



URBAN GROWTH BOUNDARIES AND THE OREGON FOREST PRACTICES ACT

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In 1971, working closely with the forest industry and other interests, the Oregon legislature enacted the Oregon Forest Practices Act (FPA). This legislation gave the Oregon Board of Forestry exclusive authority to develop statewide and regional rules under the FPA.

Federal agencies agreed to meet or exceed terms of the FPA, and the state legislature revises the FPA as social concerns or new scientific information comes to light.

The Oregon Board of Forestry enacted the *Forest Practice Rules* in 1972. The Board has periodically revised them based on new scientific findings, monitoring or other information.

What's the policy and scope of the Forest Practices Act (FPA)?

On Oregon's private and nonfederal public forestlands, commercial operations on forestland are regulated by the FPA and associated forest practice rules. The FPA encourages economically efficient forestry practices to ensure the continuous growing and harvesting of trees on private forestland, consistent with sound management of soil, air, water, fish and wildlife resources, and scenic resources along certain highways (paraphrase from ORS 527.630(1)).

The FPA and forest practice rules are considered "Best Management Practices" that meet water quality standards under the federal Clean Water Act.

Who administers the FPA?

The Oregon Department of Forestry administers the Forest Practices Act (FPA) and forest practice rules with field foresters at District and Unit offices across the state. The focus is first on educating landowners and operators through field visits or other communications prior to logging operations.

Most operators comply with the FPA and forest practice rules. Where operators do not comply, the department takes enforcement action, which may include warnings or citations and civil penalties (fines).

Where does the FPA apply?

Designed primarily to protect natural resources while promoting the continuous economic activity of growing and harvesting forest trees, the FPA applies to all non-federal forestland, including private, state-owned and local government-owned forestlands.

Inside or outside of urban growth boundaries, it applies to all timber harvesting or related activities that are part of commercial forest management.

In many instances, however, local communities desire other types of protection, such as maintaining tree canopy levels across the landscape, or protecting specific trees or groves with high cultural or social values. To address local needs, ORS 527.722 allows any local government to design and apply its own local forest practice regulations within the local urban growth boundary.

The Oregon Department of Forestry surrenders jurisdiction over forest practices within the urban growth boundary to the local government if a local regulation (including the development process) complies with the requirements in ORS 527.722. A city and county may agree to extend a city's forest practice ordinance into the unincorporated area inside the urban growth boundary; at least one county has adopted a local forest practice ordinance that applies in the unincorporated area within an urban growth boundary.

As local governments evaluate the need for local forest practices regulations, ODF's Forest Practices and Urban Community Forestry Programs can provide technical assistance and review of draft ordinances. Local governments that want to replace state administration of the forest practices act are encouraged to contact their local ODF field office.

What standards must "local" forest practice regulations meet?

As noted above, ORS 527.722 requires local governments to meet certain standards when developing a local forest practice regulation. The standards are designed to promote thoughtful development of regulations through open, intentional

processes and cooperation among state and local governments.

To meet the standards, local forest practice regulations must:

- Protect soil, air, water, fish and wildlife resources;
- Be acknowledged as in compliance with land use planning goals;
- Be developed through a public process;
- Be developed for the specific purpose of regulating forest practices; and
- Be developed in coordination with the State Forestry Department and with notice to the Department of Land Conservation and Development.

If the standards are not met, the position of the State of Oregon is that the Forest Practices Act still applies and the local forest practice regulation has no authority over operators or landowners.

Key elements of Oregon's Forest Practices Act

- Planning – Operators must notify the Oregon Department of Forestry at least 15 days before starting operations to allow time for cooperative discussion before activities begin.
- Operations – The FPA and forest practice rules apply to any of the following activities that are part of the commercial growing and harvesting of forest trees: timber harvesting, road construction and maintenance, slash treatment, reforestation, and pesticide and fertilizer use.
- Reforestation – If tree stocking is below rule standards after harvesting, landowners must plant trees within two years and have a healthy, freely growing stand by the sixth year.
- Slash Treatment – The forest practice rules allow burning and other valuable management tools as long as soil, air, and water are protected.
- Chemical Application – The rules recognize that fertilizers and pesticides are valuable management tools, if soil, air, and water are protected.
- Landslides and Public Safety – Harvesting and road construction on steep slopes above homes

or roads are regulated to minimize the risk of landslides to public safety.

- Road Construction and Maintenance – The forest practice rules recognize the necessity for a well-designed and maintained road system; soils and water quality must be protected.
- Harvesting – The forest practice rules recognize timber harvesting as an important practice. Soils, wildlife habitat, and water quality must be protected.
- Water Protection – Forest practice rules require tree retention along many streams, wetlands, and lakes. Operators must protect soils, fish and wildlife habitat, and water quality.
- Wildlife Sites – Operators must time operations and retain trees near specific wildlife sites to protect those sites and avoid excessive disturbance of specified wildlife species.
- Scenic Highways – Operators must retain a screen of trees along certain state and federal highways.

Other Notes

- Changes of Land Use: The FPA expressly does not prohibit changing the use of forestland to

another use. However, such changes are subject to other state and local regulations. ORS 527.722(4) allows counties to prohibit, but in no other manner regulate, forest practices in specific areas outside UGBs if an acknowledged exception to an agricultural or forestland goal has been taken. The intent of this allowance is to provide a way for counties to protect outstanding natural features if harvesting or other forest practices might damage them.

- Nothing in the FPA limits local government authority over other activities associated with development permits. Local governments retain the authority to regulate those activities, regardless of whether they have adopted local forest practice regulations under ORS 527.722.
- The Oregon Department of Agriculture notes that ORS 634.055 through 634.065 prohibit local governments from regulating storage or use of pesticides (only the state may do that). Based on this interpretation, if a local government adopted a local forest practice regulation, it would not have the authority to regulate forest pesticide use, even if the regulation met the standards in ORS 527.722.

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