

Agenda Item No.:	C
Topic:	Forest Practice Rules Maintenance
Date of Presentation:	June 7, 2023
Contact Information:	Josh Barnard, Forest Resources Division Chief 503-551-8568, josh.w.barnard@odf.oregon.gov

SUMMARY

This agenda item seeks from the Board of Forestry the approval to make technical adjustments and conforming amendments to previously adopted rules that implement Senate Bill (SB) 1501 (2022), SB 1502 (2022), and the Private Forest Accord (PFA) Report. This is a decision item.

BACKGROUND

SB 1501 directed the Board to adopt a single rule package consistent with the PFA Report by November 30, 2022. This rule package was adopted by the Board on October 26, 2022. SB 1501 authorizes the Board to make minor, conforming changes to the rules, without undergoing typical rulemaking processes, until July 1, 2023.

Following the adoption of the rule package, staff and agency partners identified technical issues that need to be addressed and previously unresolved rule language has been developed and needs to be incorporated into the rules.

RECOMMENDATION

The department recommends the Board adopt the proposed rule revisions as submitted.

NEXT STEPS

The department will submit the rule changes to the Secretary of State for filing.

ATTACHMENTS

- (1) Summary of revisions for adoption.
- (2) Detailed, mark up of revisions to the following Oregon Administrative Rules (OAR)
Chapter 629 Divisions:
 - 600 Definitions
 - 603 Adaptive Management Program
 - 605 Planning Forest Operations
 - 607 Small Forestland Owners
 - 625 Forest Road Construction and Maintenance
 - 630 Harvesting
 - 643 Water Protection Rules: Vegetation Along Streams
 - 678 Compliance Monitoring

Summary of revisions to Forest Practice Rules as adopted in October 2022

This document contains proposed modifications to the Forest Practices Rules. Modifications shaded in green would be effective 7/1/23, rather than 1/1/24.

Division 600. Definitions

Rules affected	Summary of modification	Reason for changes
0100(13) to (99)/ (103)	Moves the effective date of defined terms from 1/1/24 to 7/1/23, renumbers as necessary. Substantive changes have not been made to the definitions as approved in 10/22.	Definitions for common ownership, Eastern Oregon, small forestland, small forestland owner, and Western Oregon are needed to support forest practice rules effective 7/1/23.
0100(89)/(92)	Modifies the definition of “Type SSBT stream”.	Needed to align with the new stream classifications.
0100(16)	Modifies the definition of “Biological goals and objectives”.	Minor change so the term has meaning before the approval of a plan.
0100(39)	Deletes the “Dry channel area” definition in its entirety.	The term as defined is not referenced in the rules and is inaccurate.
0100(53/52)	Modifies the definition of “Forest conservation tax credit”.	Technical correction to refer to “small forestland owners” as defined.
0100(119) to (163)	Establishes “Significantly disproportionately impacted” as a defined term, renumbers as necessary.	This addition is needed to fulfill the intent of the Private Forest Accord report and its authors.

Division 603. Adaptive Management Program

Rules affected	Summary of modification	Reason for changes
0000(6)(c)	Modifies the definition of “Biological goals and objectives”.	Minor change so the term has meaning before the approval of a plan.
0000(6)(f)	Modifies the definition of “Research agenda”.	Technical correction to match the 1/1/24 629-600-0100 definition.
0100(1)	Reorganizes the section and makes minor modifications to text.	Minor change to reduce redundancies and clarify intent.
0200(2)	Modifies the due date for items related to the AMPC and IRST.	These additional six months are needed for implementation.
0200(6)(b)(H)	Removes unnecessary text.	Minor change for clarity.
0200(8)(b)	Adds the word “board” before meeting.	Minor change for clarity as the word was inadvertently missed.
0300(5)	Modifies the time an interim member can serve on the AMPC.	Needed to better align with the formal appointment process.

Division 605. Planning Forest Operations

Rules affected	Summary of modification	Reason for changes
0170(10)(a)(G) and (10)(a)(H) to (K)	Deletes (10)(a)(G) in its entirety removing the ability to waive a written plan in a specific scenario. Renumbers as necessary.	Needed to address a contradiction in the following subsection that states a written plan is not waivable for that scenario.
0173(5)(w) to (aa)	Updates rule references and modifies text to reflect the new geographic regions and stream classifications.	Technical changes needed to align and conform with rules adopted in 10/22.

Division 607. Small Forestland Owner

Rules affected	Summary of modification	Reason for changes
0000(5)	Deletes (5) in its entirety, without an implementation impact.	The language of (5) was placeholder language.
0100	Updates rule heading from “Prescriptive Alternatives”.	Technical change for accuracy.
0100(1)	Corrects rule reference, removes language for clarity.	Technical change is needed for consistency and accuracy.
0100(2)	Reorganizes the section, adds a missing rule reference, corrects a rule reference and a typo.	Technical changes needed to add a reference that was inadvertently missed, increase accuracy and clarity.

0100(3)	Creates alternatives for significantly disproportionately impacted SFO parcels.	This addition is needed to fulfill the intent of the Private Forest Accord report and its authors.
0200(1)	Replaces “defined” with “described”.	Technical correction needed for accuracy.
0200(1)(c)	Adds a subsection as intended.	Technical correction as the subsection was inadvertently missed.
0250(3)(d)	Adds a subsection to create notification requirements for significantly disproportionately impacted parcels.	This addition is needed to fulfill the intent of the Private Forest Accord report and its authors.
0250(6), (7) and (8)	Adds a section to require a Forest Management Plan for significantly disproportionately impacted SFOs and renumbers.	This addition is needed to fulfill the intent of the Private Forest Accord report and its authors.
0250(7)	Updates text to refer to “small forestland owners”.	Technical correction to refer to “small forestland owners” as defined.
0400(4) and (5)	Makes minor adjustments to text for clarity.	Technical changes for accuracy and clarity.
0450(3)	Adjusts the date the 50 year conservation timeline begins.	Minor change needed for implementation purposes.
0600(2) and (3)	Makes minor adjustments and turns a “shall” into a “may”.	Minor changes needed for implementation purposes.
0750(1)(b) and (c) and (2)(b), (c) and (e)	Adjusts the text to align with Department of Revenue processes.	Minor changes needed for implementation purposes.
0800(1)	Establishes a timeline for notices of disagreement.	This addition is needed for implementation purposes.

Division 625. Forest Road Construction and Maintenance

Rules affected	Summary of modifications	Reason for changes
0100(7) and sections of 0320	Deletes the words “fish” or “non fish”.	Technical correction to align with the new stream classifications.
0600(8) and (9)	Moves unchanged language from (8)(c) to a new (8), established (9) with unchanged language and renumbers.	Minor placement change for accuracy as the text did not belong as part of the list.
0900(6)(a)(D) and (b)	Updates text to read “FRIA initial inventory submission”.	Technical correction for consistency.
0920(2)	Updates text to read “Forest Road Inventory and Assessment”.	Technical correction to refer to the term as defined.

Division 630. Harvesting

Rules affected	Summary of modifications	Reason for changes
0700(3)(d)	Adds “Type” to appropriately refer to “Type NP streams”.	Technical correction to refer to the term as defined.
0910(4)	Deletes redundancies without a change to impact.	Technical correction to reduce redundancy and increase clarity.

Division 643. Water Protection Rules: Vegetation Along Streams

Rules affected	Summary modifications	Reason for changes
0140(4)	Adds clarifying language and updates a rule reference.	Technical correction needed for accuracy and clarification.
0300(2)	Updates text to include a section as intended and updates “areas” to “regions”.	Technical correction as the section reference was inadvertently missed and for consistency.

Division 678. Compliance Monitoring

Rules affected	Summary modifications	Reason for changes
0110(1)	Adds clarifying language to align with the intent.	Technical correction needed for accuracy and clarification.

Forest Practice Rule Revisions for Adoption 6/7/23

Bold text indicates new language, text with a strikethrough indicates a deletion, and "..." indicates there is language before or after what is shown that does not have proposed changes. Revisions marked with "*" are proposed for a 7/1/23 effective date therefore track changes may reflect on current rule language rather than the rules adopted 10/2022. Additional numbering changes will occur where necessary. Previously adopted rules with an effective date of 7/1/23 include notes clarifying implementation dates which will be deleted 1/1/24 as they will no longer be necessary.

629-600-0100 Definitions

*** (13) "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.**

(16) "Biological goals and objectives" means the biological goals and objectives as set by the department for an approved habitat conservation plan **to meet requirements of section 11 (1) chapter 33, Oregon Laws 2022.**

*** (21) "Eastern Oregon" means the region east of the Cascade Crest in Oregon as described in OAR 629-635-0220.**

~~(39) "Dry channel area" means that area between the inside edge of the small forestland owner minimum option and the edge of the dry stream channel that:~~

- ~~(a) Is within a surveyed dry channel portion of a small Type Np stream in Western Oregon that under the small forestland owner minimum option is a required no harvest buffer;~~
- ~~(b) Does not flow water year-round; and~~
- ~~(c) Is 100 feet or more in length.~~

~~* (413) "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 section (157) of this rule.~~

~~(532) "Forest conservation tax credit" means a tax credit available to small forestland landowners 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.~~

~~* (7173) "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. for the purpose of implementing a wildlife food plot 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.~~

*** (74) "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.

***~~(769)~~** "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 ~~section (157)~~ of this rule.

***~~(8992)~~** "Type SSBT stream" means a ~~small or medium~~ stream that is classified as a Type F stream and ~~that~~ has SSBT use. ~~Stream sizes are determined by the State Forester as described in OAR 629-635-0200(15).~~

***~~(99)~~** "Western Oregon" means the region west of the Cascade Crest as described in OAR 629-635-0220.

***~~(95100)~~** "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 ~~section (157)~~ of this rule.

(121) "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.**

629-603-0000 Adaptive Management Program Purpose

***~~(6)~~** For the purposes of this rule division, the following definitions apply:

- (a)
- (c) "Biological goals and objectives" means the biological goals and objectives as set by the department for an ~~approved~~ habitat conservation plan **to meet requirements of section 11 (1) chapter 33, Oregon Laws 2022.**
- (f) "Research agenda" means the ~~prioritized research proposals and associated budget 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 on the following:~~
 - ~~(A) Evaluating if the biological goals and objectives are being met to achieve overall program goals;~~
 - ~~(B) (A) Assessing whether Determine if additional scientific inquiry is needed to fill-in knowledge gaps to inform if related to biological goals and objectives are being met to achieve overall program goals; and~~
 - (C) Testing and improving **existing and new** models and methodologies used to design and implement forest practices rules **intended to meet the biological goals and objectives.**

629-603-0200 Adaptive Management Program Process Steps

*~~(2) By August 1, 2023~~ **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).

*~~(6) Step 4:~~ The IRST shall implement the research agenda approved by the board pursuant to subsection (5)(d) of this rule.

- (a).....
- (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)
 - (H) Other RFP elements required by the IRST Housing Agency ~~agreed to perform work~~ specified in OAR 629-603-0450.

*~~(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)
- (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

*~~(5) An organization on the AMPC may designate someone to serve as an interim member in place of their current member for up to 90 days.~~ 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.**

629-605-0170 Written Plans

*~~(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)
- ~~(G) 629-630-0700(3)(f) — Cable yarding across small Type Np or Type Ns streams located within designated debris flow traversal areas as described in, OAR 629-630-0905, or designated sediment source areas, as described in OAR 629-630-0910;~~
- ~~(HG)~~

629-605-0173 Plans for 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:

-(w) ~~629-643-0100(8)~~~~642-0100(13)~~ — Modifying the vegetation retention requirements in the riparian management area along a Type F **and Type SSBT streams in Western Oregon** to allow the removal of roadside trees **upslope of roads** which pose a safety hazard;
- (x) ~~629-643-0105(10)~~~~642-0105(15)~~ — Modifying the vegetation retention requirements in the riparian management area along a Type ~~NSSBT~~ **streams in Western Oregon** to allow the removal of roadside trees **upslope of roads** which pose a safety hazard;
- (y) ~~629-643-0120(8)~~~~642-0400(14)~~ — Modifying the vegetation retention requirements in the riparian management area along a Type ~~F and Type SSBT~~ **or Type N streams in Eastern Oregon** to allow the removal of roadside trees **upslope of roads** which pose a safety hazard;
- (z) ~~629-643-0125(8)~~~~642-0500(4)~~ — ~~Placing wood in a Type F or Type SSBT stream or conducting other activities to meet the same purpose as leaving green trees and snags along small Type N streams subject to rapidly moving landslides~~ **Modifying the vegetation retention requirements in the riparian management area 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)~~~~642-0700(1)(a)~~ — Utilizing site specific vegetation retention prescriptions for streams and riparian management areas;.....

629-607-0000 Purpose and Goals

~~(5) In some rare circumstances, a small forestland ownership may become highly encumbered by Forest Practice Administrative Rules. This high encumbrance is most likely to be true in ownerships with a dense concentration of streams when the encumbrances affect an owner of modest means who is highly dependent on revenue from encumbered locations. For these extraordinary cases, the department will work to develop a process prior to July 1, 2023, to address the significantly disproportionate impacts on small forestland owners of modest means who are highly dependent on revenue from locations with highly dense concentrations of streams by the Forest Practice Administrative Rules.~~

629-607-0100 Prescriptive Small Forestland Owner Alternatives

~~(1) Forest Practice Administrative Rules practice rules apply to small forestland owners, as they would to any other non-federal landowner, unless addressed directly or by reference in the small forestland owner 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 the following minimum options:~~

~~(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) Harvest a~~ **Along fish streams with stream adjacent failures as described in in OAR 629-630-0920;**
- ~~(c) Harvest n~~ **Near seeps or springs as described in OAR 629-643-0145; and**
- ~~(d) Harvest type 1, 2, or 3 e~~ **On steep slopes with designated debris flow traversal areas as described in OAR 629-630-091220;**

~~(eb) On forest roads~~ **An exemption from the requirements of the Forest Road Inventory and Assessment program as described in in OAR 629-625-0920; and**

~~(fc) Plans for alternate practice for (a) through (e), and as otherwise 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 ~~defined~~ **described** in OAR 629-607-0100, exclusively available to small forestland owners, shall do the following:

(a)

(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)

629-607-0250 Notification Requirements

(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; ~~or~~

(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.

(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)~~ 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 landowner 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.

629-607-0400 Forest Conservation Tax Credit – Process for Determining Eligibility

(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, ~~the deed restriction~~ **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 ~~appropriate~~ **allowed by law**.

629-607-0450 Forest Conservation Tax Credit Area

(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 ~~notification of operation was filed~~ **certification was issued**.

629-607-0600 Forest Conservation Tax Credit - Transfer to Heirs

(2) The executor of the small forestland owner’s estate ~~shall~~ **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 ~~the amended certificate to~~ **documentation prescribed by** the Department of Revenue to maintain the forest conservation tax credit.

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) ...

(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 interest rate shall be the underpayment rate. The repayment amount can be paid directly to the Department of Revenue or be added to the taxpayer's income tax liability.~~ **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 ~~repay~~ **provide evidence that the tax credit has been repaid** and **to** remove the deed restriction from the county records.

(d)

(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) ...

(b) The subsequent small forestland owner shall ~~repay~~ the Department of Revenue ~~the original~~ **an amount equal to of 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 interest rate shall be the underpayment rate. The repayment amount can be paid directly to the Department of Revenue or be added to the taxpayer's income tax liability.~~ **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 ~~repay~~ **provide evidence that the tax credit has been repaid** and **to** remove the deed restriction from the county records.

(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)

629-607-0800 Forest Conservation Tax Credit – Appeal Rights

(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

629-625-0100 Written Plans for Road Construction

(7) In addition to the written plan requirements in OAR 629-605-0170(12) and (13), written plans for Type F and Type SSBT ~~fish~~ streams shall include the following:

629-625-0320 Water Crossing Structures

(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 ~~fish~~ 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 ~~non-fish~~ streams and in Type F and Type SSBT ~~fish~~ 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 ~~fish~~ streams using the stream simulation approach. Water crossing design in Type F and Type SSBT ~~fish~~ 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 ~~fish~~ 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 ~~fish~~ 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)

(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).....

(i) Design permanent channel-spanning structures in Type F and Type SSBT ~~fish~~ streams using stream simulation and comply with the following:

(A)

(6) Permanent Water Crossing Culverts in Fish Streams. For permanent water crossing culverts in Type F and Type SSBT ~~fish~~ streams, operators shall conform to (5)(a) through (f) and design and construct culverts using a stream simulation as follows:

(a)....

(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 ~~fish~~ streams shall require manual placement of culvert bed materials during bed construction.

(B)

(7) Fords. For fords, operators shall design and construct those structures to meet all the following criteria:

(a)...

(g) For Type F and Type SSBT ~~fish~~ streams, any ford structure shall:

(A)

(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 ~~non-fish~~ 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 ~~fish~~ 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)

(d) Only use temporary water crossings on Type N and Type D ~~non fish~~ streams:

(A)

(10) Construction of Water Crossings. In the construction of water crossings, operators shall do the following:

(a)....

(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)

(C) For all water crossings in Type F and Type SSBT ~~fish~~ streams, operators shall do the following:

(i) Worksite isolation:

(I)

(II) When constructing water crossings in Type F and Type SSBT ~~fish~~ 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)....

629-625-0600 Road Maintenance

(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.

(89) In order to maintain fish passage through water crossing structures, operators shall:

(a)

(b) As reasonably practicable, keep structures cleared of woody debris and deposits of sediment that would impair fish passage; **and**

~~(c) 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; and~~

~~(d)~~

629-625-0900 Forest Road Inventory and Assessment

(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)

(D) At minimum, the FRIA initial inventory ~~plan~~ submission shall include:

(i).....

(b) The FRIA ~~initial inventory plan~~ submission shall identify each road segment as:

(A)

629-625-0920 Road Condition Assessment

(2) The requirements of the ~~Forest Road Inventory and Assessment~~ program described in OAR 629-625-0900 do not apply to small forestland owners.

629-630-0700 Yarding; Cable Equipment Near Waters of the State

(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)
- (d) Large or medium **Type Np** streams;
- (e)

629-630-0910 Western Oregon Harvesting; Standard Practice; Designated Sediment Source Areas and Slope Retention 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) Reduce worker safety, as described in OAR chapter 437, division 7, Forest Activities; or~~
- ~~(b) Eligible concerns that may warrant selection of non-priority areas to satisfy the minimum 50 percent designated sediment source area requirement are the priority areas that would:~~

- ~~(Aa) Clearly reduce worker safety, as described in OAR chapter 437, Division 7, Forest Activities; or~~
- ~~(Bb) Cause more resource impact, such as additional road or landing construction, excessive sidehill yarding, or other yarding practices that clearly increase ecological impacts.~~

629-643-0140 Small Forestland Owner Minimum Option Vegetation Retention Prescription Requirements

(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 ~~(5)(b)~~ **(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)

629-643-0300 Alternative Vegetation Retention Prescriptions

(2) Section (3) **and (4)** of this rule are alternative vegetation retention prescriptions described for the geographic ~~areas~~ **regions** 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.

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.