

FROM THE DESK OF SAL PERALTA

11/5/2019

Policy Backgrounder:

Carbon sequestration and reforestation through the Oregon Forest Resources Trust

Summary:

The Oregon Forest Resources Trust¹ is a first-in-the nation program, created within the Oregon Department of Forestry, to develop and market a protocol for carbon sequestration offsets. The Trust has broad statutory authority, including the ability to enter into agreements with other public bodies, and a segregated fund that could make it a vehicle for carbon sequestration offsets without additional legislative authority. Because the Trust has never been adequately-funded, and its core mission tied to a program that was not attractive to landowners, it is an under-utilized asset.

Description:

The Oregon Forest Resources Trust was created by the Oregon legislature in 1993 to help non-industrial private landowners to establish and maintain healthy forests on land that had previously been forested. Although the trust has broad statutory authority (ORS 526.700 - 526.775)², its implementation has been narrow in scope -- primarily administering 200 year loans through a small fund with monies specifically tied to that purpose. The fund is intended to provide financial, technical and related assistance to public and private landowners for the establishment and management of forestland for timber production and conservation purposes. It:

- Includes both a loan and grant program.
- Authorizes carbon offsets through loan program.
- Authorizes agreements with other government units.

Policy suggestion:

The Oregon Forestry Board is the public body responsible for the Oregon Forest Resources Trust (OFRT). We would like to work with the board and agency to explore funding opportunities for the Trust, particularly in the context of bringing in outside dollars for a grant program to address climate change through afforestation and reforestation

The basic idea is that ODF seek state support -- either direct state funds for granting or more limited seed money to solicit private dollars -- for forest restoration, afforestation, fire prevention and similar projects to the economic benefit of rural communities through the Oregon Forest Resources Trust.

The statutory authority granted to the program would allow the state to begin taking in funds for carbon sequestration without seeking additional legislative authority.

Companies that are subject to environmental judgements or that just want to invest in carbon offsets can invest into the fund, which can distribute its funds through existing streams by agency agreement.

¹ http://www.uvm.edu/~cfc/casestudies/FRT_website_022713.pdf

² <https://www.oregonlaws.org/ors/526.700>

Contact:
Sal Peralta
503.437.2833
oregon.properties@yahoo.com

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Background:

Former Oregon SOS, and recently retired Director of the PSU Center for Public Service, Phil Keisling, contacted me shortly after Rob Harris and I co-authored an article on carbon policy in the Oregonian³. He suggested that an expansion of the Oregon Forest Resources Trust is something that could be done now to bring in outside dollars into Oregon for carbon sequestration through forest management.

Conversations with Oregon Department of Forestry (ODF) staff as well as related environmental groups, rural community advocates and public and private land owners leads me to believe there is considerable interest in exploring this approach.

Oregon State Treasurer, Tobias Read, suggested bonding as a possible funding approach during a conversation we had about this in October.

In October, we agreed to form a group to meet and to work with the departments of forestry, carbon policy, environmental policy stakeholders and legislators to work on the issue.

Attachments

- EcoTrust ORS & OAR documents

³ <https://www.oregonlive.com/opinion/2019/08/opinion-after-cap-and-trade-failure-look-to-oregons-forests-waterways-to-help-address-climate-change.html>

Sections from Oregon Revised Statutes and Oregon Administrative Rules related to forest carbon incentives and crediting programs

Collected by David Diaz, Ecotrust

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Forest Resource Trust

Background

Established in 1993 by the Oregon Legislature, administered by the Oregon Department of Forestry, and overseen by the Board of Forestry, the Forest Resource Trust was originally conceived for the purpose of establishing new forest cover (afforestation) as a long-term investment in forestland and initially pushed by Oregon Secretary of State Phil Kiesling. There was originally no explicit intent related to carbon sequestration. In 1994, \$3.5 million was put into the Trust from Oregon State Lottery Funds, along with some donations from private businesses. \$2.5 Million were re-appropriated by the State Legislature for other uses in 1995.

Following the establishment of Oregon's Carbon Dioxide Law (HB 3283) in 1997, carbon dioxide emissions from new fossil fueled energy facilities became regulated through the permitting process of the Oregon Energy Facility Siting Council. The Klamath Cogeneration Facility was the first to dedicate funding to the Forest Resource Trust for the express purpose of carbon offsetting, adding \$1.5 Million to the fund in 1999. The formal legal connection between the Forest Resource Trust with carbon reductions and climate goals was established in *HB 2200 Forest Carbon* which passed in 2001.

The program was continually challenged with very low enrollment. Between 1995 and 2009, a total of 34 projects were developed on 1,028 acres. The largest project was 75 acres, and the average project was 31 acres.

In June 2009, the Trust's manager, Jim Cathcart of ODF reported \$901,000 remained in the Fund. The last meeting of the Forest Resource Trust Advisory Committee was held in May 2009. Oregon Administrative Rules were passed in 2009 re-defining several eligibility criteria and program rules and governance procedures that have not been changed since.

ODF sought a budget of \$1.7 Million for the administration of the Forest Resource Trust for the 2013-2015 biennium, covering 2 full-time positions.

(<https://olis.leg.state.or.us/liz/2013R1/Downloads/CommitteeMeetingDocument/15914#page=22>).

Additional References:

Case Study on the Forest Resource Trust by the University of Vermont

http://www.uvm.edu/~cfc/casestudies/FRT%20case%20study_v4_111709.pdf

Archived Forest Resource Trust fact sheet from ODF

<http://library.state.or.us/repository/2009/200904280904112/index.pdf>

Oregon Revised Statutes

§ 526.695*

Definitions for ORS 526.695 to 526.775

As used in ORS *526.695 (Definitions for ORS 526.695 to 526.775)* to *526.775 (Execution of judgment against other property when forest products and accounts not subject to lien)*, unless the context otherwise requires:

- (1) Contract means the contract signed by the forestland owner and the State Forester, acting on behalf of the Forest Resource Trust pursuant to ORS *526.705 (Loan program)*.
- (2) Ecosystem services means environmental benefits arising from the conservation and management of forestland, including, but not limited to, fish and wildlife habitat, clean water and air, pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration, avoidance of carbon dioxide emissions and maintenance of soil productivity.
- (3) Forestland owner means the individual, corporation, limited liability company, partnership, association, joint stock company, trustee, business trust or unincorporated organization holding fee simple ownership of land capable of producing forest products.
- (4) Forest products includes, but is not limited to, trees, logs, poles, lumber, chips or pulp that flow from investment of the Forest Resource Trust.
- (5) Forest Resource Trust programs means the voluntary cost share program established by ORS *526.703 (Cost share program)*, the voluntary loan program established by ORS *526.705 (Loan program)* and other programs administered by the State Board of Forestry to further the purposes of the Forest Resource Trust pursuant to ORS *526.695 (Definitions for ORS 526.695 to 526.775)* to *526.775 (Execution of judgment against other property when forest products and accounts not subject to lien)*.
- (6) Qualified private or local government forestland owner means a private or local government forestland owner that qualifies for a specific Forest Resource Trust program, as described in rules adopted by the board. [Formerly *526.735*]

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

§ 526.700*

Forest Resource Trust

- **purpose**
- **trustees**
- **advisory committee**
- **rules**
- **duties**

- (1) The Forest Resource Trust is established in the State Forestry Department. The Forest Resource Trust shall provide funds for financial, technical and related assistance to qualified private and local government forestland owners for stand establishment and improved management of forestlands for timber production as well as wildlife, water quality and other environmental purposes.
- (2) The members of the State Board of Forestry shall have overall responsibility for management of the Forest Resource Trust. The board is authorized to establish policies and programs in addition to those created by ORS 526.695 (Definitions for ORS 526.695 to 526.775) to 526.775 (Execution of judgment against other property when forest products and accounts not subject to lien) to further the purposes of the trust.
- (3) The board shall appoint an advisory committee consisting of no more than 15 members representing the public, nonindustrial private forestland owners, the forest products industry, forest consultants and contractors, the financial community, environmental and conservation organizations and other related interests including affected state agencies. The advisory committee shall assist the board in setting policy for the best use and investment of funds available to the trust and otherwise assist board members in the performance of their duties as trustees.
- (4) In accordance with any applicable provisions of ORS chapter 183, the board shall adopt rules to carry out the duties, functions and powers of the Forest Resource Trust and to guide implementation of the Forest Resource Trust programs.
- (5) The State Forester is responsible for implementing board policies and programs for the Forest Resource Trust. [1993 c.765 §57; 2007 c.201 §1]

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration,
https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

§ 526.703*

Cost share program

- **purpose**
- **advance of moneys and assistance**

- (1) The State Board of Forestry shall establish a voluntary cost share program to ensure that the purposes of the Forest Resource Trust are achieved. The purpose of the program is to provide financial and other incentives for stand establishment and improved management of nonindustrial private forestlands.
- (2) In advancing moneys and providing other assistance for stand establishment and improved forest management, the State Forester shall:
 - (a) Give priority, to the extent possible, to lands zoned for forest use under county comprehensive plans and to other lands with moderate to high probability of success for long-term stand establishment and improved forest management activities; and
 - (b) Assist landowners in securing payments for ecosystem services. [2007 c.201 §2]

Note: [526.703](#) (Cost share program) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

§ 526.705*

Loan program

- **financial assistance terms and conditions**
- **rules**

- (1) To carry out the duties, functions and powers of the Forest Resource Trust, there is created a voluntary loan program to finance establishment of stands of trees and the improved management of qualified private and local government forestlands.
- (2) In advancing moneys and providing other assistance for stand establishment, the State Board of Forestry shall:
 - (a) Give priority to lands zoned for forest uses under county comprehensive plans and to other lands with moderate to high probability of success for long-term stand establishment and improved forest management activities; and
 - (b) Assist landowners in securing payments for ecosystem services.

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

- (3) The State Board of Forestry may, by rule, establish financial agreements for the repayment of moneys advanced consistent with subsection (2) of this section and including but not limited to the following, singly or in combination:
- (a) A revenue-sharing proposal that guarantees the landowner a percentage of the receipts upon harvest after payment of harvest and severance taxes;
 - (b) Financial agreements; and
 - (c) Repayment in full with interest if a landowner fails to get the stand free to grow as that term is defined in the Oregon Forest Practices Act, unless said failure is through no fault of the landowner.
- (4) The terms of repayment shall be based on considerations that represent the best use and investment of funds including:
- (a) Rates of return, as established by the State Board of Forestry, that provide a reasonable payback to the Forest Resource Trust of project costs;
 - (b) Measurable anticipated public benefits such as job creation, tax revenue, increased timber supply and environmental improvement; and
 - (c) The extent to which landowner contributions of money, labor or other resources reduce the risk to the Forest Resource Trust.
- (5) Participating landowners shall not be required to comply with forest practices beyond those required by state and federal law with the exception that planting standards for stand establishment may be more than the required minimum.
- (6) The State Forester is authorized, on behalf of the Forest Resource Trust, to enter into contracts with eligible landowners to carry out the provisions of the voluntary loan program. The contracts may include, but are not limited to:
- (a) Partial to full financing to the landowner, as specified in rules of the State Board of Forestry, from such moneys as may be available in the Forest Resource Trust Fund.
 - (b) Any obligations of the landowner for repayment of moneys advanced including, but not limited to:
 - (A) Terms for sharing the revenue gained from the sales of timber and forest products, including salvage, from the lands enrolled under the voluntary loan program;
 - (B) Acknowledgment that the rights and obligations of the landowner and the Forest Resource Trust and all of the terms of the contract are covenants that run with the land upon sale, lease or transfer of the land benefiting from the voluntary loan program until all future obligations of the contract are met;
 - (C) Financial terms allowing the landowner to terminate the contract;

- (9) As used in this section, eligible landowner means a qualified private or local government forestland owner who:
- (a) Owns land that qualifies as forestland, as defined by the State Board of Forestry.
 - (b) Has not received an exemption from reforestation requirements pursuant to rules adopted by the board under ORS [527.760](#) (Reforestation exemptions for land use changes). [1993 c.765 §58; 2007 c.201 §3]

§ 526.710*

State Forestry Department to assist board

To assist the State Board of Forestry in carrying out the duties of the Forest Resource Trust, the State Forestry Department shall:

- (1) Identify potentially suitable lands, and educate the owners of those lands on Forest Resource Trust programs.
- (2) Provide technical and other management assistance to participating landowners.
- (3) Monitor compliance with Forest Resource Trust programs by participating landowners.
- (4) Encourage involvement of the landowner.
- (5) Encourage the use of private contractors, consultants, forestry extension programs, nongovernmental organizations and landowner cooperatives.
- (6) Develop project plans in cooperation with landowners that establish clear benchmarks for compliance with terms of the plan.
- (7) Release from financial obligation for any portion of the qualified private and local government forestlands included under Forest Resource Trust programs and irretrievably lost to insects, disease, fire, storm, flood or other natural destruction through no fault of the landowner.
- (8) Secure provisions for access to the land by the State Forester.
- (9) Give consideration to conservation plans or strategies adopted by the State Department of Fish and Wildlife when setting priorities for Forest Resource Trust programs. [1993 c.765 §59; 2007 c.201 §4]

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

§ 526.720*

Forest Resource Trust Fund

The Forest Resource Trust Fund is created in the State Treasury, separate and distinct from the General Fund. The Forest Resource Trust Fund shall consist of all moneys received from whatever source to carry out the duties, functions and powers of the Forest Resource Trust. All earnings on moneys in the fund shall be retained in the fund. All moneys in the fund are appropriated continuously to the State Forestry Department to carry out the duties, functions and powers of the Forest Resource Trust, including State Forestry Department administrative expenses. [1993 c.765 §61]

§ 526.725¹

Agreements with private, governmental or other organizations

- **land acquisitions**
- **investment of funds**
- **forestry carbon offsets**
- **trust on governmental agencies or officers not created**

- (10) (1)The State Board of Forestry or the State Forester may enter into agreements with private, governmental or other organizations and may accept contributions, gifts or grants from any source to carry out the duties, functions and powers of the Forest Resource Trust. All moneys received by the board or the State Forester pursuant to this section shall be deposited in the Forest Resource Trust Fund.
- (11) (2)The board may acquire, on behalf of the Forest Resource Trust, through exchange, lease or purchase, land only to the extent necessary to carry out the duties, functions and powers of the trust.
- (12) (3)Agreements with private, governmental or other organizations under subsection (1) of this section may specify the terms under which funds are invested and benefits accrue to the contributing party to the extent the agreement is consistent with the provisions of ORS [526.695](#) (Definitions for ORS 526.695 to 526.775) to [526.775](#) (Execution of judgment against other property when forest products and accounts not subject to lien).
- (13) (4)The State Forester may, on behalf of the Forest Resource Trust, market, register, transfer or sell forestry carbon offsets attributable to the lands enrolled in the stand establishment program under ORS [526.705](#) (Loan program). Prices for the transfer or sale

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

of forestry carbon offsets may be negotiated but must be at or greater than fair market value.

- (14) (5) Nothing in ORS [526.695](#) (Definitions for ORS 526.695 to 526.775) to [526.775](#) (Execution of judgment against other property when forest products and accounts not subject to lien) is intended to create an enforceable trust on any agency or officer of the State of Oregon. [1993 c.765 §62; 2001 c.752 §7; 2007 c.201 §9]

Oregon Administrative Rules

DEPARTMENT OF FORESTRY

FOREST LAND MANAGEMENT

DIVISION 22

FOREST RESOURCE TRUST

629-022-0030: Purpose and Trust Responsibilities

- (1) Forest Resource Trust programs provide financial, technical and related assistance to nonindustrial private and other qualified private and local government Forestland owners to establish Forest Stands and improve management of Forestlands for Timber production, fish and wildlife, water quality and other environmental purposes.
- (2) The Board of Forestry is responsible for the management of the Forest Resource Trust program. The State Forester is responsible for implementing the Trust program and policies adopted by the Board of Forestry.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

General Provisions

629-022-0035: Applicability

- (1) Provisions in OAR 629-022-0030 through 629-022-0120 apply to both the loan and cost share programs of the Forest Resource Trust.
- (2) Provisions in OAR 629-022-00130 through 629-022-0410 apply only to the loan program of the Forest Resource Trust.
- (3) Provisions in OAR 629-022-0800 through 629-022-0850 apply only to the cost share program of the Forest Resource Trust.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0040: Definitions

Defined words and terms are identified with upper case letters throughout these rules. As used in the Forest Resource Trust rules and contracts and agreements entered into under the Forest Resource Trust rules, unless the context requires otherwise:

- (1) "Actual Trust Cost" means the portion of Incurred Costs paid by the Trust.
- (2) "Adequately Stocked" means the number and size of the trees growing within a Forest Stand meets the standards determined by the State Forester in OAR 629-022-0390.
- (3) "Approved Consulting Services" means services and supplies to be provided by a Resource Management Professional approved by the State Forester as specified in a Forest Resource Trust loan program contract or cost-share agreement.
- (4) "Approved Practices" means the schedule and manner of forest Practices, Environmental Restoration and related materials and supplies approved by the State Forester.
- (5) "Budgeted Cost" means the expected cost of an Approved Practice or an Approved Consulting Service.
- (6) "Carbon Offsets" means credits registered or used, transferred or sold to comply with air quality or other greenhouse gas mitigation measures for the purpose of compensating for emissions of carbon dioxide from other sources such as the burning of fossil fuels for energy production. Carbon Offsets are not considered to be a Forest Product as defined in OAR 629-22-040(15).
- (7) A "Catastrophe" means an event or circumstance beyond the Landowner's control, resulting in all or part of a Forest Stand being incapable of producing harvest revenues to make repayment of Trust funds as described in OAR 629-022- 0300.
- (8) "Consulting Services" means services and supplies to be provided by a Resource Management Professional necessary to conduct a Practice or Environmental Restoration.
- (9) (9)"Conversion" means an Operation conducted on Underproducing Forestland with the objective of removing undesirable competing vegetation, including the incidental harvest of Forest Products and establishing an Adequately Stocked, Free to Grow Forest Stand.
- (10) "Direct Cost Payment" means the disbursement of Forest Resource Trust funds on behalf of the Landowner for up to 100 percent of the Incurred Cost of an Approved Practice or Approved Consulting Service as specified in a Loan Program Contract.
- (11) "Ecosystem Services" means environmental benefits arising from the conservation and management of forestland, including, but not limited to, fish and wildlife habitat, clean water and air, pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration, avoidance of carbon dioxide emissions and maintenance of soil productivity.
- (12) "Environmental Restoration" means a practice that protects, restores or improves natural resources. For example, an Environmental Restoration practice may enhance wildlife habitat for a sensitive species such as the osprey or a threatened species such as the bald eagle; improve water quality, reduce water temperature, or provide large woody debris to a stream in a watershed enhancement area; improve the health of an insect damaged or diseased forest; or protect soils from erosion or degradation.
- (13) "Final Harvest" means forest products are removed from the stand to create a Harvest Type 1, or 3 condition, described as:
 - (a) "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.

- (b) "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.
- (14) "Forestland" means land zoned in a county comprehensive plan for forest or farm use that is capable of producing commercial hardwood or softwood Timber, regardless of the vegetation currently on the land.
- (15) "Forest Products" include, but are not limited to, logs, poles and pilings, lumber, chips, and pulp.
- (16) "Forest Stand" means the aggregation of all trees within the project boundary.
- (17) "Free To Grow" means the State Forester has determined that a Forest Stand has well distributed trees, of acceptable species and of good form and has a high probability of remaining or becoming vigorous, healthy and dominant over undesired competing vegetation.
- (18) "Harvest" means the Forest Products in a Forest Stand are cut, severed, removed or sold.
- (19) "Incurred Costs" means the actual invoiced amount from a Provider of Services or a Provider of Supplies for completing an Approved Practice or Approved Consulting Service; or the Budgeted Cost for the Approved Practice or Approved Consulting Service; whichever is lower.
- (20) "Landowner" means the Person or Persons who are eligible to apply for or receive financial and technical assistance through Forest Resource Trust programs.
- (21) "Loan Program Contract" means the Forest Resource Trust contract that is signed by the State Forester and the Landowner as the means to receive financial and technical assistance under the Forest Resource Trust's loan program.
- (22) "Low Site Forestland" means Forestland that is capable of annual wood production between 20 and 119 cubic feet per acre per year at culmination of mean annual increment (Cubic Foot Site Class IV, V and VI).
- (23) "No Salvage Value" means Forest Products remaining within portions of the Forest Stand affected by a Catastrophe that have no economic value or insufficient economic value such that any Salvage Operation resulting in the Harvest Type 1 or Harvest Type 3 Operation would meet the provisions of OAR 629-610-0070.
- (24) "Nonindustrial Private Forestland Owner" means:
- (a) Any forest Landowner who has not owned a forest product manufacturing facility within the past 6 months that employed more than 6 people; and
 - (b) Is not owned or partially owned, or controlled, by any Person who has owned a forest products manufacturing facility within the past 6 months that employed more than 6 people.
- (25) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.
- (26) "Person" means an individual, partnership, corporation, Limited Liability Company, trustee, business or other entity.
- (27) "Practice" means an operational forest activity identified in the project plan that results in stand establishment or the improved management of Forestland.
- (28) "Project" means the Practices, Environmental Restoration and consulting services required to establish a Forest Stand or improve the management of Forestland.

- (29) "Provider of Services" means an individual, business, or other entity that has the knowledge, skills, equipment, and ability to plan, conduct or supervise Approved Practices or Approved Consulting Services.
- (30) "Provider of Supplies" means an individual, business, or other entity that provides supplies used to implement Approved Practices or Approved Consulting Services.
- (31) "Qualified Private or Local Government Forestland Owner" means any Landowner that holds fee title to Forestland except state or federal government agencies.
- (32) "Resource Management Professional" means a Person who the State Forester recognizes as having the ability to develop Landowner plans for managing the biological, economic, and environmental relationships of forest resources, and to identify appropriate activities to manage, protect, or enhance forest resources, and who has:
 - (a) A degree in forestry, biology or related sciences, plus at least a year of forestry consulting or employment experience; or
 - (b) An associate degree in forestry, biology or related sciences, plus at least 5 years of forestry consulting or employment experience.
- (33) "Salvage" means Harvest of trees that are dead, dying or damaged and deteriorating.
- (34) "State Forester" means the State Forester as defined in ORS 526.031 or any duly authorized representative or any successor thereto.
- (35) "Timber" means all logs which can be measured in board feet and other Forest Products.
- (36) "Trust" means the Forest Resource Trust as authorized in ORS 526.700 through 526.775.
- (37) "Unapproved Costs" means Incurred Costs related to Practices or consulting services that were:
 - (a) Not approved or budgeted for payment by the Trust; or
 - (b) Approved Practices or consulting services that were not completed to the satisfaction of the State Forester.
- (38) "Underproducing Forestland" means any Forestland that is capable of producing at least 20 cubic feet of wood fiber per acre per year at culmination of mean annual increment, but does not currently support the minimum number of Free To Grow trees required in the reforestation rules under the Forest Practices Act.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0050: Project Criteria

The State Forester must use the following criteria to evaluate and approve proposed Projects:

- (1) The highest priority Projects are those favoring:
 - (a) Landowners with existing Loan Program Contracts or cost-share Practice plans in good standing that request additional funds to ensure that their Forest Stands reach Free To Grow, remain Adequately Stocked or otherwise remain in an improved forest management condition;
 - (b) Lands with a written forest management plan that encompasses the eligible land and has been created or updated within the last 5 years;

- (c) Environmental Restoration or other Approved Practices consistent with conservation plans or strategies adopted by the Oregon Department of Fish and Wildlife;
 - (d) Landowners who contribute funds, labor, equipment and material; and
 - (e) Lands covered by a Stewardship Agreement as defined in ORS 541.423.
- (2) Projects of medium priority are those including:
- (a) Lands that are of higher site productivity based on the region in which they occur;
 - (b) Larger acreages;
 - (c) Funding sources that are approved from other forestry incentive or loan programs;
 - (d) Forest Products that are harvested during the Conversion.
- (3) The lowest priority Projects are those that meet the requirements of OAR 629-022-0110 but do not contain any of the priority considerations in subsection (1) and (2).

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0060: Donations to the Trust Fund

- (1) Any individual, partnership, corporation, organization or government agency may contribute funds to the Trust fund.
- (2) At the request of the donor, contributed funds may be targeted by the State Forester for either the loan or cost-share program and for specific Practices or Environmental Restoration in specific watersheds, counties or regions of Oregon.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0070: Carbon Offsets

In consideration of the benefits received through Forest Resource Trust programs, the State Forester may establish an interest in the rights to Carbon Offsets accruing to the Forest Stand through Loan Program Contracts or other instruments established in ORS 526.780, provided such action by the State Forester does not interfere with or affect the Harvest and sale of Forest Products by the Landowner.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0080: State Forester Exceptions to these Rules

The State Forester may issue an exception to these rules so as to approve Projects that:

- (1) Assist a Landowner in meeting reforestation obligations under OAR 629-610-0070 where such approval will lead to the establishment of a Forest Stand that the Landowner agrees to manage above the reforestation stocking standards in the Forest Practices Act and in 629-610-020 or as otherwise specified in the Loan Program Contract, until the conditions in 629-022-0250, Life of the Contract, are met.
- (2) Contain an Environmental Restoration that results in a non-forest native vegetation habitat condition (e.g., oak savanna) important to and consistent with conservation plans or strategies adopted by the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

Securing Forest Resource Trust Funds

629-022-0110: Eligible Landowners and Land

- (1) Only Nonindustrial Private Forestland owners with less than 5,000 acres of Forestland or up to 15,000 acres of Low Site Forestland in Oregon are eligible to receive funds under the cost-share program.
- (2) Nonindustrial private and other qualified private and local government Forestland owners are eligible to receive funds under the loan program.
- (3) Eligible Forestland must be Underproducing Forestland or other Forestland that is:
 - (a) At least 10 contiguous acres in size;
 - (b) Identified in the county comprehensive plan as forest, farm or conservation use;
 - (c) Located outside urban growth boundaries or residential zones, as identified in the county comprehensive plan;
 - (d) Free from all obligations under the Forest Practices Act;
 - (e) Free of any "no tree cutting" or "no timber harvest" covenants or encumbrances;
 - (f) Under no current petition before a county requesting a land use change to avoid reforestation under ORS 527.760; and
 - (g) Currently under no application for a claim for, or has received, economic compensation for or waiver from Forestland zoning restrictions or requirements of the Oregon Forest Practices Act.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0120: Applying for Trust Funds

- (1) Any Person may apply for Trust funds, certifying on an application provided by the State Forester that:
 - (a) Both the lands and the Person meet the requirements of OAR 629-022-0110; and

- (b) The Person requests a suspension of the reforestation requirements under OAR 629- 610-0070 when a proposed Project includes the Harvest of Forest Products.
- (2) If the Person is a corporation, partnership or limited liability company, the applicant must provide the names and addresses of the stockholders, partners, members or any other Person having an ownership interest in the entity.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

Loan Program

629-022-0130: Project Plan

- (1) A Landowner meeting the requirements of 629-022-0110 and 629-022-0120 must submit a Project plan.
- (2) A Landowner may receive technical assistance to develop the Project plan from the State Forester, other cooperating state or federal agencies, or a Resource Management Professional.
- (3) The Project plan must include:
 - (a) Practices and Approved Consulting Services necessary to accomplish stand establishment on eligible Underproducing Forestlands or the improved management of eligible Forestland;
 - (b) A Project map or maps delineating the Project boundary on at an aerial photo and also showing a legend, scale, north arrow, property boundary, topography, location of Practices, acres, and where applicable to the Approved Practices in the Project plan, vegetative cover types, soil types within the Project boundary, existing or proposed roads, and sensitive resource sites or streams that are protected by the Forest Practices Act; and
 - (c) A description of Environmental Restoration planned within the Project boundary and the source of funding for the Practices.
- (4) The Project plan must also include for each Practice described in the Project plan :
 - (a) Specifications for the Practice;
 - (b) A time schedule for completion;
 - (c) Budgeted Costs; and
 - (d) A description of any Forest Practices Act rules that need to be followed.
- (5) When the Landowner retains a Resource Management Professional to implement a Project, the Project plan must include the Resource Management Professional fees described in OAR 629-022-0230.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0140: Approval of a Proposed Project

- (1) The State Forester must use the information in the Landowner's Project plan, described in OAR 629-022-0130, in a point rating system based on the Project criteria in 629-022-0050, to select Projects for funding, subject to the requirements of 629-022-0150.
- (2) When a Project is selected for funding, the State Forester must approve all Practices, Environmental Restoration, consulting services and Budgeted Costs described in the Project plan in OAR 629-022-0130(3), (4) and (5). Budgeted Costs and fees are subject to the limitations in 629-022-0220 and 629-022-0230.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0150

The Trust Contract

- (1) A Landowner receiving Project approval for Trust funding under the loan program must execute a Loan Program Contract with the State Forester.
- (2) The Loan Program Contract must include:
 - (a) An approved Project plan;
 - (b) Financial agreements for repayment of Trust funds under OAR 629-022-0300 through 629-022-0410; and
 - (c) A security instrument, if required by the State Forester, described in OAR 629-022-0160.
- (3) No work may begin on the Practices described in the Project plan that are subject to Direct Cost Payments by the Trust until the contract is signed by all parties.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0160: Trust Security Instrument

- (1) The Landowner may be required by the State Forester to provide good and sufficient collateral to secure repayment of all funds paid to the Landowner from the Trust.
- (2) Collateral must be in the form of a a general lien upon all Forest Products grown or growing within the Project boundary or boundaries and proceeds derived therefrom as specified in ORS 526.740.
- (3) Costs and fees related to the collateral and the security instrument, such as title policy premiums and escrow fees, must be paid from Trust funds but may not be used to determine final payback amounts described in OAR 629-022-0300 through 629-022-0320. These costs and fees are subject to repayment following a breach of contract.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

Establishing a Forest Stand

629-022-0200: Implementing the Project Plan; Payments

- (1) The Landowner must implement the Practices in the Project plan and notify the State Forester when an Approved Practice or an Approved Consulting Service, or a part of a Practice or service, described in the Project plan is complete.
- (2) To request a Direct Cost Payment, the Landowner must submit written invoices for the Incurred Cost of the completed Practice or consulting service notified in section (1) of this rule.
- (3) The State Forester must disburse Trust funds to the land owner as Direct Cost Payments when the State Forester certifies that a Practice is complete to the specifications and within the Budgeted Costs approved in the Project plan in OAR 629-022-0140.
- (4) Actual Trust costs must be used to determine final payback amounts described in OAR 629-022-0300 through 629-022-0320.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0210: Landowner Obligations

- (1) The Landowner must:
 - (a) Complete all Project Practices described in the Project plan;
 - (b) Manage the Forest Stand in an Adequately Stocked and Free To Grow condition, as defined in OAR 629-022-0390;
 - (c) Comply with forest Practices standards required by state and federal law except for planting standards, which may be more than the required state minimums;
 - (d) Report any adverse changes in the condition of the Forest Stand to the State Forester; and
 - (e) Notify the State Forester before commencing any forest Operations.
- (2) The State Forester may periodically perform compliance inspections on all Practices described in the Project plan. The State Forester must have access to all lands described in the Project plan to monitor, evaluate or certify as complete the Practices described in the Project plan.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0220: Project Rates and Costs

- (1) Costs for Approved Practices or Approved Consulting Services described in the Loan Program Contract must be within Budgeted Costs determined by the State Forester, based on the prevailing rates and wages in Oregon.
- (2) Project costs paid from the Trust fund may not exceed the Project costs approved in OAR 629-022-0140(2), unless the Landowner requests additional Trust funds, and provides evidence justifying additional Trust funds, prior to the completion of the Practice.
- (3) The State Forester may approve additional Trust funds when:
 - (a) The requirements of section (2) of this rule are met; and
 - (b) The Landowner agrees to amend the contract and the payback amounts, described in OAR 629-022-0300 through 629-022-0320 to reflect the higher Trust fund expenditures.
- (4) The Trust fund may not pay for:
 - (a) Purchase of capital or expendable items, such as vehicles, ongoing road maintenance, sprayers, shovels, planting hoes, saws or safety equipment; or
 - (b) Landowner labor, materials or equipment.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0230: Resource Management Professional Fees

- (1) Resource Management Professional fees for Approved Consulting Services may be paid from Trust funds for field and office work required to write a Project plan described in OAR 629-022-0130 and to supervise the implementation and completion of all Practices in the Project plan described in 629-022-0130.
- (2) The fees in section (1) of this rule must be subject to:
 - (a) The Landowner executing the contract under OAR 629-022-0150 and 629-022-0160; and
 - (b) The Landowner submitting invoices for the professional fees charged for the Approved Consulting Services under OAR 629-022-0200.
- (3) All Resource Management Professional fees paid from the Trust fund must be included in the Actual Trust Costs to determine final payback amounts described in OAR 629-022-0300 through 629-022- 0320.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0250: Life of the Contract

The Loan Program Contract between the Landowner and the Trust must be terminated when:

- (1) The Landowner makes full payment described in OAR 629-022-0300; or
- (2) A Catastrophe destroys the entire Forest Stand, leaving No Salvage Value; or
- (3) Two hundred years, or as otherwise specified in the contract, elapse since the execution of the original contract.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0300: Repaying Trust Funds

- (1) The Landowner may terminate the Loan Program Contract at anytime during the life of the contract by repaying all Trust funds, including interest.
- (2) The State Forester must calculate the amount due by using the Actual Trust Costs paid to the Landowner to establish the Forest Stand described in the Loan Program Contract, with annual interest at the rate determined in OAR 629-022-0320. Interest is simple, prorated to the nearest full month, and begins on the date that payment or payments are made to the Landowner.
- (3) When there is a partial Harvest of Forest Products at any time during the life of the Loan Program Contract, the Landowner must make payments of 50 percent of all net receipts, until all the Trust funds, including interest are paid.
- (4) When there is a Final Harvest of Forest Products from the Forest Stand, the Landowner must make full repayment of the lowest of the following:
 - (a) The Actual Trust Cost plus interest attributable to that portion of the Forest Stand so harvested; or
 - (b) The remaining amount of the Actual Trust Cost plus interest; or
 - (c) The total of all net receipts.
- (5) Repayment of Trust funds is first applied to the Actual Trust Cost paid to the Landowner and then to the accumulative interest, until repaying all the Trust funds, including interest.
- (6) The Landowner must make payments to the State Forester, to be deposited in the Trust fund, within 60 days of completing the Harvest Operation triggering the need for payment.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0320: Interest Rate

- (1) The rate is 4.0 percent, simple interest.
- (2) The interest rate must be fixed when the Loan Program Contract is executed and may not change during the life of the contract.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.700 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 4-2006(Temp), f. & cert. ef. 5-2-06 thru 10-28-06; Administrative correction, 11-16-06; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0380: Catastrophe; Salvage Adjustments

- (1) A Catastrophe may be caused by:
 - (a) Insects, diseases, fire or other casualties and accidents; or
 - (b) Storms, floods, droughts and other unusual environmental conditions.
- (2) When a Catastrophe damages individual trees or groups of trees within the Forest Stand:
 - (a) The Landowner must pay the appropriate amount on Salvaged Forest Products, as described in OAR 629-022-0300(3); and
 - (b) The State Forester must adjust the Forest Stand boundaries to reflect the Forest Stand capable of producing Harvest revenues. The Forest Stand boundaries may not be adjusted to exclude land with unharvested merchantable Forest Products.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0390: Adequately Stocked Forest Stand

The Landowner must manage Forest Stands established with Trust funds at or above the reforestation stocking standards in the Forest Practices Act and in OAR 629-610-020 or as otherwise specified in the contract, until the conditions in 629-022-0250, Life of the Contract, are met.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

Forest Resource Trust Administration

629-022-0400: Landowner Breach of Loan Program Contract

A Loan Program Contract breach occurs when the Landowner fails to perform any term of the contract.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0410: Remedies for Breach of Contract

Remedies for Breach of Loan Program Contract

- (1) The Landowner must pay liquidated damages for a breach of contract by repaying all Trust funds, with interest as calculated in OAR 629-022-0300(2).
- (2) At any time Forest Products are harvested in breach of contract, the Landowner must pay liquidated damages in the form of a breach penalty.
- (3) In addition to any other right as provided by law, the State Forester may assign a liquidated and delinquent account, as defined by the Oregon Accounting Manual, to the Department of Revenue or to a private collection agency.
- (4) The breach penalty in section (2) of this rule may include a reasonable administrative fee to recover the cost of collection services and other related costs, as described in ORS 293.231 through 293.250.

Stat. Auth.: ORS 526.700 - 526.730 & 526.745

Stats. Implemented: ORS 526.695 - 526.775

Hist.: FB 4-1994, f. & cert. ef. 8-3-94; DOF 2-2007, f. 1-10-07 cert. ef. 1-11-07; DOF 1-2009, f. 1-12-09, cert. ef. 2-1-09

Cost-Share Program

629-022-0800: Scope

- (1) Nonindustrial Private Forest Landowners meeting the requirements of OAR 629-022-0110 may apply pursuant to 629-022-0120 for financial assistance under the cost-share program for the purpose of planning for or carrying out Practices, Consulting Services or Environmental Restoration that result in the establishment of Forest Stands or in the improved management of Forestlands for timber production, fish and wildlife, water quality and other environmental purposes.
- (2) The State Forester must maintain, and revise as necessary, a list of cost-share components that exemplify the Practices, Consulting Services and Environmental Restoration that are eligible for financial assistance under the cost-share program.
- (3) Depending on the agreements entered for funds received by the Forest Resource Trust pursuant to ORS 526.725, the State Forester may place limits on the scope of cost-share components available for financial assistance under the cost-share program or place additional years on the requirement to maintain the effectiveness of the cost-share Practice as specified in OAR 629-022-0820(8) and 629-022-0840(2).
- (4) Landowners cannot apply for financial assistance under the cost-share program for Practices, Consulting Services or Environmental Restoration that have already been completed, or are in the process of being completed, at the time of application. Further, Landowners may not begin completing any Practices, Consulting Services or Environmental Restoration being applied for until the State Forester has approved or denied the Landowner's application under OAR 629-022-0810.
- (5) Practices, Consulting Services or Environmental Restoration that are likely to result in Ecosystem Services that have a reasonable chance of securing a net economic benefit from payments for these services within the maintenance period for the effectiveness of the

Practice as defined in OAR 629-022-0820(8) are not eligible for cost-share reimbursement payments.

Stat. Auth.: ORS 526.700 - 526.730

Stats. Implemented: ORS 526.703

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0810: Approval

- (1) Landowner applications for financial assistance under the cost-share program may not be approved until the State Forester has determined that cost-share program funds are available.
- (2) The State Forester must evaluate the information in the Landowner's cost-share application to determine a project's priority for funding based on the Project criteria in OAR 629-022-0050 subject to any limitations set-forth under 629-022-0810(3).
- (3) The State Forester must maintain, and periodically update, a list of cost-share rates by cost-share component that exemplify the not-to-exceed cost-share reimbursement limits available to Landowners applying for financial assistance under the cost-share program.
- (4) The State Forester must maintain, and periodically update, a list of Landowner self-labor and self-equipment use rates that exemplify the not-to-exceed cost-share reimbursement limits available to Landowners applying for financial assistance under the cost-share program.
- (5) State Forester approval of the Landowner's cost-share application constitutes an agreement between the Forest Resource Trust and the Landowner that obligates the Forest Resource Trust cost-share program funds necessary to cover the sum of the not-to-exceed cost-share reimbursement limit for each cost-share component applied for and approved.
- (6) For applications that are not approved, the State Forester must notify Landowner's of such. The State Forester must specify the reason for denying the Landowner's application including, but not limited to, a lack of available funds, low ranking of the application with respect to the Project criteria in OAR 629-022-0050, or incompleteness of the application.

Stat. Auth.: ORS 526.700 - 526.730

Stats. Implemented: ORS 526.703

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0820: Practice Plan and Other Landowner Obligations

- (1) Upon approval of the Landowner's cost-share application, the State Forester must prepare a Practice plan that provides the performance specifications and time period for completing each cost-share component approved in the Landowner's application.
- (2) The Practice plan will list all the approved cost-share components and the corresponding cost-share not-to-exceed reimbursement rates for the approved application.
- (3) The Practice plan is the basis by which the State Forester will determine acceptable performance by the Landowner for completing the cost-share component approved in the Landowner's application.
- (4) Landowners agree to complete all the cost-share components listed in the Practice plan.

- (5) Landowners can request modifications to the Practice plan based on new information not available at the time of application or a change in site conditions since the time of application.
- (6) The State Forester is not obligated to approve the Landowner's requested modification to the Practice plan if the State Forester determines:
 - (a) The new information or the change in site conditions does not require a change to the Practice plan; or
 - (b) Funds to pay for the Practice plan modifications are not available.
- (7) Landowners are responsible for obtaining the authorities, rights, easements, or other approvals necessary to implement the approved cost-share components of the Practice plan in accordance with all applicable laws and regulations including compliance with the Oregon Forest Practices Act.
- (8) Upon receipt of a cost-share reimbursement payment, the Landowner agrees to maintain the effect of the implemented Practices or Environmental Restoration on the Forestland for at least 10 years from the year the cost-share reimbursement payment was received.

Stat. Auth.: ORS 526.700 - 526.730

Stats. Implemented: ORS 526.703

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0830: Payment Procedures

- (1) For the State Forester to approve a cost-share reimbursement payment, each cost-share component in the Practice plan must be completed according to the performance specifications and the time period identified in the Practice plan.
- (2) To initiate the payment process, the Landowner must notify the State Forester of any completed cost-share component, identified in the Practice plan, for which cost-share reimbursement payment is being requested.
- (3) The State Forester will review the completed cost-share components to certify that the components were completed according to the performance specifications and within the time period specified in the Practice plan.
- (4) Upon certification by the State Forester that the cost-share components were completed according to the Practice plan, the State Forester will calculate the amount of the cost-share reimbursement payment to the Landowner using the appropriate cost-share rate, but not for an amount exceeding the "not-to-exceed reimbursement level" set in the Practice plan. Payment will be made payable to the Landowner.

Stat. Auth.: ORS 526.700 - 526.730

Stats. Implemented: ORS 526.703

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0840: Breach of Practice Plan

- (1) Any cost-share reimbursement payments under OAR 629-022-0830 are subject to repayment by the Landowner to the Trust if the Landowner fails to complete any cost-share components as specified in the Practice plan, and:
 - (a) Such incompleteness results in a failure in stand establishment; or
 - (b) Does not improve the management of the forestland subject to the cost-share application.
- (2) Failure to maintain the effect of the implemented Practices or Environmental Restoration on the Forestland for at least 10 years from the date the last cost-share reimbursement payment was made will require the Landowner to repay all cost-share reimbursement payments to the Trust unless the State Forester determines that such failure was due to factors beyond the Landowner's control.

Stat. Auth.: ORS 526.700 - 526.730

Stats. Implemented: ORS 526.703

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

629-022-0850: Special Circumstances

- (1) When the State Forester denies a cost-share reimbursement payment because the completed cost-share component does not meet the performance specification or time period in the Practice plan, the Landowner may resubmit the payment request. The State Forester must approve the payment request when one of the following conditions has been met:
 - (a) The Landowner repeats the completion of the cost-share component and meets the performance specification in the Practice plan;
 - (b) The Landowner establishes that a reasonable effort was made and failure to meet the performance specification in the Practice plan was due to factors beyond the Landowner's control; or
 - (c) The Landowner establishes that the cost-share component, as performed, does not jeopardize the stand establishment or the improved management of Forestland the cost-share component was designed to achieve.
- (2) In case of death or incompetence of any Landowner, the State Forester must approve cost-share reimbursement payments to the successor in title or other persons or entities in control of the Landowner if the successor agrees to:
 - (a) Complete all remaining cost-share components in the Practice plan; and
 - (b) Meet all other Landowner obligations in OAR 629-022-0820.
- (3) When the Landowner sells, conveys or otherwise loses control of the Forestland prior to completion of the Practice plan, the Landowner is required to repay all cost-share reimbursement payments to the Trust unless the new Landowner agrees to:
 - (a) Implement the remaining cost-share components in the Practice plan; and
 - (b) Meet all other Landowner obligations in OAR 629-022-0820.

Stat. Auth.: ORS 526.700 - 526.730

Stats. Implemented: ORS 526.703

Hist.: DOF 1-2009, f. 1-12-09, cert. ef 2-1-09

Forestry Carbon Offsets

Background

Under Oregon House Bill 2200, approved and signed into law in July 2001, the framework for a State-level forest carbon program in Oregon was established. It entered into force January 2002. The corresponding sections of Oregon Regulatory Statutes are shown below.

Oregon Revised Statutes

§ 526.780*

Agreements for forestry carbon offsets

- requirements
- creation
- disposition of revenues

- (15) The State Forester may enter into agreements with nonfederal forest landowners as a means to market, register, transfer or sell forestry carbon offsets on behalf of the landowners to provide a stewardship incentive for nonfederal forestlands.
- (16) The State Forester may enter into an agreement described in this section if all of the following criteria are met:
- (a) The agreement must ensure continuous management of the nonfederal forestlands at a standard that, in the judgment of the State Forester, would not occur in the absence of the agreement.
 - (b) Any forestry carbon offsets managed by the agreement must be attributable to the subject nonfederal forestland as determined by the forestry carbon offset accounting system established in ORS [526.783](#) (*Development of forestry carbon offset accounting system*).
 - (c) Prices for the transfer or sale of forestry carbon offsets may be negotiated on behalf of the nonfederal forest landowner and must be at or greater than fair market value.
 - (d) The agreement must provide for the following distribution of proceeds from the transfer or sale of forest carbon offsets attributable to the subject nonfederal forestland:
 - (A) Not less than 50 percent to the nonfederal forest landowner;

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

- (B) Not more than 25 percent to the State Forester to fund programs providing coordinated technical, financial or management planning assistance to nonindustrial private forest landowners; **and**
 - (C) Not more than 25 percent to the State Forester to fund administration of the forestry carbon offset program.
- (17) All revenues received and any interest earned on moneys distributed to the State Forester under subsection (2)(d)(B) and (C) of this section shall be credited to the State Forestry Department Account and may be expended only for the purposes stated in subsection (2)(d)(B) and (C) of this section.
- (18) A person or governmental agency may create a forestry carbon offset by performing, financing or otherwise causing one or more of the following activities:
- (a) Afforestation or reforestation of underproducing lands that are not subject to required reforestation under the Oregon Forest Practices Act;
 - (b) Forest management activities not required under law existing at the point of creation of the forestry carbon offset, including but not limited to the following practices:
 - (A) Stand density control treatments in overstocked, underproducing stands of timber;
 - (B) Silvicultural practices that increase forest stand biomass, including but not limited to structure based management, variable retention, uneven age management, longer rotation ages and no harvest reserves;
 - (C) Expanded riparian buffers and other leave areas; **and**
 - (D) Deferred harvest rotations past 50 years or the age of economic maturity, whichever is longer; **and**
 - (c) Other activities as defined by rule by the State Board of Forestry. [2001 c.752 §2]

§ 526.783*

Development of forestry carbon offset accounting system

As a means of consistently reporting forestry carbon offsets created through programs established under ORS *526.725 (Agreements with private, governmental or other organizations)*, *526.780 (Agreements for forestry carbon offsets)* to *526.789 (Effect of state forestry carbon offset program)*, *530.050 (Management of lands acquired)* or *530.500 (Authority of State Forester in management, protection, utilization and conservation of lands and waters)*, the State

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

Forester shall develop a forestry carbon offset accounting system for the registration, transfer or sale of forestry carbon offsets. The forestry carbon offset accounting system shall:

- (1) Use accepted principles and standards relating to creating, measuring, monitoring, marketing, verifying, registering, transferring and selling carbon offsets used as mitigation for carbon dioxide emissions; **and**
- (2) Be consistent with any rules adopted by the State Board of Forestry under ORS [526.786](#) (*Rules relating to forestry carbon offsets*). [2001 c.752 §3; 2007 c.201 §7]

§ 526.786*

Rules relating to forestry carbon offsets rules advisory committee

- (1) The State Board of Forestry may develop administrative rules that define principles and standards relating to the creation, measurement, accounting, marketing, verifying, registering, transferring and selling of forestry carbon offsets from nonfederal forestlands.
- (2) Rules adopted by the board under this section shall set standards to ensure that in order to be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of forest management activities that:
 - (a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon offset accounting system;
 - (b) Would not otherwise occur but for the carbon storage objective; and
 - (c) Provide environmental, social and economic benefits for Oregon and its citizens, including but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife habitat and water quality.
- (3) Rules adopted by the board under this section shall establish principles to ensure that the forestry carbon offset accounting system shall:
 - (a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage or sequestration;
 - (b) Account for the duration and permanence of the carbon dioxide storage or emission reductions;
 - (c) Include provisions for establishing the appropriate baseline for projects, practices, rotation ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and credits for carbon storage or sequestration are made;

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).

- (d) Account for other relevant and measurable greenhouse gas consequences, specifically credits and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or otherwise as appropriate;
 - (e) Account for the specific forest management practices used on-site and include provisions for monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the implementation of specific practices;
 - (f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or sequestration, based on the end product use of harvested biomass;
 - (g) Account for environmental, social and economic benefits of forestry carbon offsets and ensure that practices with unsustainable, long term consequences are not used to create forestry carbon offsets;
 - (h) Allow for public access to information in monitoring reports;and
 - (i) Encourage third-party verification of forestry carbon offsets.
- (19) Rules adopted by the board under this section may address qualifications for persons and agencies that provide third-party verification and registration of forestry carbon offsets.
- (20) Rules adopted by the board under this section shall be developed with the assistance of an advisory committee appointed by the board. The advisory committee shall consist of at least nine persons and shall contain:
- (a) Persons from businesses, governmental agencies and nongovernmental organizations with knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;
 - (b) At least one person from a nongovernmental forestry conservation organization;
 - (c) At least one nonindustrial private forest landowner or a representative of an organization that represents nonindustrial private forest landowners;
 - (d) One representative of the State Department of Energy;
 - (e) One representative of the State Department of Fish and Wildlife, or a designee of the State Department of Fish and Wildlife;
 - (f) One representative of the Department of Environmental Quality, or a designee of the Department of Environmental Quality;
 - (g) At least one representative from a qualified organization, as defined in ORS [469.503 \(Requirements for approval of energy facility site certificate\)](#); and
 - (h) At least one representative from the State Forestry Department who shall serve as the secretary to the advisory committee. [2001 c.752 §4]

§ 526.789*

Effect of state forestry carbon offset program

Nothing in ORS *526.005 (Definitions)*, *526.725 (Agreements with private, governmental or other organizations)*, *526.780 (Agreements for forestry carbon offsets)* to *526.789 (Effect of state forestry carbon offset program)*, *530.050 (Management of lands acquired)* or *530.500 (Authority of State Forester in management, protection, utilization and conservation of lands and waters)* shall prohibit any person or governmental agency from marketing, selling or transferring forestry carbon offsets independently from the State Forester program established under ORS *526.725 (Agreements with private, governmental or other organizations)*, *526.780 (Agreements for forestry carbon offsets)* to *526.789 (Effect of state forestry carbon offset program)*, *530.050 (Management of lands acquired)* or *530.500 (Authority of State Forester in management, protection, utilization and conservation of lands and waters)*. Rules adopted by the State Board of Forestry pursuant to ORS *526.786 (Rules relating to forestry carbon offsets)* may not prohibit any person from marketing, selling or transferring forestry carbon offsets using principles and standards different than those adopted by the board. [2001 c.752 §5]

* Legislative Counsel Committee, CHAPTER 526—Forestry Administration,
https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors526.html (2013) (last accessed Apr. 27, 2014).