

Oregon Administrative Rules 629-041-0100

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Procedures for Contracts, Agreements and Renewals

(1) Pursuant to ORS 477.406(2), all agreements entered into by the forester or by a forest protective association, with each other, with a federal or state agency, political subdivision, corporation, responsible organization or responsible landowner or group of landowners for the prevention and suppression of fire shall be negotiated in accordance with the requirements and limitations of ORS 477.406 to 477.412 and this rule.

(2) All negotiations for contracts or agreements pursuant to section (1) of this rule shall be:

(a) Limited to matters provided in ORS 477.406(1).

(b) Conducted by representatives authorized to act on behalf of their organization, where applicable, and that are knowledgeable in wildland fire protection systems or a relevant specialty addressed in the contract or agreement.

(c) Conducted in good faith with the intention of maintaining a complete and coordinated forest protection system for the State of Oregon that is effective in carrying out the policies of ORS Chapter 477 and is economically efficient.

(3) Upon completion of negotiations and agreement by the parties, the contract or agreement will be timely reviewed (though not necessarily prior to its effective date) for adherence to the requirements of relevant statutes and rules according to the following:

(a) The Board shall review any base level contract or agreement between the forester and a forest protective association.

(b) The State Forester or designated representative shall review:

(A) Any contract or agreement that is supplemental to an existing base level agreement between the forester and a forest protective association; or

(B) Any contract or agreement with any other governmental agency or cooperator that affects areas outside a forest protection district or more than one forest protection district.

(c) The district warden or designated representative shall review any contract or agreement with any other governmental agency or cooperator that affects lands only within the warden's jurisdiction.

(d) Notwithstanding this section, any other applicable provision of law requiring a different standard of review or approval shall still apply.

(4) Notwithstanding section (3) of this rule, the Board may, at any time it is aware that a contract or agreement is to be negotiated under this rule, require the contract or agreement to be approved by the Board before its becoming effective.

(5) Any contract or agreement negotiated in accordance with this rule shall include a provision allowing the timely and prospective correction of deficiencies that may be found as a result of the review required in section (3) of this rule, or termination of the contract or agreement.

(6) The State Forester may advertise to solicit bids or proposals for agreements or contracts with corporations, responsible organizations, responsible landowners or groups of landowners for the prevention and suppression of fire on forestland or on land other than forestland, or both. With the exception of judicial review procedures, the procedures specified in OAR chapter 137, divisions 046 and 047 (2008), including protest procedures, apply to solicitations for agreements or contracts with corporations, responsible organizations, responsible landowners, or groups of landowners for the prevention and suppression of fire on forestland or on land other than forestland, or both, but not to agreements or contracts with federal or state agencies, political subdivisions, or forest protective associations. Judicial review of a decision by the State Forester regarding a solicitation specified in this rule is governed by the Oregon Administrative Procedures Act, ORS Chapter 183. This section applies to solicitations issued on or after February 1, 2009. The amendments to this section shall become effective on September 21, 2009.

Stat. Auth.: ORS 526.016(4) & 526.041

Stats. Implemented: ORS 477.406

Hist.: DOF 3-2001, f. 3-14-01, cert. ef. 3-15-01; DOF 2-2009(Temp), f. & cert. ef. 3-25-09 thru 9-20-09; DOF 4-2009; f. 8-19-09 cert. ef. 9-21-09