



## **THREATENED AND ENDANGERED PLANTS IN OREGON: RESPONSIBILITIES OF NON-FEDERAL PUBLIC LAND MANAGERS**

### **OVERVIEW**

Any ground- or vegetation-disturbing land action taking place on Oregon non-federal public lands that might result in the taking of a threatened or endangered (listed) plant species requires a consultation with the Oregon Department of Agriculture (ODA). This requirement is authorized by the 1987 Oregon Senate Bill 533 and its corresponding Oregon Revised Statute (ORS 564.010 to 564.994).

This document reviews the legal responsibility and requirement of Oregon non-federal public land managers to protect and conserve threatened and endangered plants on their land, and how to work with ODA to fulfill these obligations.

### **SECTION 1: LAND MANAGER RESPONSIBILITIES**

When a land action is proposed on non-federal public lands, the land manager must take the following steps to ensure compliance with Oregon threatened and endangered plant protection laws. When others engage in actions on public lands, it is the responsibility of the government agency managing those lands to ensure compliance by taking the following actions:

1. Determine (through surveys, Oregon Biodiversity Information Center spatial analysis, and/or consultation with ODA staff) whether any listed plant species occur or are likely to occur on the property targeted for land action. Surveys must be conducted by someone with expertise in the field of botany, plant taxonomy, and biological conservation. Also, surveys must be conducted during the time of year when it is possible to identify listed plants (usually when these plants are in flower and fruit). If no listed plants are found, no further action is needed (although documentation of the process used to determine whether listed plants are present may be required).
2. If listed species occur or are likely to occur on lands targeted for action, survey the project area (before land action commences) and determine if the proposed action has the potential to impact the listed species.
3. Initiate consultation process with ODA (see next section).

## **SECTION 2: ODA LISTED PLANT CONSULTATION PROCESS**

Once it is determined that a listed plant species occurs or is likely to occur on lands targeted for state action, ODA will work with non-federal public land managers to protect that species. Land managers can ensure compliance with ORS 564.010 to 564.994 by following these steps:

1. Before initiating land action, within 30 business days of receiving survey and assessment results of threatened and endangered plant presence (see Section 1 above), the land manager must email relevant documents to ODA ([listedplants@oda.oregon.gov](mailto:listedplants@oda.oregon.gov)) for review.
2. ODA will notify the land manager of our findings within 45 business days. One of three things may occur at that time:
  - a. If land action will not impact listed plants, and no additional information is needed, ODA will notify the land manager that the action may proceed.
  - b. If additional information is needed, ODA will request submission of the needed information.
  - c. If it is determined that the land action will impact a listed plant, ODA may require a written evaluation of the action's effect on the listed plant.
3. Once the written evaluation is submitted, ODA will review the document and return comments within 90 business days. At this time, ODA may recommend alternatives to proposed actions. A formal consultation and/or a permit may be required.
4. After the initial consultation is completed, public land managers are required to evaluate population trends (including threats) of listed species on state-managed lands where ongoing actions may conflict with the provisions outlined in ORS 564.105 - 564.120. In addition, land managers must reassess the number and locations of listed species on their lands. This information should be summarized in an annual written report and submitted to ODA by December 31 each year.



## **SECTION 3: DEFINITIONS**

**Action:** Any activity resulting or potentially resulting in the take of a threatened or endangered plant species, including all ground disturbing, vegetation disturbing, plant growth suppressing, or reproduction inhibiting activities within known or suspected habitats of such species; release of biocontrol agents directed at noxious weeds or other pest plant species; or any exchange, transfer, or sale of publicly-owned land that would result in any population of a listed species being removed from state jurisdiction.

**State Agency:** Any publicly funded governmental subdivision of the State of Oregon, including state agencies, county and municipal agencies, public utility districts, state institutions of higher learning, public school districts, port authorities, public irrigation districts, and publicly owned airports. NOTE: Law does NOT apply to private or federal lands.

**Take:** Collect, cut, damage, destroy, dig, kill, pick, remove, transplant, transport, or otherwise disturb plants. Also includes the collection or disruption of pollinators or other organisms required by the plant.

## **REFERENCES**

For more information, please contact the Oregon Department of Agriculture's Native Plant Conservation Program ([listedplants@oda.oregon.gov](mailto:listedplants@oda.oregon.gov)), or visit the following websites:

[Oregon Department of Agriculture Native Plant Conservation Permits and Consultation](#)

[Oregon State List of Endangered and Threatened Plants](#)

[Oregon Biodiversity Information Center Spatial Analysis Request](#)

[Oregon Administrative Rule \(OAR\) 603-073-0090](#)

[Oregon Revised Statute \(ORS\) 564](#)

[ODA Listed Plant Survey Report Template](#)

