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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141  
DEPARTMENT OF STATE LANDS

**FILED**

01/30/2025 9:03 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Codify the 2024 Elliott State Research Forest Management Plan into Oregon Administrative Rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/05/2025 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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**NEED FOR THE RULE(S)**

This proposed rule intends to advance public accountability with respect to the Elliott State Research Forest (ESRF), its Forest Management Plan (ESRF FMP) and related Department of State Land management actions on the forest. In 2022 (SB 1546) the Oregon Legislature advanced statutory direction for creation, oversight and public accountability with respect to the Elliott State Research Forest. This statute was nullified without Legislative action in 2023 due to non-compliance with specified timelines for statutory enabling actions. The State Land Board subsequently determined to continue creation of the ESRF. It advanced actions in 2024 to do so consistent with the Legislature's 2022 policy direction, to the extent authorized by Land Board and Department of State Lands legal authorities. This included adoption of the ESRF FMP with related public accountability commitments in October 2024.

In the ESRF FMP, the Department stated:

"DSL also wants to clarify its intention to ensure accountability with respect to the FMP and related DSL management actions on the forest. Assuming this proposed FMP is first adopted by the State Land Board, the Department intends to incorporate the FMP into a formal Oregon Administrative Rule for subsequent adoption by the Land Board." (see ESRF FMP Introduction p.3, see also Ch. 2-28)

Consistent with the Land Board's adoption of the FMP, the proposed rule follows through on this commitment. By incorporating the ESRF FMP into an Oregon Administrative Rule, public accountability in the ESRF's management will be advanced in a manner envisioned by the Legislature in 2022, by the Land Board in 2024, and by the underlying collaborative planning process that resulted in the ESRF.

Rule adoption would require the Department to review the ESRF FMP at a 5-year period pursuant to ORS 183.405 (relating to administrative rule review) and report to the Land Board, with the report addressing the effects of the FMP including but not limited to:

- Whether the FMP had the intended effect;

- Whether the anticipated fiscal impact of the FMP was underestimated or overestimated;
  - Whether subsequent changes in the law require that the FMP be repealed or amended;
  - Whether there is continued need for the FMP; and
  - What impacts the FMP has had on small businesses.
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## DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Elliott State Research Forest Management Plan

<https://oregonstatelands.box.com/s/ek7a89ennz7ggumm35hhsb954k3t5k3q>

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## STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Oregon Department of State Lands is committed to the fair, just, and unbiased treatment of people of all races. Actively identifying and addressing inequities to ensure inclusive public service is one of the Department's five core values.

Evaluating who a proposed administrative rule will impact, and how the rule may impact some groups of people differently than others, is essential to providing equitable service. During the ESRF FMP's development and public engagement (including public review and comment period), the Department examined the following to ultimately determine potential impacts on racial equity:

- What persons and groups are subject to the rule?

Several groups are affected by the rule, they include: Federally recognized Tribes of western Oregon, local and regional forest contractors and mills, research institutions, state agencies, conservation interests, recreational users, and other local communities, governments and organizations.

- What issues is the rule seeking to address? Which racial groups are likely to be affected by those issues?

The rule seeks to formalize components of the ESRF FMP and ensure public accountability. While the proposed rule and ESRF FMP are designed to apply broadly and non-discriminatorily, Indigenous and Latino communities may experience unique and disproportionate effects due to historical and structural inequities. These groups are more directly connected to the forest through labor, governance, and cultural practices, and the ESRF FMP seeks to acknowledge and address these dynamics.

- Ultimately, what impacts may this rule have on racial equity?

This rule may positively address racial inequity in Oregon.

- o Available data indicate that Latino engagement in the labor-intensive forest workforce is proportionally high, and that Indigenous and Tribal engagement in forest governance and management is proportionally low. The Elliott State Research Forest FMP has an intended positive effect on these two engagement dynamics. This rule may support the labor-intensive forest workforce through increased job availability, forest management contracts and related activities. Since approximately 2013, these opportunities have been very low overall due to reduced management activities on the forest.

- o Indigenous peoples, Tribal Nations, and their members may also see intended positive effects of this rule through the ESRF FMP's specific provisions and intentional opportunities to integrate Indigenous interests in research practices, co-stewardship of forest resources, cultural uses, and co-generation of other opportunities on the ESRF. The ESRF FMP

contains relevant provisions and intentional language across several chapters, including principles for working with Indigenous Knowledges and Partnering with Tribal Nations and Indigenous peoples developed by the OSU College of Forestry's underlying work (FMP, Ch. 3.1.2, p. 3-3).

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#### FISCAL AND ECONOMIC IMPACT:

The Department of State Lands will be fiscally affected by the adoption of the ESRF FMP, both positively through the generation of revenue from timber production and carbon contracting, and negatively through costs associated with protection measures, monitoring, maintenance and improvement to the forest as described in the ESRF FMP. Impacts to the Department have been contemplated by the Oregon State Legislature, and by the ESRF Board of Directors through community and Government-to-Government engagement, general public review and comment, and finally by the Oregon State Land Board prior to adoption of the ESRF FMP.

The proposed rule is not expected to have an economic impact on any other state agencies, local governments, or the public.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) No state agencies other than the Department will be fiscally or economically impacted directly by the rule. The ESRF FMP identifies partnership opportunities and areas of Department engagement with other state agencies, but it does not create obligations or unfunded mandates upon those agencies. In addition, while the ESRF FMP's implementation is likely to create enhanced economic activity and related benefits at the local level, the rule does not create any obligations or direct restrictions on local government or the public. The Department does not anticipate a negative economic effect to units of local government or members of the public through the adoption of this rule.

(2)(a) There are no types of small businesses that are subject to this rule. This is not a regulatory rule that requires reporting or involuntary compliance by a small business.

(2)(b) This is not applicable as there is no required reporting, recordkeeping or administrative activities being imposed by the rule on small businesses. The rule codifies a management plan for a block of state-owned land. There may economic opportunities for small businesses through the implementation of the ESRF FMP, including but not limited to:

- Timber harvest, haul out and wood products manufacturing;
- Forest and road maintenance;
- Habitat restoration projects;
- Research, and monitoring work;
- Recreation, education, and/or eco-tourism opportunities; and
- Enhanced use of the local contracting, hospitality, amenity, or other business sectors associated with the above activities.

(2)(c) There is no expected increase in administrative costs on small businesses from the implementation of this rule. This is not a regulatory rule imposed on a group or industry. It is the adoption of a management plan for a block of state-owned land.

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#### DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Review and input from small businesses was solicited by the Department through the ESRF FMP process. This included:

- Inclusion of local small business interests as well as community leaders on the Elliott State Research Forest Advisory Committee and the Elliott State Research Forest Board of Directors, whose input and views shaped the ESRF FMP.
- Direct engagement of small businesses in the development of FMP content related to timber production, research, habitat restoration, and financial viability review.
- Public outreach, engagement, and comment opportunities on the ESRF FMP that reached small businesses and included meetings in local communities and with staff and/or boards of local entities that include business interests.
- Exposure of small businesses to the ESRF FMP and engagement opportunities through public meetings of the ESRF Board of Directors and State Land Board, including public comment periods.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Robust outreach and engagement occurred in the ERSF's formation and FMP's development through ESRF advisory committees and a Board of Directors. These entities included representation from interests including conservation, forest products, recreation, school association, research / education, as well as Tribes, local governments, and the public at large. Advisory committee and Board meetings were publicly noticed, open to the public, and included public comment periods. The Department also directly engaged state and federal agencies in the FMP development process. Further, the ESRF FMP was developed and revised through a 60-day public review and comment period, which included three public meetings held in Salem and Coos Bay, as well as virtual participation options. More information on the development of the ESRF FMP can be found here: <https://www.oregon.gov/dsl/Pages/Elliott.aspx>

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ADOPT: 141-079-0001

RULE SUMMARY: Incorporation of the 2024 Elliott State Research Forest Management Plan, as adopted by the State Land Board, into Oregon Administrative Rules for purposes of advancing public accountability.

CHANGES TO RULE:

141-079-0001

Elliott State Research Forest - Forest Management Plan

The 2024 Forest Management Plan for the Elliott State Research Forest, as promulgated by the State Land Board and the Department of State Lands, is hereby adopted by reference.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: Oregon Constitution, Article VIII, Section 5, ORS 273.041, ORS 273.045

Statutes/Other Implemented: ORS 273.171, ORS 530.450-530.520