pursuant to an operational field survey.
- (a) If the operator uses a modeled end:

- (A) The applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
 - (i) The modeled end, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area; or
 - (ii) The RH max, in which case the end of the tree retention area shall be perpendicular to the stream channel.
- (B) An R-ELZ shall extend between the RH max and the modeled end, when the modeled end is upstream of the RH max.
- (C) An ELZ shall extend upstream to the remainder of the Type N channel.
- (b) If the operator uses an operational field survey, as described in this rule and OAR 629-635-0200(18):
 - (A) The applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
 - (i) The upstream end of the most upstream flow feature within the area of inquiry, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area; or
 - (ii) The RH max, in which case the upstream end of the tree retention area shall be perpendicular to the stream channel.
 - (B) An R-ELZ shall extend from the RH Max to the most upstream flow feature within the area of inquiry, when such flow feature is upstream of the RH max.
 - (C) If flowing water too short to be considered a flow feature is encountered upstream of the most upstream flow feature, and both are within the area of inquiry but downstream of the RH max, the operator shall:
 - (i) Retain all trees within 50 feet of the flowing water; and
 - (ii) Extend an R-ELZ from the upstream end of the most upstream flow feature within the area of inquiry to the downstream end of the tree retention area described in Section 5(b)(C)(i).
 - (D) Notwithstanding any other requirement, the operator shall extend an ELZ upstream of the tree retention area or the R-ELZ, if any, for the remainder of the Type N channel as described in this rule.
- (6) All operational field surveys conducted pursuant to Section 5(b) above and 7 below must comply with the following:
 - (a) During Phase 1, as described in OAR 629-635-0200(18)(a), an operator may conduct an operational field survey without advance notification to the Department of Fish and Wildlife, and the department shall allow a lower level of map precision for surveyed points, provided that any survey that uses a lower level of map precision will not be included in the department's reporting and notification system as described in (6)(d) below.
 - (b) Unless the survey is submitted pursuant to (6)(a) above, an operator must notify the Department of Fish and Wildlife in advance of conducting an operational field survey. The operator may notify the Department of Fish and Wildlife at any time prior to conducting the survey, including immediately prior, but no more than two years in advance. Once an operator has notified the Department of Fish and Wildlife of its intent to conduct a survey pursuant to this subsection (6)(b), any notification of operation submitted to the department's reporting and notification system for the surveyed area must include either:
 - (A) The completed survey, or
 - (B) A certification that the landowner did not initiate the survey.
 - (c) The State Forester, in consultation with Department of Fish and Wildlife, shall review all operational field surveys submitted pursuant to (6)(a) and (6)(b) above. Unless disapproved by the Department of Fish and Wildlife within 21 days following submission to the department, the field survey will define the relevant attributes of the layout described in Section 5(b) above and 7 below.

- (d) Unless disapproved by the Department of Fish and Wildlife or submitted pursuant to (6)(a), the State Forester shall add the location and extent of the most upstream flow feature from an operational field survey to the department's reporting and notification system. Operators may rely upon and operate pursuant to prior operational field surveys recorded in the department's reporting and notification system.
- (e) In coordination with Department of Fish and Wildlife, the State Forester shall provide an expeditious process for resolution of disapproved surveys.
- (f) Once phase 2 flow modeling is complete, as described in 629-635-0200(18)(b), operational field surveys as described in 5(b) above or 7 below to determine the applicable tree retention area for small Type Np streams shall be constrained as follows:
 - (A) When an operator completes a survey during a drought year, as defined by the Department of Fish and Wildlife for the purpose of operational field surveys, the most upstream flow feature within the area of inquiry shall be the longer of:
 - (i) The modeled end, or
 - (ii) The uppermost flow feature within the area of inquiry.
 - (B) When an operator conducts a survey during an abnormally wet year, as defined by the Department of Fish and Wildlife for the purpose of operational field surveys, the area of inquiry shall stop at the modeled end.
- (g) All operational field surveys must adhere to Department of Fish and Wildlife protocols for operational field surveys.
- (h) The department shall publish Forest Practices Technical Guidance to assist operators with layout pursuant to operational field surveys.
- (7) If an operator does not have the legal right to survey an entire area of inquiry due to the location of one or more property boundaries, the operator may conduct an operational field survey to determine small Type Np stream vegetation retention requirements as follows:
 - (a) If access to the neighboring property is available to the operator, the operator may complete a survey of the entire area of inquiry and complete layout as described in Section (5)(b).
 - (b) If the operation will take place on property downstream of the ownership boundary and the area of inquiry crosses the property boundary, the operator shall survey the portion of the area of inquiry legally accessible to the operator, and the extent of vegetation retention requirements shall adhere to the following:
 - (A) Where the department's reporting and notification system evidences a flow feature on the neighboring property upstream but still within the area of inquiry, then the tree retention area will begin at the confluence with a fish use stream and extend to the shorter of:
 - (i) The RH max, in which case the upstream end of the retention area shall be perpendicular to the stream channel; or
 - (ii) The property line.
 - (B) Where the department's reporting and notification evidences no flow feature upstream on the neighboring property upstream but still within the area of inquiry, then the applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
 - (i) The RH max, in which case the upstream end of the retention area shall be perpendicular to the stream channel; or
 - (ii) The most upstream flow feature within the area surveyed by the operator, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area.
 - (C) An R-ELZ shall extend from the end of the tree retention area identified in (A) and (B) to the property boundary.
 - (D) If flowing water that is too short to be considered a flow feature is encountered within the area surveyed and upstream of the most upstream flow feature but

downstream of the RH max the operator shall retain all trees within 50 feet of the flowing water.

- (c) If the operation will take place on property upstream of an ownership boundary bisecting an area of inquiry, the operator shall presume that a flow feature ends immediately downstream of the ownership boundary, shall use map distances to determine the distance between the confluence and the property boundary, and the remainder of the vegetation retention requirements for the small Type Np stream shall be laid out in accordance with Section 5(b) above. In Phase 1, the area of inquiry for such an operation shall begin at the property ownership boundary.

629-643-0135

Standard Practice Vegetation Retention for Seeps and Springs, Side Channels, and Stream-Associated Wetlands

- (1) In Western Oregon, for seeps and springs located within the distances described in Table 1, the operator:
 - (a) Shall retain all trees within 35 feet of the seeps and springs. Shall extend the designated riparian management area widths in Table 1, if necessary, to retain all trees beyond the seep or spring up to a maximum of 35 feet No additional tree retention area shall be required if the 35 feet of tree retention already exists within the retention area described in Table 1. The operator shall limit the length of additional tree retention area along the stream to the seep and spring feature length.
 - (b) Is encouraged to retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs, as described in OAR 629-655-0000.

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 & 50</u>	<u>75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet¹</u>	<u>See OAR 629-643-0150</u>

¹ 20 feet outside of Type Np vegetation retention requirements

- (2) In Eastern Oregon, for seeps and springs located within the inner zone distances described in Table 2, the operator:
 - (a) Shall retain all trees within 35 feet of seeps and springs by extending the riparian management area inner zone widths designated in Table 2, as needed. No additional tree retention area shall be required if the 35 feet of tree retention already exists within the retention area within inner zone described in Table 2. The operator shall limit the length of additional tree retention area along the stream to the seep and spring feature length. These rules do not apply to seeps and springs that are identified as important springs, as described in OAR 629-645-0000.
 - (b) Is encouraged to retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs as described in OAR 629-655-0000.

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet ³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

- (3) In both Western Oregon and Eastern Oregon, for side channels and wetlands that extend beyond riparian management areas described in Tables 1 and 2, the operator shall expand the tree retention area to entirely include any stream-associated wetland plus at least 25 additional feet.

629-643-0140

Small Forestland Owner Minimum Option Vegetation Retention Prescription Requirements

- (1) The goals of the small forestland owner minimum option vegetation retention requirements are to recognize the inherent differences in the needs and requirements of these owners while meeting the overall objectives of the Private Forest Accord Report, including but not limited to:
- (a) Minimizing the conversion of timberlands to other uses while recognizing conversion to other land uses may occur;
 - (b) Minimizing the conversion of timberlands through a system of incentives, education, and regulatory stability for the small forestland owner; and
 - (c) Providing a landowner who may face disproportionate economic impact from revised riparian vegetation retention rules with an optional prescription while providing for equal environmental outcomes and the potential for increased financial outcomes.
- (2) For the purposes of this rule, a landowner who qualifies as a small forestland owner, as described in OAR 629-607-0200, may use one of the following riparian vegetation retention options:
- (a) The standard practice retention prescriptions described in Table 1 for Western Oregon and Table 2 for Eastern Oregon. The standard practice is available to optimize environmental benefits and mitigate risks to natural resources.

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance
Type F or Type SSBT	110 feet	110 feet	100 feet	N/A
Type N	75 feet	75 feet	See Type Np	N/A
Type Np, into Type SSBT			75 & 50	75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet
Type Np, into Type F			75 feet	RH Max = 600 feet
Type D	75 feet	75 feet	75 or 20 feet ¹	See OAR 629-643-0150

¹ 20 feet outside of Type Np vegetation retention requirements

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet ³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

- (b) The small forestland owner minimum option vegetation retention prescriptions described in Table 3 for Western Oregon and Table 4 for Eastern Oregon, as limited by the terms of this rule and OAR 629-607-0400. The small forestland owner minimum option prescription applies to harvest types 1, 2, and 3 within the riparian areas of both Western Oregon and Eastern Oregon streams.

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance ¹
Type SSBT	100 feet	80 feet	60 feet	N/A
Type F	100 feet	70 feet	50 feet	N/A
Type N	70 feet	50 feet	See Type Np	
Type Np, into Type SSBT			35	RH Max = 1,150 feet
Type Np, into Type F			35	RH Max = 600 feet
Type D	75	75	35 or 20 feet ²	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

³ OAR 629-643-0143 describes all Type Np riparian vegetation requirements for small forestland owners

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer	Inner	Outer ²	
Type F or Type SSBT	30	70	30	50	30	30	N/A
Type N	30	45	30	30	-	-	
Type Np, Terminal	-	-	-	-	20	20	RH Max = 500 feet
Type Np, Lateral	-	-	-	-	20	N/A	250 feet
Type D	30		30		20		See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ OAR 629-643-0143 describes all Type Np riparian vegetation requirements

- (c) The forest conservation tax credit option. The standard practice riparian vegetation retention prescription with the option to apply for the forest conservation tax credit, as described in OAR 629-607-0400 through 629-607-0800. When the small forestland owner requests the forest conservation tax credit as part of a notice of operation, the State Forester shall review the request and notify the small forestland owner whether the small forestland owner is eligible for the credit. If the State Forester approves a request for a forest conservation tax credit, the small forestland owner shall receive a state tax credit for the stumpage value of this timber.
- (3) Forest conservation tax credit. In addition to the small forestland owner minimum option, the small forestland owner may follow the standard practice vegetation retention requirements available to small forestland owners. When the small forestland owner selects the standard practice retention requirements in either Western Oregon or Eastern Oregon, the small forestland owner may apply for a forest conservation tax credit.
- (a) A small forestland owner who selects the standard practice shall follow the same requirements in the standard practice retention rules for the riparian management area for harvest types 1, 2, and 3.
- (b) A small forestland owner who selects the standard practice shall define the forest conservation area as the area between the outermost edge of the standard practice width and the outermost edge of the small forestland owner minimum option width.
- (c) The forest conservation tax credit is equal to 100 percent of the stumpage value of standing trees that are retained in the forest conservation area, as described in OAR 629-607-0500. A small forestland owner who receives the forest conservation tax credit shall retain the trees within the forest conservation area for 50 years as required by the forest conservation tax credit program.
- (d) A small forestland owner completing a harvest type 4 is not eligible to claim the forest conservation tax credit. No other limitations are in place for using a harvest type 4 within the fifth-field watershed.
- (4) Fifth field watershed restriction for using the small forestland owner minimum option. There is a limit to the use of the small forestland owner minimum option within a fifth field watershed as delineated by the U.S. Geological Survey. It is limited to five percent of the riparian areas owned by small forestland owners in a fifth field watershed within a five-year period. The department will track the use of the small forestland owner minimum options as described in (4)(a)(C). Within 90 days after a small forestland owner completes a timber harvest adjacent to a riparian area, the small forestland owner who selects the small forestland owner minimum option shall report to the State Forester the total lineal feet of riparian area where the small forestland owner minimum option is applied within the harvest area. When reporting total lineal feet, the small forestland owner shall include each side of the stream. The small forestland owner shall report lineal feet in horizontal distance. The small forestland owner may use the small forestland owner minimum option harvest prescription in any defined fifth-field watershed based on the following criteria:
- (a) When there are multiple small forestland owners within a fifth-field watershed, the small forestland owners within the watershed may use the small forestland owner minimum option for harvest types 1, 2, and 3 on no more than five percent of the total horizontal lineal feet of streams in the watershed. The five percent maximum harvest limitation applies, in aggregate, to all small forestland owners within the fifth-field watershed. The five percent is measured within a five-year period.
- (A) For the five percent maximum harvest limitation described in (a), the State Forester shall track stream distances for Type F and Type N streams separately. For this rule's tracking purposes, Type F streams shall include Type SSBT streams.
- (B) The State Forester shall calculate the five percent maximum harvest limitation per fifth-field watershed using the five-year rolling average for each stream classification. The five percent maximum harvest limitation is calculated using

the total horizontal lineal feet of riparian area harvest per stream classification (Type F or Type N), divided by the total available lineal feet of Type F and Type N streams in the defined watershed. Type F and Type N restrictions may be different in a fifth field watershed.

- (i) Consideration of the five-year rolling average for calculating the lineal feet of riparian harvest shall be continuous.
- (ii) Any harvest and the associated lineal feet that is older than five years shall be excluded from tracking and from the calculation of the watershed harvest limitation for each stream classification.
- (C) The State Forester shall track lineal feet for each side of the stream associated with the small forestland owner minimum option tracking. Harvest occurring exclusively on one side of the stream shall be counted as one-half the lineal feet for the stream segment.
- (b) When the five percent maximum harvest limitation exists for a defined watershed and the small forestland owner chooses to use the small forestland owner minimum option prescription, the small forestland owner may select from either option (A) or (B):
 - (A) Enroll on a waiting list to utilize the small forestland owner minimum option prescription at a time when the limitation has lowered below the calculation in (4)(a)(B).
 - (i) The State Forester shall maintain and update the list on a first come, first served basis. The department shall notify any enrolled small forestland owner when the opportunity to utilize the small forestland owner minimum option becomes available.
 - (ii) After the State Forester provides the small forestland owner with a notification of eligibility, the small forestland owner shall elect to harvest according to the small forestland owner minimum option or forfeit priority on the waiting list.
 - (B) The small forestland owner may use the standard practice retention requirement and apply for a tax credit for the forest conservation area at 125 percent of the value for which the small forestland owner would have been eligible under the forest conservation tax credit program in OAR 629-607-0400 through 629-607-0800.
- (c) OAR 629-607-0400(9) outlines a process if the forest conservation tax credit changes.

629-643-0141

Western Oregon; Small Forestland Owner Minimum Management Option Prescription

- (1) The purpose of this rule is to provide the small forestland owner minimum option prescription for vegetation retention in Western Oregon riparian areas, as shown in Table 3.

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance¹</u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet²</u>	<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

- (2) The small forestland owner shall apply the vegetation retention requirements to the riparian management areas of Type F, Type SSBT, and Type N streams. All other requirements for the standard practice prescription rules shall apply.
- (3) The small forestland owner shall retain all trees and vegetation within the distances shown in Table 3, measured from the edge of the active channel or the channel migration zone, if a channel migration zone is present.
- (4) For small Type Np streams flowing into a Type SSBT stream, the small forestland owner shall retain all trees as follows:
 - (a) All trees within 35 feet of the active channel, for a maximum distance of 1,150 feet upstream of the Type SSBT stream.
 - (b) The total distance of the tree retention area in (a) above the confluence according to the process in OAR 629-643-0143.
 - (c) Locations outside the tree retention area retention requirements. The small forestland owner shall apply an R-ELZ or ELZ as required in OAR 629-643-0143.
- (5) For small Type Np streams flowing into a Type F stream, the small forestland owner shall retain all trees as follows:
 - (a) Within 35 feet of the active channel, for a maximum distance of 600 feet upstream of the Type F stream.
 - (b) Above the confluence, the total distance of the tree retention area in (a) shall be determined according to the process in OAR 629-643-0143.
 - (c) Locations outside the tree retention area retention requirements, the small forestland owner shall apply an R-ELZ or ELZ as required in OAR 629-643-0143.
- (6) For Type Np and Type Ns streams outside the tree retention area described in this rule, the small forestland owner shall follow all other Type N ELZ standard practice requirements as described in OAR 629-643-0105.
- (7) The small forestland owner may count retained trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, as follows:
 - (a) For all medium and large Type F and Type SSBT streams, retained trees within the outer 20 feet of the distances described in Table 3, that otherwise meet the wildlife leave trees requirements, may be counted towards the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
 - (b) For all small Type F and Type SSBT streams, and all Type N streams, retained trees that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, may be counted. Trees retained in the forest conservation area may be counted toward these requirements.

629-643-0142

Eastern Oregon; Small Forestland Owner Minimum Option Prescription

- (1) The purpose of this rule is to provide the small forestland owner minimum option prescription for vegetation retention in Eastern Oregon riparian areas, as shown in Table 4.

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance¹</u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer²</u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ OAR 629-643-0143 describes all Type Np riparian vegetation requirements

- (2) The small forestland owner shall apply the vegetation retention requirements to the riparian management areas of Eastern Oregon Type F, Type SSBT, and Type N streams.
- (3) All other requirements for the standard practice prescription rules shall apply.
- (4) Both the small forestland owner minimum option and the standard practice prescriptions and riparian management widths apply to Type N streams depending on whether the stream classification is perennial (Np) or seasonal (Ns). The State Forester shall determine the classification of a Type N stream as Np or Ns following the process described in OAR 629-635-0200(18).
 - (a) To apply the appropriate vegetation requirements as described in Tables 2 and 4, a small Type Np stream shall be classified as either terminal or lateral.
 - (b) The State Forester shall provide these maps that show the stream classification, that identify the small Type Np streams.
- (5) For all Type F, Type SSBT, and large and medium Type N streams, the small forestland owner shall:
 - (a) Retain all trees and vegetation within the inner zone.
 - (b) Retain all trees leaning over the channel.
 - (A) For the outer zone, a minimum of 60 square feet of basal area per acre beyond the 30-foot inner zone, using the distances shown for the stream size described in Table 4. The small forestland owner shall measure the outer zone starting from the edge of the inner zone. To meet the basal area target requirement, the small forestland owner shall retain 27 trees from the largest diameter class per acre.

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance¹</u>
	<u>Inner</u>	<u>Outer²</u>	<u>Inner</u>	<u>Outer²</u>	<u>Inner</u>	<u>Outer²</u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>-</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>-</u>	<u>30</u>	<u>-</u>	<u>30 or 20 feet³</u>	<u>-</u>	<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

- (B) The remainder of the trees shall consist of trees greater than eight inches DBH.
- (C) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.
- (D) Retained trees shall be well distributed within the outer zone unless limited by existing site or stand conditions.
- (E) Notwithstanding (A) through (D) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health, and shall be described in the written plan.
- (c) The small forestland owner shall adhere to an ELZ in the outer zone for 30 feet, extending from the outer edge of the inner zone.

- (6) For small terminal Type Np streams flowing into a Type F or Type SSBT stream, the small forestland owner shall retain:
- (a) All trees within 20 feet from the edge of the active channel for a maximum distance of 500 feet upstream of the Type F stream, defined as the inner zone. The total distance of the tree retention area above the confluence shall be determined according to the process in OAR 629-643-0143.
 - (b) All trees leaning over the channel.
 - (c) Trees outside of 20 feet and at 40 feet from the edge of the active channel, defined as the outer zone. The outer zone retention requirements shall apply upstream for the same distance as required in (a) as follows:
 - (A) A minimum of 60 square feet of basal area per acre beyond the 20-foot inner zone and the distances shown in Table 4.
 - (B) To meet the basal area target requirement, the small forestland owner shall retain 27 trees from the largest diameter class per acre.
 - (C) The remainder of the trees shall consist of trees greater than eight inches DBH.
 - (D) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.
 - (E) Retained trees shall be well distributed within the outer zone limited by existing site or stand conditions.
 - (F) Notwithstanding (A) through (E) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health.
 - (d) The small forestland owner shall adhere to an R-ELZ or ELZ extending from the edge of the inner zone, extending the same distance as the distance determined in (a) as required in OAR 629-643-0143.
 - (e) The small forestland owner shall adhere to an ELZ upstream of the tree retention area for the remainder of the Type N channel.
- (7) For small lateral Type Np streams flowing into a Type F or Type SSBT stream, the small forestland owner shall retain all trees within 20 feet from the edge of the active channel for a maximum distance of 250 feet upstream of the confluence with the Type F or Type SSBT stream.
- (a) The small forestland owner shall determine the total distance of the tree retention area above the confluence as described in OAR 629-643-0143.
 - (b) The small forestland owner shall adhere to an R-ELZ or ELZ extending 50 feet from the edge of the active channel. The operator shall extend the R-ELZ or ELZ the same distance as the distance determined in (a), as required in OAR 629-643-0143.
 - (c) The small forestland owner shall adhere to an ELZ upstream of the tree retention area and for the remainder of the Type N channel.
- (8) For a small Type Ns stream, the small forestland owner shall retain all shrubs and trees under six inches DBH within 30 feet of the active channel or channel migration zone, and for 750 feet upstream of the confluence with the Type F or Type SSBT stream. The small forestland owner shall adhere to an ELZ from the edge of the active channel for the entire Type N stream.
- (9) For Type Np and Type Ns streams outside the tree retention area described in this rule, the small forestland owner shall follow all other Type N ELZ standard practice requirements in OAR 629-643-0120.
- (10) For all Type F, Type SSBT, and Type N streams, retained trees in the outer zone in Table 4 that otherwise meet the wildlife leave trees requirements may be counted toward wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676. Trees in the forest conservation tax credit may be counted toward these requirements.

629-643-0143

Small Forestland Owners Small Type N Streams Vegetation Requirements

- (1) The small forestland owner shall follow this rule for small Type N streams in addition to the rules described in OAR 629-643-0130. The small forestland owner shall apply the tree retention

requirements according to OAR 629-643-0141 for Western Oregon and OAR 629-643-0142 for Eastern Oregon.

- (a) If an area of inquiry extends beyond the small forestland owner ownership boundary and there is not a flow feature in the last 100 feet before reaching the small forestland owner's ownership boundary, the small forestland owner shall extend the tree retention area to the shorter of:
 - (A) The RH Max; or
 - (B) The furthest upstream flow feature within the ownership boundary.
- (b) When the area of inquiry extends to the furthest upstream flow feature of the ownership boundary, the small forestland owner shall extend the R-ELZ beyond the furthest upstream flow feature within the ownership boundary to the ownership boundary, provided that prior surveys documented in the department's reporting and notification system identify evidence of a flow feature upstream of the ownership boundary that will alter the harvest zone layout.
 - (A) If the furthest identified upstream flow feature within the area of inquiry is below the RH Max, and flowing water that is too short to be considered a flow feature is encountered between the flow feature and the RH Max, the operator shall retain all trees within 35 feet of the flowing water; and
 - (B) The operator shall extend the R-ELZ from the furthest upstream flow feature within the area of inquiry to the tree retention area surrounding the flowing water.
- (2) If the small forestland owner selects the standard practice, and there is 100 feet or more of surveyed dry stream between two flow features located downstream of the RH Max in which tree retention is required, the small forestland owner:
 - (a) May apply for a forest conservation tax credit for an amount that is half of the stumpage value of the retained tree located between the inside edge of the applicable small forestland owner minimum option distance and the edge of the stream.
 - (b) Shall retain all trees within the zone described in (a) regardless of whether the small forestland owner utilizes the forest conservation tax credit.
- (3) The small forestland owner shall comply with all other requirements in the standard practice.

629-643-0145

Small Forestland Owner Minimum Option Prescription for Seeps and Springs

- (1) The following prescriptions apply to seeps and springs located in Western Oregon:
 - (a) For seeps and springs located within the riparian management areas described in Table 3, the small forestland owner shall retain all trees within 15 feet of the seeps and springs. If the 15-foot retention for seeps and springs already exists within the riparian management area described in Table 3, the small forestland owner shall not be required to retain additional trees. The length along the stream of additional tree retention area shall be limited to the seep and spring feature length.
 - (b) The small forestland owner may retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs as described in OAR 629-655-0000.

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance¹</u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet²</u>	<u>See OAR 629-643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

- (2) The following prescriptions apply to seeps and springs located in Eastern Oregon:
- (a) For seeps and springs located within the inner zone distances described in Table 4, the small forestland owner shall retain all trees within 15 feet of the seeps and springs. No additional tree retention area shall be required if the 15 feet retention for seeps and springs already exists within the retention area described in Table 4. The small forestland owner shall limit the additional tree retention area's length along the stream to the seep and spring feature length. These rules do not apply to seeps and springs that are identified as important springs, as described in OAR 629-645-0000.
- (b) The small forestland owner may retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs, as described in OAR 629-655-0000.

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance¹</u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer²</u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629- 643-0150</u>

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

- (3) The small forestland owner shall submit a standardized form to the State Forester when using the small forestland owner minimum option around seeps or springs.
- (4) In both Western Oregon and Eastern Oregon, if the tree retention area contains side channels and wetlands that extend beyond the riparian management areas described in Tables 3 and 4, the small forestland owner shall expand the tree retention area to entirely include any side channels and wetland plus at least 25 additional feet.

629-643-0150

Type D Vegetation Retention Requirements

- (1) For classified small Type D stream segments that extend beyond the tree retention areas described in the Small Type Np requirements in OAR 629-643-0130 and OAR 629-643-0143, the operator shall retain in both Western Oregon and Eastern Oregon:
- (a) All understory vegetation within 10 feet of the active channel.
- (b) All trees within 20 feet of the edge the active channel.
- (c) All trees leaning over the channel.
- (2) The operator may count retained trees along Type D streams that otherwise meet the requirements for wildlife leave trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (3) A small forestland owner shall not use the small forestland owner minimum option or tax credits for Type D streams.

629-643-0200

Placing Large Wood Key Pieces in Type F or Type SSBT Streams to Improve Fish Habitat

- (1) In conjunction with a forest operation, placement of large wood key pieces in a Type F or Type SSBT stream to improve fish habitat is subject to the regulations in the Oregon Forest Practices Act and the forest practice rules.

- (2) The goal of placing large wood key pieces is to deliver wood that is relatively stable but can reconfigure to a limited degree and work with the natural stream flow to restore and maintain habitat for aquatic species. When placing large wood key pieces in conjunction with an operation, the operator shall design and implement the project to:
- (a) Rely on the size of wood for stability and exclude the use of any type of artificial anchoring;
 - (b) Emulate large wood delivery configurations that occur from natural riparian processes over time;
 - (c) Restore and maintain natural aquatic habitat over time rather than rely on constructed habitat structures; and
 - (d) Meet the standards established in "Guide to Placement of Wood, Boulders and Gravel for Habitat Restoration," developed by the Oregon Department of Forestry, Oregon Department of Fish and Wildlife, Oregon Department of State Lands, and Oregon Watershed Enhancement Board, January 2010.

629-643-0300

Alternative Vegetation Retention Prescriptions

- (1) Alternative prescriptions are intended to apply to situations where the existing streamside stand is too sparse or contains too few live trees to maintain fish, wildlife, and water quality resources over time. Future desired streamside stand conditions are achieved through immediate manipulation of vegetation, including reforesting the riparian management area with conifer.
- (2) Section (3) and (4) of this rule are alternative vegetation retention prescriptions described for the geographic areas in Figure 1, that the operator may apply if the basal area in the riparian management area is no more than one-half of the standard target indicated in either Table 5 or Table 6, as may be applicable, and conditions described in the alternative prescription are applicable.

Figure 1. Geographic Areas, OAR 629-643-0300

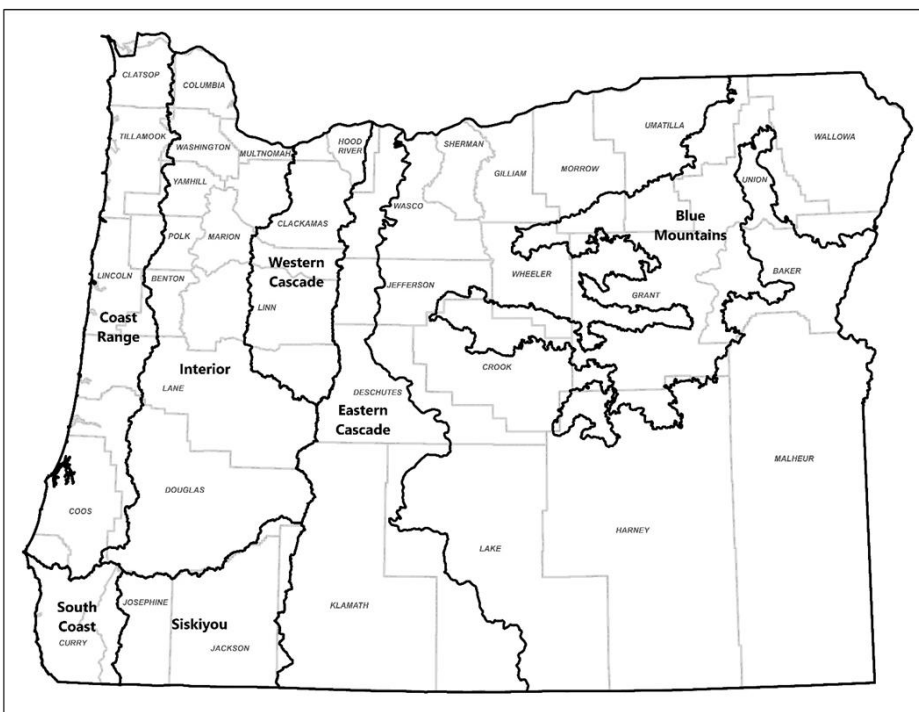


Table 5. Alternative Prescription Basal Area Table for Type F/SSBT Streams

Geographic Areas	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM EACH SIDE					
	LARGE TYPE F/SSBT		MEDIUM TYPE F/SSBT		SMALL TYPE F/SSBT	
	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target
Coast Range, S. Coast	253	187	189	141	80	40
Interior & W. Cascades	297	220	220	173	80	40
Siskiyou	242	187	173	141	80	40
Eastern Cascade & Blue Mountain	170	130	129	100	75	75

Table 6. Alternative Prescription Basal Area Table for Type D and Type N Streams

Geographic Areas	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE		
	LARGE TYPE D and N	MEDIUM TYPE D and N	SMALL TYPE N and D
	Standard Target	Standard Target	Standard Target
Coast Range, S. Coast, & Siskiyou	96	75 ¹	0
Interior & W. Cascades	118	75 ¹	0
Eastern Cascade & Blue Mountain	75	75 ¹	0

¹ Hardwoods may count up to 30 square feet of basal area per 1000 feet toward meeting the standard target.

- (3) Alternative vegetation retention prescription 1 (catastrophic events). This alternative prescription applies to streamside stands that have been damaged by wildfire or by catastrophic windthrow, or by insect or disease mortality. Such mortality must occur at the stand level and may not include normal endemic mortality. This alternative prescription is intended to provide adequate stream shade, woody debris, and bank stability for the future while creating conditions in the streamside area that will result in quick establishment of a new and healthy stand. The operator shall:
- (a) Retain trees that have fallen in the stream. The operator may only harvest portions of these trees that are outside the high-water levels and do not contribute to the ability of the downed tree to withstand movement during high flows.
 - (b) Retain all live and dead trees within 20 feet of the high-water level of large and medium streams and 10 feet of the high-water level of small streams.
 - (c) For Type F and Type SSBT streams, retain live trees, dying or recently dead trees, and downed logs sufficient to satisfy the active management target shown in Table 5.

- (d) For Type D and N streams, retain live trees, dying or recently dead trees, or downed logs sufficient to satisfy the standard target shown in Table 6.
 - (e) Retain live conifers first to meet the target. If live conifers are too few to satisfy the target, the operator shall meet the target as much as possible by including windthrown trees within the channel and dying or recently dead trees.
 - (f) For purposes of this prescription, the basal area of a windthrown tree in the channel or a retained dying or recently dead tree contributes two times its basal area toward meeting the target.
- (4) Alternative vegetation retention prescription 2 (hardwood dominated sites). This alternative prescription applies to streamside sites that are capable of growing conifers, and where conifer stocking is currently low and unlikely to improve in a timely manner because of competition from hardwoods and brush. If portions of such riparian management areas currently contain abundant conifer basal area, it is intended that these areas of good conifer basal area be segregated and managed using the standard practice vegetation retention prescription while the remainder is managed according to this alternative prescription. This alternative prescription is intended to provide adequate stream shade, some woody debris, and bank stability for the future while creating conditions in the streamside area that will result in quick establishment of a conifer stand. The operator shall:
- (a) Submit to the State Forester a written plan that describes how the operator will meet these requirements and that demonstrates that the conversion will substantially improve the likelihood and timeline to reach the desired future condition.
 - (b) Evaluate the stand within the riparian management area and, where they exist, segregate segments 200 feet or more in length that are well-stocked with conifer, as identified from an aerial photograph, from the ground, or through other appropriate means. The standard practice vegetation retention prescription for vegetation retention shall be applied to these segments.
 - (c) For the remaining portion of the riparian management area that has lower conifer basal area, divide the riparian management area into conversion blocks and retention blocks.
 - (d) Include no more than half the total stream length in the harvest unit within conversion blocks. Conversion blocks shall be no more than 500 feet long and shall be separated from each other by at least:
 - (A) 200 feet of retention block; or
 - (B) A 200-foot segment where the standard practice vegetation retention prescription is applied.
 - (e) Within conversion blocks, the operator shall retain:
 - (A) All trees growing in the stream, or within 10 feet of the stream's high-water level.
 - (B) For large streams, all trees leaning over the channel within 20 feet of the high-water level of the stream.
 - (f) Within retention blocks the operator shall retain:
 - (A) For large streams:
 - (i) All conifer trees within 50 feet of the high-water level of the stream.
 - (ii) All hardwood trees within 30 feet of the high-water level of the stream.
 - (B) For medium streams:
 - (i) All conifer trees within 30 feet of the high-water level of the stream.
 - (ii) All hardwood trees within 20 feet of the high-water level of the stream.
 - (C) For small streams, all trees within 20 feet of the high-water level of the stream.

629-643-0400

Site Specific Vegetation Retention Prescriptions for Streams and Riparian Management Areas

- (1) A primary purpose of these site-specific vegetation retention prescriptions in Table 7 and described for the geographic areas in Figure 1, is to identify opportunities and allow incentives for restoring or enhancing riparian management areas or streams. Another purpose of site-specific vegetation retention prescriptions is to allow for changes to the vegetation retention requirements

in this rule division. The changes must provide for the functions and values of streams and their riparian management areas as described in the vegetation retention goals for streams while affording a better opportunity to meet other objectives.

Figure 1. Geographic Areas, OAR 629-643-0400

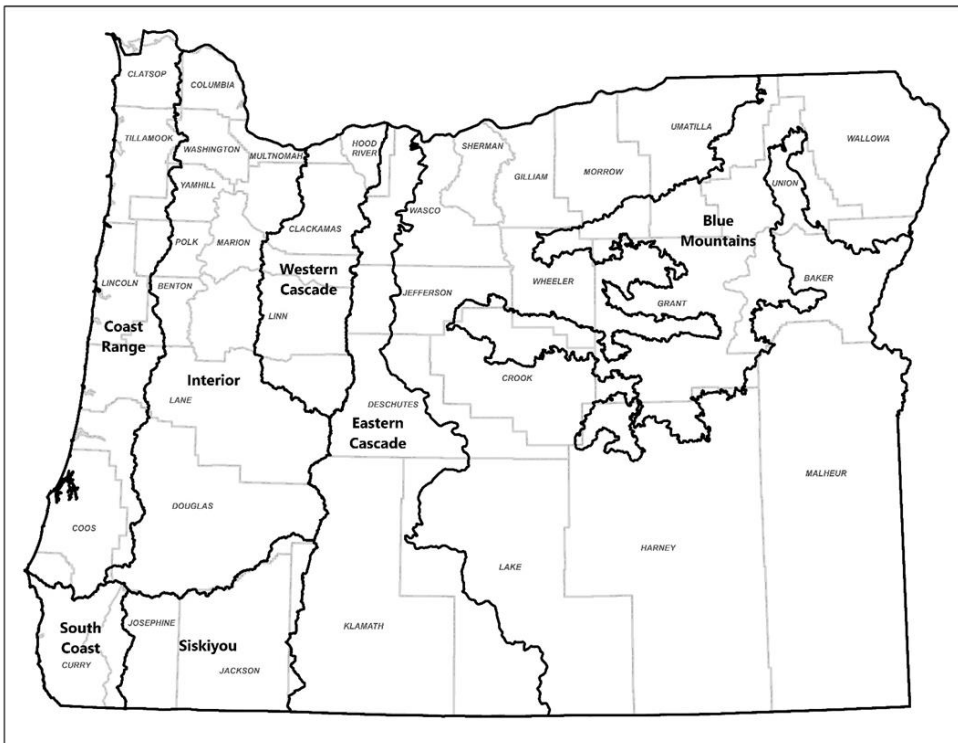


Table 7. Site Specific Basal Area Targets

Geographic Areas	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM EACH SIDE		
	LARGE TYPE F	MEDIUM TYPE F	SMALL TYPE F
	RMA = 110 feet	RMA = 110 feet	RMA = 100 feet
Coast Range, S. Coast	253	253	230
Interior & W. Cascades	297	297	270
Siskiyou	242	242	220
	RMA = 30 feet	RMA = 30 feet	RMA = 30 feet
Eastern Cascade & Blue Mountain	51	51	51

- (2) The operator may develop site specific vegetation retention prescriptions for streams and their riparian management areas to achieve the vegetation retention goals described in OAR 629-643-0000 if:

- (a) The potential of the streamside stand to achieve conditions similar to mature forest stands in a timely manner is questionable;
 - (b) In-stream conditions are impaired due to inadequate large wood or other factors; or
 - (c) The site-specific prescription would result in less environmental damage than the standard practice.
- (3) An operator who wishes to implement site specific vegetation retention prescriptions instead of the standard practice shall submit to the State Forester a plan for an alternate practice.
- (4) The State Forester shall approve a plan for an alternate practice if the State Forester determines that, when it is properly executed, the alternate plan will have no significant or permanent adverse effects, and:
- (a) The plan shall meet or exceed the vegetation retention goals in a more timely manner than if the plan were not implemented;
 - (b) The long-term benefits of the plan are greater than short-term detrimental effects; or
 - (c) The plan will result in less environmental damage than if the standard practice were followed.
- (5) The State Forester may consider the following non-exhaustive list of factors in evaluating the plan:
- (a) The potential of the existing streamside stand to achieve mature streamside forest characteristics;
 - (b) The long-term supply of woody debris;
 - (c) The survival of newly established trees or shrubs;
 - (d) Fish and wildlife species' sensitivity to changes in water temperature and water quality;
 - (e) The potential for sedimentation;
 - (f) The stability of woody debris placed in aquatic areas; and
 - (g) The State Forester's ability to monitor the direct effects of the proposed practices.

629-643-0500

Reforestation Within Stream Riparian Management Areas

Harvested portions of riparian management areas along streams are subject to the same reforestation requirements that apply to adjacent areas that are outside of the riparian management areas. A number of factors make reforestation more difficult in riparian management areas. To succeed with the required reforestation, landowners should anticipate and plan for factors including but not limited to brush control measures, animal damage problems, and tree species that are suitable for wetter sites.

Division 645
**WATER PROTECTION RULES: RIPARIAN MANAGEMENT AREAS
AND PROTECTION MEASURES FOR SIGNIFICANT WETLANDS**

629-645-0000

Riparian Management Areas and Protection Measures for Significant Wetlands

- (1)
 - (a) The purpose of these rules is to protect the functions and values of significant wetlands, including wetlands larger than eight acres, estuaries, bogs and important springs in eastern Oregon on forestlands.
 - (b) Significant wetlands on forestlands provide a wide range of functions and values, including those related to water quality, hydrologic function, fish and other aquatic organisms, and wildlife.
 - (c) Estuaries are unique systems because they form transitions between terrestrial, marine, and freshwater environments. Because of this link, estuarine systems are among the most biologically productive in the world. Estuaries support many resident species. Estuaries also provide food, spawning area, and shelter for numerous other species at critical points in their life cycles. Removal of shoreline trees reduces the overall productivity of the estuary by reducing leaf and litter fall, thus depriving the estuary of substrate, and by removing feeding and resting habitat for birds and small mammals.
 - (d) Bog communities are a result of specific hydrologic, soil, and nutrient conditions. Bogs are usually saturated, low in nutrients, and highly acidic. Changes in runoff, sediment loading, and nutrient loading can alter the plant community composition. The peat soils have evolved over time. Compaction damages plant communities and may encourage the invasion of exotic species. Harvesting may disrupt shade tolerant vegetation, alter plant community characteristics, and hasten succession. Compaction, saturated conditions, and poor nutrient status make reforestation difficult.
 - (e) In arid parts of eastern Oregon, springs provide a critical source of water. These important springs have established wetland vegetation, flow year round in most years, and are used by a concentration of diverse animal species. By reason of sparse occurrence, important springs have a major influence on the distribution and abundance of upland species. Important springs shall be identified by the State Forester.
- (2)
 - (a) The goals of significant wetland protection are to maintain the functions and values of significant wetlands on forestlands over time, and to ensure that forest practices do not lead to resource site destruction or reduced productivity, while at the same time ensuring the continuous growth and harvest of forest tree species. To accomplish these goals, the rules focus on the protection of soil, hydrologic functions, and specified levels of vegetation.
 - (b) The intent of the rules is to minimize soil disturbance and to minimize disturbance to the natural drainage patterns of the significant wetland.
 - (c) Vegetation retention (including understory vegetation, snags, downed wood, and live trees) is needed to prevent erosion and sedimentation into the significant wetland, minimize soil disturbance and hydrologic changes, and to maintain components of the vegetation structure to provide for other benefits, particularly fish and wildlife values.
- (3) Significant wetlands other than estuaries, bogs or important springs in eastern Oregon shall have riparian management areas extending 100 feet from the wetlands. When an operation is proposed within 300 feet of an estuary or within 100 feet of a wetland larger than eight acres (non estuary), bog or important spring in eastern Oregon, the resource site evaluation process in OAR 629-665-0020 shall be followed by the landowner, operator or timber owner. If the proposed operation conflicts with the significant wetland, the operator shall submit a written plan to the State Forester before starting operations. The written plan shall comply with the requirements of 629-605-0170, Written Plans.
- (4) For all significant wetlands, operators shall provide the following to the wetlands and riparian management areas:

- (a) Live tree retention (OAR 629-645-0010);
 - (b) Soil and hydrologic function protection (OAR 629-645-0030);
 - (c) Understory vegetation retention (OAR 629-645-0040); and
 - (d) Snag and down wood retention (OAR 629-645-0050).
- (5) For forested significant wetlands, written plans must address reforestation.
- (6) When an operation is proposed within 300 feet of an estuary, bog or important spring in eastern Oregon, the State Forester shall determine the riparian management area during the resource site inspection required by OAR 629-665-0020. Riparian management areas shall extend outward 100 to 200 feet from the estuary, 50 to 100 feet from the bog, or 50 to 100 feet from the important spring in eastern Oregon. The distance determination of the State Forester shall depend on:
- (a) Stocking level of the timber stand adjacent to the estuary, bog or spring;
 - (b) Ability of the area to withstand windthrow;
 - (c) Size of the estuary, bog or spring. As the size increases, the size of the riparian management area shall increase; and
 - (d) For bogs and springs only, topography and erodibility of adjacent uplands.

629-645-0010

Live Tree Retention for Significant Wetlands

- (1) In significant wetlands and their riparian management areas, operators shall retain approximately 50 percent of the original live trees, by species, in each of the following diameter classes (DBH):
- (a) 6 to 10 inches;
 - (b) 11 to 20 inches;
 - (c) 21 to 30 inches; and
 - (d) larger than 30 inches.
- (2) As part of the live trees in subsection (1) above, operators shall retain trees bordering significant wetlands.
- (3) For estuaries and the adjacent riparian management areas, operators shall protect live trees that are:
- (a) Perch and nest trees for predatory birds and colonial nesting birds;
 - (b) Likely to provide for future large woody debris to the estuaries' perimeters; and
 - (c) Contributing to bank stability.

629-645-0020

Site-Specific Vegetation Retention Prescriptions for Significant Wetlands

- (1) Operators are encouraged to develop site specific vegetation retention prescriptions for significant wetlands in a plan for an alternate practice.
- (2) The functions and values of forested wetlands vary with species composition, stocking levels, and geographic location. Operators are encouraged to propose site specific vegetation retention prescriptions in a plan for an alternate practice that allow for changes to the live tree requirements in OAR 629-645-0010 and that provide equal or better protection of the functions and values of forested significant wetlands and forested stream-associated wetlands, and address operational concerns.

629-645-0030

Soil and Hydrologic Function Protection for Significant Wetlands

- (1) In significant wetlands and their riparian management areas, operators shall protect soil from disturbances that result in impaired water quality, hydrologic functions, or soil productivity. Operators shall protect hydrologic functions by minimizing disturbances and shall prevent accelerating the natural conversion of the wetland to uplands.
- (2) The written plan required under OAR 629-605-0170 shall describe how the operation will be conducted to prevent adverse effects on water quality, hydrologic functions or soil productivity. The following practices shall be addressed in written plans when they are proposed in significant wetlands:
- (a) Filling within wetlands;

- (b) Machine activity within wetlands; and
- (c) Road construction within wetlands.
- (3) Operators shall not drain significant wetlands.
- (4) Notwithstanding subsection (3) of this rule, minor drainage for reforestation is allowed. Any drainage for reforestation must be designed so the significant wetland is not converted to an upland.

629-645-0040

Understory Vegetation Retention for Significant Wetlands

- (1) The purpose of retaining understory vegetation is to provide soil stability and bank stability in and along significant wetlands, to maintain cover and shade for wildlife habitat and aquatic habitat, and to protect water quality.
- (2) To achieve the purpose of understory retention, the operator shall limit disturbance of understory vegetation within significant wetlands and their riparian management areas to the minimum necessary to remove timber harvested from the area and achieve successful reforestation.
- (3) The written plan required in OAR 629-605-0170 for operations within 300 feet of estuaries and 100 feet of wetlands larger than eight acres (non-estuaries), bogs and important springs in eastern Oregon shall describe how disturbance to the understory vegetation will be minimized during harvest or site preparation for reforestation.

629-645-0050

Snag and Downed Wood Retention for Significant Wetlands

- (1) For significant wetlands, operators shall retain all snags and downed trees within the wetlands and the applicable riparian management areas.
- (2) Notwithstanding subsection (1) of this rule, any snag defined to be a safety hazard under the safety requirements found in OAR 437, division 7, Forest Activities, or determined to be a fire hazard by the State Forester, may be felled. Any snag felled because of a safety or fire hazard shall be left unyarded.
- (3) The retention requirements in subsection (1) of this rule may be modified for reasons of forest health for trees that are dying or recently dead because of fire, insect or disease epidemics, or other catastrophic events when addressed in a plan for an alternate practice approved by the State Forester.
- (4) Snags and downed wood left pursuant to subsection (1) of this rule may not be counted toward the requirements of ORS 527.676.

Division 650
WATER PROTECTION RULES: RIPARIAN MANAGEMENT AREAS
AND PROTECTION MEASURES FOR LAKES

629-650-0000

Riparian Management Areas and Protection Measures for Lakes

- (1) The purpose of this rule is to protect the functions and values of lakes. Lakes on forestlands provide a wide range of functions and values, including those related to water quality, hydrologic functions, aquatic organisms, fish and wildlife.
- (2) Operators shall protect riparian management areas extending:
 - (a) 100 feet from the high water level of large lakes; and
 - (b) 50 feet from the high water level of other lakes that have fish use or other lakes that are equal to or greater than one-half acre in size.
 - (c) No riparian management area is required for other lakes that do not have fish and that are less than one-half acre.
- (3) For all lakes with riparian management areas, operators shall provide the following to the riparian management areas and the aquatic areas:
 - (a) Live tree retention (OAR 629-650-0010);
 - (b) Soil and hydrologic function protection (OAR 629-650-0020);
 - (c) Understory vegetation retention (OAR 629-650-0030); and
 - (d) Snag and down wood retention (OAR 629-650-0040).
- (4) For all lakes not having riparian management areas, the lakes shall be protected as other wetlands (OAR 629-655-0000).

629-650-0005

Written Plans for Operations Near Large Lakes

An operator shall submit a written plan to the State Forester before conducting an operation that requires notification under OAR 629-605-0140 and that is within 100 feet of a large lake.

629-650-0010

Live Tree Retention for Lakes

- (1) Operators shall retain in the riparian management areas of lakes approximately 50 percent of the original live trees, by species, in each of the following diameter classes (DBH):
 - (a) 6 to 10 inches;
 - (b) 11 to 20 inches;
 - (c) 21 to 30 inches; and
 - (d) larger than 30 inches.
- (2) As part of the live trees in subsection (1) above, trees on the edge of lakes shall be retained.

629-650-0020

Soil and Hydrologic Function Protection for Lakes

- (1) Operators shall protect soil within the riparian management areas of lakes from disturbances that result in impaired water quality, hydrologic functions, or soil productivity. Operators shall protect hydrologic functions by minimizing disturbances and shall prevent accelerating the natural conversions of lakes to uplands.
- (2) Operators shall not drain lakes except for lakes formed by plugged culverts or beaver dams and as allowed in rule for road maintenance.

629-650-0030

Understory Vegetation Retention for Lakes

- (1) The purpose of retaining understory vegetation is to provide soil stability and bank stability along lakes, to maintain cover and shade for wildlife habitat and aquatic habitat, and to protect water quality.

- (2) To achieve the purpose of understory retention, operators shall limit disturbance of understory vegetation within riparian management areas of lakes to the minimum necessary to remove timber harvested from the areas and to achieve successful reforestation.

629-650-0040

Snag Retention and Downed Wood Retention for Lakes

- (1) For lakes, operators shall retain all snags and downed trees within the lakes and the applicable riparian management areas.
- (2) Notwithstanding subsection (1) of this rule, any snag defined to be a safety hazard under the safety requirements found in OAR 437, division 7, Forest Activities, or determined to be a fire hazard by the State Forester, may be felled. Any snag felled because of a safety or fire hazard shall be unyarded.
- (3) The retention requirements in subsection (1) of this rule may be modified for reasons of forest health for trees that are dying or recently dead because of fire, insect or disease epidemics, or other catastrophic events when addressed in a plan for an alternate practice approved by the State Forester.
- (4) Snags and downed wood left pursuant to this rule may not be counted toward the requirements of ORS 527.676.

Division 655
WATER PROTECTION RULES: PROTECTION MEASURES FOR
"OTHER WETLANDS", SEEPS AND SPRINGS

629-655-0000

Protection Measures for "Other Wetlands," Seeps and Springs

- (1) Unless identified as stream-associated seeps, springs, or other wetlands under OAR 629-643-0135 and OAR 629-643-0145, there is no riparian management area for other wetlands, seeps, and springs. Important springs in Eastern Oregon, as described in division 645 Water Protection Rules: Riparian Management Areas and Protection Measures for Significant Wetlands rules, are not covered within this rule.
- (2) When operating in or along other wetlands greater than one-quarter acre, the operator shall:
 - (a) Protect soil and understory vegetation from disturbance that results in reduced water quality, hydrologic function, or soil productivity. Operators shall protect hydrologic functions by minimizing disturbances to soils during forest operations and shall prevent accelerating the natural conversions of wetlands to uplands;
 - (b) Leave snags and downed trees in the wetlands, except for any snags determined by the State Forester to be fire hazards, or any snags that must be felled to achieve compliance with the safety requirements found in chapter 437, division 7, Forest Activities.
 - (A) Any snags felled because of safety or fire hazards shall be left unyarded.
 - (B) Snags and downed wood left within other wetlands, seeps, or springs may apply toward the requirements of ORS 527.676.
- (3) When conducting operations along other wetlands less than one-quarter acre, springs, or seeps, operators shall protect soil and vegetation from disturbances which would cause adverse effects on water quality, hydrologic function, and wildlife and aquatic habitat.
- (4) Identification of other wetlands is sometimes difficult, especially when the wetland has no standing water. This is particularly true when the other wetland is forested or very small. In recognition of these facts, the State Forester shall apply appropriate discretion when determining compliance with this rule.
- (5) Operators are encouraged to:
 - (a) Retain blocks of intact vegetation, including green trees and snags as required to meet ORS 527.676 around other wetlands, seeps, and springs; and
 - (b) For other wetlands that are forested, adequately consider how reforestation will be accomplished.

Division 660
WATER PROTECTION RULES: SPECIFIC RULES FOR OPERATIONS
NEAR WATERS OF THE STATE

629-660-0040

Stream Channel Changes

- (1) Operators shall not channelize, relocate, or divert water from any stream, except as allowed in the forest practice rules for construction of roads, stream improvement projects or temporary stream crossings.
- (2) Operators shall not add to or remove soil or rock from any streams, except as allowed in the forest practice rules for construction of roads, stream improvement projects or temporary stream crossings.

629-660-0050

Beaver Dams or Other Natural Obstructions

- (1) Except as needed for road maintenance, operators must submit a written plan to the State Forester prior to the removal of beaver dams and other natural obstructions from waters of the state during forest operations. Removal of any beaver dam that is within 25 feet of a culvert shall be considered to be needed for road maintenance.
- (2) A written plan for removal of a beaver dam or obstruction must demonstrate:
 - (a) A beaver dam or obstruction threatens existing forests or plantations;
 - (b) Beaver dam removal is part of a beaver population control program approved by the Oregon Department of Fish and Wildlife; or
 - (c) Retaining the beaver dam or obstruction would result in greater environmental harm than benefit.
- (3) Sediment releases and downstream channel scouring can occur when beaver dams are removed. Operators are encouraged to use techniques that result in a gradual release of water when a dam is removed.

629-660-0060

Headwater Amphibian Species

Amphibians that are sensitive to temperature and moisture fluctuations may live in small Type N streams. Operators are encouraged to retain portions of in-unit green live trees and snags as blocks of intact vegetation along small Type N streams.

Division 665
SPECIFIED RESOURCE SITE PROTECTION RULES

629-665-0000

Purpose

- (1) OAR 629-665-0000 to 0210 shall be known as the specified resource site protection rules.
- (2) These rules provide a protection goal, describe the duties of the State Forester, landowner, timber owner and operator, and outline protection for:
 - (a) Sensitive Bird Nesting, Roosting, and Watering Resource Sites (OAR 629-665-0100);
 - (b) Threatened and Endangered Fish and Wildlife Species that use Resource Sites on Forestlands (OAR 629-665-0200);
 - (c) Biological Sites that are Ecologically and Scientifically Significant (ORS 527.710 (3)(a)(C)); and
 - (d) Significant Wetlands on Forestlands (OAR 629, division 645).

629-665-0010

Protection Goal for a Resource Site

- (1) The goal of resource site protection is to ensure that forest practices do not lead to resource site destruction, abandonment or reduced productivity.
- (2) A resource site shall receive protection when the State Forester determines:
 - (a) It is an active resource site; and
 - (b) Proposed forest practices conflict with the resource site.
- (3) The State Forester may grant an exception from either structural or temporal protection as determined by the Board for each species or resource site.

629-665-0020

Application of Protection and Exception Rules; State Forester Duties; Landowner, Timber Owner and Operator Duties

- (1) When a landowner, timber owner or operator proposes an operation near a resource site that requires special protection, the State Forester shall inspect the resource site with the landowner or landowner's representative, the operator and when available, the appropriate representative of the Department of Fish and Wildlife. The State Forester shall:
 - (a) Identify the resource site.
 - (b) Apply the protection goal in OAR 629-665-0010.
 - (A) If the proposed forest practices do not conflict with the resource site, the operation will not be subject to the protection requirements for the resource site. The operation shall be conducted in compliance with all other existing forest practice rules;
 - (B) If the proposed forest practices conflict with the resource site, the structural and temporal protection requirements for the resource site shall be required to eliminate the conflict;
 - (C) When the proposed forest practices conflict with a resource site, the landowner or operator may request a structural or temporal exception through a plan for an alternate practice, if the applicable administrative rule provides for such an exception.
 - (D) The State Forester shall document and maintain on file the reasons for granting or denying all exceptions.
- (2) If the proposed operation conflicts with the resource site, the operator shall submit a written plan to the State Forester before starting operations. The written plan shall comply with the requirements of OAR 629-605-0170, Written Plans.
- (3) When the written plan in subsection (2) of this rule does not follow the written recommendations of the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester shall maintain on file a written explanation of the reasons for:

- (a) Differences in the identification of the resource site; and
 - (b) Different protection levels required for the resource site.
- (4) When a resource site is discovered by the operator, timber owner or landowner during a forest operation, the party making the discovery shall:
- (a) Immediately protect all remaining trees within 300 feet of the resource site and submit to the State Forester a written plan for the resource site; and
 - (b) Immediately notify the State Forester.

629-665-0100

Species Using Sensitive Bird Nesting, Roosting, and Watering Sites

The following species use sensitive bird nesting, roosting and watering resource sites:

- (1) Osprey use sensitive bird nesting sites.
- (2) Great blue herons use sensitive bird nesting sites.
- (3) Bald eagles use sensitive bird nesting sites.

629-665-0110

Osprey Resource Sites; Key Components; Protection Requirements; Exceptions

- (1) For osprey, the resource site is the active nest tree and any identified key components.
 - (a) An active nest tree is one that has been used by osprey within the past five (5) nesting seasons. No protection is required for abandoned resource sites.
 - (b) The key components associated with an osprey resource site are perching and fledging trees and replacement trees. Factors to consider when identifying key components:
 - (A) Actual observation data if available;
 - (B) Perching trees should provide for maximum visibility of the surrounding terrain and structure that allows the osprey easy access, such as large, tall snags or trees that have broken or dead tops, forks, or lateral branches high in the crown;
 - (C) Replacement trees should provide maximum visibility of the surrounding terrain, and be large enough to support an osprey nest;
 - (D) Perching and fledging trees and replacement trees should be located within 600 feet of the active nest tree;
 - (E) Areas of high winds may require that additional trees be retained to protect the resource site from damage.
- (2) When the State Forester identifies the resource site as per OAR 629-665-0020, the operator shall provide the following protection measures:
 - (a) Retain the active nest tree; and
 - (b) Retain no fewer than eight additional trees as key components (i.e.: perching, fledging and replacement trees).
 - (c) During forest operations, the resource site shall be protected from damage. The operation shall be designed to protect these trees from windthrow;
 - (d) During the critical period of use, the active nest tree and any perch tree identified as a key component shall be protected from disturbance. From March 1st through September 15th, forest operations shall not be permitted within 600 feet of the active nest tree or perch tree unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified in writing by the State Forester as the resource site is evaluated as per OAR 629-665-0020.
- (3) The State Forester shall not permit structural exceptions for the resource site: Removal of a resource site may be permitted if replacement nest trees, artificial structures, or replacement key components are provided by the operator or landowner. Replacement is not considered an exception, since the productivity of the nesting territory is maintained. When addressed in a plan for an alternate practice, replacement may be considered by the State Forester when:
 - (a) Alternate forest practices which retain and protect the resource site are not economically feasible; and
 - (b) The productivity of the nesting territory is not reduced.

- (4) Temporal exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice that demonstrates:
 - (a) Nest disruption or failure for a season does not affect the local population; and
 - (b) There are no economically feasible forest practices that avoid disturbance to the resource site during the critical period of use.
- (5) Factors considered by the State Forester before approving a plan for an alternate practice under section (4) of this rule shall include, but are not limited to:
 - (a) The size of the local population;
 - (b) The contribution of the resource site in question to the local population; and
 - (c) The feasibility of alternate forest practices that do not cause disturbance.
- (6) The State Forester shall document all requests and decisions concerning structural or temporal exceptions. All approved structural replacements shall be documented.

629-665-0120

Great Blue Heron Resource Sites; Key Components; Protection Requirements; Exceptions

- (1) For the great blue heron, the resource site is the active nest tree(s) and any identified key components.
 - (a) An active nest tree is one that has been used by one or more pair of great blue heron within the past three nesting seasons. No protection is required for an abandoned resource site.
 - (b) The key components associated with a great blue heron resource site are the nest tree(s), a vegetative buffer around the nest tree(s) including perching and fledging trees, and replacement tree(s). Factors to consider when identifying key components:
 - (A) Actual observation data when available;
 - (B) Perching, fledging, and replacement tree(s) should be tall with plenty of space for these large birds to fly into and out. Older trees with open branching should be retained;
 - (C) Areas of high winds may require that additional trees be retained to protect the active nest tree and identified key components from damage.
- (2) The operator shall provide the following protection measures when operating within or near a great blue heron resource site:
 - (a) Retain the active nest tree;
 - (b) Retain a vegetative buffer not less than 300 feet around the outermost nest trees as key components that includes perching and fledging trees, and replacement trees.
 - (c) The vegetative buffer around a rookery may be actively managed if the key components in subsection (1) are protected. When conducting forest management activities within this buffer, operators shall consider heron protection as the highest priority. The vegetative buffer needs to provide a visual screen from disturbing influences around the rookery, and must be designed to protect the nest tree(s), perching, fledging, and replacement tree(s) from windthrow. Examples of forest management activities that may occur within the vegetative buffer include tree topping, and/or other methods of "feathering" the outer edges of the buffer to reduce windthrow potential, or remove individual trees (especially along the edge of the buffer) if the integrity of the buffer is maintained and all the key components are adequately protected. Operators should consult with the State Forester and the Oregon Department of Fish and Wildlife when marking trees to be removed from this buffer.
 - (d) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the key components from windthrow;
 - (e) During the critical period of use, operations shall be designed and conducted so as not to disturb great blue herons using the key components. From February 15 through July 31, forest operations shall not be permitted within one-quarter (1/4) mile of the active nest tree(s) unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified by the State Forester after the resource site is evaluated following OAR 629-665-0020.

- (3) Structural exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when these criteria are met:
 - (a) The site contains five nests or fewer;
 - (b) The State Forester determines that the loss of the site will not adversely affect the local population; and
 - (c) There are no economically feasible alternatives that maintain the key components.
- (4) Factors considered by the State Forester before approving a structural exception to protection of a great blue heron resource site shall include, but are not limited to:
 - (a) The size of the site (number of nests);
 - (b) The size of the breeding population in the local area;
 - (c) The productivity of great blue herons in the local area;
 - (d) The contribution of the site to local productivity;
 - (e) The probability that protection measures will be successful;
 - (f) Available alternate nesting sites; and
 - (g) Whether alternatives that protect the site are economically feasible.
- (5) Temporal exceptions to protection of a great blue heron resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when:
 - (a) The State Forester determines that nest disruption or failure for a season or site abandonment will not adversely affect the local population; and
 - (b) There are no economically feasible alternatives that will not disturb the birds during the critical period of use.
- (6) Factors considered by the State Forester before approving a temporal exception shall include, but are not limited to:
 - (a) The size of the site (number of nests);
 - (b) The size of the breeding population in the local area;
 - (c) The productivity of great blue herons in the local area;
 - (d) The contribution of the site to local productivity; and
 - (e) Whether alternatives that protect the site are economically feasible.

629-665-0130

Bald Eagle Nesting Sites; Key Components; Protection Requirements; Exceptions

- (1) For bald eagle nesting sites, the resource site is the active nest tree and, if present, all identified key components:
 - (a) An active nest tree is one that has been used by eagles within the past five (5) nesting seasons. No protection is required for abandoned resource sites.
 - (b) An active nest tree may fall down or may become structurally incapable of supporting a bald eagle nest site. When this happens the nest resource site shall be considered active and shall be protected only if the site contains suitable replacement nesting trees.
 - (c) The key components associated with a bald eagle nesting site are perching and fledging trees, replacement nest trees, and a forested buffer around the nest tree. Factors to consider when identifying key components:
 - (A) Actual observation data when available.
 - (B) Perching and fledging trees should be tall enough to provide maximum visibility of the surrounding area. Perching and fledging trees are often snags or decadent live trees with exposed, strong, lateral branches high in the crown.
 - (C) Replacement nest trees should provide maximum visibility of the surrounding terrain, and be large enough to support a bald eagle nest. Bald eagles prefer to nest in large, tall trees that are alive, with large limbs, broken tops, or irregular growth patterns with open structure.
 - (D) Areas of high winds may require that additional trees be retained to protect the active nest tree(s) and identified key components from damage.

- (2) The operator shall provide the following protection measures when operating within or near a bald eagle nesting site:
 - (a) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the trees from windthrow;
 - (b) Retain the active nest tree.
 - (c) Retain a forested buffer not less than 330 feet around the active nest tree as a key component that includes perching, fledging, and replacement tree(s).
 - (d) During the critical period of use, operations shall be designed and conducted to not disturb bald eagles using the resource site:
 - (A) Except as provided in paragraph (B) of this subsection, during the critical period of use, operations shall not be permitted within six hundred and sixty (660) feet, and use of aircraft within one thousand (1,000) feet.
 - (B) If the State Forester determines through review of the written plan that the operations will not cause the birds to flush from the trees identified in paragraph (A) of this section, then there is no conflict and the distance restrictions in paragraph (A) of this section may be modified.
 - (C) The critical period of use is January 1 through August 31. The specific critical period of use for individual nesting resource sites may be modified in writing by the State Forester depending upon the actual dates that bald eagles are present at the resource site and are susceptible to disturbance.
- (3) Structural or temporal exceptions for the resource site are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Bald and Golden Eagle Protection Act.
- (4) (*For information only*) Federal law prohibits a person from taking bald eagles. Compliance with subsections (1) and (2) of this law is not in lieu of compliance with any federal requirements related to the Bald and Golden Eagle Protection Act.

629-665-0200

Resource Sites Used by Threatened and Endangered Species

The following resource sites used by threatened or endangered species are sensitive to forest practices: Northern spotted owl nesting sites.

629-665-0210

Interim Requirements for Northern Spotted Owl Nesting Sites

- (1) Whenever the State Forester determines that an operation will conflict with protection of a nesting site of the northern spotted owl (*Strix occidentalis caurina*), the operator must submit to the State Forester a written plan before commencing the operation. The written plan, at a minimum, must address how the operation will be conducted to provide for the following:
 - (a) A 70 acre area of suitable spotted owl habitat encompassing the nest site, to be maintained as suitable spotted owl habitat;
 - (b) Prevention of disturbances resulting from operation activities which cause owls to flush from the nesting site. Such disturbances must be prevented during the critical period of use for nesting. The critical period of use is the time period between March 1 and September 30, each year.
- (2) For the purposes of this rule, nesting site means and includes the tree, when known, containing a spotted owl nest; or when not specifically known, includes an activity center of a pair of adult spotted owls. An activity center is a location determined by the State Forester to have been reliably identified as being occupied by an adult pair of spotted owls, capable of breeding. Such determination must be supported by repeated observation of the owls in close proximity or observation of nesting behavior.
- (3) (a) For the purposes of this rule, suitable spotted owl habitat means and includes:
 - (A) A stand of trees with moderate to high canopy closure (60 to 80%); a multi-layered, multi-species canopy dominated by large overstory trees (greater than 30 inches in diameter at breast height); a high incidence of large trees with various

deformities (e.g., large cavities, broken tops, and other evidence of decadence); numerous large snags; large accumulations of fallen trees and other woody debris on the ground; and sufficient open space below the canopy for owls to fly; or

- (B) In the absence of habitat which exhibits all the characteristics listed above, the available forested habitat which comes closest to approximating the listed conditions.
 - (b) Stands which do not exhibit at least two of the characteristics listed in paragraph (a)(A) of this section are not suitable habitat.
- (4) (*For information only*) Federal law prohibits a person from taking northern spotted owls. Taking under the federal law may include significant alteration of owl habitat on any class of land ownership. Compliance with subsection (1) of this rule is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.
- (5) Exceptions to the requirements for protecting northern spotted owl nesting sites are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Endangered Species Act.

Division 670
FOREST PRACTICES ADMINISTRATION — ENFORCEMENT AND
CIVIL PENALTIES

629-670-0000

Purpose

OAR 629-670-0000 through 629-670-0350 shall be known as the Oregon Forest Practices Act Enforcement and Civil Penalty Rules. These rules direct the State Forester to take fair and uniform enforcement action when there is a violation of the Oregon Forest Practices Act (ORS 527.610 to 527.770; ORS 527.990(1), ORS 527.992) or laws relating to Pesticide Applications by Helicopter (ORS 527.786 to 527.798). OAR 629-670-0300 and 629-670-0310 provide an outline of contested case hearings procedures, with specific contested case rules in OAR 629, division 1 and OAR 137, division 3.

629-670-0010

Definitions

As used in OAR chapter 629, divisions 670 through 680:

- (1) **"Board"** means the State Board of Forestry.
- (2) **"Damage"** means an adverse disturbance to a resource protected by the Oregon Forest Practices Act that cannot be immediately stabilized and corrected, resulting from a forest practice that is not in compliance with the Oregon Forest Practices Act or the forest practice rules.
- (3) **"Forest practice rule"** means any rule regulating operations under the Oregon Forest Practices Act, as found in OAR chapter 629, divisions 600 through 680.
- (4) **"Operation"** means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:
 - (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.
 - (b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood that is:
 - (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;
 - (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;
 - (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and
 - (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.
 - (c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.
 - (d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.
 - (e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.
 - (f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.
 - (g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.
- (5) **"Operator"** means any person, including a landowner or timber owner, who conducts an operation.
- (6) **"Plan for an Alternate Practice"** means a document prepared by the landowner, operator or timber owner, submitted for approval in writing by the State Forester describing practices different than those prescribed in statute or administrative rule.

- (7) **"State Forester"** means the State Forester or the duly authorized representative of the State Forester.
- (8) **"Timely corrective action"** means action to be taken by the operator within a specified time to prevent or reverse the damage potentially caused by an unsatisfactory condition.
- (9) **"Repeat Violator"** means an operator, timber owner or landowner for which a finding has been made by the State Forester under section 46(6), chapter 33, Oregon Laws 2022.
- (10) **"Significant violation"** as defined in section 40(15), chapter 33, Oregon Laws 2022:
- (a) **"Significant violation" means:**
- (A) Violation of ORS 527.670(6) by engaging in an operation without filing the requisite notification;
- (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680(2)(a), (3), or (5); or
- (C) A violation resulting in major damage to a resource described in ORS 527.710(2) for which restoration is expected to take more than 10 years.
- (b) **"Significant violation" does not include:**
- (A) Unintentional operation in an area outside an operating area of an operation for which sufficient notification was filed pursuant to ORS 527.670(6);
- (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680(2)(a), (3), or (5), where an operator demonstrates that it did not receive the order; or
- (C) Failure to timely notify the State Forester of an intent to continue an operation into the next calendar year.
- (11) **"Unsatisfactory condition"** means the circumstance which exists when an operator or landowner fails to comply with a practice specified in a forest practice rule or statute listed in ORS 527.990(1) or 527.992 and the State Forester determines that all of the following conditions exist:
- (a) The forest practice rule or statute applies to the type of operation conducted;
- (b) The practice is necessary to meet the purpose of the statute or rule; and
- (c) The operator has not been exempted from the rule or statute by obtaining approval for, or having obtained approval has not followed, a plan for an alternate practice as prescribed by OAR 629-605-0100.
- (12) **"Violation"** means the circumstances which exist any time one or more of the following occurs:
- (a) An operator fails to comply with any provision of ORS 527.670(6) or (7) requiring notification to the State Forester before commencing an operation.
- (b) An unsatisfactory condition exists, and:
- (A) Damage has resulted;
- (B) The State Forester has determined that it is not feasible for the operator, by timely corrective action, to eliminate the consequences of the unsatisfactory condition; or
- (C) A written statement of unsatisfactory condition has been issued to the operator, the deadline for action has passed and appropriate action has not been taken by the operator.
- (c) The operator has failed to follow a procedural practice required in statute or rule including, but not limited to, failure to submit a required written plan.
- (d) An operator has failed to comply with any term or condition of any order of the State Forester issued in accordance with ORS 527.680.
- (13) **"Written statement of unsatisfactory condition"** means a written statement issued by the State Forester to a landowner or an operator that describes the nature of an unsatisfactory condition and that specifies the corrective action to be taken within a definite time limit.

629-670-0015

Enforcement Policy

Effective administration of the Oregon Forest Practices Act and forest practice rules is a balance of technical design, education and enforcement. The forest practice rules require compliance with a practice specified in a rule unless a plan for an alternate practice has been approved in writing by the State

Forester. However, it is very difficult to write rules which deal with every conceivable situation and unlikely that the State Forester can monitor every forest operation in Oregon. The board recognizes that it is appropriate that the State Forester exercises judgment in not enforcing compliance with practices in a rule where the practice is clearly not necessary to accomplish the purpose of the rule. At the same time, without written approval for an alternate practice, such a recognition by the board shall not be a defense for an operator who has not complied with a practice.

629-670-0100

Inspections; Compliance Determination

- (1) The State Forester shall conduct inspections of operations consistent with section 43, chapter 33, Oregon Laws 2022.
- (2) The State Forester shall conduct investigations of reported Oregon Forest Practices Act violations and make preventative and compliance inspections on forest operations subject to the Oregon Forest Practices Act.
- (3) When inspecting operations, the State Forester shall examine practices used by the operator to assess compliance with the applicable forest practice rules and plans for an alternate practice. The State Forester may make recommendations that would help the operator avoid an unsatisfactory condition.
- (4) When the State Forester determines that an unsatisfactory condition or a violation exists, enforcement action shall be initiated by the State Forester.

629-670-0105

The Concept of Damage

- (1) Understanding the concept of damage is important when an unsatisfactory condition results in damage, or if there is the potential for damage to occur.
- (2) Damage, as defined in OAR 629-670-0010(2), can be characterized as an adverse disturbance of air quality, water quality, soil productivity, aquatic habitat, wildlife habitat, or visually sensitive corridors under ORS 527.755.
- (3) The concept of damage under the Oregon Forest Practices Act does not apply to damages to improvements such as dwellings, barns, pastures, fences, water intake structures, or agricultural crops.
- (4) Damage to natural resources is a difficult concept to quantify because of the changes that naturally occur with or without human involvement.
- (5) The State Forester shall determine damage based on the degree of disturbance to the natural condition over time and space, while considering the relative importance of the particular protected resource, recognizing:
 - (a) There is a level of natural disturbance which is both acceptable and unavoidable, such as a certain amount of erosion from naturally exposed soils;
 - (b) There is a level of disturbance which should be considered to be reasonable and necessary as a result of accepted management practices, such as disturbance to soils and vegetation during road construction conducted in compliance with the forest practice rules; and
 - (c) There are many possible levels of disturbance that may result from a failure to comply with the rules. Disturbance may sometimes be very limited in extent and can be immediately stabilized and corrected. Examples include temporary water turbidity from a road ditch or a minor slash deposit in a Type F stream.
- (6) Resource damage does not exist when the State Forester determines:
 - (a) Disturbance is at or below the reasonable and necessary management level; or
 - (b) Disturbance that results from rule noncompliance is very limited in extent, over time and space, and is immediately stabilized and corrected.

629-670-0110

Enforcement Action

The State Forester may initiate enforcement action by issuing and serving to the responsible person, persons, or corporation either a:

- (1) Written statement of unsatisfactory condition under OAR 629-670-0115, 629-670-0120, or 629-670-0125; or
- (2) Citation under OAR 629-670-0130 and ORS 527.680.

629-670-0115

Using the Written Statement of Unsatisfactory Condition to Prevent Damage

- (1) Enforcement action may be initiated by the State Forester by issuing and serving a written statement of unsatisfactory condition to the landowner or operator when the State Forester determines that:
 - (a) A specific operating practice prescribed by a rule or statute, or a condition described in an approved plan for an alternate practice, has not been followed; and
 - (b) Noncompliance with a rule has resulted in adverse resource disturbance that is very limited in extent and that can be immediately stabilized and corrected; or
 - (c) Through timely corrective action the operator can eliminate the potential for resource damage or other consequences due to compliance failure. The State Forester may consider expected weather and site conditions, availability of equipment, expertise to accomplish work, and access to the site before requiring corrective action.
- (2) A written statement of unsatisfactory condition shall contain:
 - (a) The nature of the unsatisfactory condition;
 - (b) The corrective action to be taken by a specific date; and
 - (c) A notice that a citation will be issued if damage results before corrective action is completed, or if corrective action is not completed by the specific date.
- (3) If the operator completes the corrective action described in the written statement of unsatisfactory condition, it is not necessary to issue a citation or assess a civil penalty.

629-670-0120

Using the Written Statement of Unsatisfactory Condition for Failure to Begin Timely Reforestation

The State Forester may issue a written statement of unsatisfactory condition when the landowner fails to begin reforestation, including any necessary site preparation, within 12 months after the completion of the operation and as described in OAR 629-610-0040, Time Allowed for Reforestation.

629-670-0125

Using the Written Statement of Unsatisfactory Condition for Noncompliance with Procedural Rules

- (1) Some forest practice rules deal with administrative procedures rather than resource protection. Rules requiring notification, written plans and plans for an alternate practice are examples of procedural rules which, if not complied with, may or may not result in resource damage.
- (2) Compliance with these procedural rules is essential if the Oregon Forest Practices Act program is to succeed in educating forest landowners and operators, preventing resource damage before it occurs, and fulfilling its legal obligations to keep other agencies and interested citizens informed about planned operation activities.
- (3) The board's intent is that violations of procedural rules should result in the issuance of a citation in most instances. However, the State Forester has the option of using the written statement of unsatisfactory condition, described in OAR 629-670-0110, as the enforcement action when the State Forester determines the following conditions exist:
 - (a) Resource damage from failure to comply with the procedural rule did not, and will not, occur;
 - (b) The written statement of unsatisfactory condition will result in immediate compliance with the procedural rule and will be adequate to educate the operator about the rule that was not complied with and to favorably modify the operator's future behavior;

- (c) The operator had no prior knowledge or only general knowledge of the Oregon Forest Practices Act and rules and has not had significant past experience with the practice in question, or the operator has had significant past experience with the practice, but the violation was inadvertent or accidental;
 - (d) The rule violation did not result in a greater economic benefit for the operator than if the operator had complied with the procedural rule; and
 - (e) Noncompliance with the procedural rule has not denied a person an opportunity to receive a copy of a notification or written plan under ORS 527.670(9) before the operation began, if that person has previously requested copies for the purpose of commenting on the operation.
- (4) If the operator or landowner reports to the State Forester an unsatisfactory condition that meets the requirements in section (3) of this rule, the State Forester may issue a written statement of unsatisfactory condition.

629-670-0130

Issuing a Citation and an Order to Cease Further Violation

- (1) When the State Forester determines a violation exists, enforcement action may be initiated by issuing and serving a citation to the responsible persons or corporations in accordance with ORS 527.680.
- (2) The State Forester shall also issue an order to cease further violation and determine whether it is practical and economically feasible for the operator to take corrective action to repair the damage or correct the unsatisfactory condition. The State Forester may then issue and serve an order directing the operator to make reasonable efforts to repair the damage or correct the unsatisfactory condition in accordance with ORS 527.680(2)(b).

629-670-0140

Criminal Prosecution

Citations for violation of any forest practice rule or statute shall be presented to the District Attorney for the county where the violation occurred, along with a case brief, for the purpose of filing a complaint or information pursuant to ORS 527.990(1) whenever:

- (1) In the judgment of the State Forester, the operator acted intentionally, knowingly, or recklessly as defined in ORS 161.085 relating to criminal liability; or
- (2) The violation appears in the judgment of the State Forester to have resulted in monetary gain to the operator, substantially in excess of any amount recoverable by a civil penalty, and which would not have resulted under compliance with the rule.

629-670-0200

Assessment of Civil Penalties; Notice of Penalty

- (1) In addition to any other remedy, the State Forester may assess a civil penalty for any violation described in ORS 527.992 (1) or 527.793.
- (2) The purpose of this rule is to establish civil penalties that will be uniformly assessed by a civil penalty administrator who is appointed by the State Forester.
- (3) After a citation is issued, the citation and any accompanying information shall be reviewed by a civil penalty administrator. The civil penalty administrator shall review the circumstances of the violation and determine the amount of penalty to be assessed.
- (4) The State Forester shall give written notice of a civil penalty by certified and first class mail to the person incurring the penalty. The notice shall include but not be limited to:
 - (a) A reference to the particular sections of the statute, rule, standard, order or permit involved;
 - (b) A short and plain statement of the matters asserted or charged;
 - (c) A statement of the amount of the penalty or penalties imposed and how it was calculated;
 - (d) A statement that the party may request collaborative dispute resolution, within 20 days of service of the notice, in which an independent mediator would review the facts of the case, or facilitate any agreement to mitigate the penalty or penalties imposed;

- (e) A statement of the party's right to request a hearing within 20 days of service of the notice and an explanation of how a hearing or mitigation of a penalty may be requested;
- (f) A statement that the notice becomes a final order unless the person upon whom the civil penalty is assessed, makes a written request for a hearing within 20 days from the date of service of the notice; and
- (g) A statement that the record of the proceedings to date, including the agency file or files on the subject of the civil penalty, automatically becomes part of the contested case record upon default for the purpose of providing a prima facie case.

629-670-0210

Amount of Civil Penalties

- (1) The amount of civil penalty per violation shall be the lesser of \$10,000 or the amount determined by the formula $\$B (C \times P) + (\$B \times D \times R)$ where:
 - (a) $\$B$ is a base fine established by type of violation in section (2) of this rule;
 - (b) C is cooperation;
 - (c) P is prior knowledge or prior violations;
 - (d) D is damage to protected resources; and
 - (e) R is the extent of damage that cannot be corrected, or prevented in the future, even though repairs are made.
- (2) The base penalty value ($\$B$) shall be established as follows:
 - (a) A base penalty of \$200 shall be applied to violations of a type where the operator fails to notify the State Forester of intent to operate or fails to submit a required written plan or obtain written approval of a plan for an alternate practice.
 - (b) A base penalty of \$500 shall be applied to:
 - (A) Violations of any rule or statute which requires or sets standards for accomplishing reforestation.
 - (B) Violations involving a failure to comply with the terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.
 - (C) Violations of a type where the operator fails to comply with any term or condition of an approved plan for an alternate practice.
 - (D) Violations where the State Forester determines that an operator has intentionally failed to notify the State Forester of intent to operate, notwithstanding subsection (2)(a) of this rule.
 - (E) All other violations of forest practice rules or statutes not specifically described in section (2) of this rule.
 - (c) A base penalty of \$2000 shall be applied to violations of any rule or statute which sets a maximum size for harvesting operations.
- (3) The cooperation value (C) shall be determined by the State Forester after reviewing whether the operator is taking all feasible steps or procedures necessary or appropriate to correct the violation for which the penalty is being assessed. The value shall be assigned as follows:
 - (a) A value of 0.5 shall be assigned when, in the judgment of the State Forester, the operator takes substantial initiative to correct the damage or problem that led to the violation. Substantial initiative may include, but is not limited to, reporting the violation before it is discovered, initiating effective repairs without having to be directed, or making substantive changes in operating procedures designed to identify and avoid potential recurrences.
 - (b) A value of 1 shall be assigned when the operator cooperates in following the direction of the State Forester by immediately ceasing further violation and taking prompt action to repair damage or correct any unsatisfactory condition where deemed feasible by the State Forester.
 - (c) A value of 2 shall be assigned when the State Forester determines that the operator does not immediately cease further violation, is evasive upon attempts to make necessary communications, or neglects to take necessary and timely action to repair damage or correct any unsatisfactory condition.

- (4) The prior knowledge value (P) shall be determined by the State Forester after reviewing department records of citations, operation notification or operation inspections. A value from 0.5 through 10 shall be assigned as follows:
- (a) A value of 0.5 is appropriate when the operator has little or no prior knowledge of the Oregon Forest Practices Act but has cooperated in ceasing violation and correcting unsatisfactory conditions.
 - (b) A value of 1 is appropriate when the operator has general knowledge of the Oregon Forest Practices Act and rules, but has not had significant past experience with the practice in question, or has significant past experience with the practice, but the violation is determined by the State Forester to be inadvertent or accidental.
 - (c) A value of 2 is appropriate when the operator has had significant past experience with a practice or condition, or has had specific correspondence or conversation with department personnel about the required practices or actions involved in the violation, before the violation.
 - (d) A value of 4 is appropriate when the State Forester has issued a written statement of unsatisfactory condition to the operator for the violation and timely corrective action was not taken.
 - (e) A value from 3 through 5 is appropriate when the operator has received citations for any other forest practice rule or statute within the past three years.
 - (f) A value from 5 to 10 shall be assigned when the operator has been cited within the past three years for a violation of the same forest practice rule, statute, or condition; or in a case of failure to comply with an order to cease further violation, or order to repair damage, or order to correct an unsatisfactory condition (ORS 527.680(2)).
- (5) The damage value (D) shall be determined by the State Forester as a measure of extent or relative adverse effect of damage. The specific value applied shall be based on the pre-operation condition of the site, if known, the severity and extent of damage associated with the violation, and any potential economic gain to any involved operators. The damage value should be consistent with the policy of deterring future violations. A value from 0 through 20 shall be assigned. The following shall guide the State Forester's determination:
- (a) A value of zero shall be assigned when the violation has not resulted and will not result in resource damage.
 - (b) A value of 1 shall be assigned when the adverse effects of the violation left uncorrected are minor and the affected resources will naturally self-restore within one year.
Example: Siltation from exposed soil flows into the upper reaches of a stream, but the site will naturally revegetate within the next growing season, preventing further siltation.
 - (c) A value from 2 to 5 shall be assigned when the damage from the violations left uncorrected is more serious than described in subsection (b) of this section, but the affected resources will self-restore naturally within five years.
Examples: A small volume debris avalanche is caused by road construction material placed in an unstable location and the debris comes to rest in a fish-bearing or domestic use water; or logs are skidded across a stream without an adequate temporary crossing leaving ruts and disturbed soil areas that will flow muddy water directly into the stream.
 - (d) A value from 5 through 10 shall be assigned when the damage from the violation left uncorrected is major in relative effect, with natural self-restoration taking up to 10 years. A consideration in selecting a value from 5 to 10 may include, but is not limited to the size of the area affected.
Examples: Failure to reforest five acres may be assigned no less than a 5, while failure to reforest 50 acres may be assigned a 10. Removal of understory vegetation along 500 feet of a small stream may be assigned a 10.
 - (e) A value from 5 through 20 shall be assigned when damage is the result of harvest or destruction of trees or snags required to be maintained; or when the damage from the violation left uncorrected is major in relative effect, with self-restoration taking more than 10 years.

Example: Severe riparian management area soil disturbance, combined with the total harvest or destruction of what had been a fully stocked stand of trees required to be maintained, along more than 500 feet of a small stream may be assigned a factor of 20.

- (6) The repair value (R) shall be assigned by the State Forester as a measure of the relative extent of the damage that is corrected or prevented through timely corrective action. The value shall be set by the State Forester between 0 and 1, inclusive and expressed as a decimal. The decimal indicates the degree of damage that already occurred and future damage that cannot be prevented, even after the repairs are completed as directed in the repair order.

Example: A tractor crossed a stream with no temporary structure, breaking the stream banks down, leaving exposed skid trails which eroded, creating turbidity, and leaving visible sediment in the stream. With no repairs, the stream bank and skid trails would revegetate in 4 years. The landowner performed all repairs as ordered, including mulching, placing rip-rap, and building waterbars. In the State Forester's judgement, compliance with the repair order will prevent all but 20% of the potential damage expected over the next 4 years. Therefore R equals 0.20. If repairs are not feasible or are not completed, R equals 1.0.

629-670-0212

Reducing the Civil Penalty after Repairs are Complete

A person may request that a civil penalty be reduced by the actual costs of the repairs up to an amount equal to $\$B \times D \times R$. The request must be in writing and received by the State Forester within 20 days of service of the notice of civil penalty. Evidence of actual costs must be presented with the written request. This evidence will not prejudice any claim by the person that a violation has not occurred, or that the person is not responsible for the violation. The State Forester shall determine if the actual repair costs are reasonable and reduce the civil penalty accordingly.

629-670-0214

Civil Penalty Administrator Discretion

- (1) The civil penalty administrator shall have the discretion to combine violations for the sake of assessing reasonable penalties, under the following circumstances:
- (a) Multiple citations have been issued for violations resulting from the same practice;
 - (b) Multiple citations have been issued for violations resulting in the same damage; or
 - (c) Upon a finding of the State Forester that a combination of violations is in the public interest and consistent with the policy of the Oregon Forest Practices Act, ORS 527.630.
- (2) The civil penalty administrator shall have the discretion to find a penalty is not warranted for reforestation violation cases, when:
- (a) The party cited for the violation was not the landowner at the time the harvesting operation reduced stocking below the minimum standards; and
 - (b) Planting is completed as directed in the repair order.
- (3) The civil penalty administrator shall have the discretion to find a penalty is not warranted for cases where all of the following conditions exist:
- (a) The violation arose inadvertently;
 - (b) There was little or no potential for damage;
 - (c) No damage resulted; and
 - (d) The cooperation of the operator shows there is little or no chance that the violation will be repeated.
- (4) Penalties totaling less than \$100 shall be suspended, pending no further violations within one year of issuance of the citation.
- (5) The civil penalty administrator shall have the discretion to reduce the amount of the civil penalty when the party assessed:
- (a) Agrees to the facts of the case;
 - (b) Accepts responsibility for the violation; and
 - (c) Agrees to perform mitigation on the operation unit, or within the watershed, that is equal or greater in value than the amount by which the penalty will be reduced. Examples may

include, but are not limited to, any of the following restoration and enhancement activities:

- (A) Reconstructing, relocating, or vacating roads that, because of their location, present a higher risk to water quality than if they had been located and designed to current forest practice rule standards;
- (B) Restoring or enhancing upstream and downstream fish passage, including replacing crossing structures not designed to current forest practice rule standards;
- (C) Restoring or enhancing fish habitat by placing large woody debris or other structures in or adjacent to stream channels;
- (D) Retaining conifers adjacent to streams, to supplement current forest practice rule requirements, consistent with forest health considerations;
- (E) Restoring or enhancing habitat for threatened and endangered species or other wildlife habitat;
- (F) Restoring or enhancing the protection of salmonid production areas. Salmonid production areas include habitat identified through stream or other inventories as being important for spawning, rearing, or over-wintering;
- (G) Participating in a research or monitoring program sponsored or endorsed by the Department of Forestry or the Department of Fish and Wildlife;
- (H) Participating with Watershed Councils to conduct watershed assessments, develop action plans or implement restoration projects;
- (I) Controlling noxious weeds or exotic species; or
- (J) Implementing strategies to reduce the risk of catastrophic fire or insect or disease damage.

(6) For the purpose of calculating civil penalties for a new violation, the civil penalty administrator shall consider a person's or entities' history of receiving temporary orders, orders of the state forester, citations, and violations. This may include consideration of:

- (a) As applies to individuals: business entities for which the individual was responsible for the actions of the business.
- (b) As applies to businesses: individuals who are responsible for the actions of the entity, and the history of the entity should it have changed its name, form, ownership, or structure.

629-670-0220

Amount of Penalties; Special Circumstances

- (1) Notwithstanding OAR 629-670-0210, when an operator has had three or more separate incidents of forest practice violations within any three year period, the State Forester may assess a civil penalty of any amount up to the limit established in ORS 527.685(1) as may be deemed appropriate to deter the operator from further violation.
- (2) For violations involving the harvest or destruction of trees or snags required to be maintained, in order to deter future violations, each tree or snag, or group of trees or snags harvested may be treated as a separate violation when it is appropriate in the judgment of the State Forester, considering the real or potential economic gain of operators involved.
- (3) When making the determination in section (2) of this rule, the State Forester may consider any evidence that the improper removal of the trees or snags yielded real or potential economic advantage. Evidence may include:
 - (a) The market value of the trees or snags at the time they were taken;
 - (b) The market value of the trees or snags compared with the value of the timber harvested in the operation as a whole; or
 - (c) The real or potential increase in the value of the land as a consequence of the harvest, including its value for uses other than forestland.

629-670-0225

Significant Violation Civil Penalties that have been Committed by Repeat Violators

- (1) The purpose of this rule is to establish civil penalties for Significant Violations committed by Repeat Violators.
- (2) Significant Violation civil penalty calculation when committed by a Repeat Violator:
 - (a) The amount of civil penalty per Significant Violation shall be the lesser of \$50,000 or the amount determined by the formula $(\$B (C \times P) + (\$B \times D \times R)) \times N$ where:
 - (A) $\$B$ is a base penalty of \$2000 per (4)(b) of this rule;
 - (B) C is cooperation;
 - (C) P is prior knowledge or prior violations;
 - (D) D is damage to protected resources;
 - (E) R is the extent of damage that cannot be corrected, or prevented in the future, even though repairs are made; and
 - (F) N is the average Number of Notifications yearly.
 - (b) The base penalty value ($\$B$) shall be \$2000 for significant violations.
 - (c) The cooperation value (C) shall be determined using OAR 629-670-0210(3).
 - (d) The prior knowledge value (P) shall be determined using OAR 629-670- 0210(4).
 - (e) The damage value (D) shall be determined by using OAR 629-670-0210(5).
 - (f) The repair value (R) shall be determined by using OAR 629-670-0210(6).
 - (g) The average Number of Notifications yearly (N) shall be determined by the State Forester after reviewing the department's reporting and notification system records of Notifications to determine using a 5-year average when possible. A value of 0.8 to 1.0 shall be assigned as follows:
 - (A) A value of 1.0 is appropriate when the operator has been listed on 1 through 50 notifications per year.
 - (B) A value of 0.95 is appropriate when the operator has had been listed on 51 through 100 notifications per year.
 - (C) A value of 0.9 is appropriate when the operator has been listed on 101 through 200 notifications per year.
 - (D) A value of 0.85 is appropriate when the operator has been listed on 201 through 300 notifications per year.
 - (E) A value of 0.8 is appropriate when the operator has been listed on 301 or more notification per year.
- (3) In imposing a civil penalty for repeat violators under this rule, the State Forester shall consider, in addition to the factors described in subsection (2) of this rule:
 - (a) The degree, if any, to which the operator, timber owner or landowner derived economic benefit from the significant violation.
 - (b) The proportion of total operations conducted by the operator, timber owner or landowner related to which significant violations have occurred compared to the total number of operations conducted by the operator, timber owner or landowner, while accounting for the organizational structure of the operator, timber owner or landowner.

629-670-0228

Repeat Violators and Financial Assurances

- (1) The purpose of this rule is to establish a process for tracking Repeat Violators and requirements for financial assurances.
- (2) The State Forester may make a finding that an operator, timber owner or landowner is a Repeat Violator, pursuant to section 46(6), chapter 33, Oregon Laws 2022. The State Forester's finding shall consider whether the operator, timber owner or landowner has a history of significant violations that shows a pattern of willful disregard for the requirements of ORS 527.610 to 527.770 or rules or orders adopted or issued thereunder. The State Forester will maintain a list of Repeat Violators for use with civil penalty calculations and financial assurance.

- (3) If the State Forester makes a finding under subsection (2), the State Forester shall provide notice to the operator, timber owner or landowner, who may challenge the decision as an order of the State Forester pursuant to OAR 629-672-0100.
- (4) The State Forester shall remove a Repeat Violator from the Repeat Violator list three years after the last significant violation citation was issued. On rare occasions the State Forester may remove a Repeat Violator from the Repeat Violator list sooner than three years after the last significant violation citation if the Repeat Violator provides evidence sufficient to demonstrate that significant violations are unlikely to be repeated. In considering whether to remove the Repeat Violator from the list, the State Forester may consider:
 - (a) Date the last citation was issued;
 - (b) Changes in ownership, personnel, or contractors;
 - (c) Changes in training, techniques, or equipment;
 - (d) Recent violation history; and
 - (e) Any other evidence submitted or available to the department relevant to the potential for future significant violations.
- (5) If required by the State Forester, an operator, timber owner or landowner shall provide financial assurance before conducting a new operation. The State Forester may impose this requirement only if, within the preceding three-year period, the State Forester has made a finding under section 46(6), chapter 33, Oregon Laws 2022 applicable to the operator, timber owner or landowner. If required by the State Forester, the operator, timber owner or landowner shall acquire, post, and maintain a bond or other form of financial assurance as approved by the State Forester during the entire operation until the State Forester is notified that the operation is complete. The amount of the bond or financial assurance is based on the operation size or the operation type, whichever bond amount is greater:
 - (a) The operation acreage size:
 - (A) Operations from 0 – 10 acres in size requires a bond of \$20,000.
 - (B) Operations from 11 – 25 acres in size requires a bond of \$30,000.
 - (C) Operations from 26 – 50 acres in size requires a bond of \$40,000.
 - (D) Operations 51 acres or great in size requires a bond of \$60,000.
 - (b) The operation type:
 - (A) Operations of all types of road construction or reconstruction without protected resources to include but not limited to HLHL, Streams, Stream Crossing, Wetlands requires a bond of \$40,000.
 - (B) Operations of all types of road construction or reconstruction with protected resources to include but not limited to HLHL, Streams, Stream Crossing, Wetlands requires a bond of \$75,000.
 - (C) Operations of pesticide application requires a bond of \$30,000.
 - (c) If an operator, timber owner or landowner with a new operation involving two or more protected resources, the State Forester may assess a bond as appropriate for the risk of the operation up to a value of \$250,000.
- (6) The State Forester may make a claim against the bond or financial assurance and apply any money received towards correcting the conditions that give rise to the claim if the State Forester determines that:
 - (a) Actions required under the forest practice rules were not completed and the State Forester would incur costs to repair damage or correct an unsatisfactory condition;
 - (b) Protected resources were damaged;
 - (c) Fines or civil penalties that were assessed for the violation; or
 - (d) The actions taken during the operation otherwise caused the State Forester to incur costs to correct the conditions that gave rise to the claim.

629-670-0300

Civil Penalties Contested Case Hearings Procedures

A person being assessed a penalty has the right to request a hearing and resolution process that allows a fair review of the facts and circumstances of an alleged violation. The Office of Administrative Hearings

Rules in OAR 137-003-0501 to 137-003-0700 and the State Forester's procedural rules in 629-001-0000 to 629-670-0055 apply to all civil penalty contested case hearings.

629-670-0310

Requesting a Hearing; Stating Claims and Defenses

- (1) When requesting a hearing, or within ten (10) days following a request for hearing, the person assessed a civil penalty must admit or deny, in writing, all factual matters stated in the notice of penalty. Any factual matters not denied shall be presumed admitted.
- (2) When requesting a hearing, or within 10 days following a request for hearing, the person assessed a civil penalty shall affirmatively state, in writing, any and all claims or defenses the person may have and the reason that supports the claim or defense. Failure to raise a claim or defense shall be presumed to be a waiver of such claim.
- (3) Evidence shall not be taken on any issue not raised in the notice and either the request for hearing or a subsequent statement within ten days following the request for hearing as required in sections (1) and (2) of this rule.
- (4) When the person requests a hearing, but fails to deny any factual matters stated in the notice of penalty or to state any claims or defenses, either when requesting the hearing or within ten (10) days following a request for hearing, as required in sections (1) and (2) of this rule, a hearing will not be held. Instead, the civil penalty administrator shall submit the citation and any accompanying information used in preparing the notice of penalty to an administrative law judge, who shall prepare a proposed order for final consideration by the Board of Forestry.

629-670-0315

Requesting a Reduced Civil Penalty Due to Financial Hardship

- (1) A person may submit a written request to reduce a civil penalty due to financial hardship. The written request shall be made within the same timelines of the request for hearing in OAR 629-670-0310.
- (2) The person asking for a reduced civil penalty due to financial hardship is responsible for submitting evidence of their economic and financial condition to the administrative law judge before the hearing. This evidence shall not prejudice any claim by the person that the violation has not occurred, or that they are not responsible for the violation.
- (3) Unless the issue is raised in the person's request for hearing, no evidence may be presented during the hearing on the economic and financial condition of the person. During the hearing, the burden of proof and the burden of going forward with evidence concerning the person's economic and financial condition, shall be upon the person against whom the civil penalty is assessed.
- (4) The administrative law judge shall consider the evidence of financial hardship and make separate findings and recommendation in the proposed order that support or reject reducing the amount of any civil penalty.
- (5) The board delegates to the State Forester the authority to reach settlement to remit or mitigate the amount of any civil penalty at any time before the board issues a final order regarding financial hardship.

629-670-0350

Orders Prohibiting New Operations

- (1) The purpose of this rule is to respond to situations where an operator or landowner has failed to complete repairs ordered by the State Forester to correct or mitigate damages resulting from a violation of forest practice rules, or has failed to pay civil penalties or failed to obtain financial assurance as required by section 45(6), chapter 33, Oregon Laws 2022 and OAR 629-670-0225.
- (2) If a final order directing a landowner or an operator to make reasonable efforts to repair damage or correct an unsatisfactory condition issued under ORS 527.680(2)(b) has not been complied with within the time specified by the order, the State Forester may issue an additional order that prohibits the landowner or operator from conducting any new operations on any forestland in Oregon until:

- (a) The repairs are completed or the unsatisfactory condition is corrected to the satisfaction of the State Forester; or
 - (b) The order to prohibit conducting new operations has been revoked or modified following an appeal under the procedures of ORS 527.700.
- (3) If a final order issued to a landowner or an operator under ORS 527.687 imposing civil penalties has not been complied with within the time specified by the order, the State Forester may issue an additional order that prohibits the landowner or operator from conducting any new operations on any forestland in Oregon until:
- (a) The civil penalty payment is received by the State Forester; or
 - (b) The order to prohibit conducting new operations has been revoked or modified following an appeal under the procedures of ORS 527.700.
- (4) If an operator, landowner, or timber owner fails to obtain and submit a required financial assurance to the State Forester as required in section 45(6), chapter 33, Oregon Laws 2022 and OAR 629-670-0225 before beginning the operation, the State Forester may issue an additional order that prohibits the landowner or operator from conducting any new operations on any forestland in Oregon until a financial assurance is filed with the State Forester as required in OAR 629-670-0225.
- (5) The intent of an order issued under the provisions of section (2) or section (3) prohibiting a landowner or operator from conducting new operations is to compel timely compliance by the operator with either an order to repair damage or correct an unsatisfactory condition or a final order requiring payment of a civil penalty. Orders may be issued in addition to any other remedy available to the State Forester under statute or rule to compel compliance. Orders may be issued when, in the opinion of the State Forester, the other available remedies would likely be less effective in compelling compliance in a timely manner.
- (6) For the purpose of this rule, "new operation" means any operation requiring notification to the State Forester under the provisions of OAR 629-605-0140 and 629-605-0150 for which a notification has not been received by the State Forester, or, if a notification has been received, operation activity has not started before an order prohibiting new operations is issued under sections (2) or (3) of this rule to the landowner or operator.

Division 672
FOREST PRACTICES ADMINISTRATION

629-672-0100

Orders of the State Forester

- (1) As used in OAR 629-672-0100 to 629-672-0310, order of the State Forester issued under ORS 527.610 to 527.770 means:
 - (a) An order denying approval of a plan for an alternate practice (OAR 629-605-0173(3)).
 - (b) An order to repair damage or correct unsatisfactory condition (ORS 527.680(2)(b)).
 - (c) Temporary order to cease further activity (ORS 527.680(3)).
 - (d) An order prohibiting new operations (ORS 527.680(5)).
 - (e) An order denying approval of a stewardship agreement (ORS 527.662(13)).
 - (f) An order requiring an operator, timber owner, or landowner to provide financial assurance pursuant to section 45(6), chapter 33, Oregon Laws 2022.
 - (g) An order that an operator, timber owner or landowner has a history of significant violations pursuant to section 46(6), chapter 33, Oregon Laws 2022.
- (2) Whenever an order affecting an operator, timber owner or landowner is issued under ORS 527.610 to 527.770, notice of the order shall be given to the affected party by personal service or certified mail. As used in this section, 'personal service' means service on the party by any officer, employee, or agent of the Oregon State Department of Forestry. The notice shall include:
 - (a) A reference to the particular sections of the statute, rule, standard, order or permit involved;
 - (b) A short and plain statement of the matters asserted or charged;
 - (c) A statement of the person's right to request a hearing within 30 days from the date of service;
 - (d) A statement that the notice becomes a final order unless the person makes a written request for a hearing within 30 days from the date of service or mailing of the notice; and
 - (e) A statement that the record of the proceedings to date, including the agency file on the subject of the order automatically becomes part of the contested case record upon default, for the purpose of providing a prima facie case.

629-672-0200

Hearings for Operators, Landowners or Timber Owners

- (1) As provided in ORS 527.700(1), any operator, timber owner or landowner affected by a finding or order of the State Forester issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days of the issuance of the order. The request for a hearing shall be in writing and must include a specific statement as to the reasons for disputing the State Forester's order, including but not limited to disagreement with any findings leading to the order. In addition, the request for hearing shall state what relief from the order is sought.
- (2) Hearings under this rule shall be conducted as contested case proceedings under ORS 183.413 to 183.470.
- (3) The hearing shall be commenced within 14 days after receipt of the request for hearing and a final order shall be issued within 28 days of the request for hearing unless all parties agree to an extension of the time limits.
- (4) An administrative law judge from the Office of Administrative Hearings shall conduct hearings under ORS 527.700. The administrative law judge shall conduct the hearing and prepare the record for filing with the board within five working days of the close of the hearing. Except as provided in section (5) of this rule, no less than a majority of the board shall then review and consider the record, hold a meeting or telephone conference, and issue a final order.
- (5) If upon a determination by the chairperson of the Board of Forestry, the board cannot complete a final order in the matter within 28 days of the request for a hearing, the chairperson may delegate the authority to issue a final order to the administrative law judge as provided in ORS 527.700(2).

- (6) Failure of the person requesting the hearing to appear at the hearing shall be deemed a default and shall result in a final order being entered upon a prima facie case made on the record of the agency.

629-672-0210

Hearings for Persons Adversely Affected by an Operation for Which a Written Plan is Required under ORS 527.670(3)

- (1) If a written plan under ORS 527.670(3) is required for an operation, any person who submitted written comments on the operation and who is adversely affected or aggrieved by the operation may file a request to the board for a hearing on the plan. The request shall be filed and copies served on the operator, timber owner and landowner personally or by certified mail within 14 days of the date the comment period for the State Forester ended, whether or not comments were issued. The request shall include:
 - (a) A copy of the written plan on which the hearing is requested.
 - (b) A copy of the comments on the written plan submitted by the person requesting the hearing.
 - (c) The person's name and address and the organization represented;
 - (d) If represented by an attorney, the name and address of the attorney representing the person;
 - (e) A detailed statement of the person's interest and of how such interest may be affected by the results of the proceeding;
 - (f) A detailed statement of the fact regarding how the person's interest is affected by the Forest Practices Act or rules adopted thereunder;
 - (g) A detailed statement of fact showing that the operation is the type described in ORS 527.670(3);
 - (h) A brief statement of what board action is sought by the person.
- (2) Upon receipt of a request provided under section (1) of this rule, the State Forester shall determine whether the request meets the requirements of ORS 527.700(3) through (5). In making this determination, the State Forester shall consider:
 - (a) Whether the person has demonstrated a personal or public interest that could reasonably be affected by the outcome of the proceeding;
 - (b) Whether any such affected interest is within the scope of the board's jurisdiction;
 - (c) The interest the petitioner represents and the qualifications the petitioner possesses in cases in which a public interest is alleged;
 - (d) Whether the person could reasonably be considered to be affected by the Forest Practices Act or rules adopted thereunder.
- (3) If the State Forester determines that the person making the request meets the requirements of ORS 527.700(3) through (5), the State Forester shall send written notification of the date of the hearing to the person requesting the hearing and to the timber owner, landowner and operator.
 - (a) The hearing date shall be no later than 21 days from the receipt of the request for hearing.
 - (b) The notice of hearing shall contain the statements that:
 - (A) Failure of the person requesting a hearing to appear at the hearing shall be deemed a default and a record of the proceedings to date, including the agency file or files on the subject of the written plan, automatically becomes a part of the record for the purpose of providing a prima facie case upon which default may be granted; and
 - (B) The hearing shall be conducted by an administrative law judge, according to the Office of Administrative Hearings Rules in OAR 137-003-0501 to 137-003-0700 and the State Forester's Procedural rules in 629-001-0000 to 629-001-0055.
- (4) If the State Forester determines that the person making the request does not meet the requirements of ORS 527.700(3) through (5) the State Forester shall recommend to the chairperson of the Board of Forestry that a hearing be denied for cause. The chairperson, upon review of the request for hearing and the State Forester's recommendation, shall either:
 - (a) Issue a final order on behalf of the board, denying a hearing for cause; or

- (b) Direct the State Forester to schedule a hearing and send notices as required in section (3) of this rule.
- (5) Failure of the person requesting the hearing to appear at the hearing shall be deemed a default. Based upon a prima facie record the State Forester's comments and recommendations, if any, must stand.
- (6) The landowner, timber owner or operator shall be made a party to the proceeding.
- (7) The person requesting the hearing under these provisions may only present evidence on those issues raised in the person's written comments to the written plan filed under ORS 527.670(9) relating to conformity with the rules of the board.
- (8) The administrative law judge shall conduct the hearing and prepare the record for filing with the board within five working days of the close of the hearing. Except as provided in section (10) of this rule, no less than a majority of the board shall then review and consider, hold a meeting or telephone conference, and issue their comments.
- (9) Unless consent to an extension is granted by all parties, the board shall issue its own comments no later than 45 days after the request for hearing was filed. The board may affirm, modify or rescind the comments of the State Forester, if any. The comments of the board or the State Forester concerning a written plan cannot be appealed under ORS 183.482.

629-672-0300

Stay of Operation

- (1) The State Forester is authorized to issue temporary orders pertaining to a stay of operations under ORS 527.700(8).
- (2) Any person entitled to a hearing under OAR 629-672-0210 may apply to the State Forester for a stay of the operation pending a hearing on the matter. The request for a stay shall include:
 - (a) The name, address and telephone number of the person filing the request, identifying that person as a petitioner; and the names, addresses and telephone numbers of each of the other parties to the proceedings, identifying those parties' roles in the proceedings. When any party is represented by an attorney in the proceeding, then the name, address and telephone number of the attorney shall be provided and the address and telephone number of the party may be omitted;
 - (b) Identification of the operation for which the stay is requested;
 - (c) A statement of facts and reasons sufficient to show that the stay request should be granted because:
 - (A) Commencement or continuation of the operation will constitute a violation of the rules of the board;
 - (B) The person requesting the stay will suffer irreparable injury if the stay is not granted;
 - (C) The person requesting the stay has met the requirements of ORS 527.700(3), (4) and (5); and
 - (D) Granting the stay will not result in substantial public harm.
 - (d) A statement identifying any potential injury to the other parties in the matter if the stay is granted. If the purposes of the stay can be achieved with limitations or conditions that minimize or eliminate possible injury to other persons, petitioner shall propose such limitations or conditions. Petitioner shall propose an amount of bond or other undertaking, not less than \$15,000 to be imposed on the petitioner should the stay be granted, explaining why that amount is reasonable in light of the identified potential injuries;
 - (e) A description of any other procedures, if any, the petitioner believes should be followed by the State Forester in determining the appropriateness of the stay request; and
 - (f) An appendix of affidavits containing all evidence upon which the petitioner relies in support of the statements required in subsections (2)(c) and (d) of this rule.
- (3) The request for stay and all required accompanying documents must be filed with the State Forester at the same time the request for a hearing is filed.

- (4) The State Forester shall notify the parties listed in the petition for stay, that they may participate in the stay proceeding if they file a response in accordance with section (5) of this rule. The State Forester shall include in this notice a time certain for filing a response to the request for stay.
- (5) The landowner, timber owner or operator may file a response to the request for stay. The response shall contain:
 - (a) The name, address, and telephone number of the person filing the response, except that if the person is represented by an attorney, then the name, address, and telephone number of the attorney shall be included and the person's address and telephone number may be deleted;
 - (b) A statement accepting or denying each of the statement of facts and reasons provided in the petitioner's stay request;
 - (c) A statement accepting, rejecting, or proposing alternatives to the petitioner's statement on the bond or undertaking amount or other reasonable conditions that should be imposed on petitioner should the stay request be granted.
- (6) The response may contain affidavits containing additional evidence upon which the person relies in support of the statement required under subsections (5)(b) and (c) of this rule.
- (7) The response must be delivered or mailed to the State Forester and to all parties identified in the stay request.
- (8) After the deadline for filing responses, the State Forester may:
 - (a) Issue a temporary order on the stay upon the basis of the material before the State Forester; or
 - (b) Conduct such further proceedings as the State Forester deems desirable; or
 - (c) Determine that the circumstances reasonably permit delay of consideration of a stay until the hearing.
- (9) The State Forester's temporary order may:
 - (a) Grant the stay upon a showing that commencement or continuation of the operation will constitute a violation of the rules of the board, the person requesting the stay will suffer irreparable injury if the stay is not granted, and the requirements of ORS 527.700(3), (4) and (5) are met. The State Forester shall limit the effect of the stay to the specific geographic area or elements of the operation for which the person requesting the stay has demonstrated a violation of the rules and irreparable injury;
 - (b) Deny the stay request upon a finding that the petitioner failed to show that the requirements of ORS 527.700(8)(a) are met or granting the stay will result in substantial public harm.
- (10) If the State Forester grants the stay, the person requesting the stay shall be required to give an undertaking which may be in the amount of the damages potentially resulting from the stay, but in any event shall not be less than \$15,000. The undertaking shall be in the form that the State Forester determines best protects the interests of the person against whom the stay is imposed. In the event the written plan for which the stay was granted is affirmed in whole or in part, the State Forester shall retain the undertaking until all damages, including attorney fees, costs and expenses have been paid.
- (11) The State Forester's temporary order shall be subject to review as part of the hearing reviewing the written plan. The temporary order of the State Forester may be affirmed, rescinded or modified by final order of the Board.

629-672-0310

Actual Damages Resulting from a Stay; Attorney's Fees

- (1) If the board determines in its comments that the written plan of an operation for which a stay was granted is likely to result in compliance with ORS 527.610 to 527.770 or the rules of the board, the board shall award actual damages in favor of each prevailing party against the person requesting the stay. A landowner, timber owner, or operator against whom a stay was entered may petition for actual damages for the portion of the case upon which it prevailed.
- (2) The board may award reasonable attorney's fees and expenses to each of the prevailing parties against any other party who the board finds presented a position without probable cause to

believe the position was well founded or made a request primarily for a purpose other than to secure appropriate action by the board. If a written plan pertaining to an operation for which a stay was granted is determined to likely result in compliance with the Forest Practices Act and rules, the board shall award reasonable attorney's fees in favor of each of the prevailing parties against the person requesting the stay. If the board rescinds or modifies the comments on the written plan as submitted by the State Forester pertaining to any operation, the board shall award reasonable attorney's fees and costs against the state in favor of each of the prevailing parties. Any prevailing party, as described above, may file a petition for attorney's fees, expenses and costs for the portion of the case upon which it prevailed.

- (3) An award of attorney's fees shall not exceed \$5,000.
- (4) As used in this rule, a "prevailing party" is one in whose favor an order pertaining to a written plan is issued, and may include the Department of Forestry where a written plan is affirmed. Where the board rescinds or modifies the comments on portions of a written plan and determines that other portions will likely result in compliance with the FPA or rules, each party may be regarded as a prevailing party.
- (5) "Actual damages" include but are not limited to costs such as:
 - (a) Penalties for non-performance of contracts;
 - (b) Losses due to market fluctuations;
 - (c) Payments for crew stand-by;
 - (d) Equipment down-time;
 - (e) Move-in and move-out costs; and
 - (f) Loss in value of logs left sitting on the site for long periods.
- (6) Attorney's fees, expenses and costs shall include only the following:
 - (a) The actual amount of fees charged by the attorney for services directly connected with prosecuting or defending against the challenge to the written plan; or
 - (b) Where the prevailing party is not charged a specific fee for the case (e.g., because the attorney is paid on a retainer basis or is an employee of the party), the fee shall be the reasonable value of the attorney's services directly connected with prosecuting or defending against the challenge to the written plan. "Reasonable value" means the equivalent of the fees charged by practitioners of similar skill and experience under section (6)(a) of this section, and includes such secretarial and other overhead costs as are customarily included in those fees.
- (7) A prevailing party must file a petition and supportive affidavit for award of actual damages from a stay or attorney fees within 30 days of the date of the issuance of the board's comments in the case for which awards are requested. A copy of the petition, together with a supporting affidavit, shall be served upon the opposing party or parties at the time the petition is filed and proof of service shall be provided to the board. The board shall dismiss petitions which do not comply with this rule. The petition shall include:
 - (a) A statement of the facts upon which petitioner relies in claiming that it is a prevailing party;
 - (b) A statement of the amount of award requested, supported by an affidavit that describes in detail the actual damages incurred and the basis for the amount of damages requested; or amount of the fees incurred by petitioner, or where the petitioner was not charged fees, the basis for the amount of the costs requested; and
 - (c) A statement describing how the amount of the award requested would be consistent with the policies and the purposes of the Oregon Forest Practices Act.
- (8) An opposing party shall have 14 days from the date of service of the petition to file written objections. Such objections shall be served on the petitioner at the time the objections are filed and proof of service shall be provided to the board.
- (9) In designating the amount of fees and costs to be awarded, the board shall consider, but is not limited to, the following factors:
 - (a) Consistency with the policies and purposes of the Oregon Forest Practices Act including but not limited to the following considerations:
 - (A) The issue in the case was one of first impression; or

- (B) A complaint or defense was frivolous or otherwise without merit; or
- (C) A party was an individual who, due to the circumstances of the case, had to rely upon his or her personal financial resources.
- (b) In the case of attorney's fees, the appropriate charges for the services rendered, based on:
 - (A) The time and labor customarily required in the same or similar cases;
 - (B) Hourly charges customarily made by attorneys for rendering similar services;
 - (C) The novelty and difficulty of the issues and the amount of preparation, research or briefing reasonably required; and
 - (D) The skill requisite to perform the services properly.
- (c) Awards in similar cases.
- (10) The administrative law judge who presided over the hearing on the written plan shall examine the petition for award of actual damages or attorney's fees and any associated arguments. The administrative law judge may require the parties to provide additional information or conduct hearings as the judge deems necessary. The administrative law judge shall prepare a proposed order for the board.
- (11) The board shall review the administrative law judge's proposed order and issue a final order awarding actual damages or attorney's fees pursuant to this section, based upon the record. The board may award all or a portion of the actual damages or fees requested. The board will not act on a petition until the appeal period has run or, where an appeal has been filed, during the pendency of the appeal.

Division 678

COMPLIANCE MONITORING

629-678-0000

Purpose and Goals

- (1) The purpose of the compliance monitoring program is to monitor forest practice rules implementation and analyze compliance rates.
- (2) The compliance monitoring program shall assess the Forest Practices Act and rule compliance and report findings to the Board of Forestry, legislature, and federal services under the terms of an approved habitat conservation plan.
- (3) The compliance monitoring program is intended to provide information that will allow for improvement in compliance of the forest practice rules through training, guidance, clarification, and targeted enforcement and to increase the public's trust in the implementation of the Forest Practice Act and rules.

629-678-0100

Administration

- (1) The Department of Forestry shall administer the compliance monitoring program.
- (2) Compliance monitoring may be conducted by the department, through department contractors, or both.
- (3) The department shall determine the status of the completion of forest activities that the State Forester received notification by the following measures:
 - (a) Landowners shall inform the State Forester of the completion of notified forest activities, as described in OAR 629-605-0150(10); and
 - (b) The State Forester is authorized under section 44, chapter 33, Oregon Laws 2022 to use the photogrammetric mapping for compliance monitoring.
- (4) The compliance monitoring program shall be supported by a stakeholder group consisting of representatives with expertise in the rules being monitored, including but not limited to the department, landowners, operators, tribes, and public representatives.
- (5) The board may direct the department to conduct compliance monitoring analysis for specific rules for multiple operations, multiple rules implemented at the operation unit level, or both, as appropriate to determine levels of compliance.
- (6) The department shall develop study designs, including sample selection and evaluation criteria to ensure a high level of confidence in the statistical modeling findings, by doing the following:
 - (a) Hire or consult an external, qualified statistician to aid in developing sample selection and evaluation criteria to ensure a high level of confidence in reported results;
 - (b) Be informed by past board and third-party compliance monitoring program assessments and by similar reviews of other compliance monitoring programs in nearby states;
 - (c) Explicitly define all sampling elements; and
 - (d) Analyze rates of compliance at the appropriate temporal and spatial scale to reduce autocorrelation, variance, and statistical bias.
- (7) Forest landowners shall accommodate the State Forester by allowing access to the operation site, for activities that they have informed the State Forester of completion, as described in OAR 629-605-0150(10).
- (8) Notice shall be given to forest landowners before on-site compliance monitoring to provide the landowner an opportunity to be present with the State Forester.
- (9) The State Forester may petition the circuit court with jurisdiction over the forestland for a warrant authorizing the State Forester property access to conduct compliance monitoring.
- (10) When identified from the compliance monitoring, the department shall examine areas of noncompliance to determine the need for new training, guidance, rule clarification, or other action.

629-678-0110

Rule Group Priorities for Compliance

- (1) The compliance monitoring program shall prioritize rules related to biological and aquatic resources, including the following:
 - (a) Division 625 Forest Road Construction and Maintenance rules.
 - (b) Division 630 Harvesting rules for steep slopes.
 - (c) Division 643 Water Protection Rules: Vegetation Along Streams rules.
- (2) The compliance monitoring program may monitor other rules as directed by the Board of Forestry.

629-678-0200

Reports

The compliance monitoring program shall develop the following information and monitoring reports:

- (1) Information to support any required reporting to the federal services in support of a habitat conservation plan;
- (2) Information to support an annual report to the public on the overall habitat conservation plan performance;
- (3) A report to the Board of Forestry every two years that summarizes the results of completed compliance audits and provides a progress report of ongoing compliance monitoring efforts as described in OAR 629-678-0100(6)(a) through (d);
- (4) An aggregate cumulative report every eight years that includes compliance trends since the beginning of the compliance monitoring program; and
- (5) Other reports as directed by the board.

Division 21

STEWARDSHIP AGREEMENTS

629-021-0100

Purpose

- (1) Improving fish and wildlife habitat and water quality cannot succeed through laws and government actions alone. These rules implement ORS 541.973 which reflects and depends upon Oregonians characteristic spirit of volunteerism and stewardship. The rules provide the means for the Departments of Forestry and Agriculture to implement a voluntary and flexible conservation incentives program that recognizes and rewards agricultural, forest, and other landowners who choose to exceed regulatory criteria for conservation, restoration, and improvement of fish and wildlife habitat or water quality while managing land to meet their objectives. Stewardship agreements will be long-term and consider conservation from a property wide perspective, rather than at the scale of single localized projects.
- (2) This program provides incentives for landowners who meet and exceed regulatory requirements to achieve conservation. Regulatory requirements are continually reviewed and revised in the face of new scientific information and changing social values. As such, the relevant habitat and water quality statutes provide the means to evaluate whether a landowner is meeting and exceeding regulatory criteria.
- (3) For lands and activities falling under the Oregon Forest Practices Act, the purpose of the stewardship agreement program is also to more efficiently implement the provisions of the Act as a voluntary alternative to traditional mechanisms of forest operation planning, review, inspection, and enforcement.
- (4) The stewardship agreement program will recognize other relevant landowner efforts, such as forest or agricultural certification and habitat conservation plans, which have been developed by landowners to meet their management objectives, as components that partially or fully qualify a landowner for a stewardship agreement.
- (5) The stewardship agreement program may not meet the objectives of all landowners. Landowners who choose not to enter into stewardship agreements, although they may be qualified to do so, are not considered less protective of resources than those landowners who choose to enter into stewardship agreements.
- (6) Voluntary conservation, restoration, and improvement of fish and wildlife habitat or water quality depends on effective partnerships with other parties. The stewardship agreement program seeks to develop and support cooperative and collaborative partnerships with federal, state, and local agencies and with private conservation and landowner organizations.

629-021-0200

Definitions

The following definitions apply to OAR 629-021-0100 through 629-021-1100.

- (1) **"Landowner"** means the owner identified in the management plan and any agent or consultant authorized by the owner to implement the management plan.
- (2) **"Stewardship agreement"** means a written agreement between the landowner and the Department(s) that ensures the implementation of a management plan meeting the intent of ORS 541.973.
- (3) **"Management plan"** means a written, multi-resource strategy for a particular tract of farm, forest, or other land, describing how the landowner will manage the land under consideration for a stewardship agreement to meet the intent of ORS 541.973 as laid out in OAR 629-021-0100 to 1100.
- (4) **"Department(s)"** refers to the Oregon Department of Forestry and/or the Oregon Department of Agriculture.
- (5) **"Inventory"** means describing elements of land uses, such as pasture, crop land, timber land, habitat, and other natural features, but not information that is proprietary or sensitive to landowner financial interests.

- (6) **"Pesticides"** include but are not limited to herbicides, insecticides, fungicides, and rodenticides. Pesticides are regulated under the Oregon Pesticide Control Law (ORS 634) and the Oregon Pesticide Regulations (OAR 603-057).
- (7) **"Conservation"** means the management of land, water, and natural resources for the purpose of meeting human and ecological needs in a sustainable manner.

629-021-0300

Stewardship Agreement Application Process

- (1) Landowner must submit a written application on a form provided by the Departments.
Information required includes:
 - (a) Name, contact information, property location, total acres, county, etc.
 - (b) Name of watershed the property is located in.
 - (c) Map and description of property, land uses, habitats, and water features (this does not need to include detailed or sensitive information about economic uses of property; the purpose is to know property boundaries, what habitats are present, and the general land use context.
 - (d) Name(s) of plans and programs landowner is implementing or participating in (if any) and how they contribute to meeting the criteria in 629-021-0500, including a copy of current certification (if any) or other conservation agreements.
 - (e) Identification of state, regional, and local conservation goals that the stewardship agreement is implementing.
 - (f) Description of conservation efforts for fish, wildlife, and water quality that are being used or are proposed.
 - (g) Identify management plan subject to the application review and subsequent audits.
- (2) A written management plan is required, which could be a combination of an existing plan and/or a plan developed specifically for this program. The management plan needs to be available to the Department(s) during the review process and for subsequent audits, but landowners are not required to provide a copy for retention by the Department(s).
- (3) A management plan will include:
 - (a) Landowner's name and contact information, total acreage, acreage in agriculture and forestry, legal description, watershed(s), date of plan, plan writer's name and contact information.
 - (b) Landowner goals and objectives.
 - (c) Property description and inventory, including: vegetation, fish and wildlife habitats, soils,
 - (d) Protection and/or enhancement of resources that exceeds regulatory requirements through land management practices and activities that are designed to achieve conservation, restoration, and improvement of fish and wildlife habitat or water quality.
 - (e) Maps, aerial photographs, and other visual aids to illustrate the property description and management activities.
 - (f) For land and activities falling under the Oregon Forest Practices Act, specific sites or resource sites that are inventoried and protected under ORS 527.710(3)(a) and OAR 629-665-0000 to 0300, or that are listed under 629-605-0170(1). Examples of these sites include sensitive bird nesting, roosting and watering sites, resource sites used by threatened and endangered fish and wildlife species, or significant wetlands.
- (4) It is the policy of the Department(s) to protect confidential information in its files. The Department(s) recognize that a written management plan marked as "confidential" on the face of the document is submitted to the Department(s) on the condition that the information will be kept confidential. Any information voluntarily submitted to the Department(s) in confidence and not otherwise required by law to be submitted should reasonably be considered confidential. Such information in the management plans that should reasonably be considered confidential includes information that qualifies as a trade secret under ORS 192.345, that is, non-patented information that is known only to certain people within the organization, has commercial value, and would give its users a business advantage over competitors. Other confidential information may include

information submitted in confidence that qualifies under any other public record exemption set forth in 192.345.

- (5) The handling of confidential materials shall be as follows:
 - (a) The Department will make immediate distribution to the appropriate personnel.
 - (b) Confidential material is stored in and returned to files at end of day and protected from visual inspection by unauthorized persons at all times.
 - (c) Confidential areas are kept secured after working hours.

629-021-0400

Application Review

- (1) Applications will be reviewed jointly by the Departments.
- (2) Application review will include a review of the past record of compliance with applicable laws and regulations regarding land use and management.
- (3) The Departments will accept applications at any time and will review applications in a reasonable time, normally within 90 days.
- (4) For applications covering lands in both agriculture and forest use, the Departments will designate one of the Departments to be the primary contact for development of the agreement, with both Departments approving the agreement.
- (5) The Department(s) will consult with appropriate state and federal agencies and other conservation partners regarding potential issues related to their responsibilities and expertise.
- (6) The Department(s) and landowner will work jointly to develop a draft stewardship agreement. This will include a site visit with the landowner.

629-021-0500

Criteria to Evaluate Adequacy of a Landowner Management Plan To Meet Purpose of Rules

- (1) The management plan will include provisions to protect or conserve fish and wildlife habitat, water resources, and soil resources appropriate to the property and consistent with landowner objectives.
- (2) The management plan will be reviewed against the following criteria (a–c) to determine whether the landowner is implementing management actions that exceed regulatory requirements for the conservation, restoration, and improvement of fish and wildlife habitat or water quality.
 - (a) Management actions to conserve, restore, and improve fish and wildlife habitat:
 - (A) Specific conservation goals for fish and wildlife habitat are established.
 - (B) Alignment with Oregon’s ‘Comprehensive Wildlife Conservation Strategy’, an adopted subbasin plan, and/or other watershed or landscape-scale conservation plan is demonstrated.
 - (C) Invasive species are identified, controlled, and where possible, eliminated.
 - (D) Threatened, endangered, and at-risk species and associated habitats are protected, enhanced, or restored.
 - (E) Food, water, and shelter components of habitat for fish and wildlife are provided (e.g. snags, nesting trees, downed wood, side-channels, bat/bird/bee boxes hedgerows, field edges, etc.).
 - (F) Crop selection and/or management accommodates fish and wildlife habitat needs.
 - (G) Native habitat is restored and enhanced, consistent with historic vegetative patterns. Restoration includes diverse native species, structure, and age of vegetation appropriate to the site and its regional context.
 - (H) Special consideration is given to native habitats known to be uncommon, rare or at risk (i.e. prairie, oak woodland, bottomland hardwood forest).
 - (I) Natural hydrology is restored to provide habitat for native fish and other aquatic species.
 - (J) Where feasible, natural disturbance processes like fire and flooding are allowed to function.
 - (K) Road disturbances to fish and wildlife habitat are minimized.
 - (L) Fish passage limitations are addressed.

- (M) Water diversions are screened or otherwise managed to provide fish passage and prevent entrapment.
- (N) Water withdrawals are managed to enhance the needs of fish and wildlife habitat.
- (b) Management actions to conserve, restore and improve water resources:
 - (A) Riparian vegetation is protected, managed, or restored to provide erosion control, sediment and nutrient filtering, and other functions of a properly functioning riparian area.
 - (B) Sediment runoff and animal wastes are controlled at the source to prevent ground and/or surface water contamination.
 - (C) Vegetation and soils are managed to conserve water by encouraging infiltration and storage of rainfall in the soil.
 - (D) Irrigation and drainage systems are managed to prevent waste of water and to protect water quality.
 - (E) Road systems are managed to reduce or eliminate sediment delivery to streams and to prevent catastrophic failure.
 - (F) Cultural and biological pest prevention strategies are used to reduce or eliminate the need for pesticide applications (e.g. Integrated Pest Management).
 - (G) Precautions are taken to prevent leaks or spills of pesticides or petroleum products, such as fuel, motor oil, and hydraulic fluid, from reaching waters of the state and sensitive native habitats.
- (c) Management actions to conserve, restore, and improve soil resources:
 - (A) Tillage practices minimize degradation of soil quality and conserve organic matter and soil aggregation.
 - (B) Soils are protected from erosion by optimizing plant cover or residue throughout the year. Practices include but are not limited to: permanent vegetative cover in orchards, nurseries, and vineyards, mulch in row crops, and by using pastures and appropriate intensity, duration, and frequency of livestock grazing.
 - (C) Crop rotations that include cover crops are used to build soil organic matter and productivity.
 - (D) Soil disturbance and compaction during timber harvest is minimized.
 - (E) A comprehensive nutrient management plan or other means are used to conserve and recycle nutrients by converting organic wastes into productive uses and by seeking ways to generate nutrients on farm. Practices that can be used include but are not limited to: cover cropping, on-farm composting, and integrating livestock into farm production.
 - (F) Land management on steep slopes and fragile soils is conducted in a manner to reduce or eliminate impacts to the site.

629-021-0600

Stewardship Agreement

- (1) The agreement will include the landowner's commitment to:
 - (a) Implement the activities and monitoring identified in this agreement for enhancing conservation, restoration, and improvement of fish and wildlife habitat or water quality.
 - (b) Comply with and manage beyond relevant habitat and water quality rules and statutes.
 - (c) Allow audits and assist with the process, as appropriate.
- (2) The agreement will identify the activities and monitoring that will be done for conservation, restoration, and improvement of fish and wildlife habitat or water quality.
- (3) The agreement will include the Departments' commitment to:
 - (a) Accept the agreement as demonstrating compliance with state regulatory requirements if the agreement demonstrates such compliance.
 - (b) Provide specific assistance or incentives that may include: information about conservation programs, certification for marketing purposes, technical assistance, coordination with other agencies to resolve issues.
 - (c) Strive to match participants with resources suitable to meet landowner objectives.

- (4) For lands subject to the Oregon Forest Practices Act, the stewardship agreement may include sufficient detail to meet the requirements for:
 - (a) Written plans under ORS 527.670(3), OAR 629-605-0170, and 629-605-173;
 - (b) Fifteen-day waiting periods under OAR 629-605-0150 (1), except as provided by ORS 527.670 (9) for aerial chemical applications;
 - (c) Notification consistent with OAR 629-605-0140 and 629-605-0150; and
 - (d) Other administrative rules and statutes related to notification, such as for fire protection, taxation, safety, water withdrawals, or public subscriptions.
- (5) Landowners may have active forest operations on lands that are part of a proposed stewardship agreement. If so, the stewardship agreement will immediately apply those operations when the stewardship agreement is finalized.
- (6) Department access to stewardship agreement lands is limited to reviews and audits for which landowners have provided authority. Landowners may also choose to authorize additional limited access to lands under the stewardship agreement for purposes of biological effectiveness monitoring.
- (7) The agreement will include the frequency of audits, which will be established based on the Departments' evaluation of the relative complexity of the management plan and the terms of the stewardship agreement.

629-021-0700

Decision Authority

- (1) The State Forester is delegated full authority by the Board of Forestry to implement the provisions of ORS 541.973 and 527.736(4), including but not limited to review of management plans and preparation and approval of stewardship agreements.
- (2) Prior to approving a stewardship agreement, the Departments will provide public notice and 21 days for comment on the proposed agreement.
- (3) When the Departments determine that comments from the review process are adequately addressed, the stewardship agreement will be approved.
- (4) The Departments will give notice of approval, termination, and revisions of a stewardship agreement to each other, to the Oregon Department of Fish and Wildlife, and to the Oregon Watershed Enhancement Board.
- (5) If the management plan includes potential chemical application operations related to forest operations, the State Forester will give notice of approval of a stewardship agreement to:
 - (a) Any person with surface water rights pursuant to ORS Chapter 537 who, under the provisions of 527.670(6), has previously requested in writing from the State Forester copies of notifications and written plans for chemical application operations within ten upstream miles of the water right location; and
 - (b) The community water system manager of any community water system where the surface water drainage area upstream of the intake is 100 square miles or less and the management plan includes potential aerial chemical application operations within 100 feet, or ground-based chemical application operations within 50 feet, of the Type D or domestic use portions of Type F streams that provide water used by the community water system.
- (6) The Departments will notify persons who submitted timely comments of the approval of a stewardship agreement. Any person who submitted timely comments and who is adversely affected by the operations conducted under an approved or amended stewardship agreement may file a written request for a hearing to the appropriate Department.
- (7) As provided for in ORS 568.912 and 527.700(1) and (2) a landowner may appeal an order denying approval of a stewardship agreement.

629-021-0800

Stewardship Agreement Audits

- (1) The Department(s) will conduct periodic audits with the landowner on lands under a stewardship agreement.

- (2) The landowner will provide authorization for the Department (or its designated agent) that is party to the stewardship agreement to conduct periodic audits on lands subject to the stewardship agreement to determine whether the management plan is being implemented and whether the stewardship agreement should be continued, revised, or discontinued.
- (3) For the purpose of the stewardship agreement rules, an audit means a review of land management and resource sites identified in the stewardship agreement to determine if the terms and conditions of the stewardship agreement are being met.
- (4) The frequency and the number of audits may vary based on the Departments' evaluation of the relative complexity of the management plan, the terms of the stewardship agreement, or the performance observed during previous audits.
- (5) Audits will be conducted at least once every three years. Landowners may request additional audits to help them assess their performance under the stewardship agreement or to provide an annual government certification of their operation.
- (6) The Departments will provide an audit report to the landowner within a reasonable period, normally 45 days, with recommendations for needed revisions to the stewardship agreement.

629-021-0900

Revising Stewardship Agreements

- (1) The landowner and the Departments will cooperatively revise the stewardship agreement if:
 - (a) The landowner requests a revision;
 - (b) An audit report recommends revising the stewardship agreement;
 - (c) Any portion of the land changes ownership resulting in that land being removed from the stewardship agreement as per 629-021-1000(3).
- (2) All revisions to the stewardship agreement are subject to the review process outlined in 629-021-0700(2) and (3).

629-021-1000

Terminating Stewardship Agreements

- (1) The appropriate Department will issue a written notice to terminate a stewardship agreement when:
 - (a) The landowner is negligent in meeting the terms of the stewardship agreement;
 - (b) The landowner willfully disregards the terms of the stewardship agreement; or
 - (c) The State Forester or Department of Agriculture and landowner fail to reach agreement about revisions required under OAR 629-021-0900 within a reasonable period, normally 45 days.
 - (d) Failure to comply with Federal environmental laws could be criteria for terminating or suspending a stewardship agreement.
- (2) The written notice to terminate the stewardship agreement will state the conditions under section 629-021-1000(1) of this rule that exist and what, if any, remedies are necessary to avoid the termination.
- (3) Any parcel of land that is sold or transferred to another landowner will immediately cease to be included in the stewardship agreement.
- (4) Upon receiving a written notice to terminate the stewardship agreement, the landowner will suspend all portions of operations requiring written plans under the Forest Practices Act until written plans have been submitted and reviewed.
- (5) The landowner may terminate the agreement after providing written notice to the lead Department for the agreement.

629-021-1100

Periodic Review of Program

- (1) An interagency review of the Departments' implementation of the stewardship agreement program will be produced biennially, and presented to the Board of Forestry and Board of Agriculture. This report will include:
 - (a) A description of the agreements approved;

- (b) Areas of concern regarding implementation of the program;
 - (c) A review of the coordination between the two Departments;
 - (d) Recommendations to revise or modify the program;
 - (e) A review of program effectiveness for enhancing fish and wildlife habitat and water quality.
- (2) An advisory group, including the Oregon Department of Fish and Wildlife, and other interested/involved parties, will be utilized to assist the Departments in conducting the biennial review.

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* Oregon Revised Statutes (ORS) are the codified laws of the State of Oregon. The ORS is published every two years and the 2021 edition does not include changes made after the 2021 Regular Legislative Session. ORS marked with an asterisk were impacted by more recent legislation, namely the passage of Senate Bill 1501 (2022), and will be updated in the 2023 Edition of ORS. For ease of reference, this publication shows the ORS as they will appear in the 2023 Edition of ORS.

OREGON FOREST PRACTICES ACT

GENERALLY

527.610 Short title. ORS 527.610 to 527.770, 527.990(1) and 527.992 are known as the Oregon Forest Practices Act.

527.620 Definitions for ORS 527.610 to 527.770. [As amended by Senate Bill 1501 (2022) Section 40]

As used in ORS 527.610 to 527.770, 527.990 and 527.992:

- (1) **"Aquatic resource" means:**
 - (a) A species addressed in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, and the resources on which the species relies; or
 - (b) If a habitat conservation plan consistent with the Private Forest Accord Report has been approved, a species addressed in the habitat conservation plan and the resources on which the species relies.
- (2) **"Board"** means the State Board of Forestry.
- (3) **"Cumulative effects"** means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions.
- (4) **"DBH"** means the diameter at breast height which is measured as the width of a standing tree at four and one-half feet above the ground, on the uphill side.
- (5) **"Edge of the roadway" means:**
 - (a) For interstate highways, the fence.
 - (b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the shoulder.
- (6) **"Forest practice"** means any operation conducted on or pertaining to forestland, including but not limited to:
 - (a) Reforestation of forestland;
 - (b) Road construction and maintenance;
 - (c) Harvesting of forest tree species;
 - (d) Application of chemicals;
 - (e) Disposal of slash; and
 - (f) Removal of woody biomass.
- (7) **"Forest tree species"** means any tree species capable of producing logs, fiber or other wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.
- (8) **"Forestland"** means land that is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.
- (9) **"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.
- (10) **"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.
- (11) **"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.
- (12) **"Landowner"** means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.
- (13) **"Operation"** means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:
- (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.
 - (b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood, that is:
 - (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;
 - (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;
 - (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and
 - (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.
 - (c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.
 - (d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.
 - (e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.
 - (f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.
 - (g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.
- (14) **"Operator"** means any person, including a landowner or timber owner, who conducts an operation.
- (15) (a) **"Significant violation"** means:
- (A) Violation of ORS 527.670 (6) by engaging in an operation without filing the requisite notification;
 - (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680 (2)(a), (3) or (5); or
 - (C) A violation resulting in major damage to a resource described in ORS 527.710 (2) for which restoration is expected to take more than 10 years.
- (b) **"Significant violation"** does not include:
- (A) Unintentional operation in an area outside an operating area of an operation for which sufficient notification was filed pursuant to ORS 527.670 (6);
 - (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680 (2)(a), (3) or (5), where an operator, timber owner or landowner demonstrates that it did not receive the order; or
 - (C) Failure to timely notify the State Forester of an intent to continue an operation into the next calendar year.
- (16) **"Single ownership"** means ownership by an individual, partnership, corporation, limited liability company, trust, holding company or other business entity, including the state or any political subdivision thereof. Single ownership includes ownership held under different names or titles where the same individual or individuals, or their heirs or assigns, are shareholders (other than

those of public corporations whose stock is traded on the open market), partners, business trustees or officers, or otherwise have an interest in or are associated with each property.

- (17) **"State Forester"** means the State Forester or the duly authorized representative of the State Forester.
- (18) **"Suitable hardwood seedlings"** means any hardwood seedling that will eventually yield logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other forest products.
- (19) **"Timber owner"** means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.
- (20) **"Visually sensitive corridor"** means forestland extending outward 150 feet, measured on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS 527.755, along both sides for the full length of the highway.
- (20) **"Wildlife leave trees"** means trees or snags required to be retained as described in ORS 527.676 (1).
- (22) **"Written plan"** means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted.

527.630 Policy; rules. [As amended by Senate Bill 1501 (2022) Section 41]

- (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.
- (2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands.
- (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.
- (4) It is recognized that ensuring compliance with, and enforcing, ORS 527.610 to 527.770 and rules and orders adopted or issued thereunder is essential to protect Oregon's natural resources. It is further recognized that onsite inspections are necessary to further the policy of ORS 527.610 to 527.770, 527.990 and 527.992.
- (5) It is recognized that enforcement of the policy of ORS 527.610 to 527.770, 527.990 and 527.992 is necessary to support the integrity of the policy and give the public confidence that standards for forest practices are being followed. It is further recognized that an effective enforcement program must include:
 - (a) Adequate training and education of enforcement officers, operators, timber owners and landowners.
 - (b) Clear technical guidance.
 - (c) Implementation expectations that are transparent and easily understood by operators, timber owners and landowners.

- (6) It is declared to be the policy of the State of Oregon that the program for implementing enforcement under ORS 527.680, 527.683, 527.685, 527.690 and 527.700 be adequately funded, and that the board:
 - (a) Use inspections and enforcement as tools to deter future violations and to educate and train operators, timber owners and landowners.
 - (b) In exercising enforcement discretion, including discretion to impose penalties, prioritize addressing significant violations, other consequential violations and the actions of repeat violators.
- (7) The board may adopt and enforce rules addressing scenic considerations only in accordance with ORS 527.755.
- (8) The board shall adopt and enforce forest practice rules to reduce the risk of serious bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10). As used in this subsection, "rapidly moving landslide" has the meaning given in ORS 195.250.
- (9) The State of Oregon should provide a stable regulatory environment to encourage investment in private forestlands.

527.640 Forest regions.

The State Board of Forestry shall establish a number of forest regions, but not less than three, necessary to achieve the purposes described in ORS 527.630.

527.650 Forest practice committees; members; qualifications; appointment; terms.

- (1) The State Board of Forestry shall establish a forest practice committee for each forest region established pursuant to ORS 527.640. Each such committee shall consist of nine members, a majority of whom must reside in the region. Members of each committee shall be qualified by education or experience in natural resource management and not less than two-thirds of the members of each committee shall be private landowners, private timber owners or authorized representatives of such landowners or timber owners who regularly engage in operations.
- (2) Members of forest practice committees shall be appointed by the board for three-year terms. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. Each such committee shall select a chairperson from among its members. A staff member of the State Forestry Department shall be designated by the State Forester to serve as the secretary, without voting power, for each such committee.

527.660 Committees to review rules.

Each forest practice committee shall review proposed forest practice rules in order to assist the State Board of Forestry in developing rules appropriate to the forest conditions within its region. Committee recommendations are advisory only and the committees need not be consulted prior to the adoption of any forest practice rule.

527.665 Notice of reforestation requirements to be given in forestland transfers; effect of failure to notify; damages.

- (1) In any transaction for the conveyance of an ownership interest in forestland, the transferor must provide to the transferee, prior to the date of execution of the conveyance, written notice of any reforestation requirements imposed upon the land pursuant to the Oregon Forest Practices Act.
- (2) The failure of the transferor to comply with subsection (1) of this section does not invalidate an instrument of conveyance executed in the transaction. However, for any such failure the transferee may bring against the transferor an appropriate action to recover the costs of complying with the reforestation requirements. The court may award reasonable attorney fees to the prevailing party in an action brought under the provisions of this section.

527.670 Commencement of operations; rules; written plan; effect of plan; notice of chemical application; fees.

- (1) The State Board of Forestry shall designate the types of operations for which notice shall be required under this section.

- (2) The board shall identify by rule the types of operations that require a written plan.
- (3) In addition to any other types of operations identified by the board, the board shall adopt rules to require a written plan for the following:
 - (a) An operation that occurs within 100 feet of a stream determined by the State Forester to be used by fish or for domestic use, unless:
 - (A) The board, by rule, provides that a written plan is not required because the operation will be conducted according to a general vegetation retention prescription described in administrative rule;
 - (B) The operation will not directly affect the riparian management area and the State Forester, acting under authority granted by a board rule, waives the written plan requirement; or
 - (C) The operation will be conducted pursuant to a stewardship agreement entered into under ORS 541.973.
 - (b) An operation that occurs within 100 feet of a resource site that is inventoried under ORS 527.710 (3) as a significant wetland but is not classified by board rule as an estuary, unless:
 - (A) The board, by rule, provides that a written plan is not required because the operation will be conducted according to a general vegetation retention prescription described in administrative rule;
 - (B) The operation will not directly affect the riparian management area and the State Forester, acting under authority granted by a board rule, waives the written plan requirement; or
 - (C) The operation will be conducted pursuant to a stewardship agreement entered into under ORS 541.973.
 - (c) An operation that occurs within 300 feet of a resource site inventoried under ORS 527.710 (3), other than a site described in paragraph (b) of this subsection, unless the operation:
 - (A) Will be conducted pursuant to a stewardship agreement entered into under ORS 541.973; and
 - (B) Is consistent with the purposes and policies of any relevant Safe Harbor Agreements or Candidate Conservation Agreements entered into between the State of Oregon and agencies of the United States Government, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.) and federal regulations.
- (4) The distances set forth in subsection (3) of this section are solely for the purpose of defining an area within which a hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules adopted pursuant to ORS 527.710 (3)(c).
- (5) For the purpose of determining the distances set forth in subsection (3) of this section "site" means the specific resource site and not any additional buffer area.
- (6) An operator, timber owner or landowner, before commencing an operation, shall notify the State Forester. The notification shall be on forms provided by the State Forester and shall include the name and address of the operator, timber owner and landowner, the legal description of the operating area, and any other information considered by the State Forester to be necessary for the administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the State Forester shall provide a copy of the notice to whichever of the operator, timber owner or landowner did not submit the notification. The State Forester shall provide a copy of notices involving chemical applications to persons within 10 miles of the chemical application who hold downstream surface water rights pursuant to ORS chapter 537, if such a person has requested that notification in writing. The board shall adopt rules specifying the information to be contained in the notice. All information filed with the State Forester pertaining to chemical applications shall be public record.
- (7) An operator, timber owner or landowner that filed an original notification shall notify the State Forester of any subsequent change in the information contained in the notification.

- (8) Within six working days of receipt of a notice or a written plan filed under subsection (6) or (7) of this section, the State Forester shall make a copy of the notice or written plan available to any person who requested of the State Forester in writing that the person be provided with copies of notice and written plan and who has paid any applicable fee established by the State Forester for such service. The State Forester may establish a fee for providing copies of notices and written plans under this subsection not to exceed the actual and reasonable costs. In addition, the State Forester shall provide a copy of the notification to the Department of Revenue and the county assessor for the county in which the operation is located, at times and in a manner determined through written cooperative agreement by the parties involved.
- (9) Persons may submit written comments pertaining to the operation to the State Forester within 14 calendar days of the date the notice or written plan was filed with the State Forester under subsection (2), (6) or (7) of this section. Notwithstanding the provisions of this subsection, the State Forester may waive any waiting period for operations not requiring a written plan under subsection (3) of this section, except those operations involving aerial application of chemicals.
- (10) If an operator, timber owner or landowner is required to submit a written plan of operations to the State Forester under subsection (3) of this section:
 - (a) The State Forester shall review a written plan and may provide comments to the person who submitted the written plan;
 - (b) The State Forester may not provide any comments concerning the written plan earlier than 14 calendar days following the date that the written plan was filed with the State Forester nor later than 21 calendar days following the date that the written plan was filed; and
 - (c) Provided that notice has been provided as required by subsection (6) of this section, the operation may commence on the date that the State Forester provides comments or, if no comments are provided within the time period established in paragraph (b) of this subsection, at any time after 21 calendar days following the date that the written plan was filed.
- (11)
 - (a) Comments provided by the State Forester, or by the board under ORS 527.700 (6), to the person who submitted the written plan are for the sole purpose of providing advice to the operator, timber owner or landowner regarding whether the operation described in the written plan is likely to comply with ORS 527.610 to 527.770 and rules adopted thereunder. Comments provided by the State Forester or the board do not constitute an approval of the written plan or operation.
 - (b) If the State Forester or the board does not comment on a written plan, the failure to comment does not mean that an operation carried out in conformance with the written plan complies with ORS 527.610 to 527.770 or rules adopted thereunder nor does the failure to comment constitute a rejection of the written plan or operation.
 - (c) If the State Forester or board determines that an enforcement action may be appropriate concerning the compliance of a particular operation with ORS 527.610 to 527.770 or rules adopted under ORS 527.610 to 527.770, the State Forester or board shall consider, but are not bound by, comments that the State Forester provided under this section or comments that the board provided under ORS 527.700.
- (12) If the operation is required under rules described in subsection (3) of this section to have a written plan and comments have been timely filed under subsection (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:
 - (a) Provide a copy of the State Forester's review and comments, if any, to persons who submitted timely written comments under subsection (9) of this section pertaining to the operation; and
 - (b) Provide to the operator, timber owner and landowner a copy of all timely comments submitted under subsection (9) of this section.

527.672 Aerial herbicide applications.

When a forest operation involves applying herbicides by aircraft near an inhabited dwelling or school, the operator is responsible for leaving an unsprayed strip of at least 60 feet adjacent to the dwelling or school.

The responsibility of the operator under this section is in addition to any responsibility of the aerial pesticide applicator under ORS chapter 634.

527.674 Rules requiring approval of written plan prohibited.

The State Board of Forestry may not adopt or enforce a rule under ORS 527.610 to 527.770 that requires that the board or the State Forester approve written plans as a required precedent to conducting a forest practice or operation.

527.676 Leaving snags and downed logs in harvest type 2 or 3 units; green trees to be left near certain streams.

- (1) In order to contribute to the overall maintenance of wildlife, nutrient cycling, moisture retention and other resource benefits of retained wood, when a harvest type 2 unit exceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave on average, per acre harvested, at least:
 - (a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at least 50 percent of which are conifers; and
 - (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that each comprise at least 10 cubic feet gross volume and are no less than six feet long. One downed conifer or suitable hardwood log of at least 20 cubic feet gross volume and no less than six feet long may count as two logs.
- (2) In meeting the requirements of this section, the operator has the sole discretion to determine the location and distribution of wildlife leave trees, including the ability to leave snags, trees and logs in one or more clusters rather than distributed throughout the unit and, if specifically permitted by the State Board of Forestry by rule, to meet the wildlife leave tree requirements by counting snags, trees or logs otherwise required to be left in riparian management areas or resource sites listed in ORS 527.710, subject to:
 - (a) Safety and fire hazard regulations;
 - (b) Rules or other requirements relating to wildlife leave trees established by the State Board of Forestry or the State Forester; and
 - (c) All other requirements pertaining to forest operations.
- (3) In meeting the requirements of this section, the State Forester:
 - (a) Shall consult with the operator concerning the selection of wildlife leave trees when the State Forester believes that retaining certain trees or groups of trees would provide increased benefits to wildlife.
 - (b) May approve alternate plans submitted by the operator to meet the provisions of this section, including but not limited to waiving:
 - (A) The requirement that at least 50 percent of wildlife leave trees be conifers, upon a showing that a site is being intensively managed for hardwood production; and
 - (B) In whole or in part, the requirements of this section for one operation if an alternate plan provides for an equal or greater number of wildlife leave trees in another harvest type 2 or harvest type 3 operation, that the State Forester determines would achieve better overall benefits for wildlife.
 - (c) May require, for operations adjacent to a fish-bearing or domestic use stream, in addition to trees otherwise required to be left in riparian management areas, up to 25 percent of the green trees required to be retained under this section to be left in or adjacent to the riparian management area of the stream.
 - (d) May require by rule, for operations adjacent to a small, nonfish-bearing stream subject to rapidly moving landslides as defined in ORS 195.250, that available green trees and snags be left in or adjacent to the stream. The operator must leave available green trees and snags under this paragraph within an area that is 50 feet on each side of the stream and no more than 500 feet upstream from a riparian management area of a fish-bearing stream.
- (4) When a harvest type 2 or harvest type 3 unit occurs adjacent to a prior harvest type 2 or harvest type 3 unit, resulting in a combined total contiguous acreage of harvest type 2 or harvest type 3

under single ownership exceeding 25 acres, the wildlife leave tree and downed log requirements of subsection (1) of this section apply to the combined total contiguous acreage.

527.678 Wildlife food plots; rules.

- (1) As used in this section:
 - (a) "Forest tree species" has the meaning given that term in ORS 527.620.
 - (b) "Small forestland" means forestland as defined in ORS 527.620 that:
 - (A) Has an owner that owns or holds common ownership interest in at least 10 acres of Oregon forestland but less than 5,000 acres of Oregon forestland; and
 - (B) Constitutes all forestland within a single tax lot and all forestland within contiguous parcels owned or held in common ownership by the owner.
 - (c) "Wildlife food plot" means a small forestland area that, instead of being used for growing and harvesting a forest tree species, is planted in vegetation capable of substantially contributing to wildlife nutrition.
- (2) The owner of a small forestland that is subject to reforestation requirements under ORS 527.610 to 527.770 may, notwithstanding any contrary provision of the reforestation requirements for the forestland, establish wildlife food plots within the boundaries of the small forestland. The combined size of the wildlife food plots described in this subsection may not exceed:
 - (a) 2.5 percent of the small forestland, if the small forestland is 500 acres or less in size;
 - (b) 2.0 percent of the small forestland, if the small forestland is more than 500 acres but not more than 1,000 acres in size; or
 - (c) 1.0 percent of the small forestland, if the small forestland is more than 1,000 acres in size.
- (3)
 - (a) The State Board of Forestry shall adopt rules for carrying out this section. The board shall consult with the State Department of Fish and Wildlife to identify vegetation capable of substantially contributing to wildlife nutrition.
 - (b) The establishment of a wildlife food plot as provided by board rules is a forest practice providing for the overall maintenance of forestland resources as described in ORS 527.710 and supersedes any contrary reforestation requirement under ORS 527.610 to 527.770 for the wildlife food plot.
 - (c) Notwithstanding ORS 527.670 (1), the establishment or relocation of a wildlife food plot, and the reforestation of a location that ceases to be a wildlife food plot, are forest operations requiring notice to the State Forester under ORS 527.670.

527.680 Violation by operator; citation; order to cease violation; order to repair damage; temporary order where violation continuing; service on operator. [As amended by Senate Bill 1501 (2022) Section 45]

- (1) Whenever the State Forester determines that an operator has committed a violation under ORS 527.990 (1), the State Forester may issue and serve a citation upon the operator or authorized representative. The State Forester shall cause a copy of the citation to be mailed or delivered to the timber owner and landowner. Whenever the State Forester determines that the landowner has failed to comply with the reforestation rules under ORS 527.710, the State Forester may issue and serve a citation upon the landowner or authorized representative. Each citation issued under this section shall specify the nature of the violation charged and any damage or unsatisfactory condition that has occurred as the result of such violation.
- (2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:
 - (a) Shall issue and serve upon the landowner or operator or authorized representative an order directing that the landowner or operator cease further violation. If the order is served upon an operator, the State Forester shall cause a copy of such order to be mailed or delivered to the timber owner and landowner; and
 - (b) May issue and serve an order upon the landowner or operator and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner, directing the landowner or operator, where practical and economically feasible, to make reasonable

efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the State Forester.

- (3) In the event the order issued under subsection (2)(a) of this section has not been complied with, and the violation specified in such order is resulting in continuing damage, the State Forester by temporary order, may direct the landowner or operator to cease any further activity in that portion of the operation that is resulting in such damage. Such temporary order shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this section or until the date that the violation ceases, whichever date occurs first.
- (4) A temporary order issued under subsection (3) of this section shall be served upon the landowner or operator or authorized representative, and the State Forester shall cause a copy of such temporary order to be mailed or delivered to the operator, timber owner and landowner. If requested by the operator, timber owner or landowner, the State Board of Forestry, following the appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working days after the receipt by the board of the request. A temporary order issued and served pursuant to subsection (3) of this section shall remain in effect not more than five working days after such hearing unless the order is sooner affirmed, modified or revoked by the board.
- (5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b) of this section within the time specified in the order, or if the landowner or operator fails to comply with a final order imposing civil penalties for violation of any provision of the Oregon Forest Practices Act, the State Forester may issue an order that prohibits the affected landowner or operator from conducting any new operations on any forestland in this state until the landowner or operator has complied with the order to correct an unsatisfactory condition, make repair or pay the civil penalty, as the case may be, to the satisfaction of the State Forester.
- (6) The State Forester may require an operator, timber owner or landowner to provide financial assurance before conducting a new operation if the State Forester has, within the preceding three-year period, made a finding under ORS 527.685 (6) applicable to the operator, timber owner or landowner.

527.683 Notice of violation.

- (1) No civil penalty prescribed in ORS 527.992 shall be imposed until the person incurring the penalty has received notice in writing from the State Forester specifying the violation. Such notice is in addition to the notice required in ORS 183.745.
- (2) The citation issued pursuant to ORS 527.680 (1) and the order issued pursuant to ORS 527.680 (2)(b) shall each constitute the notice required by subsection (1) of this section.

527.685 Civil penalty considerations; rules. [As amended by Senate Bill 1501 (2022) Section 46]

- (1) The State Board of Forestry shall by rule establish the amount of civil penalty that may be imposed for a particular violation. Except as provided in subsections (5) and (6) of this section, a civil penalty may not exceed \$10,000 per violation.
- (2) In imposing a penalty authorized by this section, the State Forester may consider the following factors:
 - (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
 - (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest Practices Act.
 - (c) The gravity and magnitude of the violation.
 - (d) Whether the violation was repeated or continuous.
 - (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.
 - (f) The size and type of ownership of the operation.
 - (g) Any relevant rule of the board.
 - (h) The cooperativeness of the person incurring the penalty and the person's efforts, if any, to correct the violation.

- (3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board determines to be proper and consistent with the public benefit. Upon the request of the person incurring the penalty, the board shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.
- (4) The board, by rule, may delegate to the State Forester upon such conditions as deemed necessary, all or part of the authority of the board provided in subsection (3) of this section to assess, remit or mitigate civil penalties.
- (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745, the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforesting lands pursuant to ORS 527.690.
- (6) If the State Forester makes a finding that an operator, timber owner or landowner has a history of significant violations that shows a pattern of willful disregard for the requirements of ORS 527.610 to 527.770 or rules or orders adopted or issued thereunder, the State Forester may impose a civil penalty in an amount not to exceed \$50,000 per significant violation. In imposing the penalty, the State Forester shall consider, in addition to the factors described in subsection (2) of this section:
 - (a) The degree, if any, to which the operator, timber owner or landowner derived economic benefit from the significant violation.
 - (b) The proportion of total operations conducted by the operator, timber owner or landowner related to which significant violations have occurred compared to the total number of operations conducted by the operator, timber owner or landowner, while accounting for the organizational structure of the operator, timber owner or landowner.

527.687 Civil penalty procedure.

- (1) Subject to the notice provisions of ORS 527.683, any civil penalty under ORS 527.992 shall be imposed in the manner provided in ORS 183.745.
- (2) In no case shall a hearing requested under ORS 183.745 be held less than 45 days from the date of service of the notice of penalty to allow the party to prepare testimony. The hearing shall be held not more than 180 days following issuance of the notice unless all parties agree on an extension.
- (3) Hearings under this section shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.
- (4) Except as provided in subsection (5) of this section, all civil penalties recovered under ORS 527.610 to 527.770, 527.990 and 527.992 shall be paid to the General Fund.
- (5) Civil penalties recovered under ORS 527.685 (5) shall be deposited in the State Forestry Department Account under ORS 526.060 and used, consistently with ORS 527.690, by the State Forester to reforest the land that is the subject of a violation of ORS 527.745 or rules for reforestation adopted pursuant to ORS 527.745. Civil penalties described in this subsection that exceed the costs of reforestation shall be paid to the General Fund.

527.690 Failure to comply with order to reforest or repair damage; estimate of cost of repair; notification; board authorization for repair; cost of repair as lien upon operator, timber owner or landowner.

- (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of damage or correction of an unsatisfactory condition, including compliance with reforestation requirements, and if the operator or landowner does not comply with the order within the period specified in such order and the order has not been appealed to the State Board of Forestry within 30 days, the State Forester based upon a determination by the forester of what action will best carry out the purposes of ORS 527.630 shall:
 - (a) Maintain an action in the Circuit Court for Marion County or the circuit court for the county in which the violation occurred for an order requiring the landowner or operator to comply with the terms of the forester's order or to restrain violations thereof; or
 - (b) Estimate the cost to repair the damage or the unsatisfactory condition as directed by the order and shall notify the operator, timber owner and landowner in writing of the amount

of the estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State Forester may proceed to repair the damage or the unsatisfactory condition. In the event approval of the expenditure is not obtained within 30 days after notification to the operator, timber owner and landowner under this section, the State Forester shall present to the board the alleged violation, the estimate of the expenditure to repair the damage or unsatisfactory condition and the justification for the expenditure.

- (2) The board shall review the matter presented to it pursuant to subsection (1) of this section and shall determine whether to authorize the State Forester to proceed to repair the damage or correct the unsatisfactory condition and the amount authorized for expenditure. The board shall afford the operator, timber owner or landowner the opportunity to appear before the board for the purpose of presenting facts pertaining to the alleged violation and the proposed expenditure.
- (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory condition, the State Forester shall proceed, either with forces of the State Forester or by contract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner. In no event shall the expenditures exceed the amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding authorized by this section. If the State Forester's action to repair the damage or correct the unsatisfactory condition arose from an operation for which a bond, cash deposit or other security was required under ORS 527.760, the State Forester shall retain any applicable portion of a cash deposit and the surety on the bond or holder of the other security deposit shall pay the amount of the bond or other security deposit to the State Forester upon demand. If the amount specified in the demand is not paid within 30 days following the demand, the Attorney General, upon request by the State Forester, shall institute proceedings to recover the amount specified in the demand.
- (4) The expenditures in cases covered by this section, including cases where the amount collected on a bond, deposit or other security was not sufficient to cover authorized expenditures, shall constitute a general lien upon the real and personal property of the operator, timber owner and landowner within the county in which the damage occurred. A written notice of the lien, containing a statement of the demand, the description of the property upon which the expenditures were made and the name of the parties against whom the lien attaches, shall be certified under oath by the State Forester and filed in the office of the county clerk of the county or counties in which the expenditures were made within six months after the date of delivery of the itemized statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided in ORS chapter 88.
- (5) All moneys recovered under this section shall be paid into the State Forestry Department Account.

527.700 Appeals from orders of State Forester; hearing procedure; rules; stay of operation.

- (1) Any operator, timber owner or landowner affected by any finding or order of the State Forester issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days after issuance of the order. The hearing shall be commenced within 14 days after receipt of the request for hearing and a final order shall be issued within 28 days of the request for the hearing unless all parties agree to an extension of the time limit.
- (2) The State Board of Forestry may delegate to the administrative law judge the authority to issue final orders on matters under this section. Hearings provided under this section shall be conducted as contested case hearings under ORS 183.413 to 183.470. The board may establish such rules as it deems appropriate to carry out the provisions of this section. Appeals from final hearing orders under this section shall be provided in ORS 183.482, except that the comments of the board or the State Forester concerning a written plan are not reviewable orders under ORS 183.480.

- (3) Any person adversely affected or aggrieved by an operation described in subsection (4) of this section may file a written request to the board for a hearing if the person submitted written comments pertaining to the operation within the time limits established under ORS 527.670 (9).
- (4) A request for hearing may be filed under subsection (3) of this section only if a written plan was required by rules adopted under ORS 527.670 (3).
- (5) A request for hearing filed under subsection (3) of this section shall be filed within 14 calendar days of the date the State Forester completed review of the written plan and issued any comments. Copies of the complete request shall be served, within the 14-day period, on the operator, timber owner and landowner. The request shall include:
 - (a) A copy of the written plan on which the person is requesting a hearing;
 - (b) A copy of the comments pertaining to the operation that were filed by the person requesting the hearing;
 - (c) A statement that shows the person is adversely affected or aggrieved by the operation and has an interest which is addressed by the Oregon Forest Practices Act or rules adopted thereunder; and
 - (d) A statement of facts that establishes that the operation is of the type described in ORS 527.670 (3).
- (6) If the board finds that the person making the request meets the requirement of subsection (5)(c) of this section, the board shall set the matter for hearing within 21 calendar days after receipt of the request for hearing. The operator, timber owner and landowner shall be allowable parties to the hearing. The person requesting the hearing may raise, in the hearing, only those issues that the person raised in written comments filed under ORS 527.670 (9) relating to conformity with the rules of the board. The board shall issue its own comments, which may affirm, modify or rescind comments of the State Forester, if any, on the written plan within 45 days after the request for hearing was filed, unless all parties agree to an extension of the time limit. The comments of the board or of the State Forester concerning a written plan are not reviewable orders under ORS 183.480.
- (7) The board may award reasonable attorney fees and expenses to each of the prevailing parties against any other party who the board finds presented a position without probable cause to believe the position was well-founded, or made a request primarily for a purpose other than to secure appropriate action by the board.
- (8)
 - (a) Upon the written request of a person requesting a hearing under subsection (3) of this section, a stay of the operation subject to the hearing may be granted upon a showing that:
 - (A) Commencement or continuation of the operation will constitute a violation of the rules of the board;
 - (B) The person requesting the stay will suffer irreparable injury if the stay is not granted; and
 - (C) The requirements of subsections (3), (4) and (5) of this section are met.
 - (b) If the board grants the stay, it shall require the person requesting the stay to give an undertaking which may be in the amount of the damages potentially resulting from the stay, but in any event shall not be less than \$15,000. The board may impose other reasonable requirements pertaining to the grant of the stay. The board shall limit the effect of the stay to the specific geographic area or elements of the operation for which the person requesting the stay has demonstrated a violation of the rules and irreparable injury under paragraph (a) of this subsection.
 - (c) If the board determines in its comments that the written plan pertaining to the operation for which the stay was granted is likely to result in compliance with ORS 527.610 to 527.770 or the rules of the board, the board may award reasonable attorney fees and actual damages in favor of each of the prevailing parties, to the extent incurred by each, against the person requesting the stay.
- (9) If the board rescinds or modifies the comments on the written plan as submitted by the State Forester pertaining to any operation, the board may award reasonable attorney fees and costs against the state in favor of each of the prevailing parties.

- (10) As used in this section, "person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

527.710 Duties and powers of board; rules; inventory for resource protection; consultation with other agencies required.

- (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990(1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing standards for forest practices in each region or subregion.
- (2) The rules shall ensure the continuous growing and harvesting of forest tree species. Consistent with ORS 527.630, the rules shall provide for the overall maintenance of the following resources:
- (a) Air quality;
 - (b) Water resources, including but not limited to sources of domestic drinking water;
 - (c) Soil productivity; and
 - (d) Fish and wildlife.
- (3) (a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board shall collect and analyze the best available information and establish inventories of the following resource sites needing protection:
- (A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species Act of 1973 as amended;
 - (B) Sensitive bird nesting, roosting and watering sites;
 - (C) Biological sites that are ecologically and scientifically significant; and
 - (D) Significant wetlands.
- (b) The board shall determine whether forest practices would conflict with resource sites in the inventories required by paragraph (a) of this subsection. If the board determines that one or more forest practices would conflict with resource sites in the inventory, the board shall consider the consequences of the conflicting uses and determine appropriate levels of protection.
- (c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the inventories required by paragraph (a) of this subsection.
- (4) Before adopting rules under subsection (1) of this section, the board shall consult with other agencies of this state or any of its political subdivisions that have functions with respect to the purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs subject to consultation under this subsection include, but are not limited to:
- (a) Air and water pollution programs administered by the Department of Environmental Quality under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;
 - (b) Mining operation programs administered by the Department of Geology and Mineral Industries under ORS 516.010 to 516.130 and ORS chapter 517;
 - (c) Game fish and wildlife, commercial fishing, licensing and wildlife and bird refuge tax incentive programs administered by the State Department of Fish and Wildlife under ORS 272.060 and ORS chapters 496, 498, 501, 506 and 509;
 - (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs administered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;
 - (e) The programs administered by the Columbia River Gorge Commission under Public Law 99-663 and ORS 196.110 and 196.150;
 - (f) Removal and fill programs administered by the Department of State Lands under ORS 196.800 to 196.900;
 - (g) Federal Safe Drinking Water Act programs administered by the Oregon Health Authority under ORS 448.273 to 448.990;
 - (h) Conservation and conservation tax incentive programs administered by the State Parks and Recreation Department under ORS 273.563 to 273.591;

- (i) Open space land tax incentive programs administered by cities and counties under ORS 308A.300 to 308A.330;
 - (j) Water resources programs administered by the Water Resources Department under ORS 536.220 to 536.540; and
 - (k) Pesticide control programs administered by the State Department of Agriculture under ORS chapter 634.
- (5) In carrying out the provisions of subsection (4) of this section, the board shall consider and accommodate the rules and programs of other agencies to the extent deemed by the board to be appropriate and consistent with the purposes of ORS 527.630.
- (6) The board shall adopt rules to meet the purposes of another agency's regulatory program where it is the intent of the board to administer the other agency's program on forestland and where the other agency concurs by rule. An operation performed in compliance with the board's rules shall be deemed to comply with the other agency's program.
- (7) (a) The board may enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630.
- (b) The State Forestry Department shall enter into agreements with appropriate state agencies for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and water quality.
- (8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws 1991, the board determines that additional rules are necessary to protect forest resources pursuant to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds. Such rules shall include a process for determining areas where adverse impacts from cumulative effects have occurred or are likely to occur, and may require that a written plan be submitted for harvests in such areas.
- (9) (a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall identify streams for which restoration of habitat would be environmentally beneficial. The State Forester shall select as a priority those streams where restoration efforts will provide the greatest benefits to fish and wildlife, and to streambank and streambed stability.
- (b) For those streams identified in paragraph (a) of this subsection, the State Forester shall encourage landowners to enter into cooperative agreements with appropriate state agencies for conduct of restoration activities.
- (c) The board, in consultation with appropriate state agencies, shall study and identify methods for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of sites beneficial to fish and wildlife.
- (d) The board shall adopt rules to implement the findings of this subsection.
- (10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide directly related to forest practices. The rules shall consider the exposure of the public to these safety risks and shall include appropriate practices designed to reduce the occurrence, timing or effects of rapidly moving landslides. As used in this subsection, "rapidly moving landslide" has the meaning given that term in ORS 195.250.

527.714 Types of rules; procedure; findings necessary; rule analysis. [As amended by Senate Bill 1501 (2022) Section 47]

- (1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to 527.770 consists generally of the following three types of rules:
- (a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to 527.770 that support but do not directly regulate standards of forest practices.
 - (b) Rules adopted to provide definitions or procedures for forest practices where the standards are set in statute.

- (c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6), (8), (9) and (10) that grant broad discretion to the board and that set standards for forest practices not specifically addressed in statute.
- (2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS 183.335, the board shall determine which type of rule described in subsection (1) of this section is being considered.
- (3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already adopted or to make minor adjustments to rules already adopted that are of the type described in subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410 and is not subject to the provisions of this section.
- (4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would change the standards for forest practices, the board shall describe in its rule the purpose of the rule and the level of protection that is desired. If the proposed rule would change the standards for forest practices that relate to the protection of aquatic resources, the level of protection that is desired must be consistent with:
 - (a) Requirements described in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022; or
 - (b) If a habitat conservation plan consistent with the Private Forest Accord Report has been approved, the terms of the habitat conservation plan.
- (5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and the proposed rule would provide new or increased standards for forest practices, the board may adopt such a rule only after determining that the following facts exist and standards are met:
 - (a) (A) If forest practices continue to be conducted under existing regulations:
 - (i) There is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710 (2) or (3) is likely; or
 - (ii) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of serious bodily injury or death; or
 - (B) The board has received reports produced by the Adaptive Management Program Committee and the Independent Research and Science Team described in sections 36 and 38 of this 2022 Act that review the new or increased standards the proposed rule would provide;
 - (b) If the resource to be protected is a wildlife species, the scientific or biological status of a species or resource site to be protected by the proposed rule has been documented using best available information;
 - (c) The proposed rule reflects available scientific information and, as appropriate, the results of relevant monitoring and adequate field evaluation at representative locations in Oregon;
 - (d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices as a result of adoption of the proposed rule:
 - (A) (i) Are to prevent harm or provide benefits to the resource or resource site for which protection is sought; or
 - (ii) In the case of rules proposed under ORS 527.710 (10), are to reduce risk of serious bodily injury or death; and
 - (B) Are directly related to the objective of the proposed rule and materially advance its purpose; and
 - (e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including nonregulatory alternatives, were considered, and the alternative chosen is the least burdensome to landowners and timber owners, in the aggregate, while still achieving the desired level of protection.

- (6) Nothing in subsection (5) of this section:
 - (a) Requires the board to call witnesses;
 - (b) Requires the board to allow cross-examination of witnesses;
 - (c) Restricts ex parte communications with the board or requires the board to place statements of such communications on the record;
 - (d) Requires verbatim transcripts of records of proceedings; or
 - (e) Requires depositions, discovery or subpoenas.
- (7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and that the proposed rule relates to aquatic resources, the board may adopt the rule only after considering reports from the Adaptive Management Program Committee and the Independent Research and Science Team.
- (8) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would require new or increased standards for forest practices, as part of or in addition to the economic and fiscal impact statement required by ORS 183.335 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make available to the public a comprehensive analysis of the economic impact of the proposed rule. The analysis shall include, but is not limited to:
 - (a) An estimate of the potential change in timber harvest as a result of the rule;
 - (b) An estimate of the overall statewide economic impact, including a change in output, employment and income related to:
 - (A) The forest products industry;
 - (B) Other private sectors such as commercial fishing, recreational fishing and other outdoor recreation; and
 - (C) Government sections such as public water system providers, waste treatment and built and natural infrastructure;
 - (c) An estimate of the total economic impact on the forest products industry and common school and county forest trust land revenues, both regionally and statewide; and
 - (d) An assessment of the economic impact of the proposed rule on various types of affected forestland parcels and on various geographic locations that is derived from consulting stakeholders.
- (9) The provisions of this section do not apply to temporary rules adopted by the board.

527.715 Rules to establish standards and procedures. The State Board of Forestry shall establish, by rule, the standards and procedures to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, 527.620, 527.630, 527.660, 527.670, 527.683 to 527.724, 527.736 to 527.760 and 527.992.

527.721 Coordination with state and local agencies for review and comment on operations. By rule or by cooperative agreement entered into following an opportunity for public comment before the State Board of Forestry, the board shall provide for coordination with appropriate state and local agencies regarding procedures to be followed for review and comment on individual forest operations.

527.722 Restrictions on local government adoption of rules regulating forest operations; exceptions.

- (1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 215 and 227, and except as provided in subsections (2), (3) and (4) of this section, no unit of local government shall adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate, subject to approval or in any other way affect forest practices on forestlands located outside of an acknowledged urban growth boundary.
- (2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use regulation to forestland to allow, prohibit or regulate:
 - (a) Forest practices on lands located within an acknowledged urban growth boundary;
 - (b) Forest practices on lands located outside of an acknowledged urban growth boundary, and within the city limits as they exist on July 1, 1991, of a city with a population of

- 100,000 or more, for which an acknowledged exception to an agriculture or forestland goal has been taken;
- (c) The establishment or alteration of structures other than temporary on-site structures which are auxiliary to and used during the term of a particular forest operation;
 - (d) The siting or alteration of dwellings;
 - (e) Physical alterations of the land, including but not limited to those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities, when such uses are not auxiliary to forest practices; or
 - (f) Partitions and subdivisions of the land.
- (3) Nothing in subsection (2) of this section shall prohibit a local government from enforcing the provisions of ORS 455.310 to 455.715 and the rules adopted thereunder.
- (4) Counties may prohibit, but in no other manner regulate, forest practices on forestlands:
- (a) Located outside an acknowledged urban growth boundary; and
 - (b) For which an acknowledged exception to an agricultural or forest land goal has been taken.
- (5) To ensure that all forest operations in this state are regulated to achieve protection of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Practices Act applies to forest operations inside any urban growth boundary except in areas where a local government has adopted land use regulations for forest practices. For purposes of this subsection, "land use regulations for forest practices" means local government regulations that are adopted for the specific purpose of directing how forest operations and practices may be conducted. These local regulations shall:
- (a) Protect soil, air, water, fish and wildlife resources;
 - (b) Be acknowledged as in compliance with land use planning goals;
 - (c) Be developed through a public process;
 - (d) Be developed for the specific purpose of regulating forest practices; and
 - (e) Be developed in coordination with the State Forestry Department and with notice to the Department of Land Conservation and Development.
- (6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife resources, the State Forester shall provide local governments with a copy of the notice or written plan for a forest operation within any urban growth boundary. Local governments may review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.
- (7) The existence or adoption by local governments of a comprehensive plan policy or land use regulation regulating forest practices consistent with subsections (1) to (5) of this section shall relieve the State Forester of responsibility to administer the Oregon Forest Practices Act within the affected area.
- (8) The Director of the Department of Land Conservation and Development shall provide the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such notices concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, prohibiting or regulating forest practices.

527.724 Forest operations to comply with air and water pollution control rules and standards; effect of violation. Subject to ORS 527.765 and 527.770, any forest operations on forestlands within this state shall be conducted in full compliance with the rules and standards of the Environmental Quality Commission relating to air and water pollution control. In addition to all other remedies provided by law, any violation of those rules or standards shall be subject to all remedies and sanctions available under statute or rule to the Department of Environmental Quality or the Environmental Quality Commission.

527.730 Conversion of forestland to other uses. Nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use.

HARVEST TYPE; WATER QUALITY REGULATION

527.736 Forest practice standards for operations on public and private land; exceptions; rules.

- (1) The standards established in ORS 527.740 to 527.750 shall be administered by the State Forester as standards applying to all operations in the state, including those on forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the State Board of Forestry shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to implement the standards established in ORS 527.740 to 527.750. Except as provided in ORS 527.714, nothing in ORS 468B.100 to 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715, 527.722, 527.724 and 527.736 to 527.770 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all other regulations pertaining to forest practices under applicable state law.
- (2) Nothing in ORS 527.740 to 527.750 is intended to apply to cutting of trees that is for growth enhancement treatments, as defined by the State Forester, such as thinning or precommercial thinning.
- (3) The State Board of Forestry may modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755 for the purposes of a bona fide research project conducted by:
 - (a) A federal agency;
 - (b) Agencies of the executive department, as defined in ORS 174.112;
 - (c) An educational institution; or
 - (d) A private landowner.
- (4) The State Board of Forestry may agree as a term of a stewardship agreement entered into under ORS 541.973 to modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755.
- (5) The State Board of Forestry may modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755 for the purpose of an operation for the planting, growing, managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:
 - (a) The timber is grown on land that has been prepared by intensive cultivation methods and is cleared of competing vegetation for at least three years after planting;
 - (b) The timber is harvested on a rotation cycle of more than 12 years and less than 20 years after planting; and
 - (c) The timber is subject to intensive agricultural practices, including but not limited to fertilization, cultivation, irrigation, insect control and disease control.

527.740 Harvest type 3 limitations; exceptions.

- (1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size, except as provided in ORS 527.750.
- (2) No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership if the combined acreage of the harvest type 3 areas subject to regulation under the Oregon Forest Practices Act would exceed 120 acres in size, unless the prior harvest type 3 unit has been reforested as required by all applicable regulations and:
 - (a) At least the minimum tree stocking required by rule is established per acre; and either
 - (b) The resultant stand of trees has attained an average height of at least four feet; or
 - (c) At least 48 months have elapsed since the stand was created and it is "free to grow" as defined by the State Board of Forestry.
- (3) Any acreage attributable to riparian areas or to resource sites listed in ORS 527.710 (3) that is located within a harvest unit shall not be counted in calculating the size of a harvest type 3 unit.
- (4) The provisions of this section shall not apply when the land is being converted to managed conifers or managed hardwoods from brush or hardwood stands that contain less than 80 square feet of basal area per acre of trees 11 inches DBH or greater or when the harvest type 3 results from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State Forester determines was beyond the landowner's control and has substantially impaired productivity or safety on the unit or jeopardizes nearby forestland. The prior approval of the State

Forester shall be required for such conversion or harvest type 3 operations that exceed 120 acres in size.

- (5) The provisions of this section do not apply to any operation where the operator demonstrates to the State Forester that:
 - (a) The trees are subject to a cutting right created by written contract prior to October 1, 1990, which provides that the trees must be paid for regardless of whether the trees are cut, or subject to a cutting right created by reservation in a deed prior to October 1, 1990; and
 - (b) If the provisions of this section were applied, the cutting right would expire before all the trees subject to the cutting right could reasonably be harvested.

527.745 Reforestation of certain harvest types; adoption of standards; rules.

- (1) The State Board of Forestry shall adopt standards for the reforestation of harvest type 1 and harvest type 3. Unless the board makes the findings for alternate standards under subsection (2) of this section, the standards for the reforestation of harvest type 1 and harvest type 3 shall include the following:
 - (a) Reforestation, including site preparation, shall commence within 12 months after the completion of harvest and shall be completed by the end of the second planting season after the completion of harvest. By the end of the fifth growing season after planting or seeding, at least 200 healthy conifer or suitable hardwood seedlings or lesser number as permitted by the board by rule, shall be established per acre, well-distributed over the area, which are "free to grow" as defined by the board.
 - (b) Landowners may submit plans for alternate practices that do not conform to the standards established under paragraph (a) of this subsection or the alternate standards adopted under subsection (2) of this section, including but not limited to variances in the time in which reforestation is to be commenced or completed or plans to reforest sites by natural reforestation. Such alternate plans may be approved if the State Forester determines that the plan will achieve equivalent or better regeneration results for the particular conditions of the site, or the plan carries out an authorized research project conducted by a public agency or educational institution.
- (2) The board, by rule, may establish alternate standards for the reforestation of harvest type 1 and harvest type 3, in lieu of the standards established in subsection (1) of this section, but in no case can the board require the establishment of more than 200 healthy conifer or suitable hardwood seedlings per acre. Such alternate standards may be adopted upon finding that the alternate standards will better assure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes, consistent with sound management of soil, air, water, fish and wildlife resources based on one or more of the following findings:
 - (a) Alternate standards are warranted based on scientific data concerning biologically effective regeneration;
 - (b) Different standards are warranted for particular geographic areas of the state due to variations in climate, elevation, geology or other physical factors; or
 - (c) Different standards are warranted for different tree species, including hardwoods, and for different growing site conditions.
- (3) Pursuant to ORS 527.710, the board may adopt definitions, procedures and further regulations to implement the standards established under subsection (1) of this section, without making the findings required in subsection (2) of this section, if those procedures or regulations are consistent with the standards established in subsection (1) of this section.
- (4) The board shall encourage planting of disease and insect resistant species in sites infested with root pathogens or where planting of susceptible species would significantly facilitate the spread of a disease or insect pest and there are immune or more tolerant commercial species available which are adapted to the site.
- (5) Notwithstanding subsections (1), (2) and (3) of this section, in order to remove potential disincentives to the conversion of underproducing stands, as defined by the board, or the salvage of stands that have been severely damaged by wildfire, insects, disease or other factors beyond

the landowner's control, the State Forester may suspend the reforestation requirements for specific harvest type 1 or harvest type 3 units in order to take advantage of the Forest Resource Trust provisions, or other cost-share programs administered by the State Forester or where the State Forester is the primary technical adviser. Such suspension may occur only on an individual case basis, in writing, based on a determination by the State Forester that the cost of harvest preparation, harvest, severance and applicable income taxes, logging, site preparation, reforestation and any other measures necessary to establish a free to grow forest stand will likely exceed the gross revenues of the harvest. The board shall adopt rules implementing this subsection establishing the criteria for and duration of the suspension of the reforestation requirements.

- (6) Notwithstanding subsections (1), (2) and (3) of this section, at the request of the Department of Transportation, the State Forester shall consult with the department concerning reforestation requirements for harvest type 1 and harvest type 3 in areas that are within or adjacent to a state highway right of way. The State Forester shall waive reforestation requirements in areas deemed to be unsuitable for reforestation by the department in order to maintain motorist safety and to protect highways, bridges and utility lines.

527.750 Exceeding harvest type 3 size limitation; conditions; rules.

- (1) Notwithstanding the requirements of ORS 527.740, a harvest type 3 unit within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved by the State Forester if all the requirements of this section and any additional requirements established by the State Board of Forestry are met. Proposed harvest type 3 units that are within 300 feet of the perimeter of a prior harvest type 3 unit, and that would result in a total combined harvest type 3 area under a single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the additional requirements are met for the combined area. No harvest type 3 unit within a single ownership shall exceed 240 contiguous acres. No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership if the combined acreage of the areas subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless:
 - (a) The prior harvest type 3 unit has been reforested by all applicable regulations;
 - (b) At least the minimum tree stocking required by rule is established per acre; and
 - (c)
 - (A) The resultant stand of trees has attained an average height of at least four feet; or
 - (B) At least 48 months have elapsed since the stand was created and it is "free to grow" as defined by the board.
- (2) The requirements of this section are in addition to all other requirements of the Oregon Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be applied in lieu of such other requirements only to the extent the requirements of this section are more stringent. Nothing in this section shall apply to operations conducted under ORS 527.740 (4) or (5).
- (3) The board shall require that a plan for an alternate practice be submitted prior to approval of a harvest type 3 operation under this section. The board may establish by rule any additional standards applying to operations under this section.
- (4) The State Forester shall approve the harvest type 3 operation if the proposed operation would provide better overall results in meeting the requirements and objectives of the Oregon Forest Practices Act.
- (5) The board shall specify by rule the information to be submitted for approval of harvest type 3 operations under this section, including evidence of past satisfactory compliance with the Oregon Forest Practices Act.

527.755 Scenic highways; visually sensitive corridors; operations restricted; exemptions.

- (1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:
 - (a) Interstate Highways 5, 84, 205, 405; and

- (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 35, 36, 38, 42, 58, 62, 66, 82, 97, 101, 126, 138, 140, 199, 230, 234 and 395.
- (2) The purpose of designating scenic highways is to provide a limited mechanism that maintains roadside trees for the enjoyment of the motoring public while traveling through forestland, consistent with ORS 527.630, safety and other practical considerations.
- (3) The State Board of Forestry, in consultation with the Department of Transportation, shall establish procedures and regulations as necessary to implement the requirements of subsections (4), (5) and (6) of this section, consistent with subsection (2) of this section, including provisions for alternate plans. Alternate plans that modify or waive the requirements of subsection (4), (5) or (6) of this section may be approved when, in the judgment of the State Forester, circumstances exist such as:
 - (a) Modification or waiver is necessary to maintain motorist safety, protect improvements such as dwellings and bridges, or protect forest health;
 - (b) Modification or waiver will provide additional scenic benefits to the motoring public, such as exposure of distant scenic vistas;
 - (c) Trees that are otherwise required to be retained will not be visible to motorists;
 - (d) The operation involves a change of land use that is inconsistent with maintaining a visually sensitive corridor; or
 - (e) The retention of timber in a visually sensitive corridor will result in severe economic hardship for the owner because all or nearly all of the owner's property is within the visually sensitive corridor.
- (4)
 - (a) For harvest operations within a visually sensitive corridor, at least 50 healthy trees of at least 11 inches DBH, or that measure at least 40 square feet in basal area, shall be temporarily left on each acre.
 - (b) Overstory trees initially required to be left under paragraph (a) of this subsection may be removed when the reproduction understory reaches an average height of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings or saplings required by the board for reforestation, by rule.
 - (c) Alternatively, when the adjacent stand, extending from 150 feet from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, has attained an average height of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings or saplings required by the board for reforestation, by rule, or at least 40 square feet of basal area per acre, no trees are required to be left in the visually sensitive corridor, or trees initially required to be left under paragraph (a) of this subsection may be removed. When harvests within the visually sensitive corridor are carried out under this paragraph, the adjacent stand, extending from 150 feet from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, shall not be reduced below the minimum number of stems per acre of free to grow seedlings or saplings at least 10 feet tall required by the board for reforestation, by rule, or below 40 square feet of basal area per acre until the adjacent visually sensitive corridor has been reforested as required under subsection (6) of this section and the stand has attained an average height of at least 10 feet and has at least the minimum number of stems per acre.
- (5) Harvest areas within a visually sensitive corridor shall be cleared of major harvest debris within 30 days of the completion of the harvest, or within 60 days of the cessation of active harvesting activity on the site, regardless of whether the harvest operation is complete.
- (6) Notwithstanding the time limits established in ORS 527.745 (1)(a), when harvesting within a visually sensitive corridor results in a harvest type 1 or harvest type 3, reforestation shall be completed by the end of the first planting season after the completion of the harvest. All other provisions of ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within visually sensitive corridors.
- (7) Landowners and operators shall not be liable for injury or damage caused by trees left within the visually sensitive corridor for purposes of fulfilling the requirements of this section, when carried out in compliance with the provisions of the Oregon Forest Practices Act.
- (8) The following are exempt from this section:

- (a) Harvest on single ownerships less than five acres in size;
- (b) Harvest within an urban growth boundary, as defined in ORS 195.060; and
- (c) Harvest within zones designated for rural residential development pursuant to an exception adopted to the statewide land use planning goals under ORS 197.732.

527.760 Reforestation exemptions for land use changes.

- (1) The State Board of Forestry shall review its rules governing changes in land use and adopt or amend rules as necessary to assure that only bona fide, established and continuously maintained changes from forest uses are provided an exemption from reforestation requirements. The board shall set specific time periods for the completion of land use conversions. Among other factors, the board shall condition exemptions from reforestation requirements upon:
 - (a) Demonstrating the intended change in land use is authorized under local land use and zoning ordinances, including obtaining and maintaining all necessary land use or construction permits and approvals for the intended change in land use;
 - (b) Demonstrating progress toward the change in land use within the time required for planting of trees, and substantial completion and continuous maintenance of the change in land use in a time certain;
 - (c) Allowing an exemption for only the smallest land area necessary to carry out the change in land use, and requiring that additional land area within the harvest unit remains subject to all applicable reforestation requirements; and
 - (d) Allowing an exemption only to the extent that the proposed land use is not compatible with the maintenance of forest cover.
- (2) The board may require that, prior to commencing an operation where a change in land use is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State Forester in an amount determined by the State Forester sufficient to cover the cost of site preparation and reforestation for the area subject to an exemption from reforestation due to a change in land use, and shall require that provisions be made for the administration and collection on such bond or security deposit in the event that the change in land use is not established or continuously maintained within a time certain.
- (3) Nothing in this section is intended to exempt any change in land use from, nor affect the applicability and administration of, any planning, zoning or permitting requirements provided under state or local laws or regulations.

527.765 Best management practices to maintain water quality; rules.

- (1) The State Board of Forestry shall establish best management practices and other rules applying to forest practices as necessary to insure that to the maximum extent practicable nonpoint source discharges of pollutants resulting from forest operations on forestlands do not impair the achievement and maintenance of water quality standards established by the Environmental Quality Commission for the waters of the state. Such best management practices shall consist of forest practices rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the board in establishing best management practices shall include, where applicable, but not be limited to:
 - (a) Beneficial uses of waters potentially impacted;
 - (b) The effects of past forest practices on beneficial uses of water;
 - (c) Appropriate practices employed by other forest managers;
 - (d) Technical, economic and institutional feasibility; and
 - (e) Natural variations in geomorphology and hydrology.
- (2) The board shall consult with the Environmental Quality Commission in adoption and review of best management practices and other rules to address nonpoint source discharges of pollutants resulting from forest operations on forestlands.
- (3) (a) Notwithstanding ORS 183.310 (8), upon written petition for rulemaking under ORS 183.390 of any interested person or agency, the board shall review the best management practices adopted pursuant to this section. In addition to all other requirements of law, the petition must allege with reasonable specificity that nonpoint source discharges of

- pollutants resulting from forest operations being conducted in accordance with the best management practices are a significant contributor to violations of such standards.
- (b) Except as provided in paragraph (c) of this subsection, if the board determines that forest operations being conducted in accordance with the best management practices are neither significantly responsible for particular water quality standards not being met nor are a significant contributor to violations of such standards, the board shall issue an order dismissing the petition.
 - (c) If the petition for review of best management practices is made by the Environmental Quality Commission, the board shall not terminate the review without the concurrence of the commission, unless the board commences rulemaking in accordance with paragraph (e) of this subsection.
 - (d) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an order that includes findings regarding specific allegations in the petition and shall state the board's reasons for any conclusions to the contrary.
 - (e) If, pursuant to review, the board determines that best management practices should be reviewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the revised best management practices must be adopted not later than two years from the filing date of the petition for review unless the board, with concurrence of the Environmental Quality Commission, finds that special circumstances require additional time.
 - (f) Notwithstanding the time limitation established in paragraph (e) of this subsection, at the request of the Environmental Quality Commission, the board shall take action as quickly as practicable to prevent significant damage to beneficial uses identified by the commission while the board is revising its best management practices and rules as provided for in this section.

527.770 Good faith compliance with best management practices not violation of water quality standards; subsequent enforcement of standards. A forest operator conducting, or in good faith proposing to conduct, operations in accordance with best management practices currently in effect shall not be considered in violation of any water quality standards. When the State Board of Forestry adopts new best management practices and other rules applying to forest operations, such rules shall apply to all current or proposed forest operations upon their effective dates. However, nothing in this section prevents enforcement of water quality standards against a forest operator conducting operations after the time provided in ORS 527.765 (3)(e) for adoption of revised best management practices if the board either has not adopted revised management practices or has not made a finding that such revised best management practices are not required.

527.780 Exemption from liability for trees or debris left on property.

- (1) A landowner is not liable in tort for any personal injury, death or property damage that arises out of the leaving of trees and other debris on the property of the landowner under the provisions of ORS 527.610 to 527.770, under any rules adopted pursuant to ORS 527.610 to 527.770, or under any other law or rule requiring trees and debris to be left upon property after logging or other activity on the land.
- (2) The limitation on liability provided by this section applies to any injury, death or damage arising out of wildfire, erosion, flooding, diversion of waters, damage to public improvements and any other injury, death or damage caused by trees or debris left by the landowner.
- (3) The limitation on liability provided by this section does not apply if the injury, death or damage was caused by the intentional tort of the landowner or by the gross negligence of the landowner. As used in this subsection, "gross negligence" means negligence that is materially greater than the mere absence of reasonable care under the circumstances, and that is characterized by indifference to or reckless disregard of the rights of others.
- (4) The limitation on liability provided by this section is in addition to any limitation on liability provided under ORS 105.672 to 105.696.

- (5) The limitation on liability provided by this section does not apply to any liability established by the provisions of ORS chapter 477.

527.785 Exemption from liability for large woody debris left on property.

- (1) A landowner is not liable in tort for any personal injury, death or property damage that arises out of the leaving of large woody debris on the property of the landowner under the provisions of ORS 527.610 to 527.770, under any rules adopted pursuant to ORS 527.610 to 527.770, or under any other law or rule requiring trees and large woody debris to be left upon property after logging or other activity on the land.
- (2) The limitation on liability provided by this section applies to any injury, death or damage arising out of wildfire, erosion, flooding, diversion of waters, damage to public improvements and any other injury, death or damage caused by the large woody debris left by the landowner.
- (3) The limitation on liability provided by this section does not apply if the injury, death or damage was caused by the intentional tort of the landowner or by the gross negligence of the landowner. As used in this subsection, "gross negligence" means negligence that is materially greater than the mere absence of reasonable care under the circumstances, and that is characterized by indifference to or reckless disregard of the rights of others.
- (4) The limitation on liability provided by this section is in addition to any limitation on liability provided under ORS 105.672 to 105.696.
- (5) The limitation on liability provided by this section does not apply to any liability established by the provisions of ORS chapter 477.

PESTICIDE APPLICATIONS BY HELICOPTER

527.786 Definitions. As used in ORS 527.786 to 527.793:

- (1) **"Department reporting system"** means a forest activity electronic reporting and notice system operated by the State Forestry Department.
- (2) **"Nearby recipient"** means a person registered under ORS 527.787:
- (a) Whose parcel location information is reconciled under ORS 527.787 (2) with a tax lot that is in whole or in part less than one mile from the edge of a proposed or scheduled pesticide application by helicopter to forestland; or
 - (b) Whose water intake location noted under ORS 527.787 (4) is less than one mile from the edge of a proposed or scheduled pesticide application by helicopter to forestland.
- (3) **"Pesticide"**:
- (a) Except as provided in this subsection, has the meaning given that term in ORS 634.006.
 - (b) Does not include fertilizer. As used in this paragraph, "fertilizer" means any substance, or any combination or mixture of substances, that is designed for use primarily as a source of plant food, for inducing increased plant growth or for producing any physical, microbial or chemical change in the soil.
- (4) **"Water use qualifying for a spray buffer"** means the use of water:
- (a) For watering not more than one-half acre of lawn or noncommercial garden;
 - (b) By one or more dwelling units for domestic animal consumption ancillary to residential or related use of a property;
 - (c) By one or more dwelling units for household purposes or human consumption;
 - (d) For livestock watering; or
 - (e) Supplied for community purposes through a municipal water system, a system operated by a federally recognized Indian tribe or a system operated by a private corporation. As used in this paragraph, "community purposes" includes, but is not limited to, uses described in paragraphs (a) to (d) of this subsection, commercial or industrial use, fire protection, watering of public parks and street cleaning.

527.787 Registering to receive notice of pesticide application.

- (1) A person may register with the State Forestry Department to receive notices of proposed or scheduled pesticide applications by helicopter to forestland near the residence of the person. To obtain registration, the person must provide the department with:
 - (a) A description of the parcel where the person resides;
 - (b) Proof satisfactory to the department that the person resides at the parcel; and
 - (c) Contact information for the person that, at a minimum, includes:
 - (A) A mailing address; and
 - (B) An electronic mail address or telephone number.
- (2) Upon the receipt of information under subsection (1) of this section, the department shall reconcile the parcel location information with tax lot information and note the tax lot in a geospatial layer maintained within a department reporting system.
- (3) A person appropriating surface water for a water use qualifying for a spray buffer may register with the department to receive notices of proposed or scheduled pesticide applications by helicopter to forestland near the water intake used by the person. To obtain registration, the person must provide the department with:
 - (a) The global positioning system coordinates for the water intake;
 - (b) If the water use qualifying for a spray buffer is subject to water right requirements, a permit, certificate, registration, limited license or order of determination for the water use;
 - (c) If the water use qualifying for a spray buffer is exempt from water right requirements, a description of the spring box or other type of water intake and of the type of water use;
 - (d) Unless established in documentation described in paragraph (b) of this subsection, an attestation that the person believes the person has a lawful entitlement to make the water use qualifying for a spray buffer;
 - (e) An attestation that the person controls the works at the point of diversion for the water use qualifying for a spray buffer; and
 - (f) Contact information for the person that, at a minimum, includes:
 - (A) A mailing address; and
 - (B) An electronic mail address or telephone number.
- (4) Upon the receipt of information under subsection (3) of this section, the department shall note the location of the water intake in a geospatial layer maintained within a department reporting system.

527.788 Notice to State Forestry Department of proposed pesticide application.

- (1) To the extent of any conflict between this section and ORS 527.610 to 527.770, the provisions of this section prevail.
- (2) Notwithstanding ORS 527.670, an operator, timber owner or landowner proposing to conduct a pesticide application by helicopter to forestland shall send the State Forestry Department notice of the proposed pesticide application that includes the following:
 - (a) Identification of the pesticides likely to be used. The notice may not identify any pesticides that are not likely to be used.
 - (b) Identification of the forestland units to receive pesticide application.
 - (c) Identification of a 90-day period within which the pesticide application is to occur.
 - (d) Contact information for the operator, timber owner or landowner providing the notice that, at a minimum, includes a mail address, electronic mail address and telephone number.
 - (e) Any information required by State Board of Forestry rules.
- (3) Except as provided in subsection (4) of this section, if the department reporting system indicates that the location of the proposed pesticide application has one or more nearby recipients, the beginning of the 90-day period identified in the notice under subsection (2)(c) of this section must be 30 or more days after the date the notice is provided to the department.
- (4) If a pesticide application is not completed during the 90-day period identified in a notice, the operator, timber owner or landowner must send a new notice before commencing or completing

the pesticide application. Notwithstanding ORS 527.670, if the new notice is sent in the same calendar year as the original notice, the 90-day period identified in the new notice must be seven or more days after the date the new notice is provided to the department.

527.789 Notice to nearby recipient of proposed pesticide application.

- (1) Upon receipt of a notice under ORS 527.788 (2), a State Forestry Department reporting system shall provide the operator, timber owner or landowner that provided the notice with a list of, and contact information for, any nearby recipients for the proposed pesticide application.
- (2) Two weeks after receiving a notice under ORS 527.788 (2), and on the date of receipt of any new notice under ORS 527.788 (4), the department shall send notice of the proposed pesticide application to the electronic mail address or telephone number of each nearby recipient for the application. The notice sent by the department must include, but need not be limited to, the location and nature of the proposed pesticide application and the 90-day period within which the pesticide application may occur, and the mailing address, electronic mail address and telephone number supplied as contact information by the operator, timber owner or landowner that provided notice of the proposed pesticide application under ORS 527.788.

527.790 Notice to State Forestry Department prior to pesticide application.

- (1) An operator, timber owner or landowner that sends notice under ORS 527.788 of a proposed pesticide application by helicopter to forestland shall notify the State Forestry Department prior to the pesticide application by helicopter being made. A notice under this section must:
 - (a) Be made by electronic communication to a department reporting system;
 - (b) Be sent to the department no later than 7 p.m. on the day preceding the pesticide application;
 - (c) Specify the day following the notice as a day for pesticide application by helicopter;
 - (d) Identify the forestland units to receive pesticide application on the specified day; and
 - (e) Contain any additional information required by State Board of Forestry rules.
- (2) The sending of a notice under subsection (1) of this section does not limit the number of days on which a pesticide application by helicopter may be made. However, a separate notice is required for each day that a pesticide application by helicopter is to be made. The sending of a notice under subsection (1) of this section does not require that a pesticide application identified in the notice be conducted.
- (3) Upon receipt of a notice under this section, the department shall send the schedule information for the pesticide application and forestland unit identification to the electronic mail address or telephone number of each nearby recipient to which the department sent notice of the proposed pesticide application under ORS 527.789.

527.791 Verifying completion of pesticide application.

- (1) If a forestland unit identified in a notice sent under ORS 527.790 receives an incomplete pesticide application on the date specified in the notice, the operator, timber owner or landowner shall send a notice of incompleteness to a State Forestry Department reporting system no later than 24 hours after the end of the date specified for the application in the notice. The notice of incompleteness shall consist of designating the forestland units to which an incomplete pesticide application by helicopter was made. Entry of a notice of incompleteness does not affect the requirement to send notice under ORS 527.790 before completing the pesticide application.
- (2) An operator, timber owner or landowner that sends a notice under ORS 527.790 shall send a completion verification to a department reporting system no later than 24 hours after the completion of the pesticide application. The completion verification shall consist of designating the forestland units to which the pesticide application by helicopter was made.
- (3) The department shall make an electronic listing of the forestland units that were identified in the notice under ORS 527.790 available to the operator, timber owner or landowner in a format that allows the operator, timber owner or landowner to electronically designate:
 - (a) Forestland units from the list that have received an incomplete pesticide application, when sending a notice of incompleteness; and

- (b) Forestland units from the list on which pesticide application is complete, when sending a completion verification.

527.792 Designation of forestland units.

- (1) If the State Forestry Department receives a notice under ORS 527.790, at the beginning of the 90-day period identified in the notice, the department shall designate the forestland units identified in the notice as being in available status. Except as provided in subsection (2) of this section, the department shall terminate the available status of a forestland unit after 90 days.
- (2) Upon receiving a notice under ORS 527.790 specifying a date on which a pesticide application by helicopter is to be made, the department shall change the designation of any forestland unit identified in the notice to pending status.
- (3) Upon receiving a notice of incompleteness under ORS 527.791, the department shall change the designation of any forestland unit identified in the notice to incomplete status.
- (4) Upon receiving a completion verification under ORS 527.791, the department shall change the designation of any forestland unit identified in the completion verification to completed status.
- (5) The department shall change the designation of a forestland unit from pending status if, at 11:59 p.m. on the day following the pesticide application date specified for the forestland unit in a notice under ORS 527.790, the department has not received a notice of incompleteness or completion verification for the forestland unit. Subject to subsection (1) of this section, the department shall return a forestland unit described in this subsection from pending status to available status.

527.793 Failure to send notice; penalties.

- (1) As used in this section, “spray season” means a period that:
 - (a) Begins on January 1 and ends on June 30 in the same calendar year; or
 - (b) Begins on July 1 and ends on December 31 in the same calendar year.
- (2) If an operator, timber owner or landowner fails to timely send a notice under ORS 527.790 or timely send a notice of incompleteness or completion verification under ORS 527.791 for one or more forestland units, or any combination of such failures on the same day:
 - (a) For the first day during a spray season on which one or more failures occur, the State Forestry Department shall issue the landowner a warning.
 - (b) For the second day during a single spray season on which one or more failures occur, the department shall assess the landowner a civil penalty of \$1,000.
 - (c) For a third day or any subsequent day during a single spray season on which one or more failures occur, the department shall assess the landowner a civil penalty of \$5,000 per day.

527.794 Department reporting system.

- (1) As used in this section, “department reporting system” has the meaning given that term in ORS 527.786.
- (2) The State Forestry Department shall develop a system to allow nondepartment messages to nearby recipients described in ORS 527.789 (1), notices under ORS 527.790 and notices of incompleteness or completion verifications under ORS 527.791 to be sent electronically using mobile telephone equipment to access a department reporting system. The department shall make the access system compatible with, at a minimum, the two most commonly used types of mobile telephone operating systems.

527.795 Daily spray records; penalties.

- (1) As used in this section:
 - (a) “Daily spray records” means records required of a pesticide operator under ORS 634.146.
 - (b) “Geographic information system data” means the electronic location data recorded during a pesticide application by helicopter.
 - (c) “Health provider” means a person holding a license, certificate or permit issued under Oregon law to provide the diagnosis, treatment or care of disease or injury in the ordinary

course of business or practice of a profession, when seeking to provide diagnosis, treatment or care of a patient in response to a suspected exposure of the patient to pesticide.

- (d) “Pesticide operator” has the meaning given that term in ORS 634.006.
- (2) The Pesticide Analytical and Response Center shall accept requests for a pesticide operator’s daily spray records and geographic information system data concerning a pesticide application by helicopter to forestland from:
 - (a) A unit of state government, as defined in ORS 174.111;
 - (b) A law enforcement agency, as defined in ORS 181A.010; or
 - (c) A health provider.
- (3)
 - (a) The center shall forward a request received under subsection (2) of this section to the pesticide operator that is the subject of the request. A pesticide operator that receives a request from the center shall send the center the daily spray records and geographic information system data possessed or accessible to the pesticide operator concerning pesticide applications by helicopter to forestland identified in the request.
 - (b) The pesticide operator shall send the requested daily spray record information to the center no later than 24 hours after receiving the request. The pesticide operator shall send the requested geographic information system data to the center no later than five business days after receiving the request.
 - (c) Upon receiving requested information from a pesticide operator, the center shall forward the information received to the requesting unit of state government, law enforcement agency or health provider.
- (4) Failure of a pesticide operator to timely send records or data as required under subsection (3) of this section is a violation subject to a fine of \$1,000 per request.
- (5) Records and data sent or received under this section are not public records for purposes of ORS 192.311 to 192.478.

527.796 Interference with pesticide application; penalties.

- (1) As used in this section:
 - (a) “Interfere”:
 - (A) Means to use force, violence or action that impedes a pesticide application by helicopter to forestland.
 - (B) Does not mean:
 - (i) The memorializing of pesticide application activities through photography, videotaping, audiotaping or other creation of an electronic record by a person on public property or on private property where the person has a lawful right to be present; or
 - (ii) Other activities to the extent that the activities are protected under the First Amendment to the United States Constitution or Article I, section 8, of the Oregon Constitution.
 - (b) “Nearby recipient” has the meaning given that term in ORS 527.786.
- (2) A person that intentionally interferes with a pesticide application by helicopter to forestland commits an unclassified violation punishable by a fine of:
 - (a) \$1,000, if during the five years before the date of the interference the person has not previously been found to have committed a violation under this section; or
 - (b) \$5,000, if not more than five years before the date of the interference the person was found to have committed a violation under this section.
- (3) For purposes of this section, there is a conclusive presumption that interference is intentional if performed by a nearby recipient who was sent information under ORS 527.790 (3) concerning the pesticide application.

527.797 Limitations on pesticide applications.

- (1) As used in this section:
 - (a) “Department reporting system,” “pesticide” and “water use qualifying for a spray buffer” have the meanings given those terms in ORS 527.786.
 - (b) “Flowing water” means surface water is present at the time of a pesticide application.
 - (c) “Inhabited dwelling” means a structure or part of a structure used as a home, residence or sleeping place by a person maintaining a household or by two or more persons maintaining a common household, but does not include outbuildings, yard areas or other land associated with the structure.
 - (d) “School” means the campus of:
 - (A) A Head Start program;
 - (B) A public or private institution offering instruction for all or part of prekindergarten through grade 12;
 - (C) The Oregon School for the Deaf;
 - (D) A regional residential academy operated by the Oregon Youth Authority;
 - (E) An education service district or community college; or
 - (F) A public or private college or university.
 - (e) “Sixth-level hydrologic unit” means the cataloging unit level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Committee.
 - (f) “Type D stream” means a stream that has domestic use, but does not have fish use.
 - (g) “Type F stream” means a stream that has fish use or has both domestic use and fish use.
 - (h) “Type N stream” means a stream that does not have domestic use or fish use.
- (2) Notwithstanding ORS 527.672, a person may not directly apply pesticide by helicopter to forestland:
 - (a) Less than 300 feet from an inhabited dwelling, unless the landowner is the requester of the application;
 - (b) Less than 300 feet from a school, unless the school board or other governing body for the school is the requester of the application; or
 - (c) Subject to subsection (4) of this section, less than 300 feet from a water intake for a water use qualifying for a spray buffer:
 - (A) Within the same sixth-level hydrologic unit as a water source for water use qualifying for a spray buffer that is registered under ORS 527.787; or
 - (B) Within the same sixth-level hydrologic unit as a water source for water use qualifying for a spray buffer that is identified by the State Forestry Department and for which the location has been recorded in the department reporting system.
- (3) On forestland that is subject to ORS 527.610 to 527.770, a person may not directly apply pesticide by helicopter near a stream:
 - (a) That is identified by the department as a Type D stream or Type F stream, within the greatest of:
 - (A) 75 feet;
 - (B) The required vegetated buffer; or
 - (C) A riparian management area existing in State Board of Forestry rules on the July 7, 2020, within which vegetation retention and special management practices are required; or
 - (b) That is identified by the department as a Type N stream and has flowing water, within 50 feet.
- (4) The restrictions in subsection (2)(c) of this section are contingent upon the water intake location being recorded in the department reporting system.

527.798 Reporting points of diversion.

- (1) As used in this section, “department reporting system” and “water use qualifying for a spray buffer” have the meanings given those terms in ORS 527.786.
- (2) The State Forestry Department shall record in the department reporting system any points of diversion inventoried by the Water Resources Department that are:

- (a) For a water use qualifying for a spray buffer; and
 - (b) Mapped with sufficient precision to allow the State Forestry Department to implement buffers under ORS 527.797 (2)(c).
- (3) The State Forestry Department shall periodically review Water Resources Department inventory information for points of diversion and update State Forestry Department reporting system information as necessary to comply with subsection (2) of this section.

PENALTIES

527.990 Criminal penalties. [As amended by Senate Bill 1501 (2022) Section 48]

- (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740, 527.750, 527.755, 527.788 or 527.797, or any rule promulgated under ORS 527.710 or section 2 or 44 of chapter 33, Oregon Laws 2022, is a Class A misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall be deemed to be a separate offense.
- (2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a Class C misdemeanor.

527.992 Civil penalties. [As amended by Senate Bill 1501 (2022) Section 49]

- (1) In addition to any other penalty provided by law, any person who fails to comply with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:
 - (a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750, 527.755, 527.788 or 527.797.
 - (b) The terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.
 - (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS 527.710 or section 2 or 44 of chapter 33, Oregon Laws 2022.
 - (d) Any term or condition of a written waiver, or prior approval granted by the State Forester pursuant to the rules adopted under ORS 527.710.
- (2) Imposition or payment of a civil penalty under this section shall not be a bar to actions alleging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover an amount based on the gain resulting from individual or corporate criminal violations.