

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

PROTECTION MEASURES FOR "OTHER WETLANDS," SEEPS, AND SPRINGS
OAR 629-655-0000

(1) There is no riparian management area for other wetlands, seeps and springs.

RULE COMPLIANCE:

This section is not subject to enforcement action.

ADMINISTRATION AND IMPLEMENTATION:

Section 629-655-0000(1) identifies that other wetlands, seeps and springs do not have protection requirements for riparian management areas. OAR 629-650-0000(2)(c) and (4) establishes that other lakes less than one-half acre without RMAs are to be protected as "other wetlands" for the purposes of Division 655.

Although Division 655 does not contain a purpose statement, OAR 629-635-0100(3) applies, and is paraphrased here:

The purpose of the water protection rules is to protect and maintain the functions and values of lakes and wetlands. These functions include water quality, hydrologic function, the growing and harvesting of trees, and wildlife resources.

Harvest of all trees from other wetlands and lakes described in this section is allowed. However, the functions and values of these other wetlands and lakes must be maintained.

RELATED RULES AND STATUTES:

- OAR 629-635-0100(3) Water protection rules; purpose and goals
- OAR 629-650-0000(2)(c) and (4) Riparian management areas and protection measures for lakes

REFERENCES:

- Oregon Forest Protection Laws, an Illustrated Manual, Third Edition, OFRI

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- (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 wetland to uplands;*

RULE COMPLIANCE:

This subsection is subject to enforcement action. Noncompliance results in adverse impacts to water quality, soil productivity, or aquatic and wildlife habitats. Noncompliance always results in a violation, since there is no opportunity to avoid adverse impacts.

If violations involve excavation or filling of wetlands, contact the Forest Practices Field Coordinator, who will contact the Department of State Lands (DSL); rules administered by that agency may have been violated.

ADMINISTRATION AND IMPLEMENTATION:

Subsection (2)(a) specifies protection requirements for other wetlands greater than one-quarter acre. Lakes that are between one-quarter acre and one-half acre, and that do not have fish receive the same protection as other wetlands greater than one-quarter acre. There is no specified RMA distance for other wetlands greater than one-quarter acre. Under subsection (2)(a), soil and understory vegetation protection requirements for other wetlands and other lakes are similar to the requirements for significant wetlands and lakes with RMAs.

Following are the guidelines for applying protection rules and determining compliance. If the guidelines do not match local site conditions, SFs should encourage operators to submit alternate plans.

Harvesting

To protect understory vegetation during falling operations operators must:

- Carefully plan skid trails and fall trees to lead.
- Carefully select for harvest those trees that may be felled with the least disturbance to understory vegetation.
- Comply with OAR 629-630-0600 Felling; removal of slash

To protect soil productivity, hydrologic function, water quality, and understory vegetation during

ground-based yarding operations, operators must:

- Within wetlands, restrict equipment to upland areas. Equipment may occasionally enter wet soil areas during periods when the soil is dry, frozen, or covered with snow if it can be done with soil cuts, fills, or ruts less than six inches; SFs should carefully evaluate plans for this activity on a site-specific basis.
- Retain sufficient areas of undisturbed soil and vegetation along any aquatic areas to filter sediment from water running off disturbed areas.
- Keep equipment off slopes greater than 35 percent within wetlands unless the entry can be made without cuts or fills greater than one foot.
- Keep skid roads on upland areas within wetlands at least 100 feet apart, unless limited application of closer spacing will better protect wetland values and functions. Spacing should be greater whenever possible. Where SFs allow equipment to enter wet soil areas in dry or frozen periods, skid road spacing figures are not meaningful; it is intended that skid roads in these locations will be rare and isolated.
- Avoid diverting water into or out of wetlands or lakes, or changing hydrology within wetlands or lakes.
- Avoid locating landings in wetlands or along lakes.

To protect soil productivity, hydrologic function, and understory vegetation during cable yarding operations, operators must:

- Fully suspend logs over aquatic areas and wet soil areas, even during dry or frozen periods. At least partial suspension is required over the ground in any other portions of other wetlands.
- Space yarding roads or corridors at least 100 feet apart, unless limited application of closer spacing would better protect wetland or lake values and functions.
- Keep yarding corridors 20 feet or less in width.
- Avoid locating landings in wetlands or along lakes.

Reforestation

Reforestation activities must be directed toward establishing species that are adapted to the site. Upland species may be suitable for upland areas within other wetlands but only wetland species may be used in wet soil areas. Operators are not allowed to alter areas of open water or wet soil so that upland species may be grown.

To protect wetland and lake functions and values during mechanical site preparation operators

must:

- Avoid entry of any equipment into wetland or lake aquatic areas, even if water is not present during dry periods.
- Keep the tracks or wheels of all ground-based equipment out of aquatic and wet soil areas, even during dry or frozen periods.
- Avoid use of "dozer and blade" for scarification or piling in wetlands or immediately adjacent to lakes. Excavators or "slashbuster" type equipment may be used to create planting spots on upland areas within wetlands. The use of excavators for limited piling of slash on upland areas within wetlands is acceptable if it is necessary to accomplish reforestation. Within other wetlands or lakes greater than one-quarter acre, only slash may be piled; naturally downed wood must be left in place. Equipment should use existing skid trails for access as much as possible.
- Avoid any site preparation activity in aquatic or wet soil areas, even during dry or frozen periods. There is one exception to this guideline; excavators may be used for limited manipulation of nurse logs in wet soil areas if the tracks are kept on upland areas.
- Retain sufficient areas of undisturbed soil and vegetation along aquatic areas to filter sediment from water running off disturbed areas.
- Avoid diverting water into or out of wetlands or lakes, or otherwise changing the hydrology within wetlands or lakes.

Roads

Roads may not be constructed in lakes, and should only very rarely be constructed in other wetlands. Operators, in cooperation with SFs, should consider all options to keep roads out of other wetlands. SFs may consider allowing road construction in other wetlands when:

- All reasonable alternate locations will cause more environmental damage than a road in the wetland.
- There are upland areas in the wetland upon which roads can be constructed with low impact to the wetland values and functions.
- A temporary road can be constructed on wet soil areas during dry periods, and the road bed can be restored to nearly the pre-operation condition.

Operators proposing road construction must show that wetland values and functions will be adequately protected if the road construction is allowed. Contact the Area Geotechnical Specialist and the Forest Practices Fish and Wildlife Specialist for recommendations in uncertain road construction situations.

RELATED RULES AND STATUTES:

- OAR 629-630-0600 Felling; removal of slash

REFERENCE:

- Memorandum of Agreement Between ODF and DSL, Dated February 27, 1996
- Oregon Forest Protection Laws, an Illustrated Manual, Third Edition, OFRI

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- (2) (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 OAR 437, Division 6, 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.*

RULE COMPLIANCE:

This subsection is subject to enforcement action. Noncompliance with subsection (2)(b) and/or paragraph (2)(b)(A) occurs when operators:

- Fall snags that are not fire hazards or operational safety hazards, or
- Remove snags that have been felled as fire hazards or operational safety hazards; or
- Remove downed wood that existed prior to the operation.

ADMINISTRATION AND IMPLEMENTATION:

Operators are required to leave all snags and downed trees in other wetlands larger than one-quarter acre and in lakes described above. The term "downed trees" means trees or portions of trees that have been downed by natural causes.

The determination of snags that are operational safety hazards, as defined by OAR 437, Division 6, Forest Activities (administered by OR-OSHA), should normally be left to the operator. Felling of live trees that are operational safety hazards (spike-tops, for example) is covered by OAR 629-605-0400.

Snags in RMAs or wetlands are rarely fire hazards. Thus, snags that are proposed to be felled by operators as fire hazards should be approved by the SF. Snags felled under either of these two conditions must be left where they fall.

The plan for an alternate practice should be used where there is extensive blowdown or mortality in stands on other wetlands greater than one-quarter acre; in these instances, SFs should consult with ODF's Wildlife Biologist and ODFW biologists.

RELATED RULES AND STATUTES:

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

- OAR 629-605-0400 Forest Activity Safety

REFERENCE:

- Oregon Forest Protection Laws, an Illustrated Manual, Third Edition, OFRI
- "*Oregon Guidelines For Selecting Reserve Trees*"; Oregon OSHA

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- (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.*

RULE COMPLIANCE:

This section is subject to enforcement action. Noncompliance with section (3) occurs when operators fail to minimize disturbance to soil or understory vegetation in or along the described lakes or wetlands. Noncompliance results in adverse impacts to water quality, and aquatic and wildlife habitats. Noncompliance results in a violation, since there is no opportunity to avoid adverse impacts.

If violations involve excavation or filling of lakes or wetlands, the DSL may be involved in enforcement actions.

ADMINISTRATION AND IMPLEMENTATION:

Section (3) specifies protection requirements for other wetlands that are less than one-quarter acre in size; lakes that are less than one-quarter acre and do not have fish receive the same protection (see OAR 629-650-000(4)). Except as described in section (4) below, these wetlands and lakes receive the same soil and understory vegetation protection as the wetlands described in OAR 629-655-0000(2)(a). OAR 629-630-0600 through -0800 and OAR 629-615-0200 further describe necessary protection practices. Operators are not required to leave snags or downed wood in the lakes and wetlands less than one-quarter acre.

RELATED RULES AND STATUTES:

- OAR 629-650-0000(4) Riparian management areas and protection measures for lakes
- OAR 629-655-0000(2)(a) Protection measures for "other wetlands," seeps and springs
- OAR 629-630-0600 through 0800 Felling; removal of slash; Yarding; cable equipment; and Yarding; ground-based equipment
- OAR 629-615-0200 Mechanical site preparation

REFERENCE:

- Memorandum of Agreement Between ODF and DSL, Dated February 27, 1996
- Oregon Forest Protection Laws, an Illustrated Manual, Third Edition, OFRI

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- (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.*

RULE COMPLIANCE:

This section is not subject to enforcement action.

ADMINISTRATION AND IMPLEMENTATION:

Operators are expected to make reasonable efforts to locate all wetlands, including "other wetlands." However, as recognized in this section, small wetlands, (especially those less than one-quarter acre in dense stands of vegetation) may be difficult and impractical to identify. Where such conditions exist, inadvertent adverse impact to the wetland will not be considered a violation if:

1. It appears that the operator stopped the damaging activities as soon as the adverse impact became apparent; and
2. The activities causing the adverse impact were not unreasonably repeated.

To illustrate the concept of "discretion" in section (4), two examples are provided:

Example 1: *Several one-tenth acre wetlands are located in an area covered with dense brush and scattered conifers. No standing water is visible in the wetlands. The operator falls several trees, but does not find the wetlands. As he enters the brushy area to begin yarding he notices the tracks starting to sink into soft ground. The operator immediately backs out of the soft area, and tries a different skid road location, where the same thing happens. The operator then gets off the cat and scouts several new skid road routes on dry ground.*

- The operator has shown reasonable care in avoiding the wetlands, even though there have been some minor adverse impacts.

Example 2: *Under the same wetland and vegetation conditions as in example 1 above, an operator enters into one of the wetlands with a dozer. He notices the tracks sinking and wonders if he should keep going, but he is in a hurry and decides to power on through the small wetland. He yards several turns through the wetland, turning it into a rutted mud hole. This operator has not shown reasonable care; he continued to operate in the wetland after seeing obvious evidence that it was there.*

- The operator has violated wetland protection rules. SFs must use their judgment in determining whether operators' actions are reasonable.

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- (5) *Operators are encouraged to:*
- (a) *Retain portions of in-unit live green trees and snags as blocks of intact vegetation around other wetlands; and*
 - (b) *For other wetlands that are forested, adequately consider how reforestation will be accomplished.*

RULE COMPLIANCE:

This section is not subject to enforcement action.

ADMINISTRATION AND IMPLEMENTATION:

This section is advisory; it will not be used in enforcement actions. Subsection (b) does not release landowners from applicable reforestation requirements after harvests on other wetlands.

RELATED RULES AND STATUTES:

- ORS 527.676 Leaving snags and downed logs in harvest type 2 or type 3 units: green trees to be left near certain streams
- Oregon Forest Protection Laws, an Illustrated Manual, Third Edition, OFRI