

DEPARTMENT OF FORESTRY

DIVISION 600

DEFINITIONS

629-600-0050

Forest Practice Rules

OAR chapter 629, divisions 600 through 680 are known as the forest practice rules.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.710 & 527.715

Hist.: DOF 2-2013, f. 7-11-13, cert. ef. 9-1-13

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 exclosures.

(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) "Channel" is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.

(10) "Chemicals" means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliant, 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.

(11) "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.

(12) "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.

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

(14) "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.

(15) "Department" means the Oregon Department of Forestry.

(16) "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.

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

(18) "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.

(19) "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.

(20) "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.

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

(22) "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.

(23) "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.

(24) "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.

(25) "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.

(26) "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.

(27) "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.

(28) "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.

(29) "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.

(30) "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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

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

(36) "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.

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

(38) "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.

(39) "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 (90) of this rule.

(40) "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.

(41) "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.

(42) "Large lake" means a lake greater than eight acres in size.

(43) "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.

(44) "Live tree" means a tree that has 10 percent or greater live crown.

(45) "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.

(46) "Main channel" means a channel that has flowing water when average flows occur.

(47) "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.

(48) "Natural reforestation" means restocking a site with self-grown trees resulting from self-seeding or vegetative means.

(49) "Nest tree" means the tree, snag, or other structure that contains a bird nest.

(50) "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.

(51) "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.
- (52) "Operator" means any person, including a landowner or timber owner, who conducts an operation.
- (53) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.
- (54) "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.
- (55) "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.
- (56) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.
- (57) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.
- (58) "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.
- (59) "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.

(60) "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.

(61) "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.

(62) "Saplings and poles" means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.

(63) "Seedlings" means live trees of acceptable species of good form and vigor less than one inch in DBH.

(64) "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.

(65) "Side channel" means a channel other than a main channel of a stream that only has flowing water when high water level occurs.

(66) "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.

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

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

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

(70) "Stream" means a channel, such as a river or creek that 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 (90) of this rule.

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

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

(73) "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.

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

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

(76) "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.

(77) "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.

(78) "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.

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

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

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

(82) "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.

(83) "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.

(84) "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.

(85) "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.

(86) "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.

(87) "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 (90) of this rule.

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

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

Stat. Auth.: ORS 527.710(1)

Stats. Implemented: ORS 527.630(5), 527.674 & 527.714

Hist.: FB 31, f. 6-14-72, ef. 7-1-72; FB 39, f. 7-3-74, ef. 7-25-74; FB 1-1978, f. & ef. 1-6-78; FB 5-1978, f. & ef. 6-7-78; FB 3-1983, f. & ef. 9-13-83; FB 1-1985, f. & ef. 3-12-85; FB 2-1985(Temp), f. & ef. 4-24-85; FB 2-1987, f. 5-4-87, ef. 8-1-87; FB 4-1988, f. 7-27-88, cert. ef. 9-1-88; FB 4-1990, f. & cert. ef. 7-25-90; FB 1-1991, f. & cert. ef. 5-23-91; FB 7-1991, f. & cert. ef. 10-30-91; FB 3-1994, f. 6-15-94, cert. ef. 9-1-94; FB 5-1994, f. 12-23-94, cert. ef. 1-1-95; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0101; DOF 6-2002, f. & cert. ef. 7-1-02; DOF 13-2002, f. 12-9-02 cert. ef. 1-1-03; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06; DOF 7-2006(Temp), f. & cert. ef. 6-27-06 thru 12-23-06; DOF 1-2007, f. & cert. ef. 1-8-07; DOF 2-2013, f. 7-11-13, cert. ef. 9-1-13

DEPARTMENT OF FORESTRY

DIVISION 665

SPECIFIED RESOURCE SITE PROTECTION RULES

629-665-0000

Purpose

- (1) OAR 629-665-0000 to 0300 shall be known as the specified resource site protection rules.
- (2) These rules provide a protection goal, describe the duties of the State Forester, landowner, timber owner and operator, and outline protection for:
 - (a) Sensitive Bird Nesting, Roosting and Watering Resource Sites (OAR 629-665-0100);
 - (b) Threatened and Endangered Fish and Wildlife Species that use Resource Sites on Forestlands (OAR 629-665-0200);
 - (c) Biological Sites that are Ecologically and Scientifically Significant (OAR 629-665-0300); and
 - (d) Significant Wetlands on Forestlands (OAR Chapter 629, Division 645).

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715

629-665-0010

Protection Goal for a Resource Site

- (1) The goal of resource site protection is to ensure that forest practices do not lead to resource site destruction, abandonment or reduced productivity.
- (2) A resource site shall receive protection when the State Forester determines:
 - (a) It is an active resource site; and
 - (b) Proposed forest practices conflict with the resource site.
- (3) The State Forester may grant an exception from either structural or temporal protection as determined by the Board for each species or resource site.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715

629-665-0020

Application of Protection and Exception Rules; State Forester Duties; Landowner, Timber Owner and Operator Duties

(1) When a landowner, timber owner or operator proposes an operation near a resource site that requires special protection, the State Forester shall inspect the resource site with the landowner or landowner's representative, the operator and when available, the appropriate representative of the Department of Fish and Wildlife. The State Forester shall:

(a) Identify the resource site.

(b) Apply the protection goal in OAR 629-665-0010.

(A) If the proposed forest practices do not conflict with the resource site, the operation will not be subject to the protection requirements for the resource site. The operation shall be conducted in compliance with all other existing forest practice rules;

(B) If the proposed forest practices conflict with the resource site, the structural and temporal protection requirements for the resource site shall be required to eliminate the conflict;

(C) When the proposed forest practices conflict with a resource site, the landowner or operator may request a structural or temporal exception through a plan for an alternate practice, if the applicable administrative rule provides for such an exception.

(D) The State Forester shall document and maintain on file the reasons for granting or denying all exceptions.

(2) If the proposed operation conflicts with the resource site, the operator shall submit a written plan to the State Forester before starting operations. The written plan shall comply with the requirements of OAR 629-605-0170, Written Plans.

(3) When the written plan in subsection (2) of this rule does not follow the written recommendations of the Department of Fish and Wildlife or other responsible coordinating state agency, the State Forester shall maintain on file a written explanation of the reasons for:

(a) Differences in the identification of the resource site; and

(b) Different protection levels required for the resource site.

(4) When a resource site is discovered by the operator, timber owner or landowner during a forest operation, the party making the discovery shall:

(a) Immediately protect all remaining trees within 300 feet of the resource site and submit to the State Forester a written plan for the resource site; and

(b) Immediately notify the State Forester.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.674 & 527.715

629-665-0100

Species Using Sensitive Bird Nesting, Roosting and Watering Sites

The following species use sensitive bird nesting, roosting and watering resource sites:

- (1) Osprey use sensitive bird nesting sites.
- (2) Great blue herons use sensitive bird nesting sites.
- (3) Bald eagle use sensitive bird nesting sites.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715

629-665-0110

Osprey Resource Sites; Key Components; Protection Requirements; Exceptions

(1) For osprey, the resource site is the active nest tree and any identified key components.

(a) An active nest tree is one that has been used by osprey within the past five (5) nesting seasons. No protection is required for abandoned resource sites.

(b) The key components associated with an osprey resource site are perching and fledging trees and replacement trees. Factors to consider when identifying key components:

(A) Actual observation data if available;

(B) Perching trees should provide for maximum visibility of the surrounding terrain and structure that allows the osprey easy access, such as large, tall snags or trees that have broken or dead tops, forks, or lateral branches high in the crown;

(C) Replacement trees should provide maximum visibility of the surrounding terrain, and be large enough to support an osprey nest;

(D) Perching and fledging trees and replacement trees should be located within 600 feet of the active nest tree;

(E) Areas of high winds may require that additional trees be retained to protect the resource site from damage.

(2) When the State Forester identifies the resource site as per OAR 629-665-0020, the operator shall provide the following protection measures:

(a) Retain the active nest tree; and

(b) Retain no fewer than eight additional trees as key components (i.e.: perching, fledging and replacement trees).

(c) During forest operations, the resource site shall be protected from damage. The operation shall be designed to protect these trees from windthrow;

(d) During the critical period of use, the active nest tree and any perch tree identified as a key component shall be protected from disturbance. From March 1st through September 15th, forest operations shall not be permitted within 600 feet of the active nest tree or perch tree unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified in writing by the State Forester as the resource site is evaluated as per OAR 629-665-0020.

(3) The State Forester shall not permit structural exceptions for the resource site: Removal of a resource site may be permitted if replacement nest trees, artificial structures, or replacement key components are provided by the operator or landowner. Replacement is not considered an exception, since the productivity of the nesting territory is maintained. When addressed in a plan for an alternate practice, replacement may be considered by the State Forester when:

(a) Alternate forest practices which retain and protect the resource site are not economically feasible; and

(b) The productivity of the nesting territory is not reduced.

(4) Temporal exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice that demonstrates:

(a) Nest disruption or failure for a season does not affect the local population; and

(b) There are no economically feasible forest practices that avoid disturbance to the resource site during the critical period of use.

(5) Factors considered by the State Forester before approving a plan for an alternate practice under section (4) of this rule shall include, but are not limited to:

(a) The size of the local population;

(b) The contribution of the resource site in question to the local population; and

(c) The feasibility of alternate forest practices that do not cause disturbance.

(6) The State Forester shall document all requests and decisions concerning structural or temporal exceptions. All approved structural replacements shall be documented.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715

629-665-0120

Great Blue Heron Resource Sites; Key Components; Protection Requirements; Exceptions

(1) For the great blue heron, the resource site is the active nest tree(s) and any identified key components.

(a) An active nest tree is one that has been used by one or more pair of great blue heron within the past three nesting seasons. No protection is required for an abandoned resource site.

(b) The key components associated with a great blue heron resource site are the nest tree(s), a vegetative buffer around the nest tree(s) including perching and fledging trees, and replacement tree(s). Factors to consider when identifying key components:

(A) Actual observation data when available;

(B) Perching, fledging, and replacement tree(s) should be tall with plenty of space for these large birds to fly into and out. Older trees with open branching should be retained;

(C) Areas of high winds may require that additional trees be retained to protect the active nest tree and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a great blue heron resource site:

(a) Retain the active nest tree;

(b) Retain a vegetative buffer not less than 300 feet around the outermost nest trees as key components that includes perching and fledging trees, and replacement trees.

(c) The vegetative buffer around a rookery may be actively managed if the key components in subsection (1) are protected. When conducting forest management activities within this buffer, operators shall consider heron protection as the highest priority. The vegetative buffer needs to provide a visual screen from disturbing influences around the rookery, and must be designed to protect the nest tree(s), perching, fledging, and replacement tree(s) from windthrow. Examples of forest management activities that may occur within the vegetative buffer include tree topping, and/or other methods of "feathering" the outer edges of the buffer to reduce windthrow potential, or remove individual trees (especially along the edge of the buffer) if the integrity of the buffer is maintained and all the key components are adequately protected. Operators should consult with the State Forester and the Oregon Department of Fish and Wildlife when marking trees to be removed from this buffer.

(d) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the key components from windthrow;

(e) During the critical period of use, operations shall be designed and conducted so as not to disturb great blue herons using the key components. From February 15 through July 31, forest operations shall not be permitted within one-quarter (1/4) mile of the active nest tree(s) unless the State Forester determines that the operations will not cause the birds to flush from these trees. The critical period of use may be modified by the State Forester after the resource site is evaluated following OAR 629-665-0020.

(3) Structural exceptions for the resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when these criteria are met:

- (a) The site contains five nests or fewer;
- (b) The State Forester determines that the loss of the site will not adversely affect the local population; and
- (c) There are no economically feasible alternatives that maintain the key components.

(4) Factors considered by the State Forester before approving a structural exception to protection of a great blue heron resource site shall include, but are not limited to:

- (a) The size of the site (number of nests);
- (b) The size of the breeding population in the local area;
- (c) The productivity of great blue herons in the local area;
- (d) The contribution of the site to local productivity;
- (e) The probability that protection measures will be successful;
- (f) Available alternate nesting sites; and
- (g) Whether alternatives that protect the site are economically feasible.

(5) Temporal exceptions to protection of a great blue heron resource site may be approved by the State Forester when addressed in a plan for an alternate practice. The State Forester may approve such a plan when:

- (a) The State Forester determines that nest disruption or failure for a season or site abandonment will not adversely affect the local population; and
- (b) There are no economically feasible alternatives that will not disturb the birds during the critical period of use.

(6) Factors considered by the State Forester before approving a temporal exception shall include, but are not limited to:

- (a) The size of the site (number of nests);
- (b) The size of the breeding population in the local area;
- (c) The productivity of great blue herons in the local area;
- (d) The contribution of the site to local productivity; and
- (e) Whether alternatives that protect the site are economically feasible.

629-665-0130

Bald Eagle Nesting Sites; Key Components; Protection Requirements; Exceptions

(1) For bald eagle nesting sites, the resource site is the active nest tree and, if present, all identified key components:

(a) An active nest tree is one that has been used by eagles within the past five (5) nesting seasons. No protection is required for abandoned resource sites.

(b) An active nest tree may fall down or may become structurally incapable of supporting a bald eagle nest site. When this happens the nest resource site shall be considered active and shall be protected only if the site contains suitable replacement nesting trees.

(c) The key components associated with a bald eagle nesting site are perching and fledging trees, replacement nest trees, and a forested buffer around the nest tree. Factors to consider when identifying key components:

(A) Actual observation data when available.

(B) Perching and fledging trees should be tall enough to provide maximum visibility of the surrounding area. Perching and fledging trees are often snags or decadent live trees with exposed, strong, lateral branches high in the crown.

(C) Replacement nest trees should provide maximum visibility of the surrounding terrain, and be large enough to support a bald eagle nest. Bald eagles prefer to nest in large, tall trees that are alive, with large limbs, broken tops, or irregular growth patterns with open structure.

(D) Areas of high winds may require that additional trees be retained to protect the active nest tree(s) and identified key components from damage.

(2) The operator shall provide the following protection measures when operating within or near a bald eagle nesting site:

(a) During and after forest operations, the resource site shall be protected from damage. The operation shall be designed to protect the trees from windthrow;

(b) Retain the active nest tree.

(c) Retain a forested buffer not less than 330 feet around the active nest tree as a key component that includes perching, fledging, and replacement tree(s).

(d) During the critical period of use, operations shall be designed and conducted to not disturb bald eagles using the resource site:

(A) Except as provided in paragraph (B) of this subsection, during the critical period of use, operations shall not be permitted within six hundred and sixty (660) feet, and use of aircraft within one thousand (1,000) feet.

(B) If the State Forester determines through review of the written plan that the operations will not cause the birds to flush from the trees identified in paragraph (A) of this section, then there is no conflict and the distance restrictions in paragraph (A) of this section may be modified.

(C) The critical period of use is January 1 through August 31. The specific critical period of use for individual nesting resource sites may be modified in writing by the State Forester depending upon the actual dates that bald eagles are present at the resource site and are susceptible to disturbance.

(3) Structural or temporal exceptions for the resource site are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Bald and Golden Eagle Protection Act.

(4) (For information only) Federal law prohibits a person from taking bald eagles. Compliance with subsections (1) and (2) of this law is not in lieu of compliance with any federal requirements related to the federal Bald and Golden Eagle Protection Act.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715

629-665-0200

Resource Sites Used By Threatened and Endangered Species

The following resource sites used by threatened or endangered species are sensitive to forest practices:

(1) Northern spotted owl nesting sites.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715

629-665-0210

Interim Requirements for Northern Spotted Owl Nesting Sites

(1) Whenever the State Forester determines that an operation will conflict with protection of a nesting site of the northern spotted owl (*Strix occidentalis caurina*), the operator must submit to the State Forester a written plan before commencing the operation. The written plan, at a minimum, must address how the operation will be conducted to provide for the following:

(a) A 70 acre area of suitable spotted owl habitat encompassing the nest site, to be maintained as suitable spotted owl habitat;

(b) Prevention of disturbances resulting from operation activities which cause owls to flush from the nesting site. Such disturbances must be prevented during the critical period of use for nesting. The critical period of use is the time period between March 1 and September 30, each year.

(2) For the purposes of this rule, nesting site means and includes the tree, when known, containing a spotted owl nest; or when not specifically known, includes an activity center of a pair of adult spotted owls. An activity center is a location determined by the State Forester to have been reliably identified as being occupied by an adult pair of spotted owls, capable of breeding. Such determination must be supported by repeated observation of the owls in close proximity or observation of nesting behavior.

(3)(a) For the purposes of this rule, suitable spotted owl habitat means and includes:

(A) A stand of trees with moderate to high canopy closure (60 to 80%); a multi-layered, multi-species canopy dominated by large overstory trees (greater than 30 inches in diameter at breast height); a high incidence of large trees with various deformities (e.g., large cavities, broken tops, and other evidence of decadence); numerous large snags; large accumulations of fallen trees and other woody debris on the ground; and sufficient open space below the canopy for owls to fly; or

(B) In the absence of habitat which exhibits all the characteristics listed above, the available forested habitat which comes closest to approximating the listed conditions.

(b) Stands which do not exhibit at least two of the characteristics listed in paragraph (a)(A) of this section are not suitable habitat.

(4) (For information only) Federal law prohibits a person from taking northern spotted owls. Taking under the federal law may include significant alteration of owl habitat on any class of land ownership. Compliance with subsection (1) of this rule is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.

(5) Exceptions to the requirements for protecting northern spotted owl nesting sites are allowed if the operator is in compliance with, and has on file with the State Forester, an applicable incidental take permit issued by federal authorities under the Endangered Species Act.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.674 & 527.715

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715