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ARCHIVES DIVISION  
STEPHANIE CLARK  
DIRECTOR  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

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

CHAPTER 629  
DEPARTMENT OF FORESTRY

**FILED**  
03/31/2020 5:24 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Rule making for Wildlife Food Plots

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/01/2020 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.*

CONTACT: Nathan Agalzoff  
503-945-7349  
nathan.v.agalzoff@oregon.gov

OREGON DEPARTMENT OF  
FORESTRY  
2600 STATE ST BLDG D  
SALEM, OR 97310

Filed By:  
Hilary Olivos-Rood  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 04/30/2020

TIME: 6:00 PM - 7:00 PM

OFFICER: ODF Private Forests  
Representative

ADDRESS: Zoom Teleconference

Hosted by Oregon Department

Forestry

2600 State St

Salem, OR 97310

SPECIAL INSTRUCTIONS:

Join Zoom Teleconference by,

Link:

<https://odf.zoom.us/j/550855006>

or Dial-in using one of the two  
numbers:

1-346-248-7799

1-669-900-6833

\*Note, long distance charges may  
apply.

Meeting ID: 550 855 006

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#### NEED FOR THE RULE(S):

ORS 527.678 requires the State Board of Forestry to adopt rules for implementation and that the board consult with the Oregon Department of Fish and Wildlife (ODFW). The associated administrative rules reflect the input received from ODFW and the advisory committee.

ORS 527.678 became effective on January 1, 2016. At which point the Oregon Department of Forestry developed interim guidance to implement ORS 527.678 for interested landowners. This rule language establishes a more permanent means to implement the section.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 527.678 provides the statutory authority for the State Board of Forestry to promulgate administrative rules on the enrollment of the 2015 Oregon Legislature House Bill 3013, and supplemental staff report documents from the Oregon Department of Forestry (ODF) are located on the Department's website.

<https://www.oregon.gov/odf/AboutODF/Pages/ProposedLawsRules.aspx>

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#### FISCAL AND ECONOMIC IMPACT:

The Oregon Department of Forestry (ODF) anticipates that the proposed rule changes would have minimal to no negative fiscal impact. This determination has been based largely on the fact that the proposed rules would not impose any mandatory or additional requirements on forest landowners. Rather, the proposed rules provide an additional, non-timber, management option for landowners who so choose.

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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).*

Food plot establishment is a small forestland owner's personal management choice, this addition to the Oregon Forest Practices Act has generated minimal amounts of interest and participation since the 2016 effective date.

(1) These rule additions will have no substantial fiscal or economic effect on the Oregon Department of Forestry (ODF), state and local government agencies or the public. ODF estimates that the implementation of these rule modifications will not significantly increase the amount of time agency staff and resources are spent on reviews and consultations.

There should be no additional cost of compliance for other state agencies, units of local government or the public.

(2) (a) There are approximately 68,000 family forestland owners (small businesses), who own between 10 and 5000 acres in the state. These non-industrial ownerships are estimated at 3.6 million acres. There are approximately 1,500 small businesses associated with forestry, logging, wood product supply and forestry support activities that may be subject to these rule changes; however, identifying small businesses that may indirectly benefit from these rule changes is difficult.

(b) Reporting, record-keeping and other administrative activities (including professional services) required for compliance with these revised rules are expected to increase slightly. This rule making effort will slightly add administrative activities associated reforestation compliance, and tracking the the Department of Forestry notification system (FERNS).

(c) There may be a small increase for administration related to compliance. This would generally be in the form of more

frequent inspections, consultation with subject matter experts and Oregon Department of Fish and Wildlife (ODFW).

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

Small businesses associated with forestry, wildlife, and sportsmen are represented on the rule making advisory committee assigned to this rule making effort.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

629-600-0100, 629-605-0100, 629-605-0140, 629-605-0173, 629-610-0100

AMEND: 629-600-0100

RULE SUMMARY: Added 5 new definitions in this section that are used in the new 629-610-0100-Exemption from Reforestation for Wildlife Food Plots.

These new terms are: Forage, Small Forestland, Target Wildlife, Wildlife Food Plot, and Wildlife Guild.

CHANGES TO RULE:

629-600-0100

Definitions ¶¶

As used in OAR chapter 629, divisions 605 through 669 and divisions 680 through 699, unless otherwise required by context:¶¶

- (1) "Abandoned resource site" means a resource site that the State Forester determines is not active.¶¶
- (2) "Active resource site" means a resource site that the State Forester determines has been used in the recent past by a listed species. 'Recent past' shall be identified for each species in administrative rule. Resource sites that are lost or rendered not viable by natural causes are not considered active.¶¶
- (3) "Active roads" are roads currently being used or maintained for the purpose of removing commercial forest products.¶¶
- (4) "Aquatic area" means the wetted area of streams, lakes and wetlands up to the high water level. Oxbows and side channels are included if they are part of the flow channel or contain fresh water ponds.¶¶
- (5) "Artificial reforestation" means restocking a site by planting trees or through the manual or mechanical distribution of seeds.¶¶
- (6) "Basal area" means the area of the cross-section of a tree stem derived from DBH.¶¶
- (7) "Basal area credit" means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing enclosures.¶¶
- (8) "Bog" means a wetland that is characterized by the formation of peat soils and that supports specialized plant communities. A bog is a hydrologically closed system without flowing water. It is usually saturated, relatively acidic, and dominated by ground mosses, especially sphagnum. A bog may be forested or non-forested and is distinguished from a swamp and a marsh by the dominance of mosses and the presence of extensive peat deposits.¶¶
- (9) "Bull Trout" means fish species *Salvelinus confluentus*.¶¶
- (10) "Channel" is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.¶¶
- (11) "Chemicals" means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliants, plant desiccants, and plant regulators, as defined in ORS 634.006(8); fertilizers, as defined in 633.311; petroleum products used as carriers; and chemical application adjuvants, such as surfactants, drift control additives, anti-foam agents, wetting agents, and spreading agents.¶¶

(12) "Commercial" means of or pertaining to the exchange or buying and selling of commodities or services. This includes any activity undertaken with the intent of generating income or profit; any activity in which a landowner, operator or timber owner receives payment from a purchaser of forest products; any activity in which an operator or timber owner receives payment or barter from a landowner for services that require notification under OAR 629-605-0140; or any activity in which the landowner, operator, or timber owner barter or exchanges forest products for goods or services. This does not include firewood cutting or timber milling for personal use.¶

(13) "Completion of the operation" means harvest activities have been completed to the extent that the operation area will not be further disturbed by those activities.¶

(14) "Conflict" means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.¶

(15) "Debris torrent-prone streams" are designated by the State Forester to include channels and confining slopes that drain watersheds containing high landslide hazard locations that are of sufficient confinement and channel gradient to allow shallow, rapid landslide movement.¶

(16) "Department" means the Oregon Department of Forestry.¶

(17) "Diameter breast height" (DBH) means the diameter of a tree inclusive of the bark measured four and one-half feet above the ground on the uphill side of the tree.¶

(18) "Domestic water use" means the use of water for human consumption and other household human use.¶

(19) "Dying or recently dead tree" means a tree with less than ten percent live crown or a standing tree which is dead, but has a sound root system and has not lost its small limbs. Needles or leaves may still be attached to the tree.¶

(20) "Estuary" means a body of water semi-enclosed by land and connected with the open ocean within which saltwater is usually diluted by freshwater derived from the land. "Estuary" includes all estuarine waters, tidelands, tidal marshes, and submerged lands extending upstream to the head of tidewater. However, the Columbia River Estuary extends to the western edge of Puget Island.¶

(21) "Exposure categories" are used to designate the likelihood of persons being present in structures or on public roads during periods when shallow, rapidly moving landslides may occur.¶

(22) "Filling" means the deposit by artificial means of any materials, organic or inorganic.¶

(23) "Fish use" means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.¶

(24) "Fledging tree" means a tree or trees close to the nest which the State Forester determines are regularly used by young birds to develop flying skills.¶

(25) "Forage" means the plant species or other source of food that will be provided to substantially contribute, either directly or indirectly to nutrition of the target wildlife species or guild.¶

(26) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.¶

(267) "Forest practice" means any operation conducted on or pertaining to forestland, including but not limited to:¶

(a) Reforestation of forestland;¶

(b) Road construction and maintenance;¶

(c) Harvesting of forest tree species;¶

(d) Application of chemicals;¶

(e) Disposal of slash; and¶

(f) Removal of woody biomass.¶

(278) "Forest tree species" means any tree species capable of producing logs, fiber or other wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.¶

(289) "Free to grow" means the State Forester's determination that a tree or a stand of well distributed trees, of acceptable species and good form, has a high probability of remaining or becoming vigorous, healthy, and

dominant over undesired competing vegetation. For the purpose of this definition, trees are considered well distributed if 80 percent or more of the portion of the operation area subject to the reforestation requirements of the rules contains at least the minimum per acre tree stocking required by the rules for the site and not more than ten percent contains less than one-half of the minimum per acre tree stocking required by the rules for the site.¶

(2930) "Further review area" means an area of land that may be subject to rapidly moving landslides as mapped by the State Department of Geology and Mineral Industries or as otherwise determined by the State Forester.¶

(301) "Geographic region" means large areas where similar combinations of climate, geomorphology, and potential natural vegetation occur, established for the purposes of implementing the water protection rules.¶

(312) "Harvest type 1" means an operation that requires reforestation but does not require wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free to grow seedlings, saplings, poles and larger trees that is less than the stocking level established by rule of the board that represents adequate utilization of the productivity of the site.¶

(323) "Harvest type 2" means an operation that requires wildlife leave trees but does not require reforestation. A harvest type 2 does not require reforestation because it has an adequate combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:¶

(a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre;¶

(b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre; or¶

(c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre.¶

(334) "Harvest type 3" means an operation that requires reforestation and requires wildlife leave trees. This represents a level of stocking below which the size of operations is limited under ORS 527.740 and 527.750.¶

(345) "High landslide hazard location" means a specific site that is subject to initiation of a shallow, rapidly moving landslide. The following criteria shall be used to identify high landslide hazard locations:¶

(a) The presence, as measured on site, of any slope in western Oregon (excluding competent rock outcrops) steeper than 80 percent, except in the Tye Core Area, where it is any slope steeper than 75 percent; or¶

(b) The presence, as measured on site, of any headwall or draw in western Oregon steeper than 70 percent, except in the Tye Core Area, where it is any headwall or draw steeper than 65 percent.¶

(c) Notwithstanding the slopes specified in (a) or (b) above, field identification of atypical conditions by a geotechnical specialist may be used to develop site specific slope steepness thresholds for any part of the state where the hazard is equivalent to (a) or (b) above. The final determination of equivalent hazard shall be made by the State Forester.¶

(356) "High water level" means the stage reached during the average annual high flow. The "high water level" often corresponds with the edge of streamside terraces, a change in vegetation, or a change in soil or litter characteristics.¶

(367) "Hydrologic function" means soil, stream, wetland and riparian area properties related to the storage, timing, distribution, and circulation of water.¶

(378) "Important springs" are springs in arid parts of eastern Oregon that have established wetland vegetation, flow year round in most years, are used by a concentration of diverse animal species, and by reason of sparse occurrence have a major influence on the distribution and abundance of upland species.¶

(389) "Inactive roads" are roads used for forest management purposes exclusive of removing commercial forest products.¶

(3940) "Key components" means the attributes which are essential to maintain the use and productivity of a resource site over time. The key components vary by species and resource site. Examples include fledging trees or perching trees.¶

(401) "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 (903) of this rule.¶
- (412) "Landslide mitigation" means actions taken to reduce potential landslide velocity or re-direct shallow, rapidly moving landslides near structures and roads so risk to persons is reduced.¶
- (423) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.¶
- (434) "Large lake" means a lake greater than eight acres in size.¶
- (445) "Large wood key piece" means a portion of a bole of a tree, with or without the rootwad attached, that is wholly or partially within the stream, that meets the length and diameter standards appropriate to stream size and high water volumes established in the "Guide to Placement of Wood, Boulders and Gravel for Habitat Restoration," developed by the Oregon Department of Forestry, Oregon Department of Fish and Wildlife, Oregon Department of State Lands, and Oregon Watershed Enhancement Board, January 2010.¶
- (456) "Live tree" means a tree that has 10 percent or greater live crown.¶
- (467) "Local population" means the number of birds that live within a geographical area that is identified by the State Forester. For example: the area may be defined by physical boundaries, such as a drainage or subbasin.¶
- (478) "Main channel" means a channel that has flowing water when average flows occur.¶
- (489) "Natural barrier to fish use" is a natural feature such as a waterfall, increase in stream gradient, channel constriction, or other natural channel blockage that prevents upstream fish passage.¶
- (4950) "Natural reforestation" means restocking a site with self-grown trees resulting from self-seeding or vegetative means.¶
- (501) "Nest tree" means the tree, snag, or other structure that contains a bird nest.¶
- (512) "Nesting territory" means an area identified by the State Forester that contains, or historically contained, one or more nests of a mated pair of birds.¶
- (523) "Operation" means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:¶
- (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.¶
- (b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood that is:¶
- (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;¶
- (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;¶
- (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and¶
- (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.¶
- (c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.¶
- (d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.¶
- (e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.¶
- (f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.¶
- (g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.¶
- (534) "Operator" means any person, including a landowner or timber owner, who conducts an operation.¶

- (545) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.¶
- (556) "Perch tree" means a tree identified by the State Forester which is used by a bird for resting, marking its territory, or as an approach to its nest.¶
- (567) "Plan for an Alternate Practice" means a document prepared by the landowner, operator or timber owner, submitted to the State Forester for written approval describing practices different than those prescribed in statute or administrative rule.¶
- (578) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.¶
- (589) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.¶
- (5960) "Replacement tree" means a tree or snag within the nesting territory of a bird that is identified by the State Forester as being suitable to replace the nest tree or perch tree when these trees become unusable.¶
- (601) "Resource site" is defined for the purposes of protection and for the purposes of requesting a hearing.¶
- (a) For the purposes of protection:¶
- (A) For threatened and endangered bird species, "resource site" is the nest tree and all identified key components.¶
- (B) For sensitive bird nesting, roosting and watering sites, "resource site" is the nest tree, roost tree or mineral watering place, and all identified key components.¶
- (C) For significant wetlands "resource site" is the wetland and the riparian management area as identified by the State Forester.¶
- (b) For the purposes of requesting a hearing under ORS 527.670(4) and 527.700(3), "resource site" is defined in OAR 629-680-0020.¶
- (612) "Riparian area" means the ground along a water of the state where the vegetation and microclimate are influenced by year-round or seasonal water, associated high water tables, and soils which exhibit some wetness characteristics.¶
- (623) "Riparian management area" means an area along each side of specified waters of the state within which vegetation retention and special management practices are required for the protection of water quality, hydrologic functions, and fish and wildlife habitat.¶
- (634) "Salmon" means any of the five salmon species that exist in Oregon. These species are:¶
- (a) Chinook salmon (*Oncorhynchus tshawytscha*);¶
- (b) Coho salmon (*Oncorhynchus kisutch*);¶
- (c) Chum salmon (*Oncorhynchus keta*);¶
- (d) Sockeye salmon (*Oncorhynchus nerka*); and¶
- (e) Pink salmon (*Oncorhynchus gorbuscha*).¶
- (645) "Saplings and poles" means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.¶
- (656) "Seedlings" means live trees of acceptable species of good form and vigor less than one inch in DBH.¶
- (667) "Shallow, rapidly moving landslide" means any detached mass of soil, rock, or debris that begins as a relatively small landslide on steep slopes and grows to a sufficient size to cause damage as it moves down a slope or a stream channel at a velocity difficult for people to outrun or escape.¶
- (678) "Side channel" means a channel other than a main channel of a stream that only has flowing water when high water level occurs.¶
- (689) "SSBT use" means a stream with salmon, steelhead or bull trout present or otherwise used by salmon, steelhead, or bull trout at any time of the year as determined by the State Forester.¶
- (6970) "Significant wetlands" means those wetland types listed in OAR 629-680-0310, that require site specific protection, as follows:¶
- (a) Wetlands that are larger than eight acres;¶
- (b) Estuaries;¶
- (c) Bogs; and¶

(d) Important springs in eastern Oregon.¶¶

(701) "Small forestland" 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.¶¶

(72) "Snag" means a tree which is dead but still standing, and that has lost its leaves or needles and its small limbs.¶¶

(743) "Sound snag" means a snag that retains some intact bark or limb stubs.¶¶

(724) "State Forester" means the State Forester or the duly authorized representative of the State Forester.¶¶

(735) "Steelhead" means the anadromous life history variant of *Oncorhynchus mykiss*.¶¶

(746) "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 (903) of this rule.¶¶

(757) "Stream-associated wetland" means a wetland that is not classified as significant and that is next to a stream.¶¶

(768) "Structural exception" means the State Forester determines that no actions are required to protect the resource site. The entire resource site may be eliminated.¶¶

(779) "Structural protection" means the State Forester determines that actions are required to protect the resource site. Examples include retaining the nest tree or perch tree.¶¶

(780) "Target wildlife" means a wildlife species or wildlife guild expected to benefit from the installation of a wildlife food plot.¶¶

(81) "Temporal exception" means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.¶¶

(7982) "Temporal protection" means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.¶¶

(803) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.¶¶

(814) "Tree leaning over the channel" means a tree within a riparian management area if a portion of its bole crosses the vertical projection of the high water level of a stream.¶¶

(825) "Tye Core Area" means a location with geologic conditions including thick sandstone beds with few fractures. These sandstones weather rapidly and concentrate water in shallow soils creating a higher shallow, rapidly moving landslide hazard. The Tye Core area is located within coastal watersheds from the Siuslaw watershed south to and including the Coquille watershed, and that portion of the Umpqua watershed north of Highway 42 and west of Interstate 5. Within these boundaries, locations where bedrock is highly fractured or not of sedimentary origin as determined in the field by a geotechnical specialist are not subject to the Tye Core area slope steepness thresholds.¶¶

(836) "Type D stream" means a stream that has domestic water use, but no fish use.¶¶

(847) "Type F stream" means a stream with fish use, or both fish use and domestic water use.¶¶

(858) "Type N stream" means a stream with neither fish use nor domestic water use.¶¶

(869) "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)¶¶

(8790) "Unit" means an operation area submitted on a notification of operation that is identified on a map and that has a single continuous boundary. Unit is used to determine compliance with ORS 527.676 (down log, snag and green live tree retention), 527.740 and 527.750 (harvest type 3 size limitation), and other forest practice rules.¶¶

(8891) "Vacated roads" are roads that have been made impassable and are no longer to be used for forest management purposes or commercial forest harvesting activities.¶¶

(892) "Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation and duff so that it does not gain the volume and velocity which causes soil movement or erosion.¶¶

(903) "Water development" means water bodies developed for human purposes that are not part of a stream such as waste treatment lagoons, reservoirs for industrial use, drainage ditches, irrigation ditches, farm ponds, stock ponds, settling ponds, gravel ponds, cooling ponds, log ponds, pump chances, or heli-ponds that are maintained for the intended use by human activity.¶¶

(914) "Waters of the state" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.¶¶

(925) "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 (903) of this rule.¶¶

(936) "Wildlife food plot" means a small forestland area that, instead of being used for growing and harvesting of a forest tree species, is planted in vegetation or has vegetation capable of substantially contributing to wildlife nutrition.¶¶

(97) "Wildlife guild" means a grouping of wildlife that has similar characteristics and fulfills similar ecological roles in the environment.¶¶

(98) "Wildlife leave trees" means trees or snags required to be retained as described in ORS 527.676(1).¶¶

(949) "Written plan" means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted.

Statutory/Other Authority: ORS 527.710(1)

Statutes/Other Implemented: ORS 527.630(5), 527.674, 527.714

AMEND: 629-605-0100

RULE SUMMARY: Rule identifies the scenarios where the state forester may approve a plan for alternate practice as the implementation mechanism.

CHANGES TO RULE:

629-605-0100

Compliance ¶

(1) The operator, landowner, or timber owner shall comply with the practices described in the forest practice statutes and rules unless approval has been obtained from the State Forester for a plan for an alternate practice which is designed to result in the same effect or to meet the same purpose or provide equal or better results as those practices described in statute or administrative rule.¶

(2) The State Forester may approve a plan for an alternate practice to waive or modify forest practice rules when:¶

(a) The State Forester determines that a federal or state agency, a college or university, or a private landowner has submitted an application to the State Forester for a bona fide research project involving activities not in accordance with the rules; or¶

(b) The State Forester determines that waiving or modifying a specific practice will result in less environmental damage than if the practice is applied; or¶

(c) After consulting with the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester determines that waiving or modifying a specific practice will improve soil, water quality, fish habitat, or wildlife habitat; or¶

(d) The State Forester determines that the alternate practice is necessary to provide for public safety or to accomplish a land use change.¶

(e) The State Forester determines that the alternate practice is necessary to provide specific wildlife habitat, while providing overall maintenance of forest resources as described in ORS 527.710. ¶

(3) When the State Forester's approval does not follow the written recommendations of the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester shall maintain a written explanation of the reasons for approving the alternate practices.¶

(4) The State Forester may approve a plan for an alternate practice to waive or modify rules for resource sites identified in OAR 629-680-0100 (Threatened or Endangered Fish and Wildlife Species), 629-680-0200 (Sensitive Bird Nesting, Roosting and Watering Sites), 629-680-0300 (Significant Wetlands), or 629-680-0400 (Biological Sites) when:¶

(a) The county has an adopted program under OAR 660-016-0005 and 660-016-0010 that has evaluated the resource sites; and¶

(b) Applying the forest practice rules for the identified resource sites would regulate or prevent operations, or uses, allowed under the acknowledged county comprehensive plan.

Statutory/Other Authority: ORS 527.710

Statutes/Other Implemented: ORS 527.674, 527.710, 527.715

AMEND: 629-605-0140

RULE SUMMARY: This rule lists the forest operations and activities that require notification to the state forester. ORS 527.678 identifies food plots as an activity requiring notification.

CHANGES TO RULE:

629-605-0140

#### Notification to the State Forester - Types of Operations ¶

Under the provisions of ORS 527.670:¶

(1) Notification to the State Forester shall be given for the following types of operations:¶

- (a) Harvesting of forest tree species including, but not limited to, felling, bucking, yarding, decking, loading or hauling.¶
- (b) Construction, reconstruction and improvement of roads, including reconstruction or replacement of crossing structures on any streams.¶
- (c) Site preparation for reforestation involving clearing or the use of heavy machinery.¶
- (d) Application of chemicals.¶
- (e) Clearing forestland for conversion to any non-forest use.¶
- (f) Disposal or treatment of slash.¶
- (g) Pre-commercial thinning.¶
- (h) Cutting of firewood, when the firewood will be sold or used for barter.¶
- (i) Surface mining.¶
- (j) Establishing wildlife food plots¶

(2) Notification to the State Forester shall not be required for the following types of activities, which may or may not be operations:¶

- (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.¶
- (b) Routine road maintenance, such as grading, ditch cleaning, culvert cleaning, cross drain installation that is not in a stream, or rocking.¶
- (c) Tree planting or tree seed applications, except when trees or seeds are treated with rodenticides.¶
- (d) Cutting of firewood, when the firewood will not be sold or used for barter.¶
- (e) Harvesting or collection of minor forest products, such as boughs, cones and hardwood burls.¶
- (f) Road reconstruction of an emergency nature where delay for notification procedures presents a greater potential for resource damage than the operation. Within 48 hours after starting an emergency road reconstruction operation, the operator shall contact the State Forester and report the operation. When asked by the State Forester, the operator shall be able to demonstrate that an emergency actually existed.¶
- (g) The establishment, management, or harvest of hardwood timber, including but not limited to hybrid cottonwood, that is:¶
  - (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;¶
  - (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;¶
  - (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and¶
  - (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.¶
- (h) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.¶
- (i) The establishment, management or harvest of ornamental, street, or park trees within an urbanized area, as that term is defined in ORS 221.010.¶
- (j) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.¶

(k) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.¶¶

(l) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.¶¶

(3) Exemption from notification of certain types of operations does not relieve the operator's responsibility for complying with the applicable forest practice rules.

Statutory/Other Authority: ORS 527.710

Statutes/Other Implemented: ORS 527.715

AMEND: 629-605-0173

RULE SUMMARY: Adds the food plot activity to the list of activities requiring a plan for alternate practice and creates the link to the earlier rule 629-605-0100, compliance.

CHANGES TO RULE:

629-605-0173

#### Plans for an Alternate Practice ¶

(1) Operators must obtain written approval of a plan for an alternate practice from the State Forester before conducting forest practices utilizing protection standards or methods different than those specified in rule or statute.¶

(2) Plans for an alternate practice must include sufficient information to allow the State Forester to assess the plan to determine that the practices described in the plan will yield results consistent with ORS 527.610 to 527.770 and administrative rules adopted thereunder.¶

(3) Plans for alternate practices proposed as part of a written plan required by ORS 527.670(3) shall be subject to the hearings provisions of 527.700(3) (Appeals from orders of State Forester hearings procedure; stay of operation); and shall be subject to the provisions of 527.670(10), (11) and (12) (Commencement of operations; when notice and written plan required; appeal of plan) prescribing certain waiting periods and procedures.¶

(4) An operator must comply with all provisions of an approved plan for an 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:¶

(a) 629-605-0100(2)(a) - Waiving or modifying the rules or statutes for a bona fide research project conducted by a federal or state agency, a college or university, or a private landowner;¶

(b) 629-605-0100(2)(b) - Waiving or modifying a specific practice when doing so will result in less environmental damage than if the practice is applied;¶

(c) 629-605-0100(2)(c) - Waiving or modifying a specific practice when doing so will improve soil, water quality, fish habitat, or wildlife habitat;¶

(d) 629-605-0100(2)(d) - Waiving or modifying rules to provide for public safety or to accomplish a land use change;¶

(e) 629-605-0100(2)(e) - Waiving or modifying the reforestation requirements for the purposes of providing specific wildlife habitat, as described in OAR 629-610-0100.¶

(f) 629-605-0100(4) - Waiving or modifying rules for resource sites when a county has an adopted program under OAR 660-016-0005 and OAR 660-016-0010 that has evaluated the resource sites;¶

(fg) 629-605-0173(1) - Conducting forest practices utilizing protection standards or methods different than those specified in rule or statute;¶

(gh) 629-605-0175(2) - Conducting operations that result in a single harvest type 3 unit, or combinations of harvest type 3 units, that exceed the contiguous 120 acre limit on a single ownership;¶

(hi) 629-605-0175(7) - Waiving the harvest type 3 acreage limitations for conversions or disasters described in ORS 527.740(4);¶

(ij) 629-605-0180(3) - Describing reasonable measures to resolve conflicts between an operation and protection of a resource site requiring a written plan under OAR 629-605-0170(1)(b) or (d);¶

(jk) 629-605-0500 - Modifying the protection requirements for streams, lakes, wetlands and riparian management areas for reasons of forest health or because of hazards to public safety or property;¶

(kl) 629-610-0020(3) - Waiving or modifying the reforestation requirements following a stand improvement operation where the residual stand conditions will result in enhanced long-term tree growth;¶

(lm) 629-610-0020(10) - Modifying or waiving reforestation stocking levels if the purposes of the reforestation rules will be achieved or for a research project conducted by a public agency or educational institution;¶

(mn) 629-610-0030(3) - Utilizing natural reforestation methods when an operation results in a reforestation requirement;¶

(~~no~~) 629-610-0040(3) - Extending the time allowed for reforestation when natural reforestation methods are utilized;¶

(~~op~~) 629-610-0050(2) - Counting hardwoods to meet more than 20% of the applicable stocking standards when an operation results in a reforestation requirement;¶

(~~oq~~) 629-610-0060(1) - Counting non-native tree species to meet the applicable stocking standards when an operation results in a reforestation requirement;¶

(~~or~~) 629-610-0070(1) - Suspending the reforestation rules for the salvage or conversion of low value forest stands when participating in a forest incentive program;¶

(~~rs~~) 629-610-0090(1) - Exempting the reforestation requirements for the purpose of developing forestland for a use that is not compatible with the maintenance of forest tree cover;¶

(~~st~~) 629-615-0300(5) - Modifying the protection requirements for riparian areas, aquatic areas and wetlands when the need for prescribed burning outweighs the benefits of protecting components required to be left;¶

(~~tu~~) 629-620-0400(7)(d) - Modifying the protection requirements for aerial application of fungicides or nonbiological insecticides;¶

(~~uv~~) 629-625-0320(3) - Modifying the culvert sizing requirements of 629-625-320(2)(a) to reduce the height of fills where roads cross wide flood plains;¶

(~~vw~~) 629-642-0100(13) - Modifying the vegetation retention requirements in the riparian management area along a Type F stream to allow the removal of roadside trees which pose a safety hazard;¶

(~~wx~~) 629-642-0105(17) - Modifying the vegetation retention requirements in the riparian management area along a Type SSBT stream to allow the removal of roadside trees which pose a safety hazard;¶

(~~xy~~) 629-642-0400(14) - Modifying the vegetation retention requirements in the riparian management area along a Type D or Type N stream to allow the removal of roadside trees which pose a safety hazard;¶

(~~yz~~) 629-642-0500(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.¶

(~~zaa~~) 629-642-0700(1)(a) - Utilizing site specific vegetation retention prescriptions for streams and riparian management areas;¶

(~~aabb~~) 629-645-0020(1) - Utilizing site specific vegetation retention prescriptions for significant wetlands;¶

(~~bbcc~~) 629-645-0050(3) - Modifying the vegetation retention requirements for significant wetlands for reasons of forest health;¶

(~~eedd~~) 629-650-0040(3) - Modifying the vegetation retention requirements for lakes for reasons of forest health;¶

(~~deee~~) 629-665-0020(1)(b)(C) - Structural or temporal exceptions when proposed forest practices conflict with a resource site;¶

(~~eeff~~) 629-665-0110(3) - Structural replacement of an osprey site;¶

(~~ffgg~~) 629-665-0110(4) - Temporal exceptions near an osprey site;¶

(~~gghh~~) 629-665-0120(3) - Structural exceptions of a great blue heron site;¶

(~~hhii~~) 629-665-0120(5) - Temporal exceptions near a great blue heron site.

Statutory/Other Authority: ORS 527.710

Statutes/Other Implemented: 527.670(10)-(12), 527.700(2), (5), (6), (8), (9)

629-610-0100

Exemption from Reforestation for Wildlife Food Plots

(1) A landowner may utilize a portion of their property for the establishment of one or more wildlife food plots. The establishment of wildlife food plots in lieu of reforestation is an allowable forest operation under ORS 527.678. The purpose of this rule is to allow landowners to establish or increase the area of food or forage available to wildlife, and to exempt a percentage of their property from reforestation requirements following timber harvest. ¶

(2) Wildlife food plots are considered forestland as defined in OAR 629-600-0100. Wildlife food plots provide an intended benefit to the landowner, and additional benefits to the State through additional wildlife habitat. ¶

(3) Eligibility. A landowner is eligible to utilize wildlife food plots as a management choice on their property if: ¶

(a) The ownership size in Oregon is greater than 10 acres but less than 5,000 acres; ¶

(b) The area to be used for a food plot must currently be in a forest use; and ¶

(c) The wildlife food plot area would otherwise be subject to the reforestation rules described in OAR 629-610-0000. ¶

(4) Size limitation of wildlife food plots. Based on the area of small forestland ownership, the combined size of wildlife food plots shall not exceed: ¶

2.5 percent of the small forestland, if the small forestland is 500 acres or less in size (combined size of wildlife food plots equals 0.25 to 12.5 acres); or ¶

2.0 percent of the small forestland, if the small forestland is more than 500 acres but not more than 1,000 acres in size (combined size of wildlife food plots equals 10 to 20 acres); or ¶

1.0 percent of the small forestland, if the small forestland is over 1,000 acres but less than 5,000 acres in size (combined size of wildlife food plots equals 10 to 50 acres). ¶

(5) To establish a food plot in lieu of reforestation, a landowner must: ¶

(a) Provide notification to the State Forester per OAR 629-605-0140 through 0150. ¶

(b) Create a plan for alternate practice that includes the following: ¶

(A) Landowner contact information; ¶

(B) The acreage of the small forestland where the wildlife food plot is desired; ¶

(C) A map showing location and acreage of proposed and existing wildlife food plots; and ¶

(D) A narrative that describes the target wildlife, the forage expected to substantially contribute to the nutritional requirements of the target wildlife species or guild, the activities required to maintain the food plot, and a timeline of planned establishment and maintenance activities. ¶

(E) A strategy for the monitoring and management of plant and animal species that may prevent the establishment of the target forage species. ¶

(c) Provide the plan for alternate practice to the State Forester for approval, and as a mechanism for tracking compliance with the wildlife food plot rules. The State Forester will provide feedback on the plan, and may consult with the Oregon Department of Fish and Wildlife or other agencies as appropriate. ¶

(d) Establish the wildlife food plot in a manner consistent with the desired outcomes for the plot, as described in the plan for alternate practice. Establishment activities must include the creation of forage for the target wildlife species or guild. In addition, wildlife food plot establishment may also incorporate cover, nesting habitat, or resting habitat for the target wildlife species or guild. ¶

(e) Establish the wildlife food plot through the use of habitat manipulation and/or planting of forage for the target wildlife species or guild. Habitat manipulation and planting of forage includes, but is not limited to, complete or partial removal of trees and other vegetation, tillage of soil, planting or seeding of forage vegetation of sufficient nutrition for the target wildlife species or guild, and/or maintenance of the plot to promote a specific seral stage of vegetation. ¶

(f) Make reasonable progress towards establishing the wildlife food plot, as determined by the State Forester, within 12 months of completion of the harvest operation that requires reforestation.¶

(g) Fully establish the wildlife food plot within 24 months of completion of the harvest operation that requires reforestation.¶

(h) Ensure the forage vegetation chosen is supported by the environment in which it is being established. Not all vegetation is suitable to be used in the variety of forest soils and land types that occur in Oregon. Designation of specific seed mixes or plant species is beyond the scope of these rules. However, the landowner shall: ¶

(A) Source plants and seed to avoid introduction of invasive species to forestlands. This includes, but is not limited to, the introduction of invasive plant, insect, or disease species through the movement of live plant material, seed, or soil. ¶

(B) Ensure vegetation chosen for establishment is not on the Oregon Department of Agriculture's noxious weed list.¶

(6) Maintenance of wildlife food plots¶

(a) The wildlife food plot must be maintained in accordance with the plan for alternate practice. If the landowner desires to change the wildlife food plot size or target wildlife species or guild (e.g. changing the type of forage), or to remove the wildlife food plot, the landowner shall submit a new notification and plan for alternate practice to the State Forester.¶

(b) The landowner shall provide documentation to the State Forester of activities conducted to establish and maintain the wildlife food plot. This documentation shall be provided upon full establishment of the wildlife food plot, and upon request by the State Forester thereafter. Documentation may include, but is not limited to, receipts for work completed and photographs of the wildlife food plot showing that it is in the intended state per the plan for alternate practice. The landowner may also request the State Forester conduct an inspection of the wildlife food plot.¶

(c) If the State Forester determines that the landowner has not maintained the wildlife food plot in its intended state per the plan for alternate practice, the reforestation rules as otherwise required in OAR 629, Division 610, become applicable and the landowner shall be required to reforest the wildlife food plot.¶

(7) Removal of a Wildlife Food Plot¶

(a) Before ending the use of a wildlife food plot, the landowner is required to submit a notification of its removal to the State Forester. ¶

(b) After removing a wildlife food plot, the landowner shall reforest the wildlife food plot in accordance with the reforestation rules, as described in OAR 629-610-0000.¶

(8) Wildlife food plots may be relocated. If a landowner wishes to relocate the wildlife food plot, the landowner shall follow the requirements for establishment, maintenance, and removal as outlined in sections 5 through 7 of this rule.

Statutory/Other Authority:

Statutes/Other Implemented: ORS 527.678