

Oregon Board of Forestry – Virtual Public Special Meeting

Wednesday, October 26, 2022

The special meeting will be streamed live on the department's YouTube channel. There will be an opportunity for the public to provide live testimony during the meeting for items three and four. Written testimony may also be submitted leading up to the meeting day by email, to boardofforestry@odf.oregon.gov with the agenda item number included with the submission. Public comment will not be taken on work session (*) asterisked items.

Link to view Board of Forestry Meeting available at
<https://www.youtube.com/c/OregonDepartmentofForestry>

Prior meetings' audio and this meeting's written material are available on the web at www.oregon.gov/odf/board.

Action and Information

8:00 - 8:05 a.m. **Special meeting commences with meeting protocols and roll call**

8:05 – 9:05 a.m. 1. ***Private Forest Accord Rulemaking Deliberation** Josh Barnard and Staff
*The Department will present information on the Private Forest Accord administrative rulemaking process, report on the hearing, and collective public comment, as well as summarize any substantive changes to the proposed rule language. The Department will seek approval from the Board to adopt the final proposed rule revisions to the Forest Practices Act. **This is a decision item.***

9:15 a.m. **Special meeting adjourns**

The times listed on the agenda are approximate. At the discretion of the chair, the time and order of agenda items—including the addition of a break—may change to maintain meeting flow. The board will hear public testimony [*excluding marked items] on the decision items only and engage in discussion before proceeding to the next item. * A single asterisk preceding the item number marks a work session, and public testimony/comment will not be accepted.

BOARD WORK PLANS: Board of Forestry (Board) Work Plans result from the board's identification of priority issues. Each item represents the commitment of time by the Board of Forestry and Department of Forestry staff that needs to be fully understood and appropriately planned. Board Work Plans form the basis for establishing Board of Forestry meeting agendas. The latest versions of these plans can be found on the Board's website at: <https://www.oregon.gov/odf/Board/Pages/AboutBOF.aspx>

PUBLIC TESTIMONY: The Board of Forestry places great value on information received from the public. The Board will only hold spoken public testimony at the meeting for decision items. The Board accepts written comments on all agenda items except consent agenda and Work Session items [see explanation below]. Those wishing to testify or present information to the Board are encouraged to:

- Provide written summaries of lengthy, detailed information.
- Remember that the value of your comments is in the substance, not length.
- For coordinated comments to the Board, endorse rather than repeat the testimony of others.
- To ensure the Board will have an opportunity to review and consider your testimony before the meeting, please send comments no later than 72 hours prior to the meeting date. If submitted after this window of time the testimony will be entered into the public record but may not be viewed by the Board until after the meeting.

Written comments for public testimony provide a valuable reference and may be submitted before the meeting for consideration by the Board. Please submit a copy to boardofforestry@odf.oregon.gov, and written comments received will be distributed to the Board. Oral or written comments may be summarized, audio-recorded, and filed as a record. Audio files and video links of the Board's meetings are posted within one week after the meeting at <https://www.oregon.gov/odf/Board/Pages/BOFMeetings.aspx>

The Board cannot accept comments on consent agenda items or a topic for which a public hearing or administrative law hearing has been held and the comment period has closed. No public comment will be available for the October 26, 2022 Board of Forestry special meeting.

WORK SESSIONS: Certain agenda topics may be marked with an asterisk indicating a "Work Session" item. Work Sessions provide the Board opportunity to receive information and/or make decisions after considering previous public comments and staff recommendations. No new public comment will be taken. However, the Board may choose to ask questions of the audience to clarify issues raised.

- During consideration of contested civil penalty cases, the Board will entertain oral arguments only if Board members have questions relating to the information presented.
- Relating to the adoption of Oregon Administrative Rules: Under Oregon's Administrative Procedures Act, the Board can only consider those comments received by the established deadline as listed on the Notice of Rulemaking form. Additional input can only be accepted if the comment period is formally extended (ORS 183.335).

GENERAL INFORMATION: For regularly scheduled meetings, the Board's agenda is posted on the web at www.oregonforestry.gov two weeks prior to the meeting date. During that time, circumstances may dictate a revision to the agenda, either in the sequence of items to be addressed or in the time of day the item is to be presented. The Board will make every attempt to follow its published schedule and requests your indulgence when that is not possible.

To provide the broadest range of services, lead time is needed to make the necessary arrangements. If special materials, services, or assistance is required, such as a sign language interpreter, assistive listening device, or large print material, please contact our Public Affairs Office at least three working days before the meeting via telephone at 503-945-7200 or fax at 503-945-7212.

Use of all tobacco products in state-owned buildings and on adjacent grounds is prohibited.

Agenda Item No.:	1
Work Plan:	Forest Resources Division Work Plan
Topic:	Adoption of Proposed Rule Package
Presentation Title:	Forest Practices Act Rulemaking
Presentation Date:	October 26, 2022
Contact Information	Josh Barnard, Forest Resources Division Chief 503-551-8568, josh.w.barnard@odf.oregon.gov

SUMMARY

This agenda item seeks from the Board of Forestry the approval to adopt Senate Bill 1501 Section 2 proposed rule package, and revise Oregon Department of Forestry's Administrative Rules as directed by the legislature. This is a decision item.

CONTEXT

Senate Bill (SB) 1501 directs the Board to adopt one rule package consistent with the Private Forest Accord (PFA) Report by November 30, 2022. SB 1502 directs the department to adopt rules in coordination with the Department of Revenue to offer small forestland owners a Forest Conservation Credit. House Bill 4055 set the harvest tax rates for calendar years 2022 and 2023 and funds a Department of Fish and Wildlife managed mitigation subaccount.

BACKGROUND

In February 2020, conservation and forest industry groups offered to revise the Forest Practices Act and administrative rules through a memorandum of understanding to include mediated discussions, known as the Private Forest Accord (PFA). In June 2020, the legislature adopted SB 1602 which increased helicopter spray buffers, directed rulemaking for salmon, steelhead, and bull trout streams in the Siskiyou Region, and set communication laws for spraying pesticides by helicopter. The bill set the accord timeline and topics for making changes to the Forest Practices Act and rules from which the Board could apply for a programmatic habitat conservation plan (HCP). The accord concluded in late 2021. In March 2022, the legislature adopted the accord recommendations through Senate Bills [1501](#) and [1502](#), and House Bill [4055](#). Senate Bill 1501 incorporated by reference the [Private Forest Accord Report dated February 2, 2022](#). The PFA Report further detailed the recommended changes to the Act and rules and a pathway for an HCP.

ANALYSIS

Since March, staff has closely consulted the representative authors of the PFA Report to draft administrative rules as directed by the legislature. Each administrative rule topic had a staff lead to focus on this work and consult the authors on a bi-weekly basis from April until August. On August 24, 2022, the Board of Forestry directed the department to open public comment for 30-days and hold public hearings for oral comment on the draft proposed rule package. The department completed these actions as detailed in the Hearings Officer Report, Attachment 3. Since the August Board meeting, staff also reviewed the draft rules for copy editing, consistency, errors, and omissions. The updates from that review are summarized in Attachment 2. The staff leads stepped out of their core business roles to dedicate their focus on developing

these rules and will continue to develop products for rule training and outreach work to successfully implement the rules over the next couple of years.

The rulemaking covers riparian areas, timber harvesting on steep slopes, roads, setting up a small forest landowner office with alternate riparian and road management options, compliance monitoring, enforcement, adaptive management policy committee framework, and a Forest Conservation Credit. The PFA Report further details the intent for amphibian conservation and mitigation funding for the Department of Fish and Wildlife to develop and administer rules that includes beaver conservation.

The Oregon Department of Forestry (department) provides the attached proposed rule package for consideration.

RECOMMENDATION

The department recommends the Board adopt the proposed rule package as submitted.

NEXT STEPS

The department will submit the rule changes to the Secretary of State for filing. The department is developing a training plan and drafting technical guidance.

ATTACHMENTS

- (1) Proposed rules for adoption in these divisions:
 - OAR Chapter 629 Division 600 Definitions
 - OAR Chapter 629 Division 603 Adaptive Management Program
 - OAR Chapter 629 Division 605 Planning Forest Operations
 - OAR Chapter 629 Division 607 Small Forestland Owners
 - OAR Chapter 629 Division 625 Forest Road Construction and Maintenance
 - OAR Chapter 629 Division 630 Harvesting
 - OAR Chapter 629 Division 635 Water Protection Rules: Classification
 - OAR Chapter 629 Division 643 Water Protection Rules: Vegetation along Streams
 - OAR Chapter 629 Division 655 Water Protection: Other Wetlands, Seeps, and Springs
 - OAR Chapter 629 Division 670 Enforcement and Civil Penalties
 - OAR Chapter 629 Division 672 Forest Practices Administration
 - OAR Chapter 629 Division 678 Compliance Monitoring Program Rules
 - OAR Chapter 629 Division 610-0100 Reforestation - Wildlife Food Plots
- (2) Modifications from proposed to recommended rules for adoption
- (3) Hearings officer report
- (4) Timeline Graphic

Forest Practices Act Rule Revisions

As an outcome of Senate Bills 1501 and 1502 and House Bill 4055 and the Private Forest Accord Report dated February 2, 2022, the following are rules for the Board of Forestry to consider for adoption with the following effective dates.

November 15, 2022, Effective Date

ADOPT: OAR 629-603-0000, 629-603-0100, 629-603-0130, 629-603-0160, 629-603-0200, 629-603-0300, 629-603-0400, 629-603-0450, 629-603-0500, 629-603-0600

AMEND: OAR 629-610-0100

REPEAL: OAR 629-635-0110

July 1, 2023, Effective Date

ADOPT: OAR 629-630-0915, 629-643-0100, 629-643-0120, 629-670-0225, 629-670-0228

AMEND: OAR 629-605-0170, 629-670-0000, 629-670-0010, 629-670-0100, 629-670-0200, 629-670-0210, 629-670-0214, 629-670-0350, 629-672-0100, 629-672-0200

January 1, 2024, Effective Date

ADOPT: OAR 629-607-0000, 629-607-0100, 629-607-0200, 629-607-0250, 629-607-0300, 629-607-0400, 629-607-0450, 629-607-0500, 629-607-0600, 629-607-0700, 629-607-0750, 629-607-0800, 629-625-0800, 629-625-0900, 629-625-0910, 629-625-0920, 629-630-0900, 629-630-0905, 629-630-0910, 629-630-0920, 629-630-0925, 629-643-0000, 629-643-0105, 629-643-0125, 629-643-0130, 629-643-0135, 629-643-0140, 629-643-0141, 629-643-0142, 629-643-0143, 629-643-0145, 629-643-0150, 629-643-0200, 629-643-0300, 629-643-0400, 629-643-0500, 629-678-0000, 629-678-0100, 629-678-0110, 629-678-0200

AMEND: OAR 629-600-0100, 629-605-0150, 629-625-0000, 629-625-0100, 629-625-0200, 629-625-0300, 629-625-0310, 629-625-0320, 629-625-0330, 629-625-0410, 629-625-0440, 629-625-0600, 629-625-0650, 629-625-0700, 629-630-0000, 629-630-0150, 629-630-0300, 629-630-0500, 629-630-0600, 629-630-0700, 629-630-0800, 629-635-0100, 629-635-0200, 629-635-0210, 629-635-0220, 629-635-0300, 629-635-0310, 629-655-0000

REPEAL: OAR 629-625-0340, 629-625-0420, 629-625-0430, 629-642-0000, 629-642-0100, 629-642-0105, 629-642-0110, 629-642-0200, 629-642-0300, 629-642-0400, 629-642-0500, 629-642-0600, 629-642-0700, 629-642-0800

Division 600 DEFINITIONS

629-600-0100

Definitions

As used in OAR chapter 629, divisions 603 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) "Abandoned roads" are defined as roads that were constructed prior to 1972 and do not meet the criteria of active, inactive, or vacated roads. This does not include skid trails.
- (3) "Active channel width" means the stream width between the ordinary high-water lines, or at the channel bankfull elevation if the ordinary high-water lines are indeterminate.
- (4) "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.
- (5) "Active roads" are roads currently being used or maintained for the purpose of removing commercial forest products.
- (6) "Adaptive management program committee" (AMPC) means the adaptive management program committee described in OAR 629-603-0300.
- (7) "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 freshwater ponds.
- (8) "Aquatic resource" as defined in section 40(1), chapter 33, Oregon Laws 2022 means:
- (a) A species addressed in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, and the resources on which the species relies; or
- (b) If a habitat conservation plan consistent with the Private Forest Accord Report has been approved, a species addressed in the habitat conservation plan and the resources on which the species relies.
- (9) "Area of inquiry" means an area along a Type N stream beginning at the confluence with a Type F or Type SSBT stream and extending:
- (a) During Phase 1, to the first 250 feet encountered without a flow feature.
- (b) After Phase 1, to the longer of the modeled end plus 250 feet, or beyond the modeled end to the end of the first 250 feet encountered without a flow feature.
- (10) "Artificial reforestation" means restocking a site by planting trees or through the manual or mechanical distribution of seeds.
- (11) "Bankfull elevation" means the point on a stream bank at which overflow into a floodplain begins.
- (12) "Basal area" means the area of the cross-section of a tree stem derived from DBH.
- (13) "Basal area credit" means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing enclosures.
- (14) "Beaver" means a member of the species *Castor canadensis*.
- (15) "Best available science" means the standards developed pursuant to OAR 629-603-0400(4).
- (16) "Biological goals and objectives" means the biological goals and objectives as set by the department for an approved habitat conservation plan.
- (17) "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.
- (18) "Bull Trout" means fish species *Salvelinus confluentus*.

- (19) "Certified steep slopes training" means the State Forester has certified that a trainee has completed training and demonstrated sufficient knowledge to determine the field delineation of the final boundaries for slope retention areas.
- (20) "Channel" is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.
- (21) "Channel migration zone" (CMZ) means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream, except as modified by a permanent levee, dike, railroad lines, or any public transportation infrastructure. For this purpose, near term means the time scale required to grow a mature forest.
- (22) "Chemicals" means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliants, plant desiccants, and plant regulators, as defined in ORS 634.006(8); fertilizers, as defined in ORS 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.
- (23) "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.
- (24) "Common ownership" means direct ownership by one or more individuals or ownership by a corporation, partnership, association, or other entity in which an individual owns a significant interest, as defined in section 16(1), chapter 33, Oregon Laws 2022.
- (25) "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.
- (26) "Conflict" means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.
- (27) "Covered species" means species for which incidental take under the federal Endangered Species Act is authorized in an incidental take permit and covered under a habitat conservation plan.
- (28) "Culvert with imminent risk of failure" is defined as a culvert in all waters of the state that:
- (a) Is actively diverting streams or ditchline runoff;
 - (b) Is actively eroding the road prism or stream channel in a manner that has the potential to undermine the integrity of the culvert;
 - (c) Is completely blocked, plugged, crushed, or buried;
 - (d) Has partially or completely failed fill; or
 - (e) Has high plugging potential as determined by the Stream Blocking Index or other comparable methodology, high magnitude of fill at risk, and high diversion potential in one or both directions.
- (29) "Culvert with minimal risks to public resources" is defined as a culvert in all waters of the state that:
- (a) Minimizes delivery of sediment to waters of the state;
 - (b) Has not diverted streams or ditchline runoff and does not have the potential to divert streams or ditchline runoff; and

(c) For Type F and Type SSBT streams:

(A) Provides passage for all species of adult and juvenile fish; and

(B) Provides passage of expected bed load and associated large woody material likely to be transported during flood events.

(30) "Debris flow" means a rapidly moving slurry of rock, soil, wood, and water, which is most often initiated by a landslide that delivers to and travels through steep, confined stream channels.

(31) "Debris flow traversal area sub-basins" means catchments within U.S. Geological Survey Hydrologic Unit Code 4th field basins that contain debris flow traversal areas that have a probability of traversal in the upper 20 percent.

(32) "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.

(33) "Designated debris flow traversal areas" mean areas that the slopes model identifies as most likely to deliver debris flows to Type F or Type SSBT streams. These have a probability of traversal in the upper 50 percent, calculated consistent with the methods described in slopes model. The length of designated debris flow traversal area, as determined by the slopes model, is either:

(a) The entire length of the designated debris flow traversal area that has a probability of traversal in the upper 20 percent; or

(b) A maximum of 1,000 feet upstream of a Type F or Type SSBT stream confluence for a designated debris flow traversal area that has a probability of traversal between 20 percent and 50 percent alone or in combination with a designated debris flow traversal area that has a probability of traversal in the upper 20 percent.

(34) "Designated sediment source areas" means areas that the slopes model identifies as most likely to experience landslides that initiate debris flows that will likely deliver to Type F or Type SSBT streams. These areas, as identified by the slopes model, may or may not contain trigger sources. The slope model identifies the hillslope areas greater than ¼ acre in size within debris flow traversal area sub-basins that provide the top 33 percent of the landslide-derived sediment to Type F or Type SSBT streams.

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

(36) "Department reporting and notification system" means a forest activity electronic reporting and notice system operated by the State Forestry Department, used for a notification of operation and a permit to use fire or power-driven machinery, also known as the "E-Notification system" or "FERNS."

(37) "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.

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

(39) "Dry channel area" means that area between the inside edge of the small forestland owner minimum option and the edge of the dry stream channel that:

(a) Is within a surveyed dry channel portion of a small Type Np stream in Western Oregon that under the small forestland owner minimum option is a required no-harvest buffer;

(b) Does not flow water year-round; and

(c) Is 100 feet or more in length.

- (40) "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.
- (41) "Eastern Oregon" means the region described in OAR 629-635-0220.
- (42) "ELZ" means an equipment limitation zone in which disturbance from equipment activity shall be minimized.
- (43) "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.
- (44) "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.
- (45) "Filling" means the deposit by artificial means of any materials, organic or inorganic.
- (46) "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 Act.
- (47) "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.
- (48) "Flowing water" means continuous visibly flowing surface water within a channel.
- (49) "Flow feature" means flowing water for 25 feet or more.
- (50) "Forage" means the plant species or other source of food that will be provided to substantially contribute, either directly or indirectly to nutrition of the target wildlife species or guild.
- (51) "Ford" means a type of stream crossing where the vehicle travels on the streambed or other installed structure with the wheels of the vehicle in the water if present.
- (52) "Forest conservation area" means the riparian forestland area that is not harvested that may be eligible for a forest conservation tax credit. The width of the eligible area is the difference between the outermost edge of the width of the riparian management area for the standard practice and the outermost edge of the width of the riparian management area for the small forestland owner minimum option. The length of the eligible area is the length of frontage that follows the same lengths as the standard practice.
- (53) "Forest conservation tax credit" means a tax credit available to small forest landowners who choose to follow the standard practice used by large forest landowners and claim a tax credit for some of the value committed to conservation.
- (54) "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.
- (55) "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.

- (56) "Forest Practices Technical Guidance" means advisory guidance, developed by the State Forester through a stakeholder process, to assist landowners and resource professionals to implement the Oregon Forest Practices Act and forest practices rules.
- (57) "Forest road inventory and assessment" (FRIA) means the road inventory, project planning, and reporting process required of forestland owners that do not qualify to manage forestlands under the small forestland owner minimum option.
- (58) "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.
- (59) "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.
- (60) "Fully functioning culvert in Type F or Type SSBT streams" is defined as a culvert that is located in a Type F or Type SSBT stream, at the time of FRIA inspection, that meets the requirements of the Forest Practice Rules as of January 1, 2022, and as described in the Forest Practices Technical Guidance for culverts existing prior to January 1, 2024.
- (61) "Fully functioning culvert in Type N or D streams" is defined as a culvert that is located in a Type N or Type D stream, and that, at the time of FRIA inspection, meets all requirements of the Forest Practice Rules as of January 1, 2022.
- (62) "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.
- (63) "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.
- (64) "Habitat conservation plan" (HCP) means the federal agencies' planning document designed to accommodate economic development to the extent possible by authorizing the limited and unintentional take of listed species when it occurs incidental to otherwise lawful activities. The plan is designed not only to help landowners and communities but also to provide long-term benefits to species requirements as identified in the Endangered Species Act.
- (65) "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.
- (66) "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.
- (67) "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.
- (68) "Harvest type 4" means an operation that commercially thins or spaces residual trees that does not require reforestation or retention of wildlife leave trees.
- (69) "Headwall" means steep, concave slopes that can concentrate subsurface water, which can lead to increased landslide susceptibility. Headwalls are typically located at the head of stream channels, draws, or swales. Headwalls have slope gradients of 65 percent or greater in the Tyee Core Area and 70 percent or greater in the rest of the state, as measured in the axis of the headwall. Landslides that occur in headwalls are more likely to initiate channelized debris flows that can travel down streams (also known as debris torrents) than landslides that occur in other areas of the slope.
- (70) "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 Tyee Core Area, where it is any slope steeper than 75 percent;
- (b) The presence, as measured on site, of any headwall or draw in Western Oregon steeper than 70 percent, except in the Tyee Core Area, where it is any headwall or draw steeper than 65 percent; or
- (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.
- (71) "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.
- (72) "Hydrologic disconnection" means the removal of direct routes of drainage or overland flow of road runoff to waters of the state.
- (73) "Hydrologic function" means soil, stream, wetland and riparian area properties related to the storage, timing, distribution, and circulation of water.
- (74) "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.
- (75) "Inactive roads" are roads used for forest management purposes exclusive of removing commercial forest products.
- (76) "Independent research and science team" (IRST) means the independent research and science team described in OAR 629-603-0400.
- (77) "IRST housing agency" means a public body that houses and supports the Independent Research and Science Team as described in OAR 629-603-0450.

- (78) "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.
- (79) "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 (157) of this rule.
- (80) "Lamprey" means a member of the fish genera *Entosphenus* or *Lampetra*.
- (81) "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.
- (82) "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.
- (83) "Large lake" means a lake greater than eight acres in size.
- (84) "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.
- (85) "Lateral Type Np stream" means any Type Np stream that is not a Terminal Type Np stream.
- (86) "Live tree" means a tree that has 10 percent or greater live crown.
- (87) "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.
- (88) "Main channel" means a channel that has flowing water when average flows occur.
- (89) "Modeled end" means the upper-most point of perenniality on a perennial stream shown on department maps and the department's reporting and notification system as described OAR 629-635-0200(18). The modeled end may change over time in different phases or as updated by Oregon Department of Fish and Wildlife pursuant to the methods for field surveys as described in OAR 629-635-0200(11).
- (90) "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.
- (91) "Natural reforestation" means restocking a site with self-grown trees resulting from self-seeding or vegetative means.
- (92) "Nest tree" means the tree, snag, or other structure that contains a bird nest.
- (93) "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.
- (94) "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.
- (95) "Operator" means any person, including a landowner or timber owner, who conducts an operation.
- (96) "Ordinary high-water line" means the line on the bank or shore to which the high-water ordinarily rises annually in season, as defined in ORS 274.005.
- (97) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.
- (98) "Parcel" means a contiguous single ownership recorded at the register of deeds within the county or counties where the property is located, including any parcel(s) touching along a boundary, but a railroad, road, stream, or utility-right-of-way may intersect the parcel. Single ownership is defined in ORS 527.620(14).
- (99) "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.
- (100) "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.
- (101) "Pre-existing culvert" is defined as a culvert with minimal risks to public resources that is also:
 - (a) A fully functioning culvert in a Type F or Type SSBT stream; or
 - (b) A fully functioning culvert in a Type N or Type D stream.
- (102) "R-ELZ" means an equipment limitation zone in which disturbance from equipment activity shall be minimized and all trees less than six inches DBH and shrub species are retained where possible.
- (103) "RH Max" means the maximum distance described for any particular small Type Np Stream.

- (104) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.
- (105) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.
- (106) "Repeat Violator" means an operator, timber owner, or landowner for which a finding has been made by the State Forester under section 46(6), chapter 33, Oregon Laws 2022.
- (107) "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.
- (108) "Research agenda" means the plan developed by the AMPC pursuant to OAR 629-603-0200(5)(a).
- (109) "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.
- (110) "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.
- (111) "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.
- (112) "Road management blocks" means geographically distinct ownership blocks for which a landowner is encouraged to conduct a Forest Road Inventory and Assessment.
- (113) "Road prism" means the area of the ground containing the road surface, cut slope, and fill slope.
- (114) "Salmon" means any of the five salmon species that exist in Oregon. These species are:
- (a) Chinook salmon (*Oncorhynchus tshawytscha*);
- (b) Coho salmon (*Oncorhynchus kisutch*);
- (c) Chum salmon (*Oncorhynchus keta*);
- (d) Sockeye salmon (*Oncorhynchus nerka*); and
- (e) Pink salmon (*Oncorhynchus gorbuscha*).
- (115) "Saplings and poles" means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.
- (116) "Seedlings" means live trees of acceptable species of good form and vigor less than one inch in DBH.
- (117) "Seeps" means features similar to springs, except without a well-defined point or points of groundwater surface discharge and usually very low flow.
- (118) "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.

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

(120) "Significant violation" as defined in section 40(15), chapter 33, Oregon Laws 2022:

(a) "Significant violation" means:

(A) Violation of ORS 527.670(6) by engaging in an operation without filing the requisite notification;

(B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680(2)(a), (3), or (5); or

(C) A violation resulting in major damage to a resource described in ORS 527.710(2) for which restoration is expected to take more than 10 years.

(b) "Significant violation" does not include:

(A) Unintentional operation in an area outside an operating area of an operation for which sufficient notification was filed pursuant to ORS 527.670(6);

(B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680 (2)(a), (3), or (5), where an operator demonstrates that it did not receive the order; or

(C) Failure to timely notify the State Forester of an intent to continue an operation into the next calendar year.

(121) "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.

(122) "Slope retention areas" means the 50 percent, at a minimum, of designated sediment source areas in each harvest unit that will be left unharvested.

(123) "Slopes model" means the department's computer-generated model to identify designated debris flow traversal areas, designated sediment source areas, and trigger sources.

(124) "Small forestland" means forestland that has an owner that owns or holds common ownership interest in less than 5,000 acres of forestland in this state, regulated under section 5(1)(b), chapter 33, Oregon Laws 2022.

(125) "Small forestland owner" pursuant to section (16), chapter 33, Oregon Laws 2022 and section 2, chapter 34, Oregon Laws 2022, means a landowner who:

(a) Owns or holds in common ownership interest in less than 5,000 acres of forestland in this state;

(b) Has harvested no more than an average yearly volume of two million board feet of merchantable forest products from the landowner's forestlands in this state, when averaged over the three years prior to:

(A) The date the department receives a harvest notification from the landowner; or

(B) If applying for a Small Forestland Investment in Stream Habitat Program grant, the date the landowner submits a grant application; and

(c) Affirms that they do not expect to exceed an average yearly volume of two million board feet of merchantable forest products to be harvested from the landowner's forestlands in this state for 10 years after the department receives the harvest notification or grant application; or

(d) Emergency exception: Any landowner who exceeds the two million board feet average harvest threshold from their land in the three years prior to submitting a harvest notification or grant application to the department, or who expects to exceed the threshold during any of the following 10 years, shall still be deemed a "small forestland owner" if the landowner establishes to the department's reasonable satisfaction that the harvest limits were, or will be, exceeded to raise funds to pay estate taxes or for a compelling and unexpected obligation, such as for a court-ordered judgment or for extraordinary medical expenses.

(126) "Small forestland owner minimum option" means the option to harvest timber allowed to a small forestland owner under rules adopted under the Oregon Forest Practices Act.

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

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

(129) "Springs" means features where groundwater discharges to land surface or a surface water body at a well-defined point or points. Spring volumes range from small, intermittent trickles to millions of gallons per day, depending on the groundwater source and hydraulic head.

(130) "SSBT use" means a stream with salmon, steelhead, or bull trout present or otherwise used by salmon, steelhead, or bull trout at any time of the year as determined by the State Forester.

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

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

(133) "Stream" means a channel, such as a river or creek, which carries flowing surface water during some portion of the year.

(a) For the purposes of the forest practice rules, streams include:

(A) The water itself, including any vegetation, aquatic life, or habitats therein;

(B) Beds and banks below the high water level which may contain water, whether or not water is actually present;

(C) The area between the high water level of connected side channels;

(D) Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and

(E) Stream-associated wetlands.

(b) "Streams" do not include:

(A) Ephemeral overland flow (such flow does not have a channel); or

(B) Road drainage systems or water developments as defined in section (157) of this rule.

(134) "Stream adjacent failures" means all slopes greater than 70 percent immediately adjacent to Type F or Type SSBT streams that are either:

(a) Actively failing and delivering sediment, where erodible material and exposed soils are present and prone to continued shallow-rapid slope instability, with active features such as tension cracks, scarps, ground surface shearing, and oversteepened toes; or

(b) Unstable due to the toe interacting directly with erosive forces of a stream, such that there is likely a slope failure extending beyond the standard width of the riparian management area.

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

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

(137) "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.

- (138) "Stumpage value" means the value of standing timber based on the value that would be received for the timber if harvested and delivered to a mill, minus the cost of harvest and delivery to the mill.
- (139) "Target wildlife" means a wildlife species or wildlife guild expected to benefit from the installation of a wildlife food plot.
- (140) "Temporal exception" means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.
- (141) "Temporal protection" means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.
- (142) "Terminal Type Np stream" means the largest Type Np stream by basin size that is immediately upstream of the end of a Type F or Type SSBT stream.
- (143) "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.
- (144) "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.
- (145) "Trigger sources" means areas within designated sediment source areas that the slopes model identifies as most likely to trigger a high-volume debris flow. These areas have the top 20 percent probability of triggering a top 33 percent high-volume debris flow.
- (146) "Tyee 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 Tyee 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 Tyee Core area slope steepness thresholds.
- (147) "Type D stream" means a stream that has domestic water use, but no fish use.
- (148) "Type F stream" means a stream with fish use, or both fish use and domestic water use.
- (149) "Type N stream" means a stream that meets the criteria of a Type Np or Ns stream.
- (150) "Type Np stream" means all perennial streams that are not Type SSBT or Type F.
- (151) "Type Ns stream" means all seasonal stream reaches that are not Type SSBT, Type F or Type Np streams.
- (152) "Type SSBT stream" means a small or medium stream that is classified as a Type F stream and that has SSBT use. Stream sizes are determined by the State Forester as described in OAR 629-635-0200(15).
- (153) "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.
- (154) "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.
- (155) "Verified end" means the upper-most point of perenniality established pursuant to field verification as required by 629-635-0200(18)(c).

(156) "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.

(157) "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.

(158) "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.

(159) "Western Oregon" means the region described in OAR 629-635-0220.

(160) "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 (157) of this rule.

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

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

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

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

Statutory/Other Authority: ORS 527.710(1), 527.714, 527.630(3), 526.016(4), 527.678(3)(a) & section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.630(5), 527.674, 527.714 & 527.678(3)(a) & section 2(2), chapter 33, Oregon Laws 2022

History:

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

DOF 1-2007, f. & cert. ef. 1-8-07

Reverted to DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

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DOF 6-2002, f. & cert. ef. 7-1-02

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0101

FB 5-1994, f. 12-23-94, cert. ef. 1-1-95

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94
FB 7-1991, f. & cert. ef. 10-30-91
FB 1-1991, f. & cert. ef. 5-23-91
FB 4-1990, f. & cert. ef. 7-25-90
FB 4-1988, f. 7-27-88, cert. ef. 9-1-88
FB 2-1987, f. 5-4-87, ef. 8-1-87
Reverted to FB 1-1985, f. & ef. 3-12-85
FB 2-1985 (Temp), f. & ef. 4-24-85
FB 1-1985, f. & ef. 3-12-85
FB 3-1983, f. & ef. 9-13-83
FB 5-1978, f. & ef. 6-7-78
FB 1-1978, f. & ef. 1-6-78
FB 39, f. 7-3-74, ef. 7-25-74
FB 31, f. 6-14-72, ef. 7-1-72

Division 603
ADAPTIVE MANAGEMENT PROGRAM

629-603-0000

Adaptive Management Program Purpose

(1) The purpose of the adaptive management program rules is to provide science-based recommendations and technical information to assist the Board of Forestry in determining when it is necessary or advisable to adjust rules, guidance, and training programs to achieve the biological goals and objectives.

(2) OAR 629-603-0000 through 629-603-0600 shall be known as the adaptive management program rules.

(3) It is the policy of the State of Oregon that regulation of forest practices for the protection of aquatic species shall, in addition to other statutory requirements, be subject to a process of adaptive management, whereby forest practice rules are:

a) Monitored for effectiveness relative to the biological goals and objectives; and

b) Modified if necessary to achieve the biological goals and objectives.

(4) The adaptive management program is established to implement the policy stated in section (3) of this rule.

(5) The purpose of the adaptive management program is to:

(a) Ensure timely and effective change as needed to meet biological goals and objectives.

(b) Provide predictability and stability of the process of changing regulation so landowners, regulators, and interested members of the public can understand and anticipate change.

(c) Apply best available science to decision-making.

(d) Effectively meet biological goals and objectives with less operationally expensive prescriptions when feasible.

(6) For the purposes of this rule division, the following definitions apply:

(a) "Adaptive management program committee" (AMPC) means the adaptive management program committee described in OAR 629-603-0300.

(b) "Best available science" means the standards developed pursuant to OAR 629-603-0400(4).

(c) "Biological goals and objectives" means the biological goals and objectives as set by the department for an approved habitat conservation plan.

(d) "Independent research and science team" (IRST) means the independent research and science team described in OAR 629-603-0400.

(e) "IRST housing agency" means a public body that houses and supports the Independent Research and Science Team as described in OAR 629-603-0450.

(f) "Research agenda" means the prioritized research proposals and associated budget developed by the AMPC pursuant to OAR 629-603-0200(5)(a).

Statutory/Other Authority: ORS 527.710, section 34(2), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: section 34(1), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0100

Adaptive Management Program Overview

(1) The adaptive management program must:

(a) Conduct effectiveness monitoring by assessing the degree to which the rules facilitating particular forest conditions and ecological processes achieve the biological goals and objectives. This assessment may include evaluation of cumulative effects.

(b) Conduct research inquiry and validation monitoring on the following:

(A) Evaluating if the biological goals and objectives are being met to achieve overall program goals;

(B) Assessing whether additional scientific inquiry is needed to fill in knowledge gaps to inform if biological goals and objectives are being met to achieve overall program goals; and

(C) Testing and improving models and methodologies used to design and implement forest practices rules.

(2) The adaptive management program participants include:

(a) The Adaptive Management Program Committee (AMPC) described in OAR 629-603-0300 and its composition specified in section 36, chapter 33, Oregon Laws 2022;

(b) The Independent Research and Science Team (IRST) described in OAR 629-603-0400 and its composition specified in section 38, chapter 33, Oregon Laws 2022; and

(c) The Adaptive Management Program Coordinator described in OAR 629-603-0500.

(3) The Board of Forestry and the department shall encourage access to land for the purpose of conducting studies and monitoring contemplated by Division 603 rules. The AMPC and the IRST may each prepare a report to the board describing instances where access to land has been insufficient to achieve the purposes of this rule division. If presented with such a report, the board shall consider whether to initiate rulemaking or other measures to address any research and monitoring problems arising from lack of access to land.

(4) The State Forester shall report to the board annually about the status of adaptive management program efforts.

(5) The board intends that the process of continuous improvement be applied to the adaptive management program. The department shall conduct performance audits once every six years per Generally Accepted Government Auditing Standards. The first audit must be completed by January 1, 2029. The performance audits will evaluate whether the program achieved the purposes outlined in OAR 629-603-0000(5).

(6) Adaptive management program studies will focus on issues related to the biological goals and objectives. However, studies may address issues that are not related to the biological goals and objectives only if the studies do not impair research and monitoring on issues related to the biological goals and objectives.

(7) Adaptive management program research may test whether:

(a) Operationally less expensive prescriptions can effectively meet biological goals and objectives; and,

(b) More risk averse prescriptions are necessary to meet biological goals and objectives.

(8) The following topics shall be prioritized in the initial phase of the adaptive management program:

(a) Literature review for eastern Oregon steep slopes;

(b) Requirements of baseline and trend monitoring of road rules; and

(c) Amphibians.

(9) The AMPC may determine when section (8) of this rule is satisfied and therefore those topics are no longer priorities. In the event the AMPC makes these findings, the department shall present the AMPC findings to the board.

Statutory/Other Authority: ORS 527.710, Section 34(2), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0130

Adaptive Management Program Budget

(1) It is the intent of the Board of Forestry that the State Forester and its cooperators place a high priority on the adaptive management program, which requires securing adequate resources to conduct the necessary work of the AMPC, the IRST, the Adaptive Management Program Coordinator, and other entities as needed. The State Forester shall work with its cooperators and the legislature to secure the necessary resources, funding, and coordination for an effective adaptive management program.

(2) The board shall determine the budget for:

(a) The IRST Housing Agency described in OAR 629-603-0450;

(b) Participation grants for the AMPC and the IRST per OAR 629-603-0160;

(c) IRST research projects;

(d) Analyses per OAR 629-603-0100(7) as provided by OAR 629-603-0200(5)(e); and

(e) Other aspects of the adaptive management program that may arise, notwithstanding the process described in section (3) of this rule.

(3) The AMPC shall create a detailed, preliminary budget of the funds from section (2)(c) of this rule for the research agenda per OAR 629-603-0200(5)(a), for a subsequent board vote per OAR 629-603-0200(5)(d).

Statutory/Other Authority: ORS 527.710, Section 34(2), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0160

Adaptive Management Participation Grants

(1) Organizations on the AMPC and the IRST are eligible for participation grants to compensate the organization for organizational resources the organization dedicated to support the AMPC or the IRST. The Department of Forestry, Department of Fish and Wildlife, Department of Environmental Quality, and federal agencies on the AMPC are not eligible for participation grants.

(2) The Board of Forestry shall determine the budget available for participation grants every biennium pursuant to OAR 629-603-0130(2)(b). The budgeted funds shall be equally divided by the number of members from eligible organizations who apply for the grants.

(3) The board shall award individual participation grants to eligible organizations who request these grants.

- (4) If an eligible organization on the IRST has more than one member on the IRST, each eligible organization shall receive individual participation grants for each of their members.
- (5) Notwithstanding section (2) of this rule, the board may choose to award some members higher grant amounts if the members have significantly higher workloads than other AMPC or IRST members.

Statutory/Other Authority: ORS 527.710, Section 34(2), 36(10) & 38(11), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0200

Adaptive Management Program Process Steps

- (1) This rule specifies communications between the Board of Forestry, the AMPC, and the IRST to implement the adaptive management program. To the extent there needs to be communications not identified in this rule for adaptive management program success, the Adaptive Management Program Coordinator will facilitate these communications.
- (2) By August 1, 2023:
- (a) The AMPC shall:
- (A) Complete their charter per OAR 629-603-0300(2); and
- (B) Develop the initial list of research topics including the priorities in OAR 629-603-0100(8). Following completion of this list, the AMPC shall integrate the list into a Research Agenda developed via sections (3) through (5) of this rule.
- (b) The IRST shall complete their charter per OAR 629-603-0400(2) and determine best available science per OAR 629-603-0400(4).
- (3) Step 1: The AMPC shall develop preliminary research question(s).
- (a) The AMPC shall succinctly specify preliminary research questions that include the following:
- (A) The type of research and monitoring per OAR 629-603-0100(1)(a) or (b);
- (B) The rule, biological goals and objectives, or other issue being studied;
- (C) The objective of the research;
- (D) A brief description of the context of the research question; and
- (E) Other information the AMPC deems necessary for the IRST's work per section (4) of this rule.
- (b) The board may direct the AMPC to develop additional preliminary research questions.
- (c) The AMPC shall send the preliminary research questions to the IRST annually on a date specified in the AMPC charter developed pursuant to OAR 629-603-0300(2).
- (4) Step 2: The IRST shall prepare a proposal for each preliminary research question.
- (a) Within 45 days of receiving a preliminary research question from the AMPC per subsection (3)(c) of this rule, the IRST shall inform the AMPC of the timeframe to complete a research proposal described in subsection (4)(c) of this rule.
- (b) The IRST shall hone each preliminary research question into a final research question. The IRST shall communicate with the AMPC via the Adaptive Management Program Coordinator to allow the AMPC an opportunity to provide input to ensure that the AMPC's original intent is maintained in the final research question. Following this communication, the IRST shall finalize the research question.

- (c) The IRST shall develop, or direct through a third party the development of, a research proposal for each finalized research question. Each research proposal shall include:
 - (A) A literature review that specifies the need for or the type of monitoring, research, commissioned studies, or other means of scientific inquiry necessary to answer the finalized research question described in subsection (4)(b) of this rule;
 - (B) A preliminary estimate of the budget for each year of the research, and a timeline to complete the research project with specific deliverables; and,
 - (C) A preliminary description of research project requirements, scope of work including an estimate of the timeline and key milestones, and an estimate of the degree to which knowledge may be improved if the research proposal is implemented.
- (d) The IRST may develop multiple research proposals to address each research question. Each proposal must include all the elements of subsection (4)(c) of this rule. If multiple research proposals are developed, the IRST shall compare their costs versus the knowledge benefits of the research proposals.
- (e) The IRST shall send proposal(s) from subsections (4)(c) and (4)(d) of this rule to the AMPC within the timeframe communicated from the IRST to the AMPC pursuant to subsection (4)(a) of this rule.
- (5) Step 3: The AMPC shall develop a research agenda.
 - (a) The AMPC shall develop a multi-year research agenda that includes:
 - (A) Prioritized research projects;
 - (B) Key milestones for each research project;
 - (C) A timeline for progress on research projects; and,
 - (D) A comprehensive IRST budget, including annual budget for each year of each project.
 - (b) In prioritizing the research projects, the AMPC shall consider:
 - (A) Biennial appropriations from the legislature;
 - (B) Priorities outlined in OAR 629-603-0100(8);
 - (C) Research proposals received from the IRST per subsection (4)(e) of this rule;
 - (D) Board direction;
 - (E) Requirements for continuity of research projects under agreement or out for RFP review; and,
 - (F) Other information as appropriate.
 - (c) The AMPC shall send the research agenda to the board no later than July 15 of odd-numbered years.
 - (d) The department shall present the budget in the research agenda developed pursuant to subsection (5)(a) of this rule to the board for a vote at the September board meeting of odd-numbered years.
 - (e) The AMPC may request the department to hire a third party to complete analyses per OAR 629-603-0100(7).
- (6) Step 4: The IRST shall implement the research agenda approved by the board pursuant to subsection (5)(d) of this rule.
 - (a) No later than November 1 of odd-numbered years, the IRST shall develop an annual work plan to implement the research agenda approved by the board in subsection (5)(d) of this rule.
 - (b) The IRST shall develop request for proposals (RFP) in an open, competitive process for research projects in the research agenda. The RFP shall include:
 - (A) Research project objectives, deliverables, and deadlines;
 - (B) A statement of work;
 - (C) The level of rigor needed for successful research project completion;

- (D) The required expertise and capacity of proposers;
 - (E) The data as a deliverable;
 - (F) The expectations for a detailed final report;
 - (G) An after-action review meeting between the IRST and the contractor and other cooperators; and,
 - (H) Other RFP elements required by the IRST Housing Agency agreed to perform work specified in OAR 629-603-0450.
- (c) RFPs may include requirements for:
- (A) Contractor and other cooperator presentations to the AMPC, the board, or other entities as appropriate.
 - (B) A summary report. If the contractor and other cooperators are required to produce a summary report for the agreement, it must contain the elements listed in section (6)(g) of this rule.
 - (d) The RFP announcement and award process shall follow procedures of the IRST Housing Agency, with the IRST selecting the RFP successful proposer.
 - (e) If an IRST member applies for an RFP, the IRST shall ensure RFP selections follow conflict of interest standards as established by the Oregon Government Ethics Commission.
 - (f) The IRST shall develop and manage agreements for RFP successful proposer.
 - (g) If the agreement in subsection (6)(f) of this rule did not require development of a summary report, the IRST shall complete the summary report within 90 days of receiving the contractor and other cooperator's detailed final report in paragraph (6)(b)(F) of this rule. The summary report shall be written for a lay audience and include:
 - (A) Methods sufficient to allow others to understand what was done and to evaluate the results and conclusions;
 - (B) A detailed description of the results; and
 - (C) Discussion and conclusions about:
 - (i) Effectiveness: In studies examining alternative prescriptions, the likely effectiveness of each prescription shall be reported.
 - (ii) Causal links: An assessment of how the results of relevant new research findings developed by the IRST or through outside research clarify or support causal links between forest practices and aquatic resources, and implications regarding how well forest practices rules or rule sets are likely to address these linkages.
 - (iii) Magnitude of impact: An assessment of the magnitude of impact on covered species or biological goals and objectives on a sliding scale.
 - (iv) Timescale of effects observed, and the immediacy of likely changes in the environment.
 - (v) Scope of inference.
 - (vi) Scientific uncertainty versus confidence: An assessment of the scientific uncertainty and confidence in the results.
- (7) Step 5: Within 30 days of completion of the last of the reports described in paragraphs (6)(b)(F) and (6)(c)(B) and subsection (6)(g) of this rule, the IRST shall send both reports to the AMPC and the board.
- (8) Step 6: The AMPC and the board shall assess the IRST reports described in section (7) of this rule and determine next steps per the following process.
- (a) The AMPC shall consider reports described in paragraphs (6)(b)(F) and (6)(c)(B) and subsection (6)(g) of this rule from the IRST. Within 90 days of receipt of these reports from the IRST, the AMPC shall send its report to the board. This AMPC report shall include:

(A) Alternative actions, including a no action alternative, to address research findings identified in the IRST reports.

(B) The AMPC may recommend one or more of the alternatives. Recommendations shall include:

(i) Reasoning for the recommendation.

(ii) If a recommendation for a rule change, a clear description of the proposed rule change.

(ii) If a recommendation for additional scientific inquiry, a clear description of the preliminary research question.

(iv) If a recommendation for any other policy action, including rule guidance and training, a clear description of the proposed policy action.

(C) Minority reports may be included in reports to the board.

(b) By the second regular meeting after receipt of the AMPC report, the AMPC shall present their recommendations to the board for a vote.

Statutory/Other Authority: ORS 527.710, Section 34(2) & 38(7), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0300

Adaptive Management Program Committee

(1) The purpose of the Adaptive Management Program Committee (AMPC) is to complete work described in division 603 of OAR chapter 629 and section 36(7), chapter 33, Oregon Laws 2022.

(2) The AMPC shall develop its operating procedures through a charter approved by the AMPC. The charter shall include:

(a) A values statement on the purpose of the AMPC, including the need for ongoing good relationships.

(b) Ground rules for AMPC member interactions.

(c) Determination of what constitutes a substantial decision per section 36(8), chapter 33, Oregon Laws 2022.

(d) Process for selecting chairperson(s). The chairperson shall have the usual duties and powers of a presiding officer.

(e) Roles, expectations, and representation on subcommittees.

(f) Regular deadlines including the deadline specified in OAR 629-603-0200(3)(c).

(g) Measures to maintain and improve the long-term effectiveness of AMPC, including:

(A) Succession management procedures;

(B) Onboarding of new AMPC members; and

(C) Regular review and updating of the AMPC charter.

(3) After the Board of Forestry appoints the first AMPC members pursuant to sections 36(5)(a) and 37, chapter 33, Oregon Laws 2022, members' terms may be renewed by a vote by the board. If an AMPC member's term is not renewed by the board or there is any other vacancy of a voting member on the AMPC, then the entity described in sections 36(3), 36(4), 36(5)(a) chapter 33, Oregon Laws 2022 shall propose two new candidates for a vote from the board for AMPC appointment.

(4) The AMPC shall conduct their meetings per the AMPC charter, and all AMPC meetings shall be conducted as public meetings consistent with Oregon Public Meetings Law. The AMPC will

provide for public testimony at meetings unless the chairperson determines that doing so would be detrimental to the conduct of the AMPC's business.

(5) An organization on the AMPC may designate someone to serve as an interim member in place of their current member for up to 90 days. The interim member will have all the rights and responsibilities of that organization's voting status per Section 36, Chapter 33, Oregon Laws 2022. The organization must submit in writing to the adaptive management program coordinator:

- (a) The name of the interim member; and,
- (b) The duration of their interim status.

Statutory/Other Authority: ORS 527.710, Section 34(2), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0400

Independent Research and Science Team

(1) The purpose of the Independent Research and Science Team (IRST) is to complete work described in division 603 of OAR chapter 629 and section 38(8), chapter 33, Oregon Laws 2022.

(2) The IRST shall develop its operating procedures through a charter approved by the IRST. The charter shall include:

- (a) A values statement on the purpose of the IRST, including the need for ongoing good relationships;
- (b) Ground rules for IRST member interactions;
- (c) Measures to obtain research expertise or review from outside the IRST;
- (d) Determination of what constitutes a substantial decision per section 38(9)(b), chapter 33, Oregon Laws 2022;
- (e) Process for selecting chairperson(s). The chairperson shall have the usual duties and powers of a presiding officer;
- (f) Process for nominating new members to fill vacancies and add new disciplinary expertise pursuant to section 38(6), chapter 33, Oregon Laws 2022;
- (g) Role, expectations, and representation on subcommittees; and
- (h) Measures to maintain and improve the long-term effectiveness of the IRST, including:
 - (A) Succession management procedures;
 - (B) Onboarding of new IRST members; and
 - (C) Regular review and updating of the IRST charter.

(3) An IRST member's term may be renewed upon a two-thirds vote of the rest of the IRST and then ratification by the board. A two-thirds vote of the other IRST members, or a majority vote of the board, may remove an IRST member before the end of their term.

(4) The IRST shall develop standards for best available science for the adaptive management program that include:

- (a) Types of sources of best available science;
 - (b) Process for determining what is best available science based on criteria set by the IRST, including an assessment of study quality and relevance;
 - (c) Testable hypotheses as a crucial element for successful research;
 - (d) A peer review process that is transparent and addresses both study designs and study reports.
- The IRST shall not grant anonymity to authors, handling editors, or peer-reviewers before

January 1, 2028. After January 1, 2028, the IRST may modify the anonymity requirements to peer reviewers by a substantial decision of the IRST; and

(e) Other elements the IRST determines are necessary.

(5) The IRST may update the best available science standards developed pursuant to section (4) of this rule.

(6) The IRST shall conduct their meetings per the IRST charter, and all IRST meetings shall be conducted as public meetings consistent with Oregon Public Meetings Law. The IRST will provide for public testimony at meetings unless the chairperson determines that doing so would be detrimental to the conduct of the IRST's business.

(7) The IRST may pursue scientific inquiry via various avenues, including:

(a) Literature review;

(b) Field monitoring;

(c) Original research;

(d) Commissioned studies; and,

(e) Other means of scientific inquiry.

Statutory/Other Authority: ORS 527.710, section 34(2) & 38(7), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: section 34(1), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0450

Housing Agency for IRST

(1) The department shall have an agreement with Oregon State University-Institute for Natural Resources to house the Independent Research and Science Team with an initial six-year agreement. At the end of the initial term, and for all periods thereafter, the department shall develop an agreement with a public body every six years to house and support the work of the IRST. The agreement shall align with Division 603 rules. As used in this rule, the term "public body" has the meaning provided in ORS 174.109.

(2) Every six years, the Board of Forestry shall consider the location of the IRST Housing Agency in alignment with performance audits per OAR 629-603-0100(5). As part of this review, the AMPC must submit a report to the board evaluating performance of the IRST Housing Agency. The AMPC report shall reflect all the views of the AMPC members and does not require a vote of the AMPC.

(3) The IRST will oversee the IRST Housing Agency's work to:

(a) Help refine research questions and associated proposals per OAR 603-629-0200(4);

(b) Draft requests for proposals to address research projects per OAR 603-629-0200(6);

(c) Post requests for proposals using standard public bidding processes per OAR 603-629-0200(6);

(d) Develop agreements for successful proposers of request for proposals per OAR 603-629-0200(6);

(e) Administer agreements mentioned in subsection (3)(d) of this rule per standard agreement processes for the Housing Agency per OAR 603-629-0200(6);

(f) As requested by the IRST, draft reports summarizing the results of funded research, per OAR 603-629-0200(6)(g);

(g) Provide administrative functions for the IRST including:

- (A) Coordinate and host IRST meetings and ensure they adhere to Oregon Public Meetings Law;
- (B) Draft and maintain the IRST charter per OAR 603-629-0400(2); and
- (C) Provide other administrative functions as needed.
- (h) Provide other support duties as needed.

Statutory/Other Authority: ORS 527.710, Section 34(2), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0500

Adaptive Management Program Coordinator

The State Forester will appoint an Adaptive Management Program Coordinator to serve as the program administrator. The Adaptive Management Program Coordinator will be a neutral facilitator whose primary function is to assist the program by:

- (1) Facilitating communication between, and coordinating the work of, adaptive management program participants listed in OAR 629-603-0100(2);
- (2) Reporting to the Board of Forestry on annual progress of adaptive management program pursuant to OAR 629-603-0100(4), in addition to appearances as needed to present AMPC reports and other adaptive management program work;
- (3) Managing budgets for participation grants described in OAR 629-603-0160 for the AMPC and the IRST;
- (4) Coordinating agreements for regular performance audits of the adaptive management program per OAR 629-603-0100(5); and
- (5) Performing other duties as needed.

Statutory/Other Authority: ORS 527.710, Section 34(2), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-603-0600

Rulemaking Topics

In addition to requirements specified in section 39, chapter 33, Oregon Laws 2022 and other law, the Board of Forestry may use the adaptive management program rulemaking process for rules that are not intended to achieve the biological goals and objectives.

- (1) The board shall ensure that the use of the adaptive management process for issues unrelated to the biological goals and objectives does not impair the ability of the adaptive management program to address issues related to the biological goals and objectives.
- (2) If the board directs the AMPC and the IRST to address issues unrelated to the biological goals and objectives, the IRST shall consult with experts in that non-aquatic research discipline to support IRST projects and reports.

Statutory/Other Authority: ORS 527.710, Section 34(2), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 34(1), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

Division 605
PLANNING FOREST OPERATIONS

629-605-0150

Notification to the State Forester – When, Where and How

(1) The operator, landowner or timber owner shall notify the State Forester as required by ORS 527.670(6), at least 15 days before starting an operation.

(2) The State Forester may waive the 15-day waiting period required in section (1) of this rule, except as prohibited in ORS 527.670(9) for aerial applications of chemicals and 527.670(10) for operations requiring a written plan under 527.670(3)(a), (b) and (c). Waivers may be granted when the State Forester has already previewed the operation site or has otherwise determined the operation to have only minor potential for resource damage. Waivers shall be made in writing, and on an individual notification basis.

(3) Once an operation is actually started following proper notification of the State Forester, the operation may continue into the following calendar year without further notification under 527.670(6), provided:

(a) There are no changes to the information required on the notification;

(b) The operator gives written notice to the State Forester of their intent to continue the operation within the first two months of the following calendar year; and

(c) The operation actively continues within the first six months of the following calendar year.

(4) No notification is valid after the second calendar year, unless:

(a) The landowner or operator submits a written request to extend the notification before the end of the second calendar year;

(b) There are no changes to the information submitted on the original notification; and

(c) The State Forester approves the request.

(5) Notwithstanding sections (3) and (4) of this rule, nothing in this rule relieves an operator, landowner or timber owner of the responsibility to comply with ORS 477.625, requiring a permit to use fire or power-driven machinery; or ORS 321.550, requiring notification of intent to harvest provided to the Department of Revenue through the department for tax collection purposes.

(6) For the purposes of ORS 527.670 a notification will be considered received only when the information required by the State Forester is complete and the necessary forms are on file at the department district or unit office responsible for the area in which the operation will take place. Notifications not properly completed shall be promptly returned to the party submitting them. Properly completed notifications submitted to an incorrect department office will be forwarded to the correct office.

(7) Notifications required by ORS 527.670(6) shall be completed in detail, on forms provided by the State Forester. The notification shall include a map to scale, or aerial photograph that is corrected for distortion, on which the boundary of the operation unit is clearly marked. When more than one type of operation activity or more than one unit is submitted on a single notification, each operation unit shall be identifiable as to the type of operation activity, by legal subdivision, and drawn on a map to scale, aerial photograph corrected for distortion, or other appropriate means. Operations involving harvesting in more than one county may not be combined on the same notification because of tax collection requirements.

(8) When operations include the application of chemicals, properly completed notifications shall include the common name of the chemicals to be used; the brand name, if known at the time of

notification; the application method; and, for fertilizers, the intended application rate per acre. Public information on allowable application rates of commonly applied forest chemicals will be maintained at department field offices. Additional information on chemical applications shall be collected and recorded by operators at the time of application, and made available upon request to the State Forester, pursuant to OAR 629-620-0600.

(9) The operator, landowner or timber owner, whichever filed the original notification, shall contact the State Forester and report any subsequent change to information contained in the notification. Additions to the geographic location, however, shall require a separate notification.

(10) The operator who filed a notification pursuant to ORS 527.670(6), shall inform the State Forester of the completion of each activity identified in the notification of operation under the following conditions:

(a) When there is an active operation, inform the State Forester of the completion of the activity by the end of the calendar year of the notification; or

(b) If the original notification is continued into the following calendar year, the requirement in section (10)(a) does not apply until end of the calendar year of the continued notification.

Statutory/Other Authority: ORS 527.710; Section 2(1), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715; Section 2(2), Chapter 33, Oregon Laws 2022; Section 44(2)(a), Chapter 33, Oregon Laws

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

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

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. and cert. ef. 8-2-05 thru 1-27-06

DOF 6-2002, f. & cert. ef. 7-1-02

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0108

FB 2-1988, f. & cert. ef. 5-11-08

FB 5-1978, f. 6-7-78

FB 33, f. 6-15-73, ef. 7-1-73

FB 31, f. 6-14-72, ef. 7-1-72

629-605-0170

Written Plans

(1) Definition of “Directly Affect” and “Physical Components” For the purpose of section (4) of this rule:

(a) “Physical components” means materials such as, but not limited to, vegetation, snags, rocks and soil; and

(b) “Directly affect” means that physical components will be moved, disturbed, or otherwise altered by the operation.

(2) Statutory Written Plans for Operations near Type F, Type SSBT and Type D Streams. An operator must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting an operation that requires notification under OAR 629-605-0140, and that is within 100 feet of a Type F, Type SSBT or Type D stream.

(3) Statutory Written Plans for Operations near Wetlands larger than Eight Acres, Bogs or Important Springs in Eastern Oregon. An operator must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting an operation that requires notification under OAR 629-605-0140, and that is within 100 feet of a significant wetland that is a wetland larger than eight acres (not an estuary), a bog, or an important spring in Eastern Oregon as

identified in 629-645-0000 (Riparian Management Areas and Protection Measures for Significant Wetlands).

(4) Waiver of Statutory Written Plans. The State Forester may waive, in writing, the requirement for a written plan described in sections (2) and (3) unless the operation activity will directly affect the physical components of the riparian management area for Type F, Type SSBT, Type D streams or significant wetlands. The department shall publish Forest Practices Technical Guidance to explain how to implement this rule.

Note: OAR 629-605-0170(4) applies to operations with fish streams, except operations on small forestlands, for which a notification is filed under ORS 527.670(6) on or after July 1, 2023. This rule applies to all operations for which a notification is filed on or after January 1, 2024, or a notification filed prior to January 1, 2024, if the operation is not completed on or before December 31, 2023.

(5) Statutory Written Plans for Operations near Wildlife Sites and Estuaries. An operator must submit to the State Forester a written plan as required by ORS 527.670(3) before conducting an operation that requires notification under OAR 629-605-0140, and that is within 300 feet of any:

(a) Specific site involving threatened or endangered wildlife species, or sensitive bird nesting, roosting, or watering sites; as listed by approximate legal description, in a document published by the Department of Forestry titled "Cooperative Agreement Between the Board of Forestry and the Fish and Wildlife Commission, March 28, 1984."

(b) Resource site identified in OAR 629-665-0100 (Species Using Sensitive Bird Nesting, Roosting and Watering Sites), 629-665-0200 (Resource Sites Used By Threatened and Endangered Species).

(c) Significant wetland that is classified as an estuary identified in OAR 629-645-0000 (Riparian Management Areas and Protection Measures for Significant Wetlands).

(d) Nesting or roosting site of threatened or endangered species listed by the U.S. Fish and Wildlife Service or by the Oregon Fish and Wildlife Commission by administrative rule.

(6) Statutory Written Plans and Stewardship Agreements. The written plan requirements in section (2), (3) and (5) of this rule do not apply to operations that will be conducted pursuant to a stewardship agreement entered into under ORS 541.423.

(7) Statutory Written Plan Requirements and Notification of Protected Resource Sites. The State Forester shall notify the operator of the presence of any site listed in section (2), (3) or (5) of this rule at any time the State Forester determines the presence of those sites.

(8) The State Forester shall notify the operator that a written plan is required if:

(a) The operation will be within 100 feet of any sites listed in sections (2) or (3) of this rule and the operation will directly affect the physical components of a riparian management area associated with any of those sites; or

(b) The operation will be within 300 feet of any site listed in section (5) of this rule.

(9) Statutory Written Plan Hearing Provisions. Written plans required under sections (2), (3) or (5) of this rule shall be subject to the hearings provisions of ORS 527.700 (Appeals from orders of State Forester hearings procedure; stay of operation); and shall be subject to the provisions of 527.670(8) through (12) (Commencement of operations; when notice and written plan required; appeal of plan) prescribing certain waiting periods and procedures.

(10) Non-Statutory Written Plans.

(a) An operator must submit a written plan as required by ORS 527.670(2) and the rules listed below unless the State Forester waives the written plan requirement. Written plans required by

the rules listed below are not subject to the provisions of ORS 527.700(3) or ORS 527.670(10), (11) and (12).

(A) 629-605-0190(1) — Operating near or within sites that are listed in the "Cooperative Agreement Between the Board of Forestry and the Fish and Wildlife Commission, March 28, 1984" or sites designated by the State Forester;

(B) 629-605-0190(2) — Operating near or within habitat sites of any wildlife or aquatic species classified by the Department of Fish and Wildlife as threatened or endangered;

(C) 629-623-0700(1) — Conducting timber harvesting or road construction operations with intermediate or substantial downslope public safety risk;

(D) 629-623-0700(2) — Constructing a stream crossing fill over a debris torrent-prone stream with intermediate or substantial downslope public safety risk;

(E) 629-623-0700(3) — Locating a waste-fill area within a drainage containing debris torrent-prone streams with intermediate or substantial downslope public safety risk;

(F) 629-630-0700(3)(d) Cable yarding across streams classified as medium or large Type Np;

(G) 629-630-0700(3)(f) — Cable yarding across small Type Np or Type Ns streams located within designated debris flow traversal areas as described in, OAR 629-630-0905, or designated sediment source areas, as described in OAR 629-630-0910;

(H) 629-630-0915(2) Harvesting timber where yarding will occur within stream adjacent failures identified upslope of the Type F or Type SSBT stream riparian management area.

Note: OAR 629-605-0170(10)(a)(H) applies to operations, except operations on small forestlands, for which a notification is filed under ORS 527.670(6) on or after July 1, 2023. This paragraph applies to all operations for which a notification is filed on or after January 1, 2024, or a notification filed prior to January 1, 2024, if the operation is not completed on or before December 31, 2023.

(I) 629-630-0920(8) Harvesting timber where yarding will occur within stream adjacent failures identified upslope of the Type F or Type SSBT stream riparian management area.

(J) 629-650-0005 — Operating within 100 feet of a large lake;

(K) 629-665-0020(2) — Operating near a resource site requiring special protection; and

(L) 629-665-0210(1) — Operating near a Northern Spotted Owl resource site.

(b) An operator must submit a written plan as required by ORS 527.670(2) and the rules listed below and the State Forester shall not waive the written plan requirement. Written plans required by the rules listed below are not subject to the provisions of ORS 527.700(3) or ORS 527.670(10), (11) and (12).

(A) 629-625-0100(2)(a) — Activities creating risks identified in 629-625-0100(2)(a) outside of 100 feet of Type F, Type SSBT, Type D streams and Significant Wetlands or creating risks identified in 629-625-0100(2)(a) to other Waters of the State;

(B) 629-625-0100(2) — Conducting machine activity in Type N streams or lakes;

(C) 629-625-0100(2)(c) — Constructing roads in RMA of Type N streams or lakes;

(D) 629-625-0100(2)(d) — Constructing or reconstructing any crossings of Waters of the State excluding Type F, Type SSBT, or Type D streams or Significant Wetlands;

(E) 629-625-0100(2)(e) — Activities in a critical location outside of 100 feet of Type F, Type SSBT, Type D streams, or Significant Wetlands;

(F) 629-625-0100(4) — Placing woody debris or boulders in Type N stream channels for stream enhancement;

(G) 629-625-0320(1)(b)(B) — Constructing or reconstructing any water crossing with fill over 15 feet deep in any Type N stream, wetland that does not meet the definition of significant

wetland, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, or canals;

(H) 629-625-0410(5) — Temporary placement of fill within the RMA of any Type N stream, wetland that does not meet the definition of Significant Wetland, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, or canals;

(I) 629-630-0905(4) — Harvesting timber in a unit that contains designated debris flow traversal areas;

(J) 629-630-0910(6) — Harvesting timber in a unit that contains designated sediment source areas and slope retention areas; and

(K) 629-630-0920(4) — Harvesting timber in a unit that contains designated debris flow traversal areas.

(11) If an operator, timber owner or landowner is required to submit a written plan to the State Forester under subsection (10) of this section:

(a) The State Forester shall review the written plan and may provide comments to the person who submitted the written plan;

(b) Provided that notice has been given as required by ORS 527.670 and OAR 629-605-0150, the operation may commence on the date the State Forester provides comments. If no comments are provided the operation may commence at any time after 14 calendar days following the date the written plan was received;

(c) Comments provided by the State Forester under paragraph (a) of this subsection, to the person who submitted the written plan are for the sole purpose of providing advice to the operator, timber owner or landowner regarding whether the operation described in the written plan is likely to comply with ORS 527.610 to 527.770 and rules adopted thereunder. Comments provided by the State Forester do not constitute an approval of the written plan or operation;

(d) If the State Forester does not comment on a written plan, the failure to comment does not mean an operation carried out in conformance with the written plan complies with ORS 527.610 to 527.770 or rules adopted thereunder nor does the failure to comment constitute a rejection of the written plan or operation;

(e) In the event that the State Forester determines that an enforcement action may be appropriate concerning the compliance of a particular operation with ORS 527.610 to 527.770 or rules adopted thereunder, the State Forester shall consider, but is not bound by, comments that the State Forester provided under this section.

(12) Written Plan Content. Written plans required under OAR 629-605-0170 must contain a description of how the operation is planned to be conducted in sufficient detail to allow the State Forester to evaluate and comment on the likelihood that the operation will comply with the Forest Practices Act or administrative rules.

(13) Written plans required under OAR 629-605-0170 will be considered received when complete with the following information:

(a) A map showing protected resource(s) and the harvest area; and

(b) The specific resource(s) that require protection; and

(c) The practices that may affect the protected resource(s) such as road and landing location, disposal of waste materials, felling and bucking and post operation stabilization measures; and

(d) The specific techniques and methods employed for resource protection such as road and landing design, road construction techniques, drainage systems, buffer strips, yarding system and layout; and

(e) Additional written plan content required in individual rules.

(14) In addition to the other requirements in this rule, written plans for operations within 100 feet of domestic water use portions of Type F, Type SSBT or Type D streams must contain a description of the practices and methods that will be used to prevent sediment from entering waters of the state.

(15) Modification of a written plan shall be required when, based on information that was not available or was unknown at the time the original written plan was reviewed, the State Forester determines the written plan no longer addresses compliance with applicable forest practice rules. Written plans with modifications required under this section shall not be subject to the provisions of ORS 527.670(10) and (11) relating to waiting periods for written plans.

Statutory/Other Authority: ORS 527.710; Section 2(1), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.670; Section 2(2), Chapter 33, Oregon Laws 2022

History:

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

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. and cert. ef. 8-2-05 thru 1-27-06

DOF 6-2002, f. & cert. ef. 7-1-02

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0108

FB 2-1988, f. & cert. ef. 5-11-08

FB 5-1978, f. 6-7-78

FB 33, f. 6-15-73, ef. 7-1-73

FB 31, f. 6-14-72, ef. 7-1-72

Division 607
SMALL FORESTLAND OWNER

629-607-0000

Purpose and Goals

- (1) OAR 629-607-0000 through 629-607-0800 shall be known as the small forestland owner rules.
- (2) Small forestland owners play a vital and distinct role from industrial forestland owners to manage and conserve Oregon's private forests. Small forestland owners often differ from large owners as to management goals and financial resources, and they also own a disproportionate share of lowland fish and wildlife habitat.
- (3) Goals for this division include helping small forestland owners:
- (a) Comply with the Forest Practices Act and rules;
 - (b) Meet the biological goals and objectives for aquatic resources;
 - (c) Practice standard harvest and road management rules;
 - (d) Implement minimum options;
 - (e) Use the forest conservation tax credit;
 - (f) Seek funding under the Small Forestland Investment in Stream Habitat program;
 - (g) Minimize the number of land-use conversions of timberlands to other uses; and
 - (h) Receive financial and educational support to encourage small forestland owners to follow the standard harvest and road management rules.
- (4) The State Forester shall create a Small Forestland Owner Assistance Office, pursuant to section 19, chapter 33, Oregon Laws 2022. This office shall:
- (a) Provide supporting services, including but not limited to:
 - (A) Verify landowner eligibility;
 - (B) Education, training, and outreach;
 - (C) Help small forestland owners with road condition assessments in OAR 629-625-0920 and written plans under ORS 527.670(10) and OAR 629-605-0170;
 - (D) Tracking, recording, reporting, and monitoring; and
 - (E) Regulatory and technical assistance.
 - (b) Manage the Small Forestland Investment in Stream Habitat Program Fund;
 - (c) Manage the forest conservation tax credit as described in OAR 629-607-0400 through OAR 629-607-0800;
 - (d) Manage fifth-field watershed calculations, and communicate status, limits, and availability over a one-year planning period (OAR 629-643-0140(4)); and
 - (e) Coordinate outreach efforts with agencies and partner organizations, including the Partnership for Forestry Education, to inform small forestland owners on the Small Forestland Investment in Stream Habitat Program, road condition assessments, the forest conservation tax credit, and other programs administered by the Small Forestland Owner Assistance Office.
- (5) In some rare circumstances, a small forestland ownership may become highly encumbered by Forest Practice Administrative Rules. This high encumbrance is most likely to be true in ownerships with a dense concentration of streams when the encumbrances affect an owner of modest means who is highly dependent on revenue from encumbered locations. For these extraordinary cases, the department will work to develop a process prior to July 1, 2023, to address the significantly disproportionate impacts on small forestland owners of modest means

who are highly dependent on revenue from locations with highly dense concentrations of streams by the Forest Practice Administrative Rules.

Statutory/Other Authority: Section 2(1), Section 17(1) & Section 20, Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 2(2), Section 16(5) & Section 19(3), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0100

Prescriptive Alternatives

- (1) Forest Practice Administrative Rules apply to small forestland owners, as they would to any other non-federal landowner, unless addressed directly or by reference in the small forestland owner rules.
- (2) Resource protection standards may have a disproportionate economic or operational impact on small forestland owner parcels or highly encumber harvest operations. The State Forester shall provide the following minimum options:
 - (a) Along riparian management areas as described in OAR 629-643-0141, 629-643-0142, 629-643-0143, and 629-643-0145;
 - (b) Harvest along fish streams with stream adjacent failures as described in in OAR 629-630-0920;
 - (c) Harvest near seeps or springs as described in in OAR 629-643-0145;
 - (d) Harvest type 1, 2, or 3 on steep slopes with designated debris flow traversal areas as described in in OAR 629-630-0912;
 - (e) On forest roads as described in in OAR 629-625-0920; or
 - (f) Plans for alternate practice for (a) through (e), and as otherwise allowed under OAR 629-605-0173.

Statutory/Other Authority: Section 2(1) & Section 20, Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 2(2) & Section 16(5), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0200

Program Participation

- (1) Small forestland owners intending to implement minimum options as defined in OAR 629-607-0100, exclusively available to small forestland owners, shall do the following:
 - (a) Notify the State Forester of intent by submitting a notification of operations and certify that they meet the definition of a small forestland owner in OAR 629-600-0100.
 - (b) Provide, at the request of the State Forester, additional information including but not limited to:
 - (A) Documentation of full land ownership or partial ownership, which affirms total ownership of forestland of less than 5,000 acres in Oregon;
 - (B) Records of harvests of board feet of merchantable forest products harvested from the Oregon owned forestlands removed in the last three years; and
 - (C) A statement of affirmation that the landowner does not expect to exceed an average yearly volume of 2 million board feet of merchantable forest products from the Oregon owned lands for the next 10 years, following the time of notification.

(c) At the discretion of the State Forester, the department may deem a landowner to qualify as a small forestland owner and allow that landowner access to options and incentives of the program even if they have an exceedance of harvest volumes in (1)(b)(C), if the small forest landowner provides documentation of a need for the funds to:

- (A) Pay estate taxes;
- (B) Pay for a court ordered judgment;
- (C) Pay extraordinary medical expenses; or
- (D) For a compelling or unexpected obligation.

(2) Small forestland owners wishing to access the incentives or minimum management options specifically afforded to them may register as a small forestland owner or complete a road condition assessment (OAR 629-625-0920) at any time prior to conducting a forest operation and may do so through the notification process or through other means as provided by the department.

(3) If a small forestland owner indicates intent to exercise a standard practice in lieu of the small forestland owner minimum option, they must receive notice from the department within the 15-day waiting period if the tax credit is not available in the current tax year.

(4) Small forestland owners that implement provisions specifically afforded to them as minimum management options or participate in an incentive program administered by the Small Forestland Owner Assistance Office, shall allow access to the department, or extension of the department, for project implementation inspections, rule compliance, and effectiveness monitoring.

Statutory/Other Authority: Section 2(1) & Section 20, Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 2(2) & Section 16(5), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0250

Notification Requirements

(1) Small forestland owners as defined in OAR 629-607-0200 shall submit:

- (a) A notification of operation not less than 15 days prior to the expected start date of the operation; and
- (b) Include other required information not less than 15 days prior to the expected start date of the operation as otherwise required in OAR 629-605-0150.

(2) If the State Forester requests additional documentation, the small forestland owner shall provide the requested information for review before the notification will be considered complete.

(3) At the time of notification, small forestland owners conducting operations around or adjacent to protected streams and associated riparian management areas shall indicate their intention of implementing:

- (a) The standard practice;
- (b) The small forestland owner minimum option; or
- (c) The forest conservation tax credit option.

(4) Small forestland owners exercising a small forestland owner minimum option shall submit a written plan with the notification consistent with the requirements in OAR 629-605-0170, and which also includes the following information:

- (a) Classification of the applicable stream;

- (b) Accounts for the horizontal lineal feet of riparian area adjacent to, or inside the operation area; and
- (c) Specifies as to whether the riparian measurements given are for one or both sides of the riparian management area.
- (5) Small forestland owners shall submit a road condition assessment when filing a notification, in lieu of the forest road inventory and assessment (OAR 629-625-0920), for operations that result in using a road to haul timber. The road condition assessment shall include all roads in the parcel, defined in OAR 629-600-0100, where the harvest is planned. Notifications for operations not resulting in timber hauling do not require a road condition assessment to be completed.
- (6) The State Forester must review the small forestland owner notification during the 15-day waiting period. The department will provide notice to the small forestland owner if:
 - (a) Additional information is required from the small forestland owner;
 - (b) The small forestland owner preferred minimum option is not available; or
 - (c) There are protected resources present or other considerations to ensure compliance.
- (7) Upon completion of an operation, a small forestland owner shall provide notice and reportable details consistent with requirements in OAR 629-605-0150. Notification to State Forester - When, Where and How; OAR 629-605-0170 Statutory Written Plans; OAR 629-605-0140 Notification to the State Forester - Types of Operation. If a small forest landowner conducts a timber harvest under the provisions of OAR 629-643-0140(4) Small Forestland Owner Minimum Option Vegetation Retention Prescription Requirements, they must report to the State Forester within 90 days.

Statutory/Other Authority: Section 2(1) & Section 20, Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 2(2) & Section 16(5), Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0300

Small Forestland Investment in Stream Habitat Program

- (1) The department shall establish the Small Forestland Investment in Stream Habitat (SFISH) Program Fund as a grant program to fund projects on small forestland owner lands. The Small Forestland Owner Assistance Office shall manage the SFISH Program in consultation with the Department of Fish and Wildlife.
- (2) The SFISH Program shall make funding available to qualified small forestland owners for the purposes of improving fish habitat on their forestlands for the following projects:
 - (a) Replace fish stream water crossing structures, not bridges, mostly culverts that are no longer functioning, or still functioning but not designed consistent with requirements of OAR 629-625-0320;
 - (b) Repair abandoned roads; or
 - (c) Reconstruct, vacate, or relocate roads with a perched fill that present a significant hazard to fish-bearing streams. Not more than 10 percent of available SFISH funds may be used for perched fill remediation projects in any year.
- (3) To be eligible for the SFISH Program, in addition to a landowner meeting the definition of a small forestland owner in OAR 629-600-0100, the small forestland owner must provide the following information:
 - (a) Documentation showing that no more than an average yearly volume of two million board feet of merchantable forest products has been harvested from the landowner's forestland in the

state of Oregon when averaged over a three-year period prior to the date the Small Forestland Owner Assistance Office receives the grant application;

(b) A statement of affirmation to the Small Forestland Owner Assistance Office that the landowner does not expect to exceed an average yearly volume of two million board feet of merchantable forest products to be harvested from the landowner's forestland in Oregon during the 10 years following the date the Small Forestland Owner Assistance Office awards grant-funds, and

(c) A road condition assessment containing the information detailed in OAR 629-625-0920, that includes an assessment of all roads, abandoned roads, culverts, and fish passage barriers located on the parcel of land, as defined in OAR 629-600-0100, on which a grant-funded SFISH project may occur.

(4) The SFISH Program shall optimize state funding by prioritizing funding for site locations determined to have a high conservation value. Examples of high conservation value sites will include but are not limited to:

(a) Areas of known chronic sedimentation;

(b) Fish passage barriers;

(c) Stream diversions, or sites with a high diversion potential;

(d) Areas of known hydrologic connectivity; or

(e) Roads with a perched fill posing a significant hazard to fish-bearing streams.

(5) The SFISH Program will consider the greatest resource benefit, and prioritize funding projects which best address the following:

(a) Removal of fish passage barriers consistent with Department of Fish and Wildlife requirements under ORS 509.585 and OAR 635-412-0015, as implemented through the Forest Practice Administrative Rules;

(b) Minimize the potential for sediment delivery to waters of the state;

(c) Minimize stream diversions at water crossings;

(d) Minimize hydrologic connectivity between roads and waters of the state;

(e) Remove perched fill that presents a significant hazard to fish-bearing streams through reconstruction, relocation, or vacating; or

(f) Length of time that the grant has been submitted and under consideration for funding; or

(g) Meet high-value conservation objectives as determined by the department in consultation with other state and federal agencies.

(6) The Small Forestland Owner Assistance Office in coordination with the Department of Fish and Wildlife, will prioritize funding for the following projects on high conservation value sites:

(a) Water crossing structure, not bridge, mostly culvert replacements on fish streams;

(b) Repair of abandoned roads; and

(c) Perched fills that present a significant hazard to fish-bearing streams.

(7) The small forestland owner will collaborate with the Small Forestland Owner Assistance Office on projects approved for SFISH funding to determine project details, which include but are not limited to specifications, timing, efficiencies, involvement, and other factors as necessary. The small forestland owner and the Small Forestland Owner Assistance Office will work together and mutually agree on the most efficient and effective way to complete projects.

Statutory/Other Authority: Section 2(1) & Section 20, Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: Section 2(2) & Section 18, Chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0400

Forest Conservation Tax Credit – Process for Determining Eligibility

- (1) To be eligible to apply for a forest conservation tax credit, a small forestland owner shall:
 - (a) Certify that they meet the definition and criteria of a small forestland owner as described in OAR 629-600-0100 and the criteria for this tax credit under chapter 34, section (2), Oregon Laws 2022. The State Forester may require additional information for program participation as outlined in OAR 629-607-0200(1)(b).
 - (b) Submit a notification of operation for a timber harvest type 1, type 2, or type 3 to the State Forester as required by ORS 527.670(6) to harvest timber adjacent to riparian areas, as described in OAR 629-643-0100 through 629-643-0135. The harvest area must be greater than or equal to the portion of area the small forestland owner elects not to harvest.
 - (c) Elect to follow the standard practice vegetation retention requirements as described in OAR 629-643-0100 through 629-643-0135.
 - (d) Indicate at the time of submitting the notification of operation the intent to apply for a forest conservation tax credit.
- (2) After filing the notification of operation, but no later than three months after completing the timber harvest, the small forestland owner shall submit documentation of the stumpage values and costs of appraisal to the Small Forestland Owner Assistance Office.
- (3) After receiving the notification of operation, documentation of stumpage values and costs associated with appraisal, and filing a deed restriction from the small forestland owner, the Small Forestland Owner Assistance Office shall evaluate and approve the stumpage value or request additional documentation as needed. Once stumpage values are approved, the office shall issue a certificate of eligibility to both the small forestland owner and the Department of Revenue.
- (4) After receiving certification, a small forestland owner shall sign and record the deed, in the county where the eligible forest conservation area is located, the deed restriction prohibits the owner and the owner's successors in interest from conducting a harvest or otherwise removing trees within the forest conservation area.
- (5) If the small forestland owner is taxed as a trust, partnership, or S corporation, the entity can distribute the forest conservation tax credit to owners or beneficiaries, as appropriate.
- (6) A nonresident small forestland owner shall follow the same process as a resident of this state for obtaining eligibility for the forest conservation tax credit.
- (7) Type 4 harvests are not eligible to claim a forest conservation tax credit.
- (8) In addition to all other requirements of administrative rule promulgated under the Forest Practices Act, small forestland owners shall comply with the requirements under chapter 34, Oregon Laws 2022.
- (9) If a future legislature cancels the forest conservation tax credit, the State Forester will remove all restrictions on using the small forestland owner minimum option within a fifth field watershed for riparian areas where a credit has not been issued, though the department will continue to track the frequency of harvests under the small forestland owner minimum option. If a future legislature reinstates the forest conservation tax credit, the State Forester will renew the system.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0450

Forest Conservation Tax Credit Area

- (1) The width of the forest conservation area is the difference between the outermost edge of the standard practice width as described in OAR 629-643-0100 through 629-643-0135 and the outermost edge of the small forestland owner minimum option width as described in OAR 629-643-0141 through 629-643-0142. The length of the forest conservation tax credit area is the length of frontage that follows the same lengths as the standard practice option requirements as defined in OAR 629-643-0100 through 629-643-0135.
- (2) A small forestland owner may apply for a forest conservation tax credit for an amount that is one half of the stumpage value left between the inside edge of the small forestland owner minimum option and the edge of dry stream channel areas required to be retained for Small Type Np tributaries to Type F or Type SSBT streams as described in OAR 629-643-0105, 629-643-0125, and 629-643-0130. To be eligible for the forest conservation tax credit, the small forestland owner shall field survey the stream and have 100 feet or more of surveyed dry channel between two flow features downstream of the RH max.
- (3) Once a forest conservation tax credit has been issued for a riparian management area, the small forestland owner and any future owners must adopt the standard practice in that riparian management area for a period of 50 years from the date the notification of operation was filed.
- (4) Landowners shall not remove trees within a forest conservation area except for incidental tree removal, personal use (e.g., provision of firewood), and public safety purposes consistent with the purposes for which the tax credit has been granted under chapter 34, Oregon Laws 2022. Small forestland owners should consult with the Small Forestland Owner Assistance Office prior to removing trees from the forest conservation area.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0500

Forest Conservation Tax Credit – Stumpage Value Certification

- (1) For the purposes of this rule only, "professional forester" means a person that is engaged in the business of appraising or valuing timber or forestland as described in ORS 674.100.
- (2) To determine the value of the tax credit, the small forestland owner shall use one of the following methods using standard measuring techniques of professional foresters:
 - (a) Conversion return method;
 - (b) Actual comparison method; or,
 - (c) Cash flow modeling method.
- (3) Small forestland owners shall submit documentation for the conversion method or actual comparison method to the Small Forestland Owners Assistance Office to be eligible for the forest conservation tax credit that includes all the following:
 - (a) The cruising measurements of merchantable volume of timber by:
 - (A) Tree species; and,
 - (B) Log grades (based on size and log quality).
 - (b) The value of logs, by species and grade, delivered to a milling operation, shown by:
 - (A) A statement from a milling operation with their current payout for delivered logs by species and grade;

- (B) Log value summaries prepared by professional organizations; or,
- (C) Other commonly accepted methods of determining log values.
- (c) The costs of delivery, determined by either:
 - (A) Estimated cost of all activities required to harvest trees and deliver them to a milling operation. Costs may include activities such as timber falling, yarding, and transportation to a mill, and other miscellaneous costs such as a harvest tax; or,
 - (B) Actual costs per MBF associated with adjacent harvested area when the timber in the forest conservation area is similar to the timber harvested.
- (d) Stumpage values equal to the total delivered log values less than the costs associated with delivery.
- (e) Verification of any appraisal costs to determine stumpage value.
- (f) Other documentation as requested by the Small Forestland Owner Assistance Office to verify calculations and values.
- (4) Small forestland owners shall submit documentation for the cash flow modeling method to the Small Forestland Owners Assistance Office to be eligible for the forest conservation tax credit to include the following:
 - (a) For pre-merchantable stands: age of stand, site index, species, trees per acre, harvest rotation age, estimated harvest costs, and a timber appraisal which includes cruise information and sampling methodology, growth and yield value used; log pond values, and value determination methodology;
 - (b) For merchantable stands:
 - (A) Merchantable volume of timber by grade, sort, and species; and,
 - (B) Log Pond values, by species and grade, delivered to a milling operation, as shown by:
 - (i) A statement from a milling operation with their current payout for delivered logs by species and grade;
 - (ii) Log value summaries (mill pond value queries) prepared by professional organizations; or,
 - (iii) Other commonly accepted methods of determining log values.
 - (C) Estimated harvest costs.
 - (c) Verification of any appraisal costs to determine cash flow modeling values; and,
 - (d) Other documentation as requested by the Small Forestland Owner Assistance Office to verify calculations and values.
- (5) After receiving the documentation of stumpage values, the Small Forestland Owner Assistance Office shall review and request additional information, if necessary.
- (6) The Small Forestland Owner Assistance Office shall certify the amount of the forest conservation tax credit and provide the small forestland owner with an eligibility certificate.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0600

Forest Conservation Tax Credit - Transfer to Heirs

- (1) Upon the death of a small forestland owner who has been granted a forest conservation tax credit and where there is a credit balance remaining, the executor of the small forestland owner's estate shall provide notarized written notice to the Small Forest Owner Assistance Office informing the office that the remaining forest conservation tax credit shall be transferred to heirs

or devisees of the small forestland owner. At a minimum, the written notice must include all the following:

- (a) Full legal name of the small forestland owner to which the certificate of the forest conservation tax credit was originally issued;
 - (b) Full legal name of heir(s) and or devisee(s) eligible to receive the remaining forest conservation tax credit;
 - (c) Percentage(s) amount of forest conservation tax credit remaining to be divided amongst each listed heir and or devisee;
 - (d) An attestation that no harvesting has occurred within the original certified forest conservation area.
- (2) The executor of the small forestland owner's estate shall provide additional documentation to the Department of Revenue (e.g., a probate judgement or additional tax identification information), for verification and forest conservation tax credit tracking.
- (3) After receiving and reviewing documentation provided by the executor of the estate, the Small Forestland Owner Assistance Office shall provide heirs of the estate an amended certification. Heirs must provide the amended certificate to the Department of Revenue to maintain the forest conservation tax credit.
- (4) If the small forestland owner, or the owner's estate heir or devisees, elects to conduct a timber harvest in the forest conservation area, or if the State Forester determines a harvest has occurred in violation of the deed restriction, the Small Forestland Owner Assistance Office shall revoke the certification and notify the Department of Revenue in a manner consistent with ORS 315.061.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0700

Forest Conservation Tax Credit – Deed Restriction

- (1) The Small Forestland Owner Assistance Office shall provide the small forestland owner with the appropriate deed restriction document for recording with the county where the eligible forest conservation area is located.
- (2) After filing the deed restriction, the small forestland owner shall submit documentation of the recording to the Small Forestland Owner Assistance Office.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0750

Forest Conservation Tax Credit – Deed Restriction Removal

- (1) If the small forestland owner, or their estate heirs or devisees, elect to conduct a timber harvest in the forest conservation area for which the forest conservation tax credit has been claimed or otherwise elects to remove the harvest restriction:

- (a) The small forestland owner shall notify the Small Forestland Owner Assistance Office in writing that they elect to have the forest conservation tax credit removed.
 - (b) The small forestland owner shall repay the Department of Revenue any tax credit that has been deducted from their tax liability with interest from the due date of the original return(s) where the tax credit was taken and shall forfeit any unused tax credit. The interest rate shall be the underpayment rate. The repayment amount can be paid directly to the Department of Revenue or be added to the taxpayer's income tax liability.
 - (c) The Small Forestland Owner Assistance Office shall provide the small forestland owner with form(s) to repay the tax credit and remove the deed restriction from the county records.
 - (d) The small forestland owner shall notify the Small Forestland Owner Assistance Office in writing and provide documentation that repayment to the Department of Revenue is complete.
 - (e) The Small Forestland Owner Assistance Office shall verify the original forest conservation area has not been harvested. After verification, the Small Forestland Assistance Office shall modify their records to reflect that there is no longer a restriction on that riparian management area and shall provide the small forestland owner with appropriate documentation to have the deed removed.
 - (f) The small forestland owner shall be responsible for providing the county with documentation to have the deed restriction removed and for any county recording fees.
- (2) If a subsequent small forestland owner wishes to conduct a timber harvest in the forest conservation area for which the forest conservation tax credit has been claimed or otherwise elects to remove the harvest restriction:
- (a) The subsequent small forestland owner shall notify the Small Forestland Owner Assistance Office in writing that they elect to have the forest conservation tax credit removed.
 - (b) The subsequent small forestland owner shall repay the Department of Revenue the original amount of the tax credit received by the previous owner with interest from the date of transfer of the title to the successor owner. The interest rate shall be the underpayment rate. The repayment amount can be paid directly to the Department of Revenue or be added to the taxpayer's income tax liability.
 - (c) The Small Forestland Owner Assistance Office shall provide the small forestland owner with forms to repay the tax credit and remove the deed restriction from the county records.
 - (d) The small forestland owner shall notify the Small Forestland Owner Assistance Office in writing and provide sufficient documentation that the repayment to the Department of Revenue has been satisfied.
 - (e) The Small Forestland Assistance Office shall verify the original forest conservation area has not been harvested. After verification, the Small Forestland Assistance Office shall modify their records to reflect that there is no longer a restriction on that riparian management area and provide the small forestland owner with the appropriate documentation to have the deed removed.
 - (f) The small forestland owner shall be responsible for providing the county with documentation to have the deed restriction removed and for any county recording fees.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-607-0800

Forest Conservation Tax Credit – Appeal Rights

A small forestland owner who wishes to appeal a decision made by the State Forester regarding the forest conservation tax credit shall use the following procedure:

- (1) A small forestland owner shall notify the State Forester in writing that they disagree with the decision and explain why they disagree; and
- (2) If there is an impasse with the State Forester, the person may write the Small Forestland Owner Assistance Office, within 30 days of the State Forester's determination, requesting an appeal to the Board of Forestry stating the basis for the appeal. The appeal is filed when it is received in the Small Forestland Owner Assistance Office in accordance with ORS 527.700.

Statutory/Other Authority: Section 2(11), Chapter 34, Oregon Laws 2022

Statutes/Other Implemented: Section 3, Chapter 34, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

Division 610
FOREST PRACTICES REFORESTATION RULES

629-610-0100

Exemption from Reforestation for Wildlife Food Plots

(1) For the purposes of this rule only, “small forestland” means forestland as defined in ORS 527.620 that:

- (a) Has an owner that owns or holds common ownership interest in at least 10 acres of Oregon forestland but less than 5,000 acres of Oregon forestland; and
- (b) Constitutes all forestland within a single tax lot and all forestland within contiguous parcels owned or held in common ownership by the owner.

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

(3) Wildlife food plots are considered forestland as defined in ORS 527.620. Wildlife food plots provide an intended benefit to the landowner, and additional benefits to the State through providing or enhancing food resources for wildlife.

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

- (a) The ownership size in Oregon is greater than 10 acres but less than 5,000 acres;
- (b) The area to be used for a wildlife food plot must currently be in a forest use; and
- (c) The wildlife food plot area would otherwise be subject to the reforestation rules described in OAR 629-610-0000 through 629-610-0100.

(5) Based on the area of small forestland ownership, the combined size of wildlife food plots shall not exceed:

- (a) 2.5 percent of the small forestland, if the small forestland is 500 acres or less in size (combined size of wildlife food plots equals 0.25 to 12.5 acres);
- (b) 2.0 percent of the small forestland, if the small forestland is more than 500 acres but not more than 1,000 acres in size (combined size of wildlife food plots equals 10 to 20 acres); or
- (c) 1.0 percent of the small forestland, if the small forestland is over 1,000 acres but less than 5,000 acres in size (combined size of wildlife food plots equals 10 to 50 acres).

(6) To establish and maintain a wildlife food plot in lieu of reforestation, a landowner shall:

- (a) Provide notification to the State Forester per OAR 629-605-0140 through 0150.
- (b) Create a plan for alternate practice that includes the following:
 - (A) Landowner contact information;
 - (B) The acreage of the small forestland where the wildlife food plot is desired;
 - (C) A map showing location and acreage of proposed and existing wildlife food plots;
 - (D) A narrative that describes the target wildlife, the forage expected to substantially contribute to the nutritional requirements of the target wildlife species or guild, the activities required to maintain the wildlife food plot, and a timeline of planned establishment and maintenance activities; and
 - (E) A strategy for the monitoring and management of plant and animal species that may prevent the establishment of the target forage species.

- (c) Provide the plan for alternate practice to the State Forester for approval, and as a mechanism for tracking compliance with the wildlife food plot rules. The State Forester shall provide feedback on the plan, and may consult with the Oregon Department of Fish and Wildlife or other agencies as appropriate.
- (d) Establish the wildlife food plot in a manner consistent with the desired outcomes for the plot, as described in the plan for alternate practice. Establishment activities must include the creation of forage for the target wildlife species or guild. In addition, wildlife food plot establishment may also incorporate cover, nesting habitat, or resting habitat for the target wildlife species or guild.
- (e) Establish the wildlife food plot through the use of habitat manipulation, planting of forage, or a combination of techniques for the target wildlife species or guild. Habitat manipulation and planting of forage includes, but is not limited to, complete or partial removal of trees and other vegetation, tillage of soil, planting or seeding of forage vegetation of sufficient nutrition for the target wildlife species or guild, or other practices needed for maintenance of the plot to promote a specific seral stage of vegetation.
- (f) Make reasonable progress towards establishing the wildlife food plot, as determined by the State Forester, within 12 months of completion of the harvest operation that requires reforestation.
- (g) Fully establish the wildlife food plot within 24 months of completion of the harvest operation that requires reforestation.
- (h) Ensure the forage vegetation chosen is supported by the environment in which it is being established. Not all vegetation is suitable to be used in the variety of forest soils and land types that occur in Oregon. Designation of specific seed mixes or plant species is beyond the scope of these rules. However, the landowner shall:
 - (A) Source plants and seed to avoid introduction of invasive species to forestlands. This includes, but is not limited to, the introduction of invasive plant, insect, or disease species through the movement of live plant material, seed, or soil.
 - (B) Ensure vegetation chosen for establishment is not on the Oregon Department of Agriculture's noxious weed list.
- (i) Maintain the wildlife food plot in accordance with the plan for alternate practice.
- (j) Provide documentation to the State Forester of activities conducted to establish and maintain the wildlife food plot. This documentation shall be provided upon full establishment of the wildlife food plot, and upon request by the State Forester thereafter. Documentation may include, but is not limited to, receipts for work completed and photographs of the wildlife food plot showing that it is in the intended state per the plan for alternate practice. The landowner may also request the State Forester conduct an inspection of the wildlife food plot.
- (7) If the State Forester determines that the landowner has not maintained the wildlife food plot in its intended state per the plan for alternate practice, the reforestation rules as otherwise required in OAR 629, division 610, become applicable and the landowner shall be required to reforest the wildlife food plot.
- (8) To end the use of a wildlife food plot, a landowner shall:
 - (a) Provide notification to the State Forester per OAR 629-605-0140 through 0150.
 - (b) Reforest the wildlife food plot in accordance with the reforestation rules, as described in OAR 629, division 610.

(9) The landowner shall follow the requirements as outlined in sections (6) and (8) of this rule in order to relocate the wildlife food plot, modify the wildlife food plot size, change the target wildlife species or guild, or end the use of a wildlife food plot.

Statutory/Other Authority: ORS 527.678(3)(a), 527.710(1), 527.630(3), 527.714(1), 526.016(4)

Statutes/Other Implemented: ORS 527.678, 527.710(2)

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2020, adopt filed 08/12/2020, effective 09/01/2020

Division 625
FOREST ROAD CONSTRUCTION AND MAINTENANCE

629-625-0000

Purpose

- (1) Forest roads are essential to forest management and contribute to providing jobs, products, tax base, and other social and economic benefits.
- (2) OAR 629-625-0000 through 629-625-0920 shall be known as the road construction and maintenance rules.
- (3) The purpose of the road construction and maintenance rules is to establish standards for locating, designing, constructing, and maintaining efficient and beneficial forest roads; locating and operating rock pits and quarries; identifying active and inactive roads that have fish passage barriers or contribute sediment to waters of the state, to correct conditions; and to vacate roads, rock pits, and quarries that are no longer needed in manners that provide the maximum practical protection to maintain forest productivity, water quality, and fish and wildlife habitat.
- (4) To achieve the goals of the division, all roads will be designed, constructed, improved, maintained, or vacated to:
 - (a) Prevent or minimize sediment delivery to waters of the state;
 - (b) Ensure passage for covered species during all mobile life-history stages;
 - (c) Prevent or minimize drainage or unstable sidecast in areas where mass wasting could deliver sediment to public resources or threaten public safety;
 - (d) Prevent or minimize hydrologic alterations of the channel;
 - (e) Prevent or minimize impacts to stream bank stability, existing stream channel, and riparian vegetation;
 - (f) To the maximum extent practicable, hydrologically disconnect forest roads and landings from waters of the state; and
 - (g) Avoid, minimize, and mitigate loss of wetland function.
- (5) The road construction and maintenance rules shall apply to all forest practices regions unless otherwise indicated.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33. Oregon Laws

Statutes/Other Implemented: ORS 527.715, 527.765; section 2(2), chapter 33. Oregon Laws

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

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

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0100

Written Plans for Road Construction

- (1) A properly located, designed, and constructed road greatly reduces potential impacts to water quality, forest productivity, fish, and wildlife habitat. To prevent improperly located, designed, or constructed roads, a written plan is required in the sections listed below.
- (2) In addition to the requirements of the water protection rules, operators must submit a written plan to the State Forester before:

- (a) Constructing a road where there is an apparent risk of road-generated materials entering waters of the state from direct placement, rolling, falling, blasting, landslide, or debris flow;
- (b) Conducting machine activity in Type F, Type SSBT, Type D streams, Type N streams, lakes, or significant wetlands;
- (c) Constructing roads in riparian management areas;
- (d) Constructing or reconstructing any water crossing, in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals, as described in OAR 629-625-0320 Water Crossing Structures; or
- (e) Constructing roads in critical locations, as described in OAR 629-625-0200(3): Road Location.

(3) Operators shall submit a written plan to the State Forester before constructing roads on high landslide hazard locations. Operators and the State Forester shall share responsibility to identify high landslide hazard locations and to determine if there is public safety exposure from shallow, rapidly moving landslides using methods described in OAR 629-623-0000 through 0300. If there is public safety exposure, then the practices described in OAR 629-623-0400 through 0800 shall also apply.

(4) In addition to the requirements of the water protection rules, operators shall submit a written plan to the State Forester before placing woody debris or boulders in stream channels for stream enhancement.

(5) In addition to the written plan requirements of OAR 629-605-0170(12) and (13), the operator shall include an assessment of the following factors in their written plan for all water crossings as described by OAR 629-625-0320:

- (a) Operator transportation needs, road location, road management objectives, and land ownership;
- (b) The specific resources that may be impacted by construction or reconstruction of the water crossing, including aquatic species, habitats, and conditions; floodplain values, terrestrial species, and water uses;
- (c) The specific risk factors at the watershed-scale, including geologic or geomorphic hazards, event history, past and projected land management, crossing maintenance history, regional channel stability, and projected watershed conditions over the life of the crossing structure;
- (d) The specific risk factors at the site scale, including channel stability, potential for blockage by debris, floodplain constriction, large elevation changes across infrastructure, channel sensitivity to change, consequences of site failure to resources, and potential stream geomorphic changes over the life of the crossing structure;
- (e) The specific techniques and methods employed for resource protection; and
- (f) Additional information relevant to the proposed crossing structure as determined by the State Forester.

(6) Regarding water crossing structures for fills over 15 feet, if the conditions outlined in OAR 629-625-0320(1)(b)(B) are met operators shall submit a written plan to the State Forester.

(7) In addition to the written plan requirements in OAR 629-605-0170(12) and (13), written plans for Type F and Type SSBT fish streams shall include the following:

- (a) Stream name;
- (b) Stream size;

- (c) Stream type;
- (d) Stream basin;
- (e) Watershed tributary area;
- (f) Calculated 100-year peak flow, developed consistent with Forest Practices Technical Guidance under OAR 629-625-0300(3)(a);
- (g) Measured stream gradient;
- (h) Bankfull channel width;
- (i) Structure location;
- (j) Structure type;
- (k) Structure size, including but not limited to culvert diameter, rise, span, length, and bridge width;
- (l) Planned culvert grade or elevation change;
- (m) Planned culvert embedment depth range;
- (n) Planned culvert embedment material;
- (o) Calculated structure flow capacity;
- (p) Bridge freeboard, as applicable;
- (q) Road name or number;
- (r) Road surface type;
- (s) Drainage plan;
- (t) Installation time frame;
- (u) Equipment access;
- (v) Stream isolation method, including but not limited to stream diversions, bypasses, pumping; and
- (w) Expected riparian management area tree removal.

Statutory/Other Authority: ORS 527.710(2); section 2(1), chapter 33, Oregon Laws

Statutes/Other Implemented: ORS 527.630(3), 527.765, 527.714; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0200

Road Location

(1) The purpose of this rule is to ensure roads are located where potential impacts to waters of the state are minimized and hydrologic connectivity between roads and waters of the state is reduced to the maximum extent practicable.

(2) When locating roads, operators shall designate road locations which minimize the risk of materials entering waters of the state and minimize disturbance to channels, lakes, wetlands, and floodplains.

(3) Critical Locations. Operators shall avoid locating roads in critical locations. When alternate routes that avoid critical locations are not legally feasible due to ownership boundaries or other legal impediments, physically feasible due to safety considerations, or would have a greater environmental risk, operators may locate roads in critical locations, consistent with sections (4) and (5) of this rule. Critical locations include:

(a) High landslide hazard locations. If there is public safety exposure, then the practices described in OAR 629-623-0400 through 0800 shall also apply.

(b) Slopes over 60 percent with decomposed granite-type soils.

(c) Within 50 feet of stream channels or lakes, excluding crossings and approaches to crossings.

(d) Within significant wetlands as described in OAR 629-600-0100, stream-associated wetlands as described in OAR 629-600-0100, or other wetlands greater than 0.25 acres in size.

(e) Any active stream channel, exclusive of stream crossings in compliance with OAR 629-625-0320.

(f) Locations parallel to, and within a riparian management area for a distance exceeding a cumulative 500 feet of road length measured from the first point of entry into the riparian management area to the last point of exit from the riparian management area, exclusive of stream crossings in compliance with OAR 629-625-0320.

(g) High landslide hazard locations where rock is likely to be highly sheared or otherwise unstable so that it is not possible to excavate a stable cutslope. If such a cutslope failure may divert road surface drainage to a high landslide hazard location and could trigger a debris flow below the road with potential for delivery to a stream, that road shall not be constructed unless the operator demonstrates that the cutslope can be stabilized by buttressing or other means.

(h) Locations cutting through the toe of active or recently active deep-seated landslide deposits and where a reactivated landslide would likely enter waters of the state.

(i) Highly dissected, steep slopes where it is not possible to fit the road to the topography with full bench end haul construction.

(4) Critical Locations Written Plan. All written plans for road construction in critical locations shall be reviewed on site and reviewed by the State Forester with consultation from a qualified professional as appropriate for the site, including, but not limited to, the department, Department of Environmental Quality, and Department of Fish and Wildlife. Onsite review and consultation must occur within 14 days from the date the written plan was received, otherwise the operator may continue with operations, consistent with the written plan and consistent with written plan review timelines in ORS 527.670(10) and OAR 629-605-0170(10) and (11).

(5) Operators must outline all road construction in critical locations in a written plan. The written plan shall include a narrative describing why alternative routes are not feasible or would have greater environmental risk.

(6) Operators shall minimize the number of stream crossings.

(7) To reduce the duplication of road systems and associated ground disturbance, operators shall make use of existing stable and functioning roads where practical. Where roads traverse land in another ownership and will adequately serve the operation, operators shall investigate options for using those roads before constructing new roads. Operators who submit notifications that include new road construction shall affirm that options, if they exist, were investigated.

Statutory/Other Authority: ORS 527.710(2); section 2(1), chapter 33, Oregon Laws 2022
Statutes/Other Implemented: ORS 527.630(3), 527.765 & 527.714; section 2(2), chapter 33, Oregon Laws 2022
History:
DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX
DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03
FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0300

Road Design

- (1) The purpose of OAR 629-625-0300 through 629-625-0330 is to provide design specifications for forest roads that protect water quality.
- (2) Operators shall design and construct roads to limit the alteration of natural slopes and drainage patterns to that which will safely accommodate the anticipated use of the road and will also protect waters of the state.
- (3) The department shall publish Forest Practices Technical Guidance that explains how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state, in support of the following rules:
 - (a) OAR 629-625-0320(3)(a) to explain how to implement the rule for the 100-year peak flow, at a minimum, every 10 years to incorporate the most recent peak flow data.
 - (b) OAR 629-625-0200(5) to explain and describe the content of written plans for road construction in critical locations.
 - (c) OAR 629-625-0320(10) to explain how to implement rules for the construction and reconstruction for all water crossings updated every 10 years, at a minimum.
 - (d) OAR 629-625-0320(10)(c) to explain how to develop a chemical spill prevention and response plan.
 - (e) OAR 629-625-0320(10)(d) to explain how to implement rules for in-water work, worksite isolation, and dewatering updated every ten years, at a minimum.
 - (f) OAR 629-625-0320(10)(d)(A)(ii) to explain how to implement rules for replacing stream crossing structures outside normal in-water work periods.
 - (g) OAR 629-625-0330(1) to explain how to implement rules to hydrologically disconnect forest roads and landings from waters of the state.
 - (h) OAR 629-625-0910(6) to explain how to identify abandoned roads and bring them into compliance with the Forest Practice Administrative Rules.
 - (i) OAR 629-625-0800(1) to explain how to avoid or minimize and mitigate for all road and landing construction near or within a significant wetland, stream-associated wetland, or wetlands greater than 0.25 acres in size when impacts are unavoidable.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022
Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022
History:
DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX
FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0310

Road Prism

- (1) Operators shall use variable grades and alignments to avoid less suitable terrain so the road prism is the least disturbing to protected resources, avoids steep sidehill areas, wet areas, and potentially unstable areas as safe, effective vehicle use requirements allow.
- (2) Operators shall end-haul excess material from steep slopes or high landslide hazard locations where needed to prevent landslides.
- (3) Operators shall design roads no wider than necessary to accommodate the anticipated use and minimize environmental impacts to waters of the state and covered species from new road construction. The running surface width shall average not more than 32 feet for double lane roads and 20 feet for single lane roads, exclusive of ditches plus any additional width necessary for safe operations for fill widening or on curves, turnouts, and landings.
- (4) Operators shall design cut and fill slopes to minimize the risk of landslides.
- (5) Operators shall stabilize road fills as needed to prevent fill failure and subsequent damage to waters of the state using compaction, buttressing, subsurface drainage, rock facing, or other effective means.
- (6) Operators shall utilize end-haul construction and not place fill within the riparian management area of a stream or within 75 feet of a stream channel where a riparian management area is not required, excluding crossings and approaches to crossings.

Statutory/Other Authority: ORS 527.710(2); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.630(3), 527.765 & 527.714; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0320

Water Crossing Structures

- (1) Operators shall design and construct all water crossing structures in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals to:
 - (a) Minimize excavation of side slopes near the channel.
 - (b) Minimize the volume of material in the fill.
- (A) Operators shall minimize fill material by restricting the width and height of the fill to the amount needed for safe use of the road by vehicles, and by providing adequate cover over the culvert or other drainage structure.
- (B) Fills over 15 feet deep contain a large volume of material that can be a considerable risk to downstream beneficial uses if the material moves downstream by water. Consequently, for any fill over 15 feet deep operators shall submit to the State Forester a written plan that describes the fill and drainage structure design. Written plans shall include a design that minimizes the likelihood of:
 - (i) Surface erosion;
 - (ii) Embankment failure; and
 - (iii) Downstream movement of fill material.

- (C) The operator shall armor fills against erosion where large fills over 15 feet deep are determined to be necessary by the State Forester.
- (c) Prevent erosion of the fill and channel.
- (d) Minimize hydrologic connectivity for adjacent roadway.
- (e) Avoid or minimize alterations or disturbances to stream channel, bed, bank, or bank vegetation to that which is necessary to construct the water crossing structure. Operators shall limit the alteration or disturbance of stream bed, bank, or bank vegetation to that which is necessary to construct the project.
- (f) Plant disturbed stream banks with native woody species or stabilize with other erosion control techniques.
- (g) Ensure that streamflow is not likely to be diverted out of its channel if the crossing fails.
- (h) Preserve water quality and unobstructed flow.
- (i) Route and deposit temporarily turbid water from crossing projects to the forest floor in an upland area, or above the 100-year flood level if present, to allow removal of fine sediment and other contaminants prior to discharge to waters of the state.
- (j) When the State Forester determines that installing a water crossing in a flowing stream will cause excessive sedimentation and turbidity, and sedimentation and turbidity would be reduced if stream flow were diverted, operators shall divert stream flow using a bypass flume or culvert, or by pumping the stream flow around the work area. In this situation, operators may install culverts within 0.25 miles of a Type F or Type SSBT stream or within two miles of a hatchery intake.
- (k) For water crossing structures on Type F and Type SSBT streams, operators shall, consistent with the rules in this section:
- (A) Avoid or minimize impacts to fish and their spawning and rearing habitat;
- (B) Minimize the loss of fish life during the project; and
- (C) Ensure free and unimpeded fish passage at all flows when fish are expected to move through the life of the structure.
- (2) In selecting a crossing design strategy, operators constructing or reconstructing crossings in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals shall first consider vacating the water crossings. For water crossings in all Type F and Type SSBT fish streams where vacating the water crossing is not feasible or desired by the landowner, permanent channel-spanning structures shall be prioritized before other crossing strategies. This section does not require the landowner to utilize any specific crossing design strategy.
- (3) Operators shall design and construct permanent water crossings to:
- (a) Convey, at a minimum, the 100-year peak flow in Type N and D non-fish streams and in Type F and Type SSBT fish streams. When determining the size of the culvert needed to convey a flow corresponding to the 100-year return interval, operators shall select a size adequate to preclude the ponding of water higher than the top of the culvert.
- (b) Operators shall design permanent water crossing culverts in Type F and Type SSBT fish streams using the stream simulation approach. Water crossing design in Type F and Type SSBT fish streams shall consider and incorporate the stream's geomorphic processes and anticipated changes over the life of the structure. Operators shall design water crossings in Type F and Type

SSBT fish streams to allow for the movement of water, wood, sediment, and organisms to the maximum extent feasible and minimize obstacles to stream processes. The design of the water crossings in Type F and Type SSBT fish streams shall avoid fragmentation of aquatic habitats by replicating the natural conditions of the stream being crossed. Where the operator determines it is not possible to achieve stream simulation, operators may propose alternatives if the alternative can accommodate a 100-year peak flow and does not obstruct fish passage.

(c) The State Forester may require a larger crossing design if division staff determines, in consultation with department specialists, that the structure size designed to pass the 100-year peak flow is inadequate to:

(A) Avoid delivery of sediment to the water being crossed;

(B) Avoid stream diversion potential; and

(C) Provide opportunity for the passage of expected bed load and associated large woody debris during flood events.

(4) Permanent Channel-Spanning Structures. For permanent channel-spanning structures, including long and short-span bridges, and open-bottom culverts, that span the entire bankfull width of the stream, operators shall design and construct the structure to conform with all the following:

(a) Permanent channel-spanning structures have at least three feet of clearance between the bottom of the bridge structure and the water surface at the 100-year peak flow, unless engineering justification shows a lower clearance will allow the free passage of anticipated sediment and large wood.

(b) Place the bridge structure or stringers in a manner to minimize damage to the stream bed.

(c) Tie or firmly anchor one end of each new, or reconstructed, permanent log or wood bridge if any of the bridge structure is within 10 vertical feet of the 100-year flood level.

(d) When earthen materials are used for bridge surfacing, install only clean sorted gravel, a geotextile lining or equivalent barrier, and install curbs of sufficient size to a height above the surface material to prevent surface material from falling into the stream bed.

(e) Place wood removed from the upstream end of bridges at the downstream end of bridges in such a way as to minimize obstruction of fish passage to the extent practical, while avoiding significant disturbance of sediment in connection with maintenance activities.

(f) Abutments, piers, piling, sills, and approach fills shall not constrict the flow so as to cause any appreciable increase (not to exceed 0.2 feet) in backwater elevation (calculated at the 100-year flood level) or channel wide scour and shall be aligned to cause the least effect on the hydraulics of the watercourse.

(g) Excavation for and placement of the foundation and superstructure is outside the ordinary high-water line unless the construction site is separated from the stream by an approved dike, cofferdam, or similar structure.

(h) Cure wood or other materials treated with preservatives sufficiently to minimize leaching into the water or bed. The use of creosote or pentachlorophenol is not allowed. Cure structures containing concrete sufficiently prior to contact with water to avoid leaching.

(i) Design permanent channel-spanning structures in Type F and Type SSBT fish streams using stream simulation and comply with the following:

(A) Channel-spanning structures shall not constrict clearly defined channels; and

- (B) Channel-spanning structures shall establish a low-flow channel that will allow for fish movement during low-flow periods.
- (5) Permanent Water Crossing Culverts. For permanent water crossing culverts in all streams, operators shall design and construct culverts to conform with all the following:
- (a) Design and install culverts so they will not cause scouring of the stream bed and erosion of the banks in the vicinity of the project.
 - (b) Design the culvert to avoid stream diversion potential.
 - (c) The culvert and its associated embankments and fills must have sufficient erosion protection to withstand the 100-year peak flow. Erosion protection may include armored overflows or the use of clean coarse fill material.
 - (d) Place wood removed from the upstream end of culverts at the downstream end of culverts in such a way as to minimize obstruction of aquatic organism passage to the extent practical, while avoiding significant disturbance of sediment in connection with maintenance activities.
 - (e) Limit disturbance of the bed and banks to what is necessary to place the culvert and any required channel modification associated with it. Revegetate, or stabilize with other erosion control techniques, affected bed and bank areas outside the culvert and associated fill with native woody species. Maintain native woody species for one growing season.
 - (f) Do not install permanent water crossing culverts that are less than 18 inches in diameter.
- (6) Permanent Water Crossing Culverts in Fish Streams. For permanent water crossing culverts in Type F and Type SSBT fish streams, operators shall conform to (5)(a) through (f) and design and construct culverts using a stream simulation as follows:
- (a) For no slope culverts and those up to one percent gradient, the minimum culvert diameter or span is at least equivalent to the active channel width. For other culvert installations, the minimum culvert diameter or span is at least 1.2 times the active channel width, plus 2 feet.
 - (b) Alignment and slope. The alignment and slope of the culvert shall mimic the natural flow of the stream when possible. The slope of the reconstructed streambed within the culvert shall approximate the average slope of the adjacent stream from approximately ten channel widths upstream and downstream of the site in which it is being placed, or in a stream reach that represents natural conditions outside the zone of the road crossing influence.
 - (c) Embedment. If a culvert is used, bury the bottom of the culvert into the streambed not less than 30 percent and not more than 50 percent of the culvert height for round culverts and for pipe arch culverts not less than 15 percent and no more than 30 percent. For bottomless culverts, design the footings or foundation for the deepest anticipated scour depth.
 - (d) Maximum length. If the design for a new crossing on a new road would require a culvert longer than 150 feet, utilize a channel spanning structure unless the site-specific design constraints preclude the use of a channel spanning structure.
 - (e) Culvert bed materials. Culvert bed materials shall have a similar composition to natural bed materials that form the natural stream channels adjacent to the road crossing in the reference reach. Design the culvert to allow sufficient transported bed material to maintain the integrity of the streambed over time.
- (A) New water crossings in Type F and SSBT fish streams shall require manual placement of culvert bed materials during bed construction.

(B) Operators may select natural accumulation for reconstruction of water crossings where feasible. Operators that select natural accumulation of culvert bed materials shall document in the written plan the site conditions and design elements that will facilitate natural accumulation in sufficient detail to allow the State Forester to evaluate and comment on the likelihood that the operation will comply with the requirements under (1)(k) and the requirements of (3) and (6) of this rule.

(i) The threshold to determine that natural accumulation has occurred shall be when the culvert meets the embedment standard under subsection (6)(c) of this rule.

(ii) The operator shall provide the following information in the notification for an extension of a natural accumulation project to the State Forester:

(I) An assessment of current culvert bed material accumulation within the culvert; and

(II) An assessment of the material available for transport and accumulation within the culvert.

(iii) If the culvert does not meet the natural accumulation threshold under (i) after the second winter season following the installation of the crossing and no later than July 1, the operator shall submit a new notification to the State Forester detailing how the operator will mechanically place culvert bed materials in order to achieve (6)(c) before September 30 of the same year. The department shall visually inspect the culvert by December 30 of that year to confirm the crossing meets (6)(c).

(f) Water velocity. The maximum velocity in the culvert shall not exceed the maximum velocity in the narrowest channel cross-sections.

(7) Fords. For fords, operators shall design and construct those structures to meet all the following criteria:

(a) The entry and exit points of a new ford must not be within 100 feet upstream or downstream of another ford within a property ownership.

(b) Use fords only during periods of no or low stream flow (whether dry or frozen) to minimize the delivery of sediment to the stream.

(c) Install fords only in a dry streambed or when a site is de-watered. The written plan shall describe sediment control and flow routing plans and the project, as implemented, must meet the criteria outlined in the written plan.

(d) Approaches to the structure shall not dam the floodplain where substantial overbank flow occurs.

(e) The ford shall cross as near to perpendicular to the channel to minimize the disturbance area and reduce post-installation maintenance.

(f) The ford shall minimize the acceleration of flow through the ford.

(g) For Type F and Type SSBT fish streams, any ford structure shall:

(A) Be no wider than 16 feet;

(B) Installed and maintained to ensure scour has not created a barrier to fish passage; and

(C) Installed and maintained to ensure free and unimpeded fish passage at all flows when fish are expected to move through the structure.

(8) Temporary Water Crossings. For temporary water crossings, operators shall design and construct those structures to conform with the following:

(a) Design temporary water crossings in Type N and Type D non-fish streams to pass at minimum the flows expected during crossing use with a minimum culvert diameter of 18 inches.

- (b) Use temporary water crossings in Type F and Type SSBT fish streams only during the in-water work period defined by the Department of Fish and Wildlife, or when the department in consultation with the Department of Fish and Wildlife and applicant can agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection.
- (c) Identify temporary water crossings on the forest practices notification and written plan as required in OAR 629-625-0100(2)(d), along with a vacating date.
- (d) Only use temporary water crossings on Type N and Type D non-fish streams:
 - (A) In Western Oregon if installed after June 1 and removed no later than September 30 of the same year;
 - (B) In Eastern Oregon if installed after July 1 and removed no later than October 15 of the same year; or
 - (C) When the department and applicant agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection. The department may consult with Department of Fish and Wildlife before extending the dates.
- (e) Install temporary water crossings in the dry streambed or in isolation from stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area. The State Forester may grant an exception to the operator if siltation or turbidity is reduced by placing the culvert in the flowing stream as an alternative to dewatering.
- (f) Limit the bypass reach to the minimum distance necessary to complete the project.
- (g) Vacate temporary water crossings to the specifications outlined in OAR 629-625-0650.
- (h) The State Forester may waive removal of the water crossing if the operator secures an amended written plan, and the structure and its approaches meet the requirements of a permanent water crossing structure as outlined in Sections (4) to (7) of this rule.
- (i) Limit the disturbance of the bed and banks to that which is necessary to place the temporary water crossing and any required channel modification associated with it.
- (9) Other Design Strategies. The operator shall submit their design strategies to the State Forester for approval:
 - (a) Submit any alternative water crossing strategy that does not conform with sections (4) to (8) of this rule to the State Forester as a plan for alternative practice. The State Forester may approve the plan for alternate practice in consultation with Department of Fish and Wildlife.
 - (b) The State Forester may consider other designs if they can meet or exceed the standards in sections (4) to (8) of this rule.
- (10) Construction of Water Crossings. In the construction of water crossings, operators shall do the following:
 - (a) Comply with all relevant forest road construction and maintenance rules in the construction or reconstruction of all water crossings. Nothing in this section affects existing requirements of Department of Fish and Wildlife.
 - (b) Runoff, Erosion and Sediment. Operators shall control runoff, erosion, and sediment through the following actions:
 - (A) Include a site-specific erosion and sediment control plan as part of a written plan prior to beginning work. This plan must include, but is not limited to:
 - (i) A site plan with a description of the methods of erosion or sediment control;

(ii) Methods for confining, removing, and disposing of excess construction materials; and
(iii) Measures to disconnect road surface and ditch water from all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals.

(B) Treat areas of bare soil that could deliver sediment to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals. Treatments must include, but are not limited to:

(i) Prior to project construction, establish effective drainage; before September 30 in Western Oregon and October 15 in Eastern Oregon. Effective drainage may be established at other times when the department and applicant can agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection;

(ii) Before the start of the rainy season and no later than September 30 in Western Oregon and October 15 in Eastern Oregon, mulch or seed areas of bare soil, or any combination thereof to reduce surface erosion; and

(iii) Upon completion of construction, apply native seed, invasive species-free mulch, or any combination thereof to sites with the potential for sediment delivery to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals. Operators must apply invasive species-free mulch to stay in place.

(c) Pollution Control. To control pollution, operators shall do the following:

(A) The operator shall maintain a spill prevention and response plan on site during construction.

(B) The operator shall not allow uncured concrete or concrete by-products to enter waters of the state during construction. The operator shall seal all forms for concrete to prevent uncured concrete from entering waters of the state.

(C) The operator shall take measures to ensure that all materials and equipment used for construction, monitoring, and fish salvage are free of aquatic invasive species.

(D) The operator shall not use wood treated with creosote or pentachlorophenol for parts of the structure in or over the active channel, including pilings, beams, structural supports, and decking.

(E) The operator shall not allow chemicals or any other toxic or harmful materials to enter into waters of the state.

(d) In-Water Work, Worksite Isolation, and Dewatering. To address in-water work, worksite isolation and dewatering needs of water crossing projects, operators shall do the following:

(A) Develop an in-water work plan for water crossings in all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals in their written plan. The plan may include, but is not limited to, fish salvage, worksite isolation, and dewatering. The written plan shall address in detail all in-channel construction activities and how the activities will adhere to all relevant Forest Practice

Administrative Rules forest road requirements. For all streams, the written plan shall describe:

(i) Activities during the in-water work period defined by the Department of Fish and Wildlife; or

(ii) Activities outside the in-water work period when the department, in consultation with Department of Fish and Wildlife, and applicant can agree to specific dates of installation and removal, and the extended dates result in equivalent levels of resource protection.

(B) Construct water crossings in compliance with Department of Fish and Wildlife fish passage and in-water work period requirements.

(C) For all water crossings in Type F and Type SSBT fish streams, operators shall do the following:

(i) Worksite isolation:

(I) Operators must isolate any work area within the width of the bankfull channel from water in the active channel at times when fish are reasonably certain to be present in a Type F or Type SSBT stream.

(II) When constructing water crossings in Type F and Type SSBT fish streams with any stream bypass, operators shall have an exclusion and recovery plan to ensure safe capture and relocation of fish trapped in the work zone when stream flow has been diverted.

(III) Prior to construction site dewatering, operators shall capture and relocate fish to avoid direct mortality to the maximum extent practicable.

(IV) Operators shall salvage fish to the maximum extent practicable at any in-water construction site where dewatering and resulting isolation of fish may occur.

(V) Operators shall remove all isolation features after construction is complete and submit a written salvage report to the department.

(ii) Dewatering:

(I) Operators shall not dewater areas known to be occupied by lamprey, unless the operator submits a lamprey salvage plan to the State Forester in consultation with the Department of Fish and Wildlife.

(II) Operators shall conduct dewatering of the isolated area in a manner that prevents sediment-laden water from reentering the stream.

(III) Operators shall limit dewatering to the shortest linear extent of the stream as practicable.

(IV) Operators shall conduct dewatering over a sufficient period to allow species to naturally migrate out of the work area.

(11) Monitoring. Landowners shall develop and implement a monitoring program for periodic inspections of all Type F and Type SSBT stream crossings that includes:

(a) Visual inspection to confirm that the crossing is functional; and

(b) Monitoring occurs at least once every 5 years.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.674, 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0330

Drainage

(1) All active, inactive, and vacated forest roads and landings shall be hydrologically disconnected to the maximum extent practicable from waters of the state to minimize sediment delivery from road runoff and reduce the potential for hydrological changes that alter the magnitude and frequency of runoff. Operators shall locate drainage structures based on the priority listed below. When there is a conflict between the requirements of sections (2) through

- (7) of this rule, the lowest numbered section takes precedence and the operator shall not implement the later numbered and conflicting section.
- (2) Operator shall not install cross-drains and ditch-relief culverts in a way that causes stream diversion.
- (3) Operators shall not concentrate road drainage water into headwalls, slide areas, high landslide hazard locations, or steep erodible fillslopes.
- (4) Operators shall not divert water from stream channels into roadside ditches.
- (5) Operators shall install drainage structures at approaches to stream crossings to divert road runoff from entering the stream. If placement of a single drainage structure cannot be placed in a location where it can effectively limit sediment from entering the stream, then additional drainage structures, road surfacing, controlling haul, or other site-specific measures shall be employed so that the drainage structure immediately prior to the crossing will effectively limit sediment from entering the stream. Operators may also use best management practices to manage sediment at the outflow of the drainage structure nearest to the crossing.
- (6) Operators shall provide drainage when roads cross or expose springs, seeps, or wet areas.
- (7) Operators shall provide a drainage system that minimizes the development of gully erosion of the road prism or slopes below the road using grade reversals, surface sloping, ditches, culverts, waterbars, or any combination thereof. For new road construction, operators shall use outsloping to the maximum extent practicable when site-specific conditions allow for its safe and effective use.
- (8) The department shall publish Forest Practices Technical Guidance to assist operators with road drainage rule compliance and to explain how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

Statutory/Other Authority: ORS 527.710(2); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.630(3), 527.765 & 527.714; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 12-2002, f. 12-9-02, cert. ef. 1-1-03

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0410

Disposal of Waste Materials

- (1) Operators shall place debris, sidecast, waste, and other excess materials associated with constructing, maintaining, or vacating roads in stable locations outside of the riparian management area where these materials may not enter all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals or otherwise degrade aquatic resources after construction.
- (2) Operators shall select stable areas for the disposal of end-haul materials and shall prevent overloading areas which may become unstable from additional material loading.
- (3) If other alternatives present are unstable or there is a higher potential for delivery of waste materials to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals, operators may place waste

materials within the riparian management area but no closer than 75 feet from all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals. To place waste materials within the riparian management area but no closer than 75 feet from a water of the state, operators must submit written plan that describes site-specific measures that prevent or minimize the entry of these materials to all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals.

(4) If the protections of a riparian management area are not required, operators shall place waste materials at a minimum of 75 feet from all typed waters and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals.

(5) Operators shall develop a written plan for temporary placement of waste materials within the riparian management area that is necessary for constructing or vacating roads and crossings that describes site-specific measures that prevent or minimize the entry of these materials to waters of the state and the timeframe for removal of those waste materials.

(6) Woody debris, rocks, or other materials placed for erosion control or for habitat restoration are exempt from this rule.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0440

Stabilization

(1) Operators shall establish effective drainage and stabilize exposed material, which is potentially unstable or erodible to avoid potential delivery of sediment to waters of the state, by use of seeding, mulching, riprapping, leaving light slash, pull-back, or other effective means, as soon as practicable after completing operations or prior to the start of the rainy season. These areas include, but are not limited to, unsurfaced road grades, cut slopes, fill slopes, ditchlines, waste disposal sites, rock pits, and other areas with the potential for sediment delivery to waters of the state.

(2) During wet periods operators shall construct roads in a manner which prevents sediment from entering waters of the state.

(3) Operators shall not incorporate slash, logs, or other large quantities of organic material into road fills.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0600

Road Maintenance

- (1) The purpose of this rule is to protect water quality and ensure hydrologic disconnection of roads from waters of the state to the maximum extent practicable by timely maintenance of all active and inactive roads. Road surface must be maintained as necessary to:
- (a) Minimize erosion of the surface and the subgrade;
 - (b) Minimize direct delivery of surface water to waters of the state;
 - (c) Minimize sediment entry to waters of the state;
 - (d) Direct any groundwater that is captured by the road surface onto stable portions of the forest floor;
 - (e) Ensure properly functioning and durable drainage features; and
 - (f) For existing roads with inboard ditch, avoid overcleaning of ditchlines.
- (2) Operators shall inspect and maintain culvert inlets and outlets, drainage structures, and ditches before and during the rainy season as necessary to minimize the likelihood of impeding flow and the possibility of structure failure.
- (3) Operators shall provide effective road surface drainage, such as water barring, surface crowning, constructing sediment barriers, or outslowing prior to the rainy and runoff seasons.
- (4) When applying road oil or other surface stabilizing materials, operators shall plan and conduct the operation in a manner as to prevent entry of these materials into waters of the state.
- (5) Operators shall maintain, and repair active and inactive roads as needed to minimize damage to waters of the state. This may include maintenance and repair of all portions of the road prism during and after intense winter storms, as safety, weather, soil moisture, and other considerations permit.
- (6) Operators shall place material removed from ditches in a stable location.
- (7) Operators shall install drainage structures on ditches that capture groundwater.
- (8) In order to maintain fish passage through water crossing structures, operators shall:
- (a) Maintain conditions at the structures so that passage of adult and juvenile fish is not impaired during periods when fish movement normally occurs;
 - (b) As reasonably practicable, keep structures cleared of woody debris and deposits of sediment that would impair fish passage;
 - (c) Where needed to protect water quality, as directed by the State Forester, operators shall place additional cross drainage structures on existing active roads within their ownership prior to hauling to meet the requirements of OAR 629-625-0330; and
 - (d) Adhere to other fish passage requirements under the authority of ORS 509.580 through 509.910 and OAR 635-412-0005 through 635-412-0040 administered by other state agencies that may be applicable to water crossing structures.

Statutory/Other Authority: ORS 527.710(2); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.630(3), 527.765 & 527.714; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

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

DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0650

Vacating Forest Roads and Water Crossings

(1) The purpose of this rule is to ensure that when landowners choose to vacate roads under their control, the roads are left in a condition where road-related damage to waters of the state is unlikely.

(2) To vacate a forest road, landowners shall effectively block the road to prevent continued use by vehicular traffic and shall take all reasonable actions to leave the road in a condition where road-related damage to waters of the state is unlikely.

(3) To vacate a water crossing, landowners shall completely and permanently remove all water crossing structures, including bridges, culverts, fords, and associated fills. Vacating water crossings must re-establish the natural drainage with no additional maintenance required.

(4) To vacate a road, a forest landowner must complete procedures of (a) through (c) of this subsection:

(a) Outslope, water bar, or storm-proof roads or otherwise leave roads in a condition suitable to control erosion and maintain water movement within wetlands and natural drainages.

(b) Leave ditches in a suitable condition to reduce erosion.

(c) Remove water crossing structures and fills on waters of the state unless the department determines other measures would adequately protect public resources.

(5) To vacate a water crossing, a forest landowner must complete procedures (a) through (g) of this subsection:

(a) Re-establish channel connectivity.

(b) Meet the Department of Fish and Wildlife fish passage definition in OAR 635-412-0005 and comply with Department of Fish and Wildlife in-water work period requirements.

(c) Ensure that vacating does not result in an artificial fish passage barrier at the time of project completion.

(d) Remove all water crossing structures and all imported road fill material.

(e) Restore the channel, banks, and side slopes to:

(A) Establish the natural streambed and banks as close to the original location as possible to restore or enhance stream conditions and processes to an equivalent width, depth, gradient, and substrate composition as the channel segments upstream and downstream from the crossing;

(B) Ensure stable side slopes that do not exceed a 2 horizontal to 1 vertical ratio, unless matching the natural stream bank or valley walls;

(C) Incorporate large wood, if appropriate, to expedite restoration of the channel and fish habitat;

(D) Require erosion control to address sediment delivery from exposed slopes;

(E) Place all excavated material in stable locations and outside of the floodplain;

(F) Ensure zero or near-zero road related hydrologic connectivity at the entire site; and

(G) Plant exposed stream banks or valley walls with native trees or shrubs to help expedite development of a functioning riparian condition.

(f) The landowner shall notify the State Forester that a road or crossing is vacated. The State Forester has 30 days to determine whether the road or crossing has been vacated and to notify the landowner in writing. If the State Forester does not respond within 30 days, the road is presumed to be vacated.

(g) Roads and crossings are exempt from maintenance under this section only after sections (4) and (5) of this section is completed.

(h) The department shall publish Forest Practices Technical Guidance to assist operators with rule compliance and to explain how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

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

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-625-0700

Wet Weather Road Use

(1) The purpose of this rule is to reduce delivery of fine sediment to streams caused by the use of forest roads during wet periods that may adversely affect downstream water quality in Type F, Type SSBT or Type D streams.

(2) Operators shall use durable surfacing or other effective measures that resist deep rutting or development of a layer of mud on top of the road surface on road segments that drain directly to streams on active roads that will be used for log hauling during wet periods.

(3) Operators shall cease active road use where the surface is deeply rutted or covered by a layer of mud and where runoff from that road segment is causing a visible increase in the turbidity of Type F, Type SSBT or Type D streams as measured above and below the effects of the road.

(4) The department shall publish Forest Practices Technical Guidance to explain how wet weather road use can avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

Statutory/Other Authority: ORS 527.710(2); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.630(3), 527.765 & 527.714; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03

629-625-0800

Construction in Wetlands

Avoid or minimize all road and landing construction near or within significant wetlands as described in OAR 629-680-0310, stream-associated wetlands, or wetlands greater than 0.25 acres in size. Where impacts are unavoidable, operators must first minimize impacts and then mitigate for them in the following priority order options (1) through (4) of this rule:

(1) Operators shall avoid impacts to significant wetlands, stream-associated wetlands, and other wetlands greater than 0.25 acres in size by selecting the least environmentally damaging landing

location, road location and road length. Operators must attempt to minimize road length when avoiding wetlands.

(2) When road or landing construction in a significant wetland, stream-associated wetland, or other wetlands greater than 0.25 acres in size cannot be avoided, the operator shall build a temporary road or landing that:

(a) Minimizes impacts by reducing the subgrade width, fill acreage, and spoil areas; and

(b) Removes temporary fills or road sections upon the completion of the project.

(3) Permanent road construction in a significant wetland, stream-associated wetland, or other wetlands greater than 0.25 acres in size, operators must mitigate impacts by:

(a) Reducing or eliminating impacts over time by preserving or maintaining areas; or

(b) Replacing affected areas by creating new wetlands or enhancing existing wetlands.

(4) Filling or draining more than 0.25 acres of a significant wetland, any stream-associated wetland, or other wetlands greater than 0.25 acres in size requires the operator to replace by substitution or enhance the road or landing construction site for the lost wetland functions and values. The objective of successful replacement by substitution of lost wetland area is approximately on a two-for-one basis and of the same type and in the same general location. The objective of enhancing wetland function is to provide for an equivalent amount of function and values to replace that which is lost.

(5) The department shall publish Forest Practices Technical Guidance to assist operators with rule compliance and to explain how to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-625-0900

Forest Road Inventory and Assessment

(1) The purpose of the Forest Road Inventory and Assessment (FRIA) is to reduce chronic and catastrophic sediment entry to waters of the state and to ensure passage for covered species during all mobile life-history stages by identifying existing roads not meeting the Forest Practices Rules and bring those roads into compliance with the Forest Practice Administrative Rules.

(2) OAR 629-625-0900 does not apply to small forestland owners, as defined in OAR 629-600-0100. Small forestland owners shall submit a road condition assessment when they submit a notification of operation for a timber harvest that will use a road to haul timber, as described in OAR 629-625-0920.

(3) The department shall publish Forest Practices Technical Guidance for compliance with the Forest Road Inventory and Assessment process to avoid and prevent potential impacts to fish, wildlife, habitat resources, and waters of the state.

(4) The Forest Road Inventory and Assessment rules apply to segments of roads located on a large forest landowners' property, excluding roads that are owned or controlled by a government

entity, including, but not limited to, the United States, and federally recognized Indian Tribes. For the purposes of this section, both ownership and control mean any right, interest, or agreement that precludes the large forest landowner from being able to conduct road work without prior authorization.

(5) Pre-inventory. Landowners shall submit a pre-inventory of high conservation value sites on each road management block to the State Forester no later than January 1, 2025.

(a) Landowners shall include high conservation value sites in the pre-inventory that address the following sites:

(A) Areas of known chronic sedimentation. Consideration will be given to areas where log hauling will occur during the 5-year inventory phase.

(B) Fish passage barriers known to be of significant concern. Priorities will be based on locations where fish passage would provide the greatest benefit to native migratory fish consistent with OAR 635-412-0015 and other criteria as determined by the Department of Fish and Wildlife in consultation with the department and consistent with the Oregon Fish Passage Barrier Data Standard developed by the ODFW Fish Screening and Passage Program.

(C) Ongoing stream diversions at stream crossings and areas with stream diversion potential.

(D) Areas of known hydrologic connectivity.

(b) From the list of high conservation value sites identified, landowners shall prioritize projects on high conservation value sites within the pre-inventory submission that:

(A) Remove fish passage barriers consistent with Department of Fish and Wildlife requirements;

(B) Minimize the potential for sediment delivery to waters of the state;

(C) Minimize stream diversions at water crossings;

(D) Minimize hydrologic connectivity between roads and waters of the state; and

(E) Meet other relevant criteria as determined by the department in consultation with other state and federal agencies.

(c) Landowners shall meet with the department and Department of Fish and Wildlife to review the pre-inventory list no later than January 1, 2026.

(A) The department shall meet with the Department of Fish and Wildlife to review the list and coordinate to ensure that high conservation value sites are prioritized based on habitat values, road conditions, sediment delivery to waters of the state, hydrologic connectivity, and fish passage in alignment with the barrier assessment and inventory prioritization under the ODFW Fish Passage Program.

(B) The department and the Department of Fish and Wildlife may propose additional projects to the pre-inventory list if they believe that high conservation value sites have not been addressed.

(C) The department shall coordinate with the Department of Fish and Wildlife to ensure that information collected in the pre-inventory process is standardized and is in a format consistent with the Oregon Fish Passage Barrier Data Standard.

(d) Landowners shall address prioritized pre-inventory projects after review from the department and Department of Fish and Wildlife beginning no sooner than January 1, 2026, and no later than January 1, 2029.

(e) Landowners shall report annually to the department and Department of Fish and Wildlife on the status and completion of pre-inventory projects through January 1, 2029.

(6) Landowners shall submit an initial inventory of all active, inactive, and known vacated or abandoned roads no later than January 1, 2029.

(a) The initial inventory shall include three documents:

(A) Paper or electronic maps showing the roads within each road management block;

(B) A work matrix documenting actions necessary to bring all roads into compliance with the Forest Practice Rules. The document shall include prioritization of work; and

(C) A Forest Road Inventory and Assessment initial inventory plan describing how the landowner intends to bring the road network into compliance no later than January 1, 2044. The plan shall include:

(i) Actions likely to be addressed in the upcoming year;

(ii) A general description of how work will occur during the Forest Roads Inventory and Assessment period; and

(iii) A description of how the landowner is prioritizing work with the goal of optimizing environmental benefits.

(D) At minimum, the FRIA initial inventory plan submission shall include:

(i) The location and length of active roads, inactive roads, and vacated roads within each road management block.

(ii) The location of streams within the road management block, classified as:

(I) Fish;

(II) Non-fish;

(III) SSBT;

(IV) Fish presence unknown; or

(V) Streams that are 303(d) listed shall be depicted as such in addition to fish use designation.

(iii) Known or potential road-related fish passage barriers. Data collected shall be consistent with the Oregon Fish Passage Barrier Data Standard in consultation with Department of Fish and Wildlife.

(iv) Prioritization of known or potential road related fish passage barriers. Prioritization of fish passage barriers shall be done in a manner consistent with the ODFW Fish Passage Program.

(v) The location and status of all water crossing culverts including:

(I) Date of installation, if known; and

(II) Assessment of culvert material used.

(vi) Each water crossing culvert shall be classified as one of the following:

(I) A fully functioning culvert in a Type F or Type SSBT stream;

(II) A fully functioning culvert in a Type N or Type D stream;

(III) A culvert with imminent risk of failure;

(IV) A culvert with minimum risks to public resources; or

(V) Undetermined status. Culverts with undetermined status must be prioritized for improvement. The status may be changed as more detailed information is gathered.

(b) The FRIA Initial Inventory Plan submission shall identify each road segment as:

(A) Meeting the Forest Practices Rules;

(B) Not meeting the Forest Practices Rules;

(C) Vacated in compliance with OAR 629-625-0650; or

(D) Abandoned.

(7) In the year following submitting the initial inventory but no later than January 1, 2029, landowners shall submit annual inventory reports and plans until January 1, 2044, which shall include:

(a) Updates to the maps required by OAR 629-625-0900(6)(a)(A) reflecting:

- (A) Work accomplished during the prior year;
- (B) Additional information discovered; and
- (C) Potential changes in prioritizations.

(b) Update to the work matrix required by OAR 629-625-0900(6)(a)(B) showing:

- (A) Improvements completed;
- (B) Work to be completed;
- (C) Additional information discovered; and
- (D) Changes in prioritization.

(c) Update to the annual plan required by OAR 629-625-0900(6)(a)(C) reflecting:

- (A) Work conducted in the prior year;
- (B) Work likely to be completed in the upcoming year; and
- (C) General plan to complete all necessary work no later than the January 1, 2044.

(8) The documents required by OAR 629-625-0900(7) must contain all the following:

- (a) Total length of forest roads improved, including as a subset, length improved by compliance with OAR 629-625-0330(1) Drainage.
- (b) Total length of forest roads still requiring improvement.
- (c) Total length of forest roads planned for improvement in the upcoming year.
- (d) Total length of forest roads vacated.
- (e) Total length of forest roads planned to be vacated in the upcoming year.
- (f) Number of fish barriers brought into compliance with OAR 629-625-0320 Water Crossing Structures.
- (g) Number of fish barriers to be improved in the upcoming year.
- (h) Certification by the landowner that they remain on track for completing required improvements no later than January 1, 2044.

(9) Landowners shall improve all road segments identified in the initial inventory as not meeting the Forest Practice Administrative Rules so that those segments either meet the Forest Practice Administrative Rules or are vacated no later than January 1, 2044.

(10) For culverts that meet the definition of pre-existing culverts, landowners shall:

- (a) Inspect them every five years when the installation date is not known; and
- (b) Maintain them to end of service life or until they no longer meet the definition of pre-existing culverts.

(11) For culverts that do not meet the definition of pre-existing culverts, landowners shall:

- (a) Prioritize them for improvement during the initial inventory;
- (b) Bring them into compliance with Forest Practice Rules no later than January 1, 2044; or
- (c) For culverts not meeting the definition of pre-existing, consult with the Department of Fish and Wildlife to assign them a status of low priority and maintain them to the end of their service life when they meet the following criteria:
 - (A) The culvert is partially functioning to provide fish passage and the cost of repair or replacement is disproportionate to the benefits of the repair or replacement; or

(B) The culvert provides valuable wetland or pond habitat.

(12) For culverts meeting the definition of having imminent risk of failure, landowners shall repair or replace the culvert as soon as practicable but no later than two years after having been identified.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-625-0910

State-led Abandoned Roads Inventory

(1) The department in consultation with the U.S. Environmental Protection Agency shall lead a cooperative effort to identify abandoned roads. The purpose of this effort is to identify abandoned roads and bring them into compliance with the Forest Practice Administrative Rules to reduce the potential of abandoned roads to produce chronic sediment and increase the risks of mass wasting and stream diversions.

(2) After identifying abandoned roads, the department and cooperators shall identify abandoned roads with a high level of risk to waters of the state or infrastructure. The State Forester shall provide the results of the inventory to landowners no later than January 1, 2026. The department shall use the following criteria listed in order of importance to identify risk levels:

- (a) Ongoing stream diversion at stream crossings.
- (b) Diversion potential at stream crossings.
- (c) Likelihood of hydrologic connectivity.
- (d) Comparative risk of chronic sediment produced.
- (e) Risk of contribution to mass wasting.
- (f) Other criteria as determined by the department in consultation with other state and federal agencies.

(3) Following the identification of high-risk abandoned road segments, the department in coordination with landowners shall identify high-priority abandoned road segments from the list of high-risk locations. Considerations for designating a segment as high priority shall include:

- (a) Importance of the HUC-6 watershed to recovering salmonids;
- (b) Number of stream crossings based on full-densified stream network;
- (c) Cost of improvements in comparison to the benefits; and
- (d) Other criteria as determined by the department in consultation with other state and federal agencies.

(4) Landowners shall complete a field verification of all high priority abandoned road segments identified in section (3).

(a) The department, Department of Environmental Quality, and Department of Fish and Wildlife shall, when necessary, review landowner verifications of high priority sites and improvement plans.

(b) Landowners shall include the following information in their field verification of high priority abandoned road segments:

- (A) Confirmation that the high-priority site is on an abandoned road.
- (B) Determination whether the segment is diverting the stream or has diversion potential.
- (C) Determination regarding whether the segment is actively contributing sediment or has a high risk of contributing significant quantities of sediment to waters of the state. Indicators of risk of contributing significant quantities of sediment may include:
 - (i) A sediment deposit reaching the high-water line of a defined channel of a flood prone area;
 - (ii) A channel that extends from a road drainage structure outlet to the high-water line of a defined channel or a flood-prone area;
 - (iii) Evidence of surface flow between the drainage structure outlet and a defined channel or a flood-prone area;
 - (iv) Turbid water reaching all typed waters, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, and canals during runoff events;
 - (v) Evidence of direct sediment entry into a watercourse or a flood-prone area from road surfaces or drainage structures and facilities (e.g., ponded sediment, sediment deposits, delivery of turbid runoff from drainage structures during rainfall events);
 - (vi) Gullies or other evidence of erosion on road surfaces or below the outlets of road drainage facilities or structures, including ditch drain (relief) culverts, with transport or a high likelihood of transport to a watercourse;
 - (vii) Native-surfaced roads exhibiting erosion;
 - (viii) Native-surfaced roads composed of erodible soil types (e.g., granitic soils);
 - (ix) Rilled, gullied, or rutted road approaches to crossings;
 - (x) Existing ditch drain (relief) culverts or other road drainage structures with decreased capacity due to damage or impairment (e.g., crushed or bent inlets, flattened dips due to road grading);
 - (xi) Decreased structural integrity of ditch drain (relief) culverts, waterbreaks, or other road drainage structures (e.g., excessive pipe corrosion, breached water-breaks, or rutted road segments); or
 - (xii) Ditch scour or downcutting resulting from excessively long undrained ditches with infrequent ditch drain (relief) culverts or other outlet structures or facilities. This condition can also result from design inadequacies (e.g., spacing not altered for steep ditch gradient), inadequate erosion prevention practices (e.g., lack of armoring), or ditches in areas of erodible soils.
- (D) Analysis of net benefit for waters of the state to improve the abandoned road segment.
- (E) Determination regarding practicability of alternatives to improve the abandoned road segment and address the following risks:
 - (i) Ongoing stream diversions at stream crossings;
 - (ii) Diversion potential at stream crossings;
 - (iii) Likelihood of hydrologic connectivity;
 - (iv) Comparative risk of chronic sediment produced; and
 - (v) Risk of contribution to mass wasting.
- (F) The alternatives may include vacating the segment, no action, and any other reasonable alternative. Landowners shall propose the most practicable alternative as part of the annual report.

(5) Landowners shall add the verified high-priority abandoned road segments to the Forest Roads Inventory and Assessment initial inventory.

(6) Landowners shall improve the abandoned road segment as part of the Forest Roads Inventory and Assessment process when, in consultation with the department, the following criteria are met:

- (a) The high-priority location is an abandoned road;
- (b) The high-priority location is actively contributing or has high risk of contributing significant quantities of sediment to waters of the state;
- (c) The improvements would be a net benefit to waters of the state; and
- (d) Improvements are practicable.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-625-0920

Road Condition Assessment

(1) The purpose of this rule is to ensure that roads used for harvest and owned by small forestland owners, as defined by OAR 629-600-0100, comply with the standards of the Forest Practices Rules.

(2) The requirements of the forest road inventory assessment program described in OAR 629-625-0900 do not apply to small forestland owners.

(3) When a small forestland owner submits a notification including the harvest of timber using the department's reporting and notification system, they shall complete the department road condition assessment. Notifications for activities other than timber harvest shall not require completion of a road condition assessment. The small forestland owner is encouraged to complete the road condition assessment for all roads in their parcel without a planned timber harvest.

(4) The road condition assessment shall include all roads in the parcel owned by the small forestland owner where the harvest will take place, including the following descriptions:

- (a) The road condition that contributes to active or potential delivery of sediment to waters of the state;
- (b) Water crossing's locations and the status of compliance with the forest practice rules;
- (c) Potential fish passage barriers on Type F and Type SSBT streams;
- (d) Abandoned roads; and
- (e) Roads with a perched fill that present a significant hazard to fish-bearing streams.

(5) The department, in consultation with the Department of Fish and Wildlife, shall review eligibility for state grants to improve the road conditions described in section (4)(c), (d), and (e) of this rule.

(6) The small forestland owners are not required to undertake the following road improvements projects, without funding by the State of Oregon:

- (a) Replacement of culverts for Type F and Type SSBT streams;

- (b) Repair of abandoned roads; or
- (c) Reconstructing, vacating, or relocating roads with a perched fill that present a significant hazard to fish-bearing streams.
- (7) If the State of Oregon, under the small forestland investment in stream habitat program described in OAR 629-607-0300, fails to fund an eligible and approved road improvement project for a small forestland owner, the non-implementation of those projects shall not prevent the small forestland owner from using the road for any purpose, except for the following conditions:
 - (a) The road is actively delivering sediment to waters of the state; or
 - (b) The road has one or more culverts with an imminent risk of failure, as defined in OAR 629-600-0100.
- (8) If the road condition assessment identifies necessary road repairs, other than the road conditions in section (7)(a) and (b) of this rule, there shall be no time limit in which the small forestland owner must complete those repairs, though the obligation to improve roads when used for harvest remains.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

Division 630 HARVESTING

629-630-0000

Purpose

- (1) OAR 629-630-0000 through 629-630-0925 shall be known as the harvesting rules.
- (2) Harvesting of forest tree species is an integral part of forest management by which wood for human use is obtained and by which forests are established and tended.
- (3) Harvesting operations result in a temporary disturbance to the forest environment.
- (4) The purpose of the harvesting rules is to establish standards for forest practices that will maintain the productivity of forestland, minimize soil and debris entering waters of the state, and protect wildlife and fish habitat.
- (5) The harvesting rules are intended to reduce the potential for sediment delivery to waters of the state from ground disturbance and drainage alterations that may be caused by harvesting.
- (6) The purpose of the timber harvesting on steep slopes rules, as identified in OAR 629-630-0900 through 629-630-0925, is to retain trees in designated areas to provide the beneficial elements of landslides while mitigating the potential negative effects of forest management activities on unstable slopes.
- (7) The harvesting rules shall apply to all forest practices regions unless otherwise indicated.
- (8) OAR 629-630-0900 through 629-630-0925, do not replace or modify OAR 629-623-0000 through 629-623-0800 Shallow, Rapidly Moving Landslides and Public Safety rules.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-630-0150

Ground-Based Harvesting On Steep Or Erosion-Prone Slopes

- (1) Slopes over 60 percent are subject to the requirements of Sections (4) through (8) of this rule.
- (2) Slopes over 40 percent where soils consist of decomposed granite-type materials, or other highly erodible materials as determined by the State Forester, are considered erosion-prone and subject to the requirements of Sections (4) through (8) of this rule.
- (3) Methods that avoid development of compacted or excavated trails are the preferred alternative for operating on steep or erosion-prone slopes. If the operation will result in excavated or compacted skid trails, operators shall apply sections (5) through (8) of this rule.
- (4) If skid trails are located on steep or erosion-prone slopes, operators shall locate them at least 100 feet from any stream channels.
- (5) Operators shall locate skid trails where water can drain off the skid trail and onto undisturbed soils.
- (6) Skid trails shall not be located straight up and down steep or erosion prone slopes for a distance exceeding 100 feet unless effective drainage and sediment filtration can be achieved.
- (7) Operators shall install effective cross ditches on all skid roads located on steep or erosion-prone slopes.

(8) Operators shall limit the amount of ground with disturbed soils on steep or erosion-prone slopes as described in Sections (2) and (3) of this rule to no more than ten percent of the steep or erosion-prone slopes within the operation area.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.710(2) & 527.630(3); section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03

629-630-0300

Drainage Systems

(1) Operators shall construct dips, grade reversals or other effective water diversions in skid trails and fire trails as necessary to minimize soil displacement and to ensure runoff water is filtered before entering waters of the state.

(2) Operators shall drain skid trails by water barring or other effective means immediately following completion of the operation and at all times during the operation when runoff is likely.

(3) Operators shall establish effective drainage on landings during and after use.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-630-0500

Harvesting On High Landslide Hazard Locations

(1) Operators and the State Forester shall share responsibility to identify high landslide hazard locations for timber harvesting and road construction to protect natural resources and public safety.

(2) For operations with potential downslope risk to public safety from shallow, rapidly moving landslides, the shared responsibility includes identifying and evaluating the risk using methods described in OAR 629-623-0100 through 0300. For intermediate and substantial levels of risk, the practices described in OAR 629-623-0400 through 0800 shall also apply. The department shall publish Forest Practices Technical Guidance to explain how to implement this rule.

(3) Operators shall not construct skid roads on high landslide hazard locations.

(4) Operators shall not operate ground-based equipment on high landslide hazard locations.

(5) Operators shall prevent deep or extensive ground disturbance on high landslide hazard locations during log felling and yarding operations.

(6) Operators concerned about the application of these standards to a specific operation may consult with the State Forester to obtain an evaluation of their harvesting plan and its likelihood of compliance with the standards.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: 527.710, 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 2-2003, f. 6-19-03, cert. ef. 7-1-03
DOF 1-2003(Temp), f. & cert. ef. 1-29-03 thru 7-27-03
DOF 12-2002, f. 12-9-02 cert. ef. 1-1-03
FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-630-0600

Felling; Removal of Slash

(1) Operators shall fell, buck, and limb trees in ways that minimize disturbance to channels, soils and retained vegetation in riparian management areas, streams, lakes and all wetlands greater than one-quarter acre, and that minimize slash accumulations in channels, significant wetlands and lakes.

(2) During felling operations operators shall:

(a) Whenever possible, fell all conifer trees away from riparian management areas, streams, lakes and significant wetlands, except for trees felled for stream improvement projects.

(b) On steep slopes, use felling practices such as jacking, line pulling, high stumps, whole tree yarding, or stage-cutting as necessary and feasible to prevent damage to vegetation retained in riparian management areas, soils, streams, lakes and significant wetlands.

(c) When hardwoods must be felled into or across streams, lakes or significant wetlands, operators shall:

(A) Buck and yard the trees to minimize damage to beds, banks and retained vegetation.

(B) When it can be done consistently with protecting beds and banks, yard hardwood trees or logs away from the water before limbing.

(3) Operators shall minimize the effects of slash that may enter waters of the state during felling, bucking, limbing or yarding by:

(a) Removing slash from Type F, Type SSBT, Type D streams, large or medium Type Np streams, small Type Np streams within the RH Max, lakes and significant wetlands as an ongoing process (removal within 24 hours of the material entering the stream) during the harvest operation.

(b) Not allowing slash to accumulate in Type Ns streams and small Type Np streams upstream of the RH Max, lakes or wetlands in quantities that threaten water quality or increase the potential for mass debris movement.

(c) Placing any slash that is removed from streams, lakes, or wetlands above high water levels where it will not enter waters of the state.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-660-0000

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2610

629-630-0700

Yarding; Cable Equipment Near Waters of the State

- (1) Operators shall maintain the purposes and functions of vegetation required to be retained in riparian management areas and minimize disturbance to beds and banks of streams, lakes, all wetlands larger than one-quarter acre, and retained vegetation during cable yarding operations.
- (2) Operators shall minimize the yarding of logs across streams, lakes, significant wetlands, and other wetlands greater than one-quarter acre whenever harvesting can be accomplished using existing roads or other practical alternatives.
- (3) Operators may use cable yarding corridors through retained trees if the numbers and widths of yarding corridors are minimized. Operators shall submit a written plan to the State Forester when yarding across any of the waters listed in subsections (a) through (g) of this section:
 - (a) Type F streams;
 - (b) Type SSBT streams;
 - (c) Type D streams;
 - (d) Large or medium Np streams;
 - (e) Small Type Np or Type Ns streams located within designated debris flow traversal areas, as described in OAR 629-630-0905;
 - (f) Lakes; or
 - (g) Significant wetlands.
- (4) When cable yarding across any of the waters listed in subsections (a) through (f) of this section is necessary, it shall be done by swinging the yarded material free of the ground in the aquatic areas and riparian areas.
 - (a) Type F streams;
 - (b) Type SSBT streams;
 - (c) Type D streams;
 - (d) Large or medium Type Np streams;
 - (e) Lakes; or
 - (f) Significant wetlands.
- (5) Cable yarding across streams classified as Type Ns, small Type Np stream-associated wetlands, designated debris flow traversal areas, seeps, and springs, or other wetlands greater than one-quarter acre shall be done in ways that minimize disturbances to the stream channel or wetland and minimize disturbances of retained streamside vegetation, including one-end log suspension where feasible.
- (6) Operators shall minimize disturbance from cable yarding near streams to maintain soil function, retain understory vegetation, and protect habitat for fish, amphibians, and other wildlife.
 - (a) The following equipment limitation zones shall be applied to streams and associated riparian management areas as described in division 643 Water Protection Rules Vegetation Retention Along Streams rules.
 - (A) An "R-ELZ" means an equipment limitation zone in which disturbance from equipment activity shall be minimized and all trees less than 6 inches DBH and shrub species are retained where possible.
 - (i) In Western Oregon, the R-ELZ is 35 feet.
 - (ii) In Eastern Oregon, the R-ELZ is 30 feet.
 - (B) An "ELZ" means an equipment limitation zone in which disturbance from equipment activity shall be minimized.

- (i) In Western Oregon, the ELZ is 35 feet.
- (ii) In Eastern Oregon, the ELZ is 30 feet.
- (b) Operators shall take corrective action(s) when soil disturbance from cabled logs exceeds 20 percent of the total area within any R-ELZ or ELZ within an operation unit. Corrective action(s) shall be designed to replace the equivalent of lost functions in consultation with the State Forester. Examples include, but are not limited to, water bars, grass seeding, logging slash, mulching, downed log placement in accordance with ORS 527.676(1), with a preference for utilizing on-site materials.
- (c) The department shall publish technical guidance, developed in consultation with Department of Fish and Wildlife to assist operators with selecting appropriate corrective measures.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-660-0010

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2620

629-630-0800

Yarding; Ground-based Equipment Near Waters of the State

- (1) Operators shall maintain the purposes and functions of vegetation required to be retained in riparian management areas, and minimize disturbances to beds and banks of streams, lakes, all wetlands larger than one-quarter acre, and retained vegetation during ground-based yarding operations.
- (2) Operators shall not operate ground-based equipment within any stream channel except as allowed in the rules for temporary stream crossings.
- (3) Operators shall minimize the number of stream crossings.
- (4) For crossing streams that have water during the periods of the operations, operators shall:
 - (a) Construct temporary stream crossing structures such as log crossings, culvert installations, or fords that are adequate to pass stream flows that are likely to occur during the periods of use. Structures shall be designed to withstand erosion by the streams and minimize sedimentation.
 - (b) Choose locations for temporary stream crossing structures which minimize cuts and fills or other disturbances to the stream banks.
 - (c) Minimize the volume of material in any fills constructed at a stream crossing. Fills over eight feet deep contain such a large volume of material that they can be a considerable risk to downstream beneficial uses should the material move downstream by water. For any fill for a temporary crossing that is over eight feet deep, operators shall submit to the State Forester a written plan that includes a description of how the fills would be constructed, passage of water, and the length of time the fills would be in the stream.
 - (d) Design temporary structures so that fish movement is not impaired on Type F or Type SSBT streams.
 - (e) Remove all temporary stream crossing structures immediately after completion of operations or prior to seasonal runoff that exceeds the water carrying capacity of the structures, whichever

comes first. When removing temporary structures, operators shall place fill material where it will not enter waters of the state.

(5) For stream crossings where the channels do not contain water during the periods of the operations, operators are not required to construct temporary crossings as long as disturbances are no greater than what would occur if structures were constructed. Soil that enters the channels during the yarding operations must be removed after completion of the operation or prior to stream flow, whichever comes first. When removing such materials from the channels, operators shall place the materials in locations where they will not enter waters of the state.

(6) Operators shall construct effective sediment barriers such as water bars, dips, or other water diversion on stream crossing approaches after completion of operations, or prior to rainy season runoff, whichever comes first.

(7) Machine activity near (generally within 100 feet) streams, lakes, and other wetlands greater than one-quarter acre shall be conducted to minimize the risk of sediment entering waters of the state and preventing changes to stream channels. Operators shall only locate, construct, and maintain skid trails in riparian management areas consistent with the harvesting rules.

(8) Operators shall minimize ground-based equipment and subsequent disturbance near streams to maintain soil function, retain understory vegetation, and protect habitat for fish, amphibians, and other wildlife.

(a) The following equipment limitation zones shall be applied to streams and associated riparian management areas as described in division 643 Water Protection Rules Vegetation Retention Along Streams rules:

(A) An "R-ELZ" means an equipment limitation zone in which disturbance from equipment activity shall be minimized and all trees less than 6 inches DBH and shrub species are retained where possible.

(i) In Western Oregon, the R-ELZ is 35 feet.

(ii) In Eastern Oregon, the R-ELZ is 30 feet.

(B) An "ELZ" means an equipment limitation zone in which disturbance from equipment activity shall be minimized.

(i) In Western Oregon, the ELZ is 35 feet.

(ii) In Eastern Oregon, the ELZ is 30 feet.

(b) Operators shall take corrective action(s) when soil disturbance from ground-based equipment exceeds 10 percent of the total area within any R-ELZ or ELZ within an operation unit. Corrective action(s) shall be designed to replace the equivalent of lost functions in consultation with the State Forester. Examples include but are not limited to water bars, grass seeding, logging slash, mulching, downed log placement in accordance with 527.676(1), with a preference for utilizing on-site materials.

(c) The department shall publish Forest Practices Technical Guidance, developed in consultation with Department of Fish and Wildlife, to assist operators with selecting appropriate corrective measures.

(9) Operators shall locate and construct skid trails so that when high stream flow occurs water from the stream will not flow onto the skid trail.

(10) Operators shall minimize the amount of exposed soils due to skid trails within riparian management areas. Except at stream crossings, operators shall not locate skid trails within 35 feet of Type F, Type SSBT or Type D streams. Operators shall provide adequate distances between all skid trails and waters of the state to filter sediment from runoff water.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022
Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022
History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

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

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-660-0020

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2630

629-630-0900

Western Oregon Harvests; Slopes Model

(1) For the purpose of OAR 629-630-0905 through 629-630-0925, designated debris flow traversal areas and designated sediment source areas are determined by the slopes model and displayed on department maps and the department's reporting and notification system. The slopes model also identifies which designated sediment source areas contain trigger sources, which help prioritize designated sediment source areas for selection as slope retention areas. Department maps and the department's reporting and notification system display designated sediment source areas and distinguishes those with trigger sources. The slopes model designations can be viewed at the time of submitting a notification of operation to the State Forester.

(2) Definitions in section (1) of this rule are defined in OAR 629-600-0100.

(3) All trees retained, as required for OAR 629-630-0905 through 629-630-0925, that otherwise meet the requirements for leave trees may count toward requirements for wildlife leave trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676. Operators are encouraged to leave trees that meet the requirements for wildlife leave trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, immediately adjacent to seeps and springs, as described in OAR 629-655-0000.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Law; section 10, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-630-0905

Western Oregon Harvesting; Standard Practice; Designated Debris Flow Traversal Areas

(1) For Western Oregon, operators shall not harvest timber located in designated debris flow traversal areas.

(2) Operators shall retain all trees within 25 feet slope distance from either side of the active channel, or center of the draw if no channel is present for areas identified by the slopes model as designated debris flow traversal areas.

(3) Changes in stream classification for a stream, based on field surveys for fish-use consistent with OAR 629-635-0200, shall not change the department's maps used for notifications of operations that identify designated debris flow traversal areas.

- (4) Operators shall submit a written plan, described in OAR 629-630-0925, for timber harvest units containing designated debris flow traversal areas.
- (5) Cable yarding, which may require cutting, but not removal, of trees, is permitted through designated debris flow traversal areas, but the number, size, and location of yarding corridors shall be designed to minimize impacts to the integrity of designated debris flow traversal areas. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Law; section 10, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-630-0910

Western Oregon Harvesting; Standard Practice; Designated Sediment Source Areas and Slope Retention Areas

- (1) Slope retention areas encompass field identified headwalls. The department shall publish Forest Practices Technical Guidance to explain how to implement this rule.
- (2) Changes in stream classification for a stream, based on field surveys for fish-use consistent with OAR 629-635-0200, shall not change the department's maps used for notifications of operations that identify designated sediment source areas.
- (3) Landowner representatives shall identify at least 50 percent of the designated sediment source areas as slope retention areas for timber harvesting in Western Oregon as follows:
- (a) If the number of designated sediment source areas is an odd number, the landowner representative shall round up to the next even number and identify half of the number as slope retention areas.
- (b) Prioritize designated sediment source areas for selection of slope retention areas as follows:
- (A) Designated sediment source areas with trigger sources; and
- (B) Larger designated sediment source areas.
- (4) The landowner representative may adjust the distribution and location of slope retention areas, notwithstanding section (3) of this rule, if the selected slope retention areas:
- (a) Reduce worker safety, as described in OAR chapter 437, division 7, Forest Activities; or
- (b) Eligible concerns that may warrant selection of non-priority areas to satisfy the minimum 50 percent designated sediment source area requirement are the priority areas that would:
- (A) Clearly reduce worker safety; or
- (B) Cause more resource impact, such as additional road or landing construction, excessive sidehill yarding, or other yarding practices that clearly increase ecological impacts.
- (5) The landowner representative shall have received certified steep slopes training to determine the field delineation of the final boundaries for slope retention areas. The department shall develop and provide certification training opportunities to landowner representatives when the slopes model has been added to the department's reporting and notification system.
- (6) After clearly marking in the field the boundaries of the slope retention areas, the landowner representative shall submit a written plan, described in OAR 629-630-0925, for timber harvest units containing designated sediment source areas and slope retention areas.
- (7) Operators shall not harvest timber located in the slope retention areas.

(8) Cable yarding, which may require cutting, but not removal, of trees, is permitted only through slope retention areas that do not contain trigger sources, but the number, size, and location of yarding corridors shall be designed to minimize soil and vegetation disruptions that may increase slope instability. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.

(9) Operators shall not construct skid roads or operate ground-based equipment in slope retention areas.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Law; section 10, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-630-0915

Statewide Harvesting; Standard Practice; Stream Adjacent Failures

Note: OAR 629-630-0915 applies to operations, except operations on small forestlands, for which a notification is filed under ORS 527.670(6) on or after July 1, 2023. This rule applies to all operations for which a notification is filed on or after January 1, 2024, or a notification filed prior to January 1, 2024, if the operation is not completed on or before December 31, 2023.

(1) Operators shall extend the riparian management areas, described in OAR 629-643-0100 and OAR 629-643-0120, on all identified stream adjacent failures, as defined in OAR 629-600-0100. The riparian management area shall encompass the perimeter of the stream adjacent failure, defined in OAR 629-600-0100, however, the width of the riparian management area shall only extend to the lessor of:

(a) The distance of 170 feet from the edge of a Type F or Type SSBT channel; or

(b) The distance to the slope break, defined as 20 percent or greater reduction in slope gradient.

(2) The landowner representative shall submit a written plan, described in OAR 629-605-0170(13), for timber harvest units where yarding is planned to occur within stream adjacent failures.

(3) The landowner shall submit a written plan that describes how the number, size, and location of yarding corridors were selected to minimize impacts to the integrity of stream adjacent failures.

(4) Cable yarding, which may require cutting, but not removal, of trees, is permitted through stream adjacent failures, but the number, size, and location of yarding corridors shall minimize impact to the integrity of the feature. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.

(5) The operator shall make all riparian management area width measurements using the slope distance and shall measure them from the edge of the active channel or channel migration zone.

(6) The department shall publish Forest Practices Technical Guidance to assist operators in identifying channel migration zones.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Laws 2022; section 10, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-630-0920

Small Forestland Owner Minimum Option; Harvesting on Features Identified in the Slopes Model and Stream Adjacent Failures

(1) Western Oregon, Designated Debris Flow Traversal Areas for harvest type 1, harvest type 2 or harvest type 3 operations. For forestlands in Western Oregon that are managed under the small forestland owner minimum option, operators shall not harvest timber within 50 percent of the length of the designated debris flow traversal area for each harvest type 1, harvest type 2, or harvest type 3 unit. The State Forester will:

(a) Assist small forestland owners in determining designated debris flow traversal areas in a planned harvest unit, prioritizing vegetation retention requirements for Type SSBT streams over Type F streams.

(b) Exempt small forestland owners from the designated debris flow traversal areas requirements for harvest type 4 units.

(2) Operators shall retain all trees within 25 feet slope distance on either side of the active channel identified in OAR 629-630-0920(1), or center of the draw if no channel is present for areas identified by the slopes model as designated debris flow traversal areas.

(3) Changes in stream classification for a stream, based on field surveys for fish-use consistent with OAR 629-635-0200, shall not change the department's maps used for notifications of operations that identify designed debris flow traversal areas.

(4) Operators shall submit a written plan, described in OAR 629-630-0925, for timber harvest units containing designated debris flow traversal areas, except for harvest type 4 units.

(5) Cable yarding, which may require cutting, but not removal, of trees, is permitted through designated debris flow traversal areas, but the number, size, and location of yarding corridors shall be designed to minimize impacts to the integrity of designated debris flow traversal areas. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.

(6) Western Oregon, Designated Sediment Source Areas. For forestlands in Western Oregon that are managed under the small forestland owner minimum option, landowners are exempt from the rule requirements for timber harvesting in designated sediment source areas and slope retention areas.

(7) Statewide, Stream Adjacent Failures. Operators shall extend the riparian management areas, described in OAR 629-643-0100 and OAR 629-643-0120, on all identified stream adjacent failures, as defined in OAR 629-600-0100. The riparian management area shall encompass the perimeter of the stream adjacent failure, defined in OAR 629-600-0100, however, the width of the riparian management area shall only extend to the lesser of:

(a) The distance of 30 feet from the outer edge of the small forestland owner minimum option; or

(b) The distance to the slope break, defined as 20 percent or greater reduction in slope gradient.

(8) The landowner representative shall submit a written plan, described in OAR 629-605-0170(13), for timber harvest units where yarding is planned to occur within stream adjacent failures.

(9) The landowner shall submit a written plan that describes how the number, size, and location of yarding corridors were selected to minimize impacts to the integrity of stream adjacent failures.

(10) Cable yarding, which may require cutting, but not removal, of trees, is permitted through stream adjacent failures, but the number, size, and location of yarding corridors shall minimize

impact to the integrity of the feature. The operator shall not remove trees cut for yarding corridors unless these are deemed safety hazards.

(11) The operator shall make all riparian management area width measurements using the slope distance and shall measure them from the edge of the active channel or channel migration zone.

(12) The department shall publish Forest Practices Technical Guidance to assist operators in identifying channel migration zones.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Laws 2022; section 10, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-630-0925

Written Plans to Evaluate Harvesting on Features Identified in the Slopes Model

To evaluate timber harvesting on features identified by the slopes model, operators shall submit a written plan that describes how the operation is planned to be conducted in sufficient detail to allow the State Forester to evaluate and comment on the likelihood that the operation will comply with the Forest Practices Act or administrative rules. The written plan shall include at a minimum:

(1) A unit map including, where applicable:

(a) Locations of slopes model designated debris flow traversal areas;

(b) Locations of slope model designated sediment source areas and those selected as slope retention areas; and

(c) Identification of approximate yarding corridors relative to (1)(a) and (b).

(2) Description of the rationale and appropriate documentation for the following that apply:

(a) Selection of the 50 percent designated debris flow traversal areas for Western Oregon forestlands that are managed under the small forestland owner minimum option;

(b) Selection of slope retention areas, including justification for choosing areas to satisfy the minimum 50 percent designated sediment source area requirement, as described in OAR 629-630-0910(3) and (4);

(c) How the number, size, and location of yarding corridors were designed to minimize impacts to the designated debris flow traversal areas; and

(d) How the number, size, and location of yarding corridors were designed to minimize soil and vegetation disruptions that may increase slope instability in slope retention areas.

(3) Additional administrative information related to the operation as required by individual rules or as requested by the State Forester.

Statutory/Other Authority: ORS 527.710, section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765, section 2(2), chapter 33, Oregon Laws 2022; section 10, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

Division 635
WATER PROTECTION RULES: PURPOSE, GOALS, CLASSIFICATION AND
RIPARIAN MANAGEMENT AREAS

629-635-0100

Purpose and Goals

(1) The leading use on private forestland is the growing and harvesting of trees, consistent with sound management of soil, air, water, fish and wildlife resources. There is a unique concentration of public resource values in and near waters of the state because these areas are critical for the overall maintenance of fish and wildlife and for maintaining water quality. Consequently, the policies of the Forest Practices Act, including encouraging economically efficient forest practices, are best achieved by focusing protection measures in riparian management areas, where the emphasis is on providing water quality and fish and wildlife habitat.

(2) OAR 629-635-0000 through 629-660-0060 are known as the water protection rules.

(3) The purpose of the water protection rules is to protect, maintain and, where appropriate, improve the functions and values of streams, lakes, wetlands, and riparian management areas. These functions and values include water quality, hydrologic functions, the growing and harvesting of trees, and fish and wildlife resources.

(4) Plans for alternate practices may be used to alter vegetation retention requirements in the water protection rules based on local site conditions. The plans may include but are not limited to site specific vegetation retention prescriptions as described in OAR 629-643-0400 (for streams) and 629-645-0020 (for wetlands). The operator may:

(a) Evaluate site specific conditions in waters and riparian management areas; and

(b) Develop plans for alternate practices that will:

(A) Enhance, maintain, or restore when degraded conditions exist, riparian functions in streams, wetlands, and lakes; or

(B) Meet the purposes and goals of the water protection rules while providing opportunities to complete ecological, restoration, or operational objectives for various riparian area site conditions.

(5) The overall goal of the water protection rules is to provide resource protection during operations adjacent to and within streams, lakes, wetlands and riparian management areas so that, while continuing to grow and harvest trees, the protection goals for fish, amphibians, other wildlife, and water quality are met.

(a) The protection goal for water quality (as prescribed in ORS 527.765) is to ensure through the described forest practices that, to the maximum extent practicable, non-point source discharges of pollutants resulting from forest operations do not impair the achievement and maintenance of the water quality standards.

(b) The protection goal for fish is to establish and retain vegetation consistent with the vegetation retention objectives described in OAR 629-643-0000 (streams), 629-645-0000 (significant wetlands), and 629-650-0000 (lakes) that will maintain, enhance, or restore water quality and provide aquatic habitat components and functions such as shade, large wood, and nutrients.

(c) The protection goal for wildlife is to establish and retain vegetation consistent with the vegetation retention objectives described in OAR 629-643-0000 (streams), 629-645-0000 (significant wetlands), and 629-650-0000 (lakes) that will maintain, enhance, or restore water quality and habitat components such as live trees of various species and size classes, shade, snags, downed wood, and food within riparian management areas. For wildlife species not

necessarily reliant upon riparian areas, habitat in riparian management areas is also emphasized in order to capitalize on the multiple benefits of vegetation retained along waters for a variety of purposes.

Statutory/Other Authority: ORS 527.710, 527.630(3), 527.714 & 526.016(4); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: 527.714, 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

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

DOF 8-2006, f. & cert. ef. 10-31-06

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2000

629-635-0200

Water Classification

- (1) The purpose of this water classification system is to match the physical characteristics and beneficial uses of a water body to a set of appropriate protection measures.
- (2) For the purposes of applying appropriate protection measures, the State Forester shall classify waters of the state as streams, wetlands, or lakes as described in this rule.
- (3) The State Forester shall further classify streams according to their beneficial uses and size. The department shall incorporate the Department of Fish and Wildlife findings regarding fish use and perennality into the department's reporting and notification system consistent with sections (11) and (18) of this rule. The department shall work with the Department of Fish and Wildlife to establish procedures for incorporating such findings into the department's reporting and notification system no later than December 31, 2023. The State Forester shall classify domestic water use streams using information from the Water Resources Department. For an operator to apply streamside protection, the State Forester shall make this information publicly available in the department's reporting and notification system.
- (4) To maintain a statewide data layer describing fish distribution and perennality, the State Forester shall provide Department of Fish and Wildlife information regarding a water body's size and beneficial use.
- (5) For purposes of protection, the State Forester shall further classify streams into one of the following five beneficial use categories, as defined in OAR 629-600-0100:
 - (a) Type F;
 - (b) Type SSBT;
 - (c) Type D;
 - (d) Type Np; or
 - (e) Type Ns.
- (6) For purposes of classification, a stream is considered to have domestic water use only if a water use permit has been issued by the Oregon Water Resources Department.
- (7) A channel is considered to have domestic water use upstream of an intake for the distances indicated below:
 - (a) For domestic water use that is a community water system (as defined under OAR 333-061-0020), Type D classification shall initially apply to the length of stream that was designated as Class I under the classification system that was in effect on April 22, 1994, which is that shown on district water classification maps at the time of adoption of this rule.

- (b) For domestic water use that is not a community water system, Type D classification shall be initially applied for the shortest of the following distances:
- (A) The distance upstream of the intake to the farthest upstream point of summer surface flow;
 - (B) Half the distance from the intake to the drainage boundary; or
 - (C) 3,000 feet upstream of the intake.
- (c) Type D classification shall apply to tributaries off the main channel as long as the conditions of subsections (7)(a) and (b) of this rule apply.
- (d) A representative of a community water system or other domestic use water permit holder may request that the State Forester designate additional lengths of channels upstream of a domestic water intake or reservoir as Type D. The representative or permit holder must present evidence that the additional stream protection is needed. The State Forester will decide whether or not to extend Type D classification to these other channels based on evidence presented by the requesting party showing that protection measures associated with Type N classification would be insufficient to prevent adverse detrimental temperature increases, turbidity increases, or other adverse water quality changes at the domestic water use intake or reservoir.
- (e) The process and criteria described in subsection (7)(a), and the criteria under section (7) of this rule will be used to evaluate the extent of Type D classification for new community water systems.
- (f) The State Forester will decide whether or not to extend the length of Type D classification within 30 days of the presentation of evidence.
- (8) The domestic water use classification may be waived by the State Forester at the request of a landowner who is the sole domestic water use permit holder for an intake and who owns all the land along upstream channels that would be affected by the classification related to that intake. This waiver shall not affect the classification related to downstream domestic water use intakes.
- (9) A stream or lake will be considered to have fish use if 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.
- (10) The fish use classification does not apply to waters where fish were introduced through a fish stocking permit that includes documentation that the stream had no fish prior to stocking.
- (11) For the purposes of classifying streams for fish use, the State Forester shall use the procedures in this section:
- (a) As of July 1, 2023, the State Forester shall classify streams for fish use according to the fish distribution model developed by using the Fransen (Brian R. Fransen, Steven D. Duke, L. Guy McWethy, Jason K. Walter & Robert E. Bilby. 2006. A Logistic Regression Model for Predicting the Upstream Extent of Fish Occurrence Based on Geographical Information Systems Data, North American Journal of Fisheries Management, 26:4, 960-975) or Penaluna (2022, in publication) models if reviewed by the Department of Fish and Wildlife and is approved based on findings that the model is equal or better than Fransen 2006 upon publication. The State Forester shall make the results of the fish use distribution model publicly available in the department's reporting and notification system.
 - (b) If the State Forester has not incorporated Penaluna (2022, in publication) by July 1, 2023, then the State Forester shall incorporate the fish use layer developed pursuant to Penaluna (2022, in publication) after July 1, 2023, upon publication provided the Department of Fish and Wildlife makes the findings required in (a) and requests the modification. Otherwise, the State Forester shall replace the model in (a) with an alternate fish use distribution model if developed pursuant to the adaptive management process described in OAR 629-603-0000 through 629-603-0600,

provided that any such model is first reviewed and approved by the Department of Fish and Wildlife.

(c) The State Forester shall use field surveys to correct the modeled fish distribution under the following conditions:

(A) A field survey conducted prior to May 1, 2023, and accepted by the department for purposes of informing compliance with the forest practice rules shall be incorporated into the department's reporting and notification system, provided that either:

(i) The survey is submitted to the Department of Fish and Wildlife prior to January 1, 2023, and not disqualified by May 1, 2023, for failure to meet the criteria in the Private Forest Accord Report (February 2, 2022); or

(ii) The survey is submitted by the landowner or the department to the Department of Fish and Wildlife after January 1, 2023, but no later than January 1, 2028, and not disapproved by the Department of Fish and Wildlife within ninety days following submission for failure to meet the criteria in the Private Forest Accord Report (February 2, 2022).

(B) A field survey conducted prior to January 1, 2023 not yet accepted by the department for purposes of informing compliance with the forest practice rules shall be incorporated into the department's reporting and notification system, provided that either:

(i) The survey is submitted to the Department of Fish and Wildlife prior to January 1, 2023 and not disqualified by May 1, 2023 for failure to meet the requirements of the survey protocol in effect as of the date of the survey; or

(ii) The survey is submitted by the landowner or the department to the Department of Fish and Wildlife after January 1, 2023, but no later than January 1, 2028, and not disapproved by the Department of Fish and Wildlife within ninety days following submission for failure to meet the requirements of the survey protocol in effect as of the date of the survey.

(C) A field survey conducted after May 1, 2023 shall be incorporated into the department's reporting and notification system, provided that either:

(i) The survey is submitted to the Department of Fish and Wildlife and not disqualified within 21 days following submission for failure to satisfy the Department of Fish and Wildlife's protocols for fish use field surveys; or,

(ii) The survey is otherwise reviewed and approved by the Department of Fish and Wildlife.

(D) A field survey submitted to the Department of Fish and Wildlife pursuant to (11)(c)(A)(i) or (11)(c)(B)(i) above, but disapproved after May 1, 2023 for failure to satisfy the relevant criteria shall be removed from the department's reporting and notification system, provided that an operator who submitted a notification in reliance on the survey prior to its removal shall be allowed to continue to rely on such survey for purposes of such notified forest operations.

(E) If the Department of Fish and Wildlife does not approve a field survey submitted pursuant to (11)(c)(C)(i) within twenty-one days for failure to meet the requirements of the survey protocol in effect as of the date of the survey, the survey shall be removed from the department's reporting and notification system. An operator who submitted a notification in reliance on the survey prior to its removal shall be allowed to continue to rely on such survey for purposes of such notified forest operations. Where surveys conflict, the department will use the survey deemed to have the higher level of confidence by the Department of Fish and Wildlife. The selected survey shall control for purposes of the department's reporting and notification system.

(d) For streams that were initially classified as fish use based on the model, an operator may request that the State Forester conduct a fish presence survey 12 to 24 months before an

operation's scheduled start date to verify the designation of fish use in stream segments associated with the operation.

(A) The State Forester shall make a good faith effort to conduct the requested surveys and shall prioritize requests from landowners who do not have the financial or technical resources to conduct the surveys themselves.

(B) As an option, the landowner may conduct the fish presence survey as specified in (e).

(C) If neither the landowner nor the State Forester can conduct the survey before the operation begins, the fish use classification based on the model shall apply.

(D) If a field survey is conducted by the State Forester, the Department of Fish and Wildlife shall have a 21-day period to review and approve or object to the field survey. If no objection occurs, the survey shall be accepted and the fish use designation will be updated in the department's notification and reporting system.

(e) To be used for stream classification under this section, field surveys for fish use must be conducted according to the protocol in "Surveying Forest Streams for Fish Use," published by the Department of Forestry and the Department of Fish and Wildlife.

(f) If approved by the Department of Fish and Wildlife, the State Forester may use other information to determine the upstream extent of fish use.

(g) An operator may request an exception to Type F stream classification above an artificial obstruction to fish passage that is documented by field survey as the end of fish use. The State Forester, in consultation with the Department of Fish and Wildlife, shall grant the request after determining that the artificial obstruction is likely to continue to prevent fish passage for a period of time exceeding that needed to regrow trees to a size that would provide key pieces of large wood.

(h) When an exception to Type F stream classification is made above an artificial obstruction to fish passage in accordance with (g), the State Forester shall classify the stream as either Type D or Type N as appropriate and operators must apply the corresponding vegetation retention requirements described in OAR 629-643-0100 through 629-643-0500.

(i) For the purposes of ORS 215.730(1)(b)(C), Type N streams are equivalent to "Class II streams."

(12) For the purposes of stream classification, the State Forester, in consultation with Department of Fish and Wildlife shall use the procedures in this section to determine if a stream has fish use or both fish use and SSBT use.

(a) Streams where the upstream extent of fish use is determined using field methods that also observe SSBT use where those stream segments have not previously been identified as having SSBT use, will be added to the Type SSBT classification in accordance with the Data Standard and Update Protocol referenced in OAR 629-635-0200(13).

(b) For streams where SSBT use is based on observations or habitat, and where that use exists farther upstream than the upstream extent of fish use identified by field methods, the State Forester shall use the farthest upstream segment with SSBT use to reclassify the end of fish use.

(c) For streams where SSBT use is based on observations or habitat, and where that use exists farther upstream than the upstream extent of fish use identified by non-field methods, the State Forester shall use the farthest upstream segment with SSBT use to reclassify the end of fish use.

(d) For streams where SSBT use is based on concurrence of professional opinion, and where that use exists farther upstream than the upstream extent of fish use identified by field methods, the State Forester shall use the farthest upstream segment with fish use to reclassify the end of SSBT use.

(e) For streams where SSBT use is based on concurrence of professional opinion, and where that use exists farther upstream than the upstream extent of fish use identified by non-field methods, the State Forester shall use the farthest upstream segment with SSBT use to reclassify the end of fish use. The State Forester shall re-survey, using field methods, for the upstream extent of fish use upon written request from a landowner whose land immediately adjoins a Type SSBT stream segment described in this subsection.

(f) A landowner may provide evidence to the State Forester that clearly identifies a waterfall or chute type of natural barrier to SSBT use based on field methods described in (11). The State Forester shall evaluate that evidence and make a determination on whether or not to adjust the extent of SSBT use within 30 days of presentation of evidence.

(13) The State Forester will use the standards and procedures in this section to determine if a stream is Type SSBT.

(a) The State Forester will initially classify SSBT use stream segments based on the Fish Habitat Distribution Database on July 1, 2017, excluding historical use stream segments and stream segments identified using habitat evaluation based on modeling according to the Oregon Fish Habitat Distribution Data Standard, Version 3.0, February 2015 (Data Standard) and Oregon Department of Fish and Wildlife Fish Habitat Distribution Data Update Protocol, September 2005 (Update Protocol).

(b) When advised by the Department of Fish and Wildlife that new or higher quality data are available on the distribution of SSBT use, the State Forester will evaluate the need to reclassify SSBT use stream segments. Otherwise, evaluation of new or higher quality data and subsequent reclassification of SSBT use stream segments will occur at least every four years.

(c) As needed, the State Forester will reclassify SSBT use stream segments, except for stream segments added based on concurrence of professional opinion as defined in the Data Standard.

(d) The State Forester will apply SSBT use stream segments to operations described in notifications submitted after the date the stream segments are classified as Type SSBT.

(e) If the Data Standard or Stewardship Plan is revised substantively in any way, the State Forester and the Board of Forestry will evaluate if changes to this rule are required.

(f) Until the State Forester and the Board of Forestry have reviewed and approved revisions to the Data Standard or Stewardship Plan per subsection (13)(e), the State Forester will not reclassify SSBT use stream segments based on information from the new portions of the Department of Fish and Wildlife Data Standard or Update Protocol.

(14) In Eastern Oregon, the State Forester shall determine the classification of a Type Np stream as lateral type Np stream or terminal type Np stream, as defined in OAR 629-600-0100. The department's reporting and notification system will identify small Type Np streams. Where the location of the modeled end changes based on a valid field survey, as described in (18), then the State Forester shall promptly reclassify upstream segments as lateral or terminal type Np streams.

(15) For each of the five beneficial use categories listed in (4), streams shall be categorized further according to three size categories: large, medium, and small. The size categories are based on average annual flow.

(a) Small streams have an average annual flow of two cubic feet per second or less.

(b) Medium streams have an average annual flow greater than two and less than 10 cubic feet per second.

(c) Large streams have an average annual flow of 10 cubic feet per second or greater.

(16) The assignment of size categories to streams on forestland will be done by the State Forester as follows:

(a) The State Forester will index average annual flow to the upstream drainage area and average annual precipitation. The methodology is described in Forest Practices Technical Guidance. The State Forester shall calculate average annual flow for streams and publish the appropriate size classes in stream classification maps within the department's reporting and notification system.

(b) Actual measurements of average annual flow may substitute for the calculated flows described in the Forest Practices Technical Guidance.

(c) Any stream with a drainage area less than 200 acres shall be assigned to the small stream category regardless of the flow index calculated in (15)(a).

(17) Wetlands shall be classified further as indicated below:

(a) Significant wetlands, which are:

(A) Wetlands larger than 8 acres;

(B) Estuaries;

(C) Bogs; and

(D) Important springs in Eastern Oregon.

(b) Stream-associated wetlands that are less than 8 acres are classified according to the stream with which they are connected.

(c) All other wetlands, including seeps and springs are classified according to their size as either "other wetlands greater than one-quarter acre" or "other wetlands less than one-quarter acre."

(18) By July 1, 2023, the State Forester shall update all published maps and the department's reporting and notification system to include flow duration for streams in Western Oregon and Eastern Oregon. The State Forester shall maintain in the department's reporting and notification system a map of perennial flow utilizing the following:

(a) Phase 1 Initial Mapping. The State Forester shall initially map perennial flow of Type N Streams using U.S. Geological Survey NHD high resolution data. The NHD stream layer may assist operational field surveys as described in OAR 629-643-0130 or 629-643-0143 but shall not provide for a modeled end. During this phase landowners shall apply the riparian management area prescriptions to all small Type N streams as described in OAR 629-643-0130 and OAR 629-643-0143, whether or not a stream is mapped as perennial. This requirement ends once the State Forester implements the Phase 2 model.

(b) Phase 2 Model. When advised by Department of Fish and Wildlife that an approved flow duration model sufficient for regulatory purposes is available, the State Forester shall promptly publish the information, including the modeled end, in all maps and the department's reporting and notification system, and in no event later than July 1, 2025.

(c) Field Verification. The operator may conduct field surveys for verification of the modeled end in accordance with Department of Fish and Wildlife field protocols for model verification. Once the verified end is approved by the Department of Fish and Wildlife, the State Forester shall substitute the verified end for the modeled end in all maps and the department's reporting and notification system.

Statutory/Other Authority: ORS 527.710, 527.630(3), 527.714 & 526.016(4); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: 527.714, 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

629-635-0210

Designation of Waters; Notice to Landowners; Reconsideration

- (1) The State Forester shall maintain a map showing the classification of waters of the state to assist operators who complete a notice of operations as required by ORS 527.670(6). The State Forester shall include in the map streams, lakes and significant wetlands of known classification and shall make the map publicly available. For streams, the State Forester shall ensure the maps indicate the size class and, when known, flow duration as perennial or seasonal; extent of fish use; extent of SSBT use; and domestic water use classification.
- (2) Once a water of the state has been classified according to OAR 629-635-0200, the State Forester shall not change the classification without written notice to the landowners immediately adjoining the portion(s) of water to be reclassified. Notice to landowners shall include the reason for the change of classification and applicable rules.
- (3) Any landowner whose land immediately adjoins the water to be reclassified, any landowner who has received a water right or was granted an easement affecting the water classification, or any state resource agency may request reconsideration of classifications of waters of the state by the State Forester. Such a request shall be in writing and shall identify on a map the portion of the stream or water of the state which should be reconsidered. The request shall present evidence that the current classification is not consistent with OAR 629-635-0200.
- (4) The State Forester, in consultation with Department of Fish and Wildlife and Water Resources Department, shall have up to 14 days to provide a final decision on a request for reconsideration of water classification. Until such a decision is provided, operators shall conduct any operation based upon the most protective potential water classification.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.765; section 9, chapter 919, Oregon Law 1991; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2110

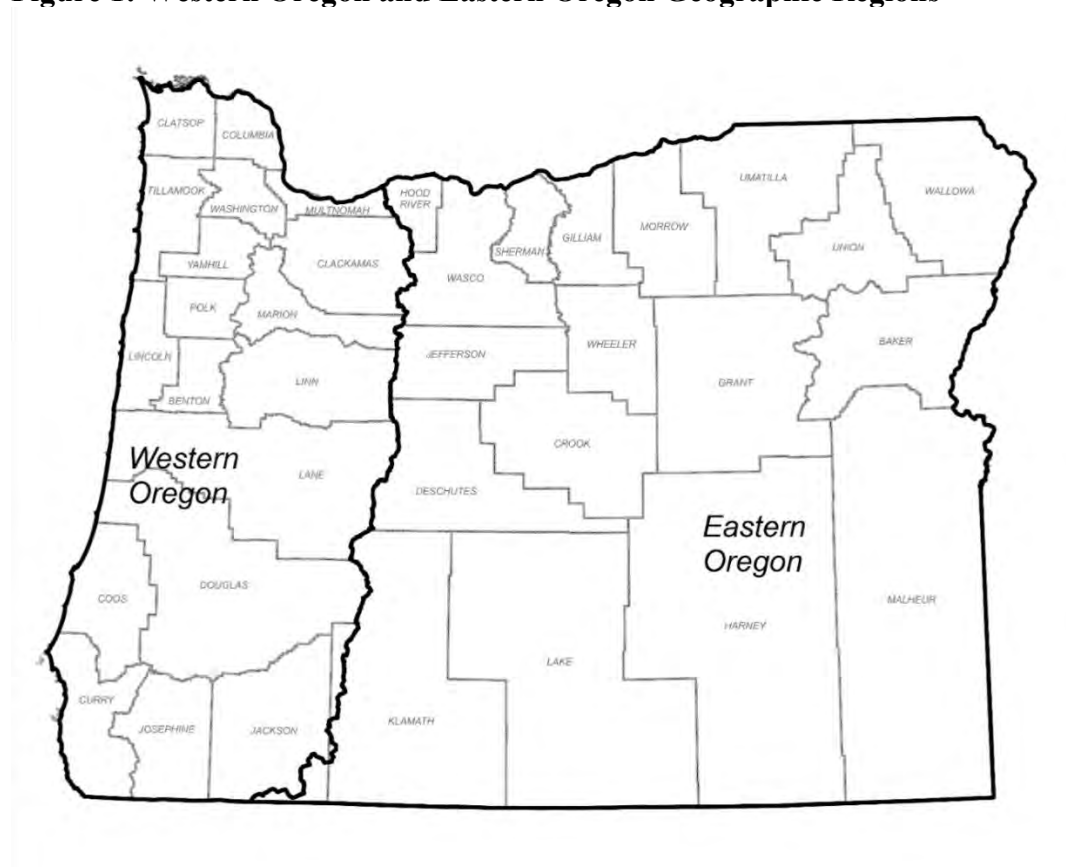
629-635-0220

Geographic Regions

For the purposes of assigning protection measures to waters of the state, the State Forester has defined two geographic regions west and east of the Cascade Crest in Oregon, depicted as Western Oregon and Eastern Oregon, respectively. The boundaries and names of the geographic regions are displayed in Figure 1. Geographic regions are not “forest regions” established pursuant to ORS 527.640.

[Insert Figure 1: Western Oregon and Eastern Oregon Geographic Regions]

Figure 1: Western Oregon and Eastern Oregon Geographic Regions



Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022
 Statutes/Other Implemented: ORS 527.710, 527.765 & ORS 527.620; section 2(2), chapter 33, Oregon Laws 2022
 History:
 DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX
 FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2120

629-635-0300

Riparian Management Areas and Water Quality Protection Measures

- (1) Riparian management area widths are designated to provide adequate areas along streams, lakes, and significant wetlands to retain the physical components and maintain the functions necessary to accomplish the purposes and to meet the protection objectives and goals for water quality, fish, and wildlife set forth in OAR 629-635-0100.
- (2) Specified protection measures, such as for site preparation, yarding and stream channel changes, are required for operations near waters of the state and within riparian management areas to maintain water quality.
- (3) Operators shall apply the specified water quality protection measures and protect riparian management areas along each side of streams and around other waters of the state as described in OAR 629-635-0310 through 629-660-0060.
- (4) Operators may vary the width of the riparian management area above or below the average specified width depending upon topography, operational requirements, vegetation, fish and wildlife resources and water quality protection as long as vegetation retention and protection

standards are met. However, the average width of the entire riparian management area within an operation must equal or exceed the required width.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.710, 527.765 & 527.620; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2150

629-635-0310

Riparian Management Area Measurements for Streams and Wetlands

(1) The riparian management area measurement widths for streams in each geographic region for both the standard practice prescriptions and small forest owner minimum option prescriptions are provided for each stream type and size classification in OAR 629-643-0100 through 629-643-0500. The measurement widths apply to each side of the stream.

(a) Except as indicated in section (2), the operator shall measure the riparian management area width using the slope distance. The operator shall measure the riparian management area from the edge of the active channel, or channel migration zone if a channel migration zone is present, as defined in OAR 629-600-0100, and consistent with this rule.

(b) Notwithstanding the distances designated in subsection (1)(a), where wetlands or side channels extend beyond the designated riparian management area widths, the operator shall expand the riparian management area as necessary to entirely include any stream-associated wetland or side channel plus at least 25 additional feet.

(2) In situations where the slope immediately adjacent to the stream channel is steep exposed soil, a rock bluff or talus slope, operators shall measure the riparian management area as a horizontal distance until the top of the exposed bank, bluff or talus slope is reached. From that point, the remaining portion of the riparian management area shall be measured as a slope distance.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Law

Statutes/Other Implemented: ORS 527.710, 527.765 & 527.620; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

DOF 1-2017, f. 6-9-17, cert. ef. 7-1-17

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2200

Division 643
WATER PROTECTION RULES: VEGETATION ALONG STREAMS

629-643-0000

Vegetation Retention Goals for Streams; Desired Future Conditions

(1) The purpose of this rule is to describe the vegetation retention measures for streams, the measures' purposes, and how the measures shall be implemented. The vegetation retention requirements for streams, as described in OAR 629-643-0100 through 629-643-0500, are designed to produce desired future conditions for the wide range of stand types, channel conditions, and disturbance regimes that exist in Oregon's forestlands.

(2) Sections (3) through (6) of this rule, including tables in OAR 629-643-0300, are effective until replaced by the Board of Forestry as part of the post-disturbance harvest rulemaking directed by section 6(2)(a), chapter 33, Oregon Laws 2022 that is to occur no later than November 30, 2025.

(3) The desired future condition for streamside areas that require forested buffers is to grow and retain vegetation so that, over time, average conditions across the landscape become similar to the conditions of mature streamside stands. Oregon has a tremendous diversity of forest tree species and stand density along waters of the state. The age of mature streamside stands varies by tree species. Mature stands generally occur between 80 and 200 years of stand age. Hardwood stands and some conifer stands may become mature at an earlier age. Mature forests provide ample shade over the channel, an abundance of large wood in the channel, channel-influencing root masses along the edge of the high-water level, and regular inputs of nutrients through litter fall. Mature forests are generally composed of multi-aged trees of appropriate and varied density, native tree species well suited to the site, a mature understory, snags, and downed wood.

(4) For the forests specified in (2) above, the rule standards for desired future conditions and located in Western Oregon or the inner zone in Eastern Oregon can be developed by using normal conifer yield tables for the average upland stand consistent with the geographic region to estimate the conifer basal area for average unmanaged mature streamside stands (at age 120). For alternative vegetative prescription basal area targets for catastrophic events, see the tables in OAR 629-643-0300. For site specific vegetation retention prescriptions basal area targets, see the table in OAR 629-643-0400. These rule standards provide guidance for operators to implement site specific alternate plans, described in OAR 629-643-0300, and to develop site specific vegetation prescriptions, described in OAR 629-643-0400.

(5) The desired future condition for streamside areas that do not require tree retention areas, as defined in OAR 642-643-0130, is to have sufficient streamside vegetation to support the functions and processes important to downstream fish use waters and domestic water use, and to provide habitat for amphibians and other wildlife across the landscape. Such functions and processes include but are not limited to:

- (a) Maintaining downstream cool water temperature and other water quality parameters;
- (b) Influencing sediment production;
- (c) Stabilizing banks; and
- (d) Contributing nutrients and organic matter.

(6) In many cases, the operator may achieve the desired future condition for streams by applying the standard vegetation retention and small forestland owner minimum option prescriptions as described in OAR 629-643-0100, 629-643-0105, 629-643-0120, 629-643-0125, 629-643-0130, 629-643-0135, 629-643-0141, 629-643-0142, 629-643-0143, and 629-643-0145. In other cases,

the existing streamside vegetation may not be able to develop into the desired future condition in a timely manner. In these cases, the operator may apply an alternative vegetation retention prescription as described in OAR 629-643-0300 or develop a site-specific vegetation retention prescription as described in OAR 629-643-0400. For the purposes of these water protection rules, "in a timely manner" means that the trees within the riparian management area will substantially move towards the desired future condition more quickly than if the trees are left untreated.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.765 & ORS 527.620; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0100

Western Oregon; Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams

Note: OAR 629-643-0100 applies to operations, except operations on small forestlands, for which a notification is filed under ORS 527.670(6) on or after July 1, 2023. This rule applies to all operations for which a notification is filed on or after January 1, 2024, or a notification filed prior to January 1, 2024, if the operation is not completed on or before December 31, 2023.

(1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Western Oregon Type F and Type SSBT streams, as shown in Table 1. The riparian management area distances described in Table 1 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0141.

[Insert Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance
Type F or Type SSBT	110 feet	110 feet	100 feet	N/A
Type N	75 feet	75 feet	See Type Np	N/A
Type Np, into Type SSBT			75 & 50	75 feet for 500 feet, then 50 feet for 650 feet. RH Max = 1,150 feet
Type Np, into Type F			75 feet	RH Max = 600 feet
Type D	75 feet	75 feet	75 or 20 feet¹	See OAR 629-643-0150

¹ 20 feet outside of Type Np vegetation retention requirements

- (2) Within an operation, the operator shall not combine or average together the vegetation retention requirements for stream segments of streams that are in different size categories.
- (3) The operator shall retain:
 - (a) All trees and vegetation within the distances from the edge of the active channel or the channel migration zone, as described in Table 1; and
 - (b) All trees leaning over the channel.
- (4) Within riparian management areas the operator shall retain all downed wood and snags that are not safety or fire hazards. The operator shall leave snags felled for safety or fire hazard reasons where they are felled unless used for stream improvement projects.
- (5) The operator may fall, move, or harvest vegetation, snags, and trees within the distances described in Table 1 as allowed in other rules for road construction and temporary stream crossings (OAR 629-625-0000 through 629-625-0920), yarding corridors (OAR 629-630-0000 through 629-630-0925), or for stream improvement (OAR 629-643-0200).
- (6) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
 - (a) The operator shall ensure these activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition; and
 - (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (7) The operator may count retained trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, as follows:
 - (a) For all medium and large Type F and Type SSBT streams, the operator may count retained trees within the outer 20 feet of the distances described in Table 1 when those retained trees otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
 - (b) For all small Type F and Type SSBT streams, the operator may count retained trees within the distances described in Table 1 that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (8) If the vegetation retention requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
 - (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
 - (b) An equivalent basal area is retained elsewhere within the harvest unit adjacent to the tree retention area or designated debris flow traversal areas.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0105**Western Oregon Standard Practice Vegetation Retention Prescription for Type N Streams**

(1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Western Oregon Type N streams, as shown in Table 1. The riparian management area distances described in Table 1 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0141.

[Insert Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance
Type F or Type SSBT	110 feet	110 feet	100 feet	N/A
Type N	75 feet	75 feet	See Type Np	N/A
Type Np, into Type SSBT			75 & 50	75 feet for 500 feet, then 50 feet for 650 feet. RH Max = 1,150 feet
Type Np, into Type F			75 feet	RH Max = 600 feet
Type D	75 feet	75 feet	75 or 20 feet¹	See OAR 629-643-0150

¹ 20 feet outside of Type Np vegetation retention requirements

(2) The standard practice prescriptions and riparian management widths apply to Type N streams, depending on whether the stream classification is perennial (Np) or seasonal (Ns). The State Forester shall classify a Type N stream as Np or Ns following the process described in OAR 629-635-0200(18)(b) and (c).

(3) For large and medium Type N streams, the operator shall:

(a) Retain all trees and vegetation within 75 feet from the edge of the active channel or channel migration zone.

(b) Retain all trees leaning over the channel.

(4) For small Type Np streams flowing into a Type SSBT stream, the operator shall retain all trees within:

(a) 75 feet from the edge of the active channel for a maximum distance of 500 feet upstream of the confluence of the Type SSBT stream; and

(b) 50 feet from the edge of the active channel for a maximum additional distance of 650 feet upstream beyond the distance required by (a);

(A) The operator shall determine the total distance of the tree retention area upstream of the confluence, as described in (a) and (b), according to the process in OAR 629-643-0130

(B) This distance may extend to the RH max of 1,150 feet.

(c) For locations upstream of the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).

- (5) For small Type Np streams flowing into a Type F stream, the operator shall retain all trees within 75 feet from the edge of the active channel for a distance not to exceed RH max of 600 feet upstream of the confluence with the Type F stream.
- (a) The operator shall determine the total distance of the tree retention area according to the process in OAR 629-643-0130.
- (b) For locations upstream of the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (6) Within riparian management areas, the operator shall retain all downed wood and snags that are not safety or fire hazards. The operator shall leave all snags felled for safety or fire hazard reasons where they are felled unless used for stream improvement projects.
- (7) The operator may fall, move, or harvest vegetation, snags, and trees within the distances described in Table 1 as allowed in other rules for road construction and temporary stream crossings (OAR 629-625-0000 through 629-625-0920), yarding corridors (OAR 629-630-0000 through 629-630-0925), or for stream improvement (OAR 629-643-0200).
- (8) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
- (a) The operator shall ensure that such activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition.
- (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (9) For all Type Np or Type Ns streams, the operator may count all retained trees within the distances described in Table 1 that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (10) If the vegetation retention requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
- (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
- (b) An equivalent basal area shall be retained elsewhere within the harvest unit adjacent to the tree retention area or designated debris flow traversal areas.
- (11) For a Type Ns streams, the operator shall apply a 35-foot ELZ to each side of the channel as required in OAR 629-630-0700 and 629-630-0800.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0120

Eastern Oregon; Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams

Note: OAR 629-643-0120 applies to operations, except operations on small forestlands, for which a notification is filed under ORS 527.670(6) on or after July 1, 2023. This rule applies to

all operations for which a notification is filed on or after January 1, 2024, or a notification filed prior to January 1, 2024, if the operation is not completed on or before December 31, 2023. (1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Eastern Oregon Type F and Type SSBT streams, as shown in Table 2. The riparian management area distances described in Table 2 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0142.

[Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

(2) Within an operation, the operator shall not combine or average together the vegetation retention requirements for stream segments of streams that are in different size categories.

(3) The operator shall retain:

(a) All trees and vegetation within the inner zone, as described in Table 2, from the edge of the active channel or channel migration zone;

(b) All trees leaning over the channel; and

(c) A minimum of 60 square feet of basal area per acre within the outer zone and:

(A) The outer zone distances for each stream size, as described in Table 2, for the outer zone, as measured from the edge of the inner zone. To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.

(B) The remainder of the trees shall consist of trees greater than eight inches DBH.

(C) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.

(D) Retained trees shall be well distributed within the outer zone, limited by existing site or stand condition

- (E) Notwithstanding (A) through (D) above, the distribution, species, and size of retained trees shall be left on site in a way that promotes fire resiliency and overall stand health.
- (F) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (4) The operator shall adhere to an ELZ in the outer zone, as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (5) The operator may fall, move, or harvest vegetation, snags, and trees within the distances described in Table 2 and as allowed in other rules for road construction and temporary stream crossings (OAR 629-625-0000 through 629-625-0920), yarding corridors (OAR 629-630-0000 through 629-630-0925), or for stream improvement (OAR 629-643-0200).
- (6) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:
- (a) The operator shall ensure that such activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition.
- (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (7) The operator may count all retained trees in the outer zone that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
- (8) If the vegetation requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
- (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
- (b) The operator retains an equivalent basal area elsewhere within the harvest unit adjacent to the tree retention area.

Statutory/Other Authority: ORS 527.710, 527.630(3), 527.714 & 526.016(4); section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.630(5), 527.674, 527.714, 527.715, 527.765, 527.710; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0125

Eastern Oregon; Standard Practice Vegetation Retention Prescription for Type N Streams

(1) The purpose of this rule is to provide the standard practice vegetation retention prescription for Eastern Oregon Type N streams, as shown in Table 2. The riparian management area distances described in Table 2 are listed for each stream size category, as defined in OAR 629-635-0200. The operator shall apply the vegetation retention requirements described in this rule. Small forestland owners, as defined in OAR 629-600-0100, may follow the alternative vegetation retention option described in OAR 629-643-0142.

[Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

(2) The standard practice prescriptions and riparian management widths apply to Type N streams, depending on whether the stream classification is perennial (Np) or seasonal (Ns). The State Forester shall determine the classification of a Type N stream as Np or Ns following the process described in OAR 629-635-0200(18).

(a) To apply the appropriate vegetation requirements as described in Table 2, a small Type Np stream shall be classified as either terminal or lateral.

(b) The State Forester shall provide maps that show the stream class.

(3) For large and medium Type Np streams, the operator shall:

(a) Retain all trees and vegetation within the inner zone.

(b) Retain all trees leaning over the channel.

(A) For the outer zone, a minimum of 60 square feet of basal area per acre beyond the 30-foot inner zone, using the distances shown for the stream size described in Table 2. The operator shall measure the outer zone starting from the edge of the inner zone. To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.

(B) The remainder of the trees shall consist of trees greater than eight inches DBH.

(C) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.

(D) Retained trees shall be well distributed within the outer zone unless limited by existing site or stand conditions.

(E) Notwithstanding (A) through (D) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health and shall be described in the written plan.

(F) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.

(c) Adhere to an ELZ in the outer zone, for 30 feet extending from the outer edge of the inner zone.

- (d) For locations upstream from the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (4) For a small terminal Type Np stream flowing into a Type F or Type SSBT stream, the operator shall retain all trees within:
- (a) 30 feet from the edge of the active channel, for a maximum distance of 500 feet upstream of the confluence with the Type F or Type SSBT stream. The operator shall determine the total distance of the tree retention area above the confluence according to the requirements in OAR 629-643-0130. This distance may extend to the RX max of 500 feet.
 - (b) Outside of 30 feet and extending to 60 feet from the active channel, the outer zone retention requirements shall apply upstream for the same distance required in (a) as follows:
 - (A) A minimum of 60 square feet of basal area per acre.
 - (B) To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.
 - (C) The remainder of the trees shall consist of trees greater than eight inches DBH.
 - (D) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.
 - (E) Retained trees shall be well distributed within the outer zone limited by existing site or stand conditions.
 - (F) Notwithstanding (A) through (E) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health.
 - (G) The operator shall submit to the State Forester a written plan that describes how the operator shall meet these requirements and the desired future condition for the outer zone.
 - (c) The operator shall adhere to an ELZ in the outer zone for 30 feet, extending from the outer edge of the inner zone.
 - (d) For locations upstream from the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (5) For small lateral Type Np streams flowing into a Type F or Type SSBT stream, the operator shall retain all trees within 30 feet from the edge of the active channel for a maximum distance of 250 feet upstream of the confluence with the Type F or Type SSBT stream.
- (a) The operator shall determine the total distance of the tree retention area above the confluence according to the process in OAR 629-643-0130.
 - (b) The operator shall adhere to an ELZ in the inner zone for 30 feet, extending from the edge of the active channel.
 - (c) For locations upstream of the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130 and as further defined in OAR 629-630-0700(6) and 629-630-0800(8).
- (6) For small Type Ns streams flowing into Type F or Type SSBT stream within 30 feet of the active channel, the operator shall:
- (a) Adhere to an R-ELZ for 750 feet extending the from the confluence and retain all shrubs and trees under six inches DBH to the extent that is practical due to site conditions.
 - (b) Adhere to an ELZ upstream of the R-ELZ and for the remainder of the Type Ns channel.
- (7) The operator may conduct pre-commercial thinning and other release activities to maintain the growth and survival of reforestation or to promote fire resiliency within riparian management areas if the operator conforms to the following:

- (a) The operator shall ensure that such activities contribute to and are consistent with enhancing the stand's ability to meet the desired future condition.
- (b) The operator shall submit to the State Forester a written plan that describes how the operator will meet these requirements and the goals of the desired future condition.
- (8) If the vegetation retention requirements span a road and a safety hazard presents a risk to road users, the operator may request that the State Forester approve a plan to remove trees upslope of the road. The State Forester shall authorize tree removal within the designated tree retention area only under the following conditions:
- (a) Within the tree retention area, the width of the area where trees may be harvested from the upslope edge of the road shall be less than 15 feet.
- (b) An equivalent basal area is retained elsewhere within the harvest unit adjacent to the tree retention area.
- (9) For all Type N streams, the operator may count all retained trees in the outer zone that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0130

Standard Practice Requirements for Small Type N Streams

- (1) For purposes of determining the vegetation retention area and streamside retention requirements for a small Type Np stream that flows into a Type F or Type SSBT stream, the operator must, depending on the circumstance, retain trees based on distances relative to:
- (a) A verified end as described in OAR 629-635-0200(18)(c);
- (b) A modeled end as described in OAR 629-635-0200(18)(b); or
- (c) A location established pursuant to an operational field survey according to (6) in this rule.
- (2) The operator shall apply the tree retention requirements based on the stream's location (Western Oregon or Eastern Oregon) and fish use classification (Type F or Type SSBT) immediately downstream from the small Type Np stream, as shown in Tables 1 through 4 for small Type Np streams.

[Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance
Type F or SSBT	110 feet	110 feet	100 feet	N/A
Type N	75 feet	75 feet	See Type Np	N/A

Type Np, into Type SSBT			75 & 50	75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet
Type Np, into Type F			75 feet	RH Max = 600 feet
Type D	75 feet	75 feet	75 or 20 feet¹	See OAR 629-643-0150

¹ 20 feet outside of Type Np vegetation retention requirements

[Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

	Large		Medium		Small		Upstream distance¹
	Inner	Outer²	Inner	Outer²	Inner	Outer²	
Type F or SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

[Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

	Large	Medium	Small	Upstream distance¹
Type SSBT	100 feet	80 feet	60 feet	N/A
Type F	100 feet	70 feet	50 feet	N/A

Type N	70 feet	50 feet	See Type Np	
Type Np, into Type SSBT			35	RH Max = 1,150 feet
Type Np, into Type F			35	RH Max = 600 feet
Type D	75	75	35 or 20 feet²	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

[Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

	Large		Medium		Small		Upstream distance¹
	Inner	Outer	Inner	Outer	Inner	Outer²	
Type F or Type SSBT	30	70	30	50	30	30	N/A
Type N	30	45	30	30	-	-	
Type Np, Terminal	-	-	-	-	20	20	RH Max = 500 feet
Type Np, Lateral	-	-	-	-	20	N/A	250 feet
Type D	30		30		20		See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

(3) If the operator uses the standard practice, the operator shall use small Type Np tree retention area distances for width and the RH max as described in Tables 1 and 2. If a small forestland owner uses the small forestland owner minimum option, the small forestland owner shall use the small Type Np tree retention area distances for width and RH max described in Tables 3 and 4. The following requirements are considered the standard practice for small Type Np streams. For small forestland owners, operational field survey and tree retention requirements are available in OAR in 629-643-0143.

(4) If the Department of Fish and Wildlife has established a verified end pursuant to a model verification field survey, then:

(a) The applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:

(A) The verified end, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area; or

(B) The RH max, in which case the end of the tree retention area shall be perpendicular to the stream channel.

- (b) An R-ELZ shall extend between the RH max and the verified end, when the verified end is upstream of the RH max.
- (c) An ELZ shall extend upstream to the remainder of the Type N channel.
- (5) If the Department of Fish and Wildlife has not established a verified end pursuant to field survey, then the operator shall determine the extent of vegetation retained relative to either a modeled end, or pursuant to an operational field survey.
 - (a) If the operator uses a modeled end:
 - (A) The applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
 - (i) The modeled end, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area; or
 - (ii) The RH max, in which case the end of the tree retention area shall be perpendicular to the stream channel.
 - (B) An R-ELZ shall extend between the RH max and the modeled end, when the modeled end is upstream of the RH max.
 - (C) An ELZ shall extend upstream to the remainder of the Type N channel.
 - (b) If the operator uses an operational field survey, as described in this rule and OAR 629-635-0200(18):
 - (A) The applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
 - (i) The upstream end of the most upstream flow feature within the area of inquiry, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area; or
 - (ii) The RH max, in which case the upstream end of the tree retention area shall be perpendicular to the stream channel.
 - (B) An R-ELZ shall extend from the RH Max to the most upstream flow feature within the area of inquiry, when such flow feature is upstream of the RH max.
 - (C) If flowing water too short to be considered a flow feature is encountered upstream of the most upstream flow feature, and both are within the area of inquiry but downstream of the RH max, the operator shall:
 - (i) Retain all trees within 50 feet of the flowing water; and
 - (ii) Extend an R-ELZ from the upstream end of the most upstream flow feature within the area of inquiry to the downstream end of the tree retention area described in Section 5(b)(C)(i).
 - (D) Notwithstanding any other requirement, the operator shall extend an ELZ upstream of the tree retention area or the R-ELZ, if any, for the remainder of the Type N channel as described in this rule.
- (6) All operational field surveys conducted pursuant to Section 5(b) above and 7 below must comply with the following:
 - (a) During Phase 1, as described in OAR 629-635-0200(18)(a), an operator may conduct an operational field survey without advance notification to the Department of Fish and Wildlife, and the department shall allow a lower level of map precision for surveyed points, provided that any survey that uses a lower level of map precision will not be included in the department's reporting and notification system as described in (6)(d) below.
 - (b) Unless the survey is submitted pursuant to (6)(a) above, an operator must notify the Department of Fish and Wildlife in advance of conducting an operational field survey. The operator may notify the Department of Fish and Wildlife at any time prior to conducting the

survey, including immediately prior, but no more than two years in advance. Once an operator has notified the Department of Fish and Wildlife of its intent to conduct a survey pursuant to this subsection (6)(b), any notification of operation submitted to the department's reporting and notification system for the surveyed area must include either:

(A) The completed survey, or

(B) A certification that the landowner did not initiate the survey.

(c) The State Forester, in consultation with Department of Fish and Wildlife, shall review all operational field surveys submitted pursuant to (6)(a) and (6)(b) above. Unless disapproved by the Department of Fish and Wildlife within 21 days following submission to the department, the field survey will define the relevant attributes of the layout described in Section 5(b) above and 7 below.

(d) Unless disapproved by the Department of Fish and Wildlife or submitted pursuant to (6)(a), the State Forester shall add the location and extent of the most upstream flow feature from an operational field survey to the department's reporting and notification system. Operators may rely upon and operate pursuant to prior operational field surveys recorded in the department's reporting and notification system.

(e) In coordination with Department of Fish and Wildlife, the State Forester shall provide an expeditious process for resolution of disapproved surveys.

(f) Once phase 2 flow modeling is complete, as described in 629-635-0200(18)(b), operational field surveys as described in 5(b) above or 7 below to determine the applicable tree retention area for small Type Np streams shall be constrained as follows:

(A) When an operator completes a survey during a drought year, as defined by the Department of Fish and Wildlife for the purpose of operational field surveys, the most upstream flow feature within the area of inquiry shall be the longer of:

(i) The modeled end, or

(ii) The uppermost flow feature within the area of inquiry.

(B) When an operator conducts a survey during an abnormally wet year, as defined by the Department of Fish and Wildlife for the purpose of operational field surveys, the area of inquiry shall stop at the modeled end.

(g) All operational field surveys must adhere to Department of Fish and Wildlife protocols for operational field surveys.

(h) The department shall publish Forest Practices Technical Guidance to assist operators with layout pursuant to operational field surveys.

(7) If an operator does not have the legal right to survey an entire area of inquiry due to the location of one or more property boundaries, the operator may conduct an operational field survey to determine small Type Np stream vegetation retention requirements as follows:

(a) If access to the neighboring property is available to the operator, the operator may complete a survey of the entire area of inquiry and complete layout as described in Section (5)(b).

(b) If the operation will take place on property downstream of the ownership boundary and the area of inquiry crosses the property boundary, the operator shall survey the portion of the area of inquiry legally accessible to the operator, and the extent of vegetation retention requirements shall adhere to the following:

(A) Where the department's reporting and notification system evidences a flow feature on the neighboring property upstream but still within the area of inquiry, then the tree retention area will begin at the confluence with a fish use stream and extend to the shorter of:

- (i) The RH max, in which case the upstream end of the retention area shall be perpendicular to the stream channel; or
 - (ii) The property line.
- (B) Where the department's reporting and notification evidences no flow feature upstream on the neighboring property upstream but still within the area of inquiry, then the applicable tree retention area for small Type Np streams shall begin at the confluence of the fish use stream and extend upstream to the shorter of:
- (i) The RH max, in which case the upstream end of the retention area shall be perpendicular to the stream channel; or
 - (ii) The most upstream flow feature within the area surveyed by the operator, in which case the operator shall extend the tree retention area using a radius equal to the width of the retention area.
- (C) An R-ELZ shall extend from the end of the tree retention area identified in (A) and (B) to the property boundary.
- (D) If flowing water that is too short to be considered a flow feature is encountered within the area surveyed and upstream of the most upstream flow feature but downstream of the RH max the operator shall retain all trees within 50 feet of the flowing water.
- (c) If the operation will take place on property upstream of an ownership boundary bisecting an area of inquiry, the operator shall presume that a flow feature ends immediately downstream of the ownership boundary, shall use map distances to determine the distance between the confluence and the property boundary, and the remainder of the vegetation retention requirements for the small Type Np stream shall be laid out in accordance with Section 5(b) above. In Phase 1, the area of inquiry for such an operation shall begin at the property ownership boundary.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0135

Standard Practice Vegetation Retention for Seeps and Springs, Side Channels, and Stream Associated Wetlands

- (1) In Western Oregon, for seeps and springs located within the distances described in Table 1, the operator:
 - (a) Shall retain all trees within 35 feet of the seeps and springs. Shall extend the designated riparian management area widths in Table 1, if necessary, to retain all trees beyond the seep or spring up to a maximum of 35 feet No additional tree retention area shall be required if the 35 feet of tree retention already exists within the retention area described in Table 1. The operator shall limit the length of additional tree retention area along the stream to the seep and spring feature length.
 - (b) Is encouraged to retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs, as described in OAR 629-655-0000.

[Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance
Type F or Type SSBT	110 feet	110 feet	100 feet	N/A
Type N	75 feet	75 feet	See Type Np	N/A
Type Np, into Type SSBT			75 & 50	75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet
Type Np, into Type F			75 feet	RH Max = 600 feet
Type D	75 feet	75 feet	75 or 20 feet ¹	See OAR 629-643-0150

¹ 20 feet outside of Type Np vegetation retention requirements

(2) In Eastern Oregon, for seeps and springs located within the inner zone distances described in Table 2, the operator:

- (a) Shall retain all trees within 35 feet of seeps and springs by extending the riparian management area inner zone widths designated in Table 2, as needed. No additional tree retention area shall be required if the 35 feet of tree retention already exists within the retention area within inner zone described in Table 2. The operator shall limit the length of additional tree retention area along the stream to the seep and spring feature length. These rules do not apply to seeps and springs that are identified as important springs, as described in OAR 629-645-0000.
- (b) Is encouraged to retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs as described in OAR 629-655-0000.

[Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ²	Inner	Outer ²	Inner	Outer ²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet

Type D	30	-	30	-	30 or 20 feet³	-	See OAR 629- 643-0150
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¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

(3) In both Western Oregon and Eastern Oregon, for side channels and wetlands that extend beyond riparian management areas described in Tables 1 and 2, the operator shall expand the tree retention area to entirely include any stream associated wetland plus at least 25 additional feet.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0140

Small Forestland Owner Minimum Option Vegetation Retention Prescription Requirements

(1) The goals of the small forestland owner minimum option vegetation retention requirements are to recognize the inherent differences in the needs and requirements of these owners while meeting the overall objectives of the Private Forest Accord Report, including but not limited to:

(a) Minimizing the conversion of timberlands to other uses while recognizing conversion to other land uses may occur;

(b) Minimizing the conversion of timberlands through a system of incentives, education, and regulatory stability for the small forestland owner; and

(c) Providing a landowner who may face disproportionate economic impact from revised riparian vegetation retention rules with an optional prescription while providing for equal environmental outcomes and the potential for increased financial outcomes.

(2) For the purposes of this rule, a landowner who qualifies as a small forestland owner, as described in OAR 629-607-0200, may use one of the following riparian vegetation retention options:

(a) The standard practice retention prescriptions described in Table 1 for Western Oregon and Table 2 for Eastern Oregon. The standard practice is available to optimize environmental benefits and mitigate risks to natural resources.

[Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance
Type F or Type SSBT	110 feet	110 feet	100 feet	N/A
Type N	75 feet	75 feet	See Type Np	N/A

Type Np, into Type SSBT			75 & 50	75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet
Type Np, into Type F			75 feet	RH Max = 600 feet
Type D	75 feet	75 feet	75 or 20 feet¹	See OAR 629-643-0150

¹ 20 feet outside of Type Np vegetation retention requirements

[Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance¹
	Inner	Outer²	Inner	Outer²	Inner	Outer²	
Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

(b) The small forestland owner minimum option vegetation retention prescriptions described in Table 3 for Western Oregon and Table 4 for Eastern Oregon, as limited by the terms of this rule and OAR 629-607-0400. The small forestland owner minimum option prescription applies to harvest types 1, 2, and 3 within the riparian areas of both Western Oregon and Eastern Oregon streams.

[Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance¹
Type SSBT	100 feet	80 feet	60 feet	N/A
Type F	100 feet	70 feet	50 feet	N/A
Type N	70 feet	50 feet	See Type Np	

Type Np, into Type SSBT			35	RH Max = 1,150 feet
Type Np, into Type F			35	RH Max = 600 feet
Type D	75	75	35 or 20 feet²	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

³ OAR 629-643-0143 describes all Type Np riparian vegetation requirements for small forestland owners

[Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance¹
	Inner	Outer	Inner	Outer	Inner	Outer²	
Type F or Type SSBT	30	70	30	50	30	30	N/A
Type N	30	45	30	30	-	-	
Type Np, Terminal	-	-	-	-	20	20	RH Max = 500 feet
Type Np, Lateral	-	-	-	-	20	N/A	250 feet
Type D	30		30		20		See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ OAR 629-643-0143 describes all Type Np riparian vegetation requirements

(c) The forest conservation tax credit option. The standard practice riparian vegetation retention prescription with the option to apply for the forest conservation tax credit, as described in OAR 629-607-0400 through 629-607-0800. When the small forestland owner requests the forest conservation tax credit as part of a notice of operation, the State Forester shall review the request and notify the small forestland owner whether the small forestland owner is eligible for the credit. If the State Forester approves a request for a forest conservation tax credit, the small forestland owner shall receive a state tax credit for the stumpage value of this timber.

(3) Forest conservation tax credit. In addition to the small forestland owner minimum option, the small forestland owner may follow the standard practice vegetation retention requirements available to small forestland owners. When the small forestland owner selects the standard practice retention requirements in either Western Oregon or Eastern Oregon, the small forestland owner may apply for a forest conservation tax credit.

(a) A small forestland owner who selects the standard practice shall follow the same requirements in the standard practice retention rules for the riparian management area for harvest types 1, 2, and 3.

(b) A small forestland owner who selects the standard practice shall define the forest conservation area as the area between the outermost edge of the standard practice width and the outermost edge of the small forestland owner minimum option width.

(c) The forest conservation tax credit is equal to 100 percent of the stumpage value of standing trees that are retained in the forest conservation area, as described in OAR 629-607-0500. A small forestland owner who receives the forest conservation tax credit shall retain the trees within the forest conservation area for 50 years as required by the forest conservation tax credit program.

(d) A small forestland owner completing a harvest type 4 is not eligible to claim the forest conservation tax credit. No other limitations are in place for using a harvest type 4 within the fifth-field watershed.

(4) Fifth field watershed restriction for using the small forestland owner minimum option. There is a limit to the use of the small forestland owner minimum option within a fifth field watershed as delineated by the U.S. Geological Survey. It is limited to five percent of the riparian areas in a fifth field watershed within a five-year period. The department will track the use of the small forestland owner minimum options as described in (5)(b). Within 90 days after a small forestland owner completes a timber harvest adjacent to a riparian area, the small forestland owner who selects the small forestland owner minimum option shall report to the State Forester the total lineal feet of riparian area where the small forestland owner minimum option is applied within the harvest area. When reporting total lineal feet, the small forestland owner shall include each side of the stream. The small forestland owner shall report lineal feet in horizontal distance. The small forestland owner may use the small forestland owner minimum option harvest prescription in any defined fifth-field watershed based on the following criteria:

(a) When there are multiple small forestland owners within a fifth-field watershed, the small forestland owners within the watershed may use the small forestland owner minimum option for harvest types 1, 2, and 3 on no more than five percent of the total horizontal lineal feet of streams in the watershed. The five percent maximum harvest limitation applies, in aggregate, to all small forestland owners within the fifth-field watershed. The five percent is measured within a five-year period.

(A) For the five percent maximum harvest limitation described in (a), the State Forester shall track stream distances for Type F and Type N streams separately. For this rule's tracking purposes, Type F streams shall include Type SSBT streams.

(B) The State Forester shall calculate the five percent maximum harvest limitation per fifth-field watershed using the five-year rolling average for each stream classification. The five percent maximum harvest limitation is calculated using the total horizontal lineal feet of riparian area harvest per stream classification (Type F or Type N), divided by the total available lineal feet of Type F and Type N streams in the defined watershed. Type F and Type N restrictions may be different in a fifth field watershed.

(i) Consideration of the five-year rolling average for calculating the lineal feet of riparian harvest shall be continuous.

(ii) Any harvest and the associated lineal feet that is older than five years shall be excluded from tracking and from the calculation of the watershed harvest limitation for each stream classification.

(C) The State Forester shall track lineal feet for each side of the stream associated with the small forestland owner minimum option tracking. Harvest occurring exclusively on one side of the stream shall be counted as one-half the lineal feet for the stream segment.

(b) When the five percent maximum harvest limitation exists for a defined watershed and the small forestland owner chooses to use the small forestland owner minimum option prescription, the small forestland owner may select from either option (A) or (B):

(A) Enroll on a waiting list to utilize the small forestland owner minimum option prescription at a time when the limitation has lowered below the calculation in (5)(a).

(i) The State Forester shall maintain and update the list on a first come, first served basis. The department shall notify any enrolled small forestland owner when the opportunity to utilize the small forestland owner minimum option becomes available.

(ii) After the State Forester provides the small forestland owner with a notification of eligibility, the small forestland owner shall elect to harvest according to the small forestland owner minimum option or forfeit priority on the waiting list.

(B) The small forestland owner may use the standard practice retention requirement and apply for a tax credit for the forest conservation area at 125 percent of the value for which the small forestland owner would have been eligible under the forest conservation tax credit program in OAR 629-607-0400 through 629-607-0800.

(c) OAR 629-607-0400(9) outlines a process if the forest conservation tax credit changes.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0141

Western Oregon; Small Forestland Owner Minimum Management Option Prescription

(1) The purpose of this rule is to provide the small forestland owner minimum option prescription for vegetation retention in Western Oregon riparian areas, as shown in Table 3.

[Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance¹
Type SSBT	100 feet	80 feet	60 feet	N/A
Type F	100 feet	70 feet	50 feet	N/A
Type N	70 feet	50 feet	See Type Np	
Type Np, into Type SSBT			35	RH Max = 1,150 feet
Type Np, into Type F			35	RH Max = 600 feet
Type D	75	75	35 or 20 feet²	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

(2) The small forestland owner shall apply the vegetation retention requirements to the riparian management areas of Type F, Type SSBT, and Type N streams. All other requirements for the standard practice prescription rules shall apply.

- (3) The small forestland owner shall retain all trees and vegetation within the distances shown in Table 3, measured from the edge of the active channel or the channel migration zone, if a channel migration zone is present.
- (4) For small Type Np streams flowing into a Type SSBT stream, the small forestland owner shall retain all trees as follows:
- (a) All trees within 35 feet of the active channel, for a maximum distance of 1,150 feet upstream of the Type SSBT stream.
 - (b) The total distance of the tree retention area in (a) above the confluence according to the process in OAR 629-643-0143.
 - (c) Locations outside the tree retention area retention requirements. The small forestland owner shall apply an R-ELZ or ELZ as required in OAR 629-643-0143.
- (5) For small Type Np streams flowing into a Type F stream, the small forestland owner shall retain all trees as follows:
- (a) Within 35 feet of the active channel, for a maximum distance of 600 feet upstream of the Type F stream.
 - (b) Above the confluence, the total distance of the tree retention area in (a) shall be determined according to the process in OAR 629-643-0143.
 - (c) Locations outside the tree retention area retention requirements, the small forestland owner shall apply an R-ELZ or ELZ as required in OAR 629-643-0143.
- (6) For Type Np and Type Ns streams outside the tree retention area described in this rule, the small forestland owner shall follow all other Type N ELZ standard practice requirements as described in OAR 629-643-0105.
- (7) The small forestland owner may count retained trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, as follows:
- (a) For all medium and large Type F and Type SSBT streams, retained trees within the outer 20 feet of the distances described in Table 3, that otherwise meet the wildlife leave trees requirements, may be counted towards the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.
 - (b) For all small Type F and Type SSBT streams, and all Type N streams, retained trees that otherwise meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, may be counted. Trees retained in the forest conservation area may be counted toward these requirements.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0142

Eastern Oregon; Small Forestland Owner Minimum Option Prescription

(1) The purpose of this rule is to provide the small forestland owner minimum option prescription for vegetation retention in Eastern Oregon riparian areas, as shown in Table 4.

[Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer	Inner	Outer	Inner	Outer ²	
Type F or Type SSBT	30	70	30	50	30	30	N/A
Type N	30	45	30	30	-	-	
Type Np, Terminal	-	-	-	-	20	20	RH Max = 500 feet
Type Np, Lateral	-	-	-	-	20	N/A	250 feet
Type D	30		30		20		See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ OAR 629-643-0143 describes all Type Np riparian vegetation requirements

(2) The small forestland owner shall apply the vegetation retention requirements to the riparian management areas of Eastern Oregon Type F, Type SSBT, and Type N streams.

(3) All other requirements for the standard practice prescription rules shall apply.

(4) Both the small forestland owner minimum option and the standard practice prescriptions and riparian management widths apply to Type N streams depending on whether the stream classification is perennial (Np) or seasonal (Ns). The State Forester shall determine the classification of a Type N stream as Np or Ns following the process described in OAR 629-635-0200(18).

(a) To apply the appropriate vegetation requirements as described in Tables 2 and 4, a small Type Np stream shall be classified as either terminal or lateral.

(b) The State Forester shall provide these maps that show the stream classification. that identify the small Type Np streams.

(5) For all Type F, Type SSBT, and large and medium Type N streams, the small forestland owner shall:

(a) Retain all trees and vegetation within the inner zone.

(b) Retain all trees leaning over the channel.

(A) For the outer zone, a minimum of 60 square feet of basal area per acre beyond the 30-foot inner zone, using the distances shown for the stream size described in Table 4. The small forestland owner shall measure the outer zone starting from the edge of the inner zone. To meet the basal area target requirement, the small forestland owner shall retain 27 trees from the largest diameter class per acre.

[Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance ¹
	Inner	Outer ₂	Inner	Outer ₂	Inner	Outer ²	

Type F or Type SSBT	30	70	30	70	30	45	-
Type N	30	45	30	45	-	-	-
Type Np, Terminal					30	30	RH Max = 500 feet
Type Np, Lateral					30	N/A	RH Max = 250 feet
Type D	30	-	30	-	30 or 20 feet³	-	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

³ 20 feet outside of Type Np vegetation retention requirements

(B) The remainder of the trees shall consist of trees greater than eight inches DBH.

(C) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.

(D) Retained trees shall be well distributed within the outer zone unless limited by existing site or stand conditions.

(E) Notwithstanding (A) through (D) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health, and shall be described in the written plan.

(c) The small forestland owner shall adhere to an ELZ in the outer zone for 30 feet, extending from the outer edge of the inner zone.

(6) For small terminal Type Np streams flowing into a Type F or Type SSBT stream, the small forestland owner shall retain:

(a) All trees within 20 feet from the edge of the active channel for a maximum distance of 500 feet upstream of the Type F stream, defined as the inner zone. The total distance of the tree retention area above the confluence shall be determined according to the process in OAR 629-643-0143.

(b) All trees leaning over the channel.

(c) Trees outside of 20 feet and at 40 feet from the edge of the active channel, defined as the outer zone. The outer zone retention requirements shall apply upstream for the same distance as required in (a) as follows:

(A) A minimum of 60 square feet of basal area per acre beyond the 20-foot inner zone and the distances shown in Table 4.

(B) To meet the basal area target requirement, the small forestland owner shall retain 27 trees from the largest diameter class per acre.

(C) The remainder of the trees shall consist of trees greater than eight inches DBH.

(D) When present, retained species shall consist of ponderosa pine, Douglas-fir, Western larch, hardwoods, and other species that are considered fire-resilient.

(E) Retained trees shall be well distributed within the outer zone limited by existing site or stand conditions.

(F) Notwithstanding (A) through (E) above, the distribution, species, and size of retained trees shall be left on site in such a way that promotes fire resiliency and overall stand health.

(d) The small forestland owner shall adhere to an R-ELZ or ELZ extending from the edge of the inner zone, extending the same distance as the distance determined in (a) as required in OAR 629-643-0143.

- (e) The small forestland owner shall adhere to an ELZ upstream of the tree retention area for the remainder of the Type N channel.
- (7) For small lateral Type Np streams flowing into a Type F or Type SSBT stream, the small forestland owner shall retain all trees within 20 feet from the edge of the active channel for a maximum distance of 250 feet upstream of the confluence with the Type F or Type SSBT stream.
- (a) The small forestland owner shall determine the total distance of the tree retention area above the confluence as described in OAR 629-643-0143.
- (b) The small forestland owner shall adhere to an R-ELZ or ELZ extending 50 feet from the edge of the active channel. The operator shall extend the R-ELZ or ELZ the same distance as the distance determined in (a), as required in OAR 629-643-0143.
- (c) The small forestland owner shall adhere to an ELZ upstream of the tree retention area and for the remainder of the Type N channel.
- (8) For a small Type Ns stream, the small forestland owner shall retain all shrubs and trees under six inches DBH within 30 feet of the active channel or channel migration zone, and for 750 feet upstream of the confluence with the Type F or Type SSBT stream. The small forestland owner shall adhere to an ELZ from the edge of the active channel for the entire Type N stream.
- (9) For Type Np and Type Ns streams outside the tree retention area described in this rule, the small forestland owner shall follow all other Type N ELZ standard practice requirements in OAR 629-643-0120.
- (10) For all Type F, Type SSBT, and Type N streams, retained trees in the outer zone in Table 4 that otherwise meet the wildlife leave trees requirements may be counted toward wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676. Trees in the forest conservation tax credit may be counted toward these requirements.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0143

Small Forestland Owners Small Type N Streams Vegetation Requirements

- (1) The small forestland owner shall follow this rule for small Type N streams in addition to the rules described in OAR 629-643-0130. The small forestland owner shall apply the tree retention requirements according to OAR 629-643-0141 for Western Oregon and OAR 629-643-0142 for Eastern Oregon.
- (a) If an area of inquiry extends beyond the small forestland owner ownership boundary and there is not a flow feature in the last 100 feet before reaching the small forestland owner's ownership boundary, the small forestland owner shall extend the tree retention area to the shorter of:
- (A) The RH Max; or
- (B) The furthest upstream flow feature within the ownership boundary.
- (b) When the area of inquiry extends to the furthest upstream flow feature of the ownership boundary, the small forestland owner shall extend the R-ELZ beyond the furthest upstream flow feature within the ownership boundary to the ownership boundary, provided that prior surveys

documented in the department's reporting and notification system identify evidence of a flow feature upstream of the ownership boundary that will alter the harvest zone layout.

(A) If the furthest identified upstream flow feature within the area of inquiry is below the RH Max, and flowing water that is too short to be considered a flow feature is encountered between the flow feature and the RH Max, the operator shall retain all trees within 35 feet of the flowing water; and

(B) The operator shall extend the R-ELZ from the furthest upstream flow feature within the area of inquiry to the tree retention area surrounding the flowing water.

(2) If the small forestland owner selects the standard practice, and there is 100 feet or more of surveyed dry stream between two flow features located downstream of the RH Max in which tree retention is required, the small forestland owner:

(a) May apply for a forest conservation tax credit for an amount that is half of the stumpage value of the retained tree located between the inside edge of the applicable small forestland owner minimum option distance and the edge of the stream.

(b) Shall retain all trees within the zone described in (a) regardless of whether the small forestland owner utilizes the forest conservation tax credit.

(3) The small forestland owner shall comply with all other requirements in the standard practice.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0145

Small Forestland Owner Minimum Option Prescription for Seeps and Springs

(1) The following prescriptions apply to seeps and springs located in Western Oregon:

(a) For seeps and springs located within the riparian management areas described in Table 3, the small forestland owner shall retain all trees within 15 feet of the seeps and springs. If the 15-foot retention for seeps and springs already exists within the riparian management area described in Table 3, the small forestland owner shall not be required to retain additional trees. The length along the stream of additional tree retention area shall be limited to the seep and spring feature length.

(b) The small forestland owner may retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs as described in OAR 629-655-0000.

[Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large	Medium	Small	Upstream distance¹
Type SSBT	100 feet	80 feet	60 feet	N/A
Type F	100 feet	70 feet	50 feet	N/A
Type N	70 feet	50 feet	See Type Np	

Type Np, into Type SSBT			35	RH Max = 1,150 feet
Type Np, into Type F			35	RH Max = 600 feet
Type D	75	75	35 or 20 feet²	See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² 20 feet outside of Type Np vegetation retention requirements

(2) The following prescriptions apply to seeps and springs located in Eastern Oregon:

(a) For seeps and springs located within the inner zone distances described in Table 4, the small forestland owner shall retain all trees within 15 feet of the seeps and springs. No additional tree retention area shall be required if the 15 feet retention for seeps and springs already exists within the retention area described in Table 4. The small forestland owner shall limit the additional tree retention area's length along the stream to the seep and spring feature length. These rules do not apply to seeps and springs that are identified as important springs, as described in OAR 629-645-0000.

(b) The small forestland owner may retain trees that meet the wildlife leave trees requirements within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676, that are immediately adjacent to seeps and springs, as described in OAR 629-655-0000.

[Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances]

Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances

Stream Type	Large		Medium		Small		Upstream distance¹
	Inner	Outer	Inner	Outer	Inner	Outer²	
Type F or Type SSBT	30	70	30	50	30	30	N/A
Type N	30	45	30	30	-	-	
Type Np, Terminal	-	-	-	-	20	20	RH Max = 500 feet
Type Np, Lateral	-	-	-	-	20	N/A	250 feet
Type D	30		30		20		See OAR 629-643-0150

¹ Upstream distance from either Type F or Type SSBT

² Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

(3) The small forestland owner shall submit a standardized form to the State Forester when using the small forestland owner minimum option around seeps or springs.

(4) In both Western Oregon and Eastern Oregon, if the tree retention area contains side channels and wetlands that extend beyond the riparian management areas described in Tables 3 and 4, the small forestland owner shall expand the tree retention area to entirely include any side channels and wetland plus at least 25 additional feet.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0150

Type D Vegetation Retention Requirements

(1) For classified small Type D stream segments that extend beyond the tree retention areas described in the Small Type Np requirements in OAR 629-643-0130 and OAR 629-643-0143, the operator shall retain in both Western Oregon and Eastern Oregon:

(a) All understory vegetation with 10 feet of the active channel.

(b) All trees within 20 feet of the edge the active channel.

(c) All trees leaning over the channel.

(2) The operator may count retained trees along Type D streams that otherwise meet the requirements for wildlife leave trees within harvest type 2 or harvest type 3 units, pursuant to ORS 527.676.

(3) A small forestland owner shall not use the small forestland owner minimum option or tax credits for Type D streams.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0200

Placing Large Wood Key Pieces in Type F or Type SSBT Streams to Improve Fish Habitat

(1) In conjunction with a forest operation, placement of large wood key pieces in a Type F or Type SSBT stream to improve fish habitat is subject to the regulations in the Oregon Forest Practices Act and the forest practice rules.

(2) The goal of placing large wood key pieces is to deliver wood that is relatively stable but can reconfigure to a limited degree and work with the natural stream flow to restore and maintain habitat for aquatic species. When placing large wood key pieces in conjunction with an operation, the operator shall design and implement the project to:

(a) Rely on the size of wood for stability and exclude the use of any type of artificial anchoring;

(b) Emulate large wood delivery configurations that occur from natural riparian processes over time;

(c) Restore and maintain natural aquatic habitat over time rather than rely on constructed habitat structures; and

(d) Meet the standards established in "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.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

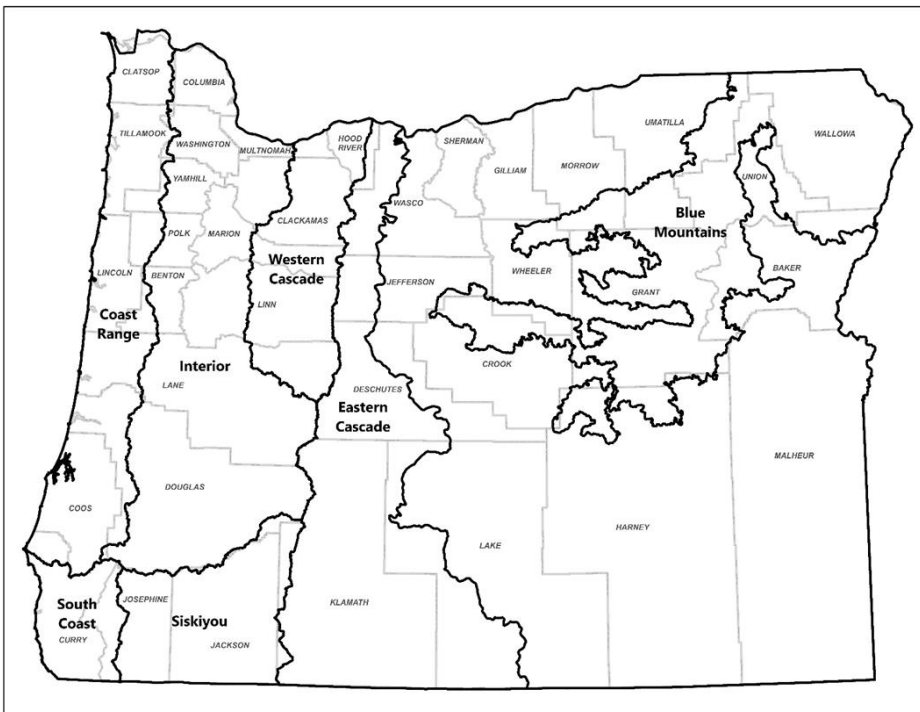
629-643-0300

Alternative Vegetation Retention Prescriptions

- (1) Alternative prescriptions are intended to apply to situations where the existing streamside stand is too sparse or contains too few live trees to maintain fish, wildlife, and water quality resources over time. Future desired streamside stand conditions are achieved through immediate manipulation of vegetation, including reforesting the riparian management area with conifer.
- (2) Section (3) of this rule are alternative vegetation retention prescriptions described for the geographic areas in Figure 1, that the operator may apply if the basal area in the riparian management area is no more than one-half of the standard target indicated in either Table 5 or Table 6, as may be applicable, and conditions described in the alternative prescription are applicable.

[Figure 1. Geographic Areas, OAR 629-643-0300]

Figure 1. Geographic Areas, OAR 629-643-0300



[Table 5. Alternative Prescription Basal Area Table for Type F/SSBT Streams]

Table 5. Alternative Prescription Basal Area Table for Type F/SSBT Streams

Geographic Areas	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM EACH SIDE
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	LARGE TYPE F/SSBT		MEDIUM TYPE F/SSBT		SMALL TYPE F/SSBT	
	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target	Standard Target	Active Mgt. Target
Coast Range, S. Coast	253	187	189	141	80	40
Interior & W. Cascades	297	220	220	173	80	40
Siskiyou	242	187	173	141	80	40
Eastern Cascade & Blue Mountain	170	130	129	100	75	75

[Table 6. Alternative Prescription Basal Area Table for Type D and Type N Streams]

Table 6. Alternative Prescription Basal Area Table for Type D and Type N Streams

Geographic Areas	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE		
	LARGE TYPE D and N	MEDIUM TYPE D and N	SMALL TYPE N and D
	Standard Target	Standard Target	Standard Target
Coast Range, S. Coast, & Siskiyou	96	75 ¹	0
Interior & W. Cascades	118	75 ¹	0
Eastern Cascade & Blue Mountain	75	75 ¹	0

1 Hardwoods may count up to 30 square feet of basal area per 1000 feet toward meeting the standard target.

(3) Alternative vegetation retention prescription 1 (catastrophic events). This alternative prescription applies to streamside stands that have been damaged by wildfire or by catastrophic windthrow, or by insect or disease mortality. Such mortality must occur at the stand level and may not include normal endemic mortality. This alternative prescription is intended to provide adequate stream shade, woody debris, and bank stability for the future while creating conditions in the streamside area that will result in quick establishment of a new and healthy stand. The operator shall:

(a) Retain trees that have fallen in the stream. The operator may only harvest portions of these trees that are outside the high-water levels and do not contribute to the ability of the downed tree to withstand movement during high flows.

(b) Retain all live and dead trees within 20 feet of the high-water level of large and medium streams and 10 feet of the high-water level of small streams.

- (c) For Type F and Type SSBT streams, retain live trees, dying or recently dead trees, and downed logs sufficient to satisfy the active management target shown in Table 5.
- (d) For Type D and N streams, retain live trees, dying or recently dead trees, or downed logs sufficient to satisfy the standard target shown in Table 6.
- (e) Retain live conifers first to meet the target. If live conifers are too few to satisfy the target, the operator shall meet the target as much as possible by including windthrown trees within the channel and dying or recently dead trees.
- (f) For purposes of this prescription, the basal area of a windthrown tree in the channel or a retained dying or recently dead tree contributes two times its basal area toward meeting the target.
- (4) Alternative vegetation retention prescription 2 (hardwood dominated sites). This alternative prescription applies to streamside sites that are capable of growing conifers, and where conifer stocking is currently low and unlikely to improve in a timely manner because of competition from hardwoods and brush. If portions of such riparian management areas currently contain abundant conifer basal area, it is intended that these areas of good conifer basal area be segregated and managed using the standard practice vegetation retention prescription while the remainder is managed according to this alternative prescription. This alternative prescription is intended to provide adequate stream shade, some woody debris, and bank stability for the future while creating conditions in the streamside area that will result in quick establishment of a conifer stand. The operator shall:
 - (a) Submit to the State Forester a written plan that describes how the operator will meet these requirements and that demonstrates that the conversion will substantially improve the likelihood and timeline to reach the desired future condition.
 - (b) Evaluate the stand within the riparian management area and, where they exist, segregate segments 200 feet or more in length that are well-stocked with conifer, as identified from an aerial photograph, from the ground, or through other appropriate means. The standard practice vegetation retention prescription for vegetation retention shall be applied to these segments.
 - (c) For the remaining portion of the riparian management area that has lower conifer basal area, divide the riparian management area into conversion blocks and retention blocks.
 - (d) Include no more than half the total stream length in the harvest unit within conversion blocks. Conversion blocks shall be no more than 500 feet long and shall be separated from each other by at least:
 - (A) 200 feet of retention block; or
 - (B) A 200-foot segment where the standard practice vegetation retention prescription is applied.
 - (e) Within conversion blocks, the operator shall retain:
 - (A) All trees growing in the stream, or within 10 feet of the stream's high-water level.
 - (B) For large streams, all trees leaning over the channel within 20 feet of the high-water level of the stream.
 - (f) Within retention blocks the operator shall retain:
 - (A) For large streams:
 - (i) All conifer trees within 50 feet of the high-water level of the stream.
 - (ii) All hardwood trees within 30 feet of the high-water level of the stream.
 - (B) For medium streams:
 - (i) All conifer trees within 30 feet of the high-water level of the stream.
 - (ii) All hardwood trees within 20 feet of the high-water level of the stream.
 - (C) For small streams, all trees within 20 feet of the high-water level of the stream.

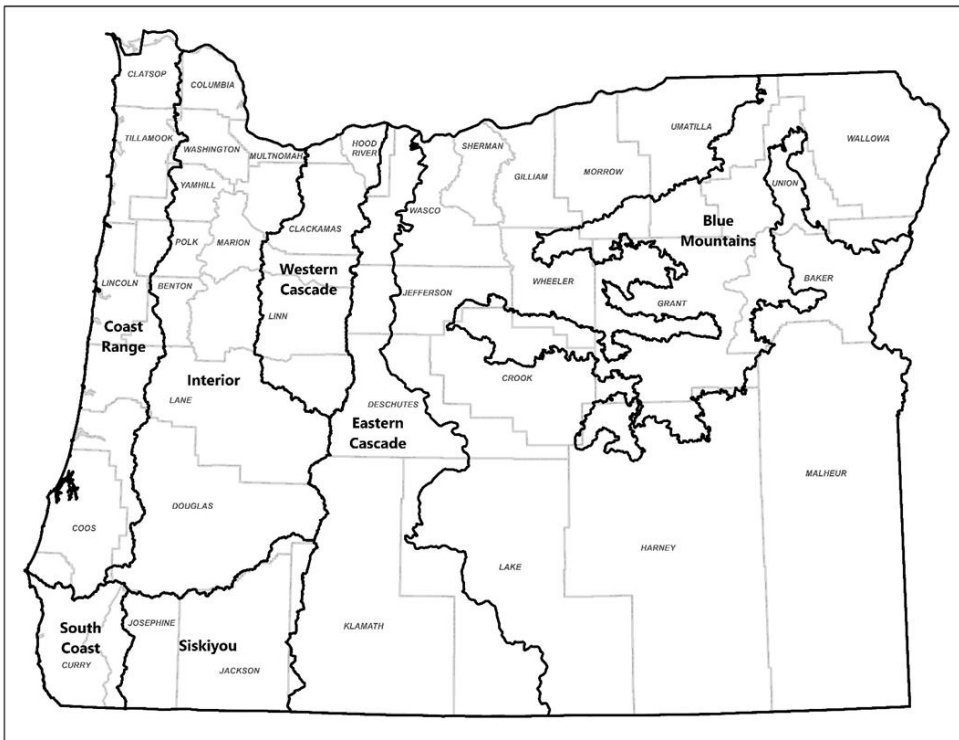
Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022
 Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022
 History:
 DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0400
Site Specific Vegetation Retention Prescriptions for Streams and Riparian Management Areas

(1) A primary purpose of these site-specific vegetation retention prescriptions in Table 7 and described for the geographic areas in Figure 1, is to identify opportunities and allow incentives for restoring or enhancing riparian management areas or streams. Another purpose of site-specific vegetation retention prescriptions is to allow for changes to the vegetation retention requirements in this rule division. The changes must provide for the functions and values of streams and their riparian management areas as described in the vegetation retention goals for streams while affording a better opportunity to meet other objectives.

[Figure 1. Geographic Areas, OAR 629-643-0400]

Figure 1. Geographic Areas, OAR 629-643-0400



[Table 7. Site Specific Basal Area Targets]

Table 7. Site Specific Basal Area Targets

Geographic Areas	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM EACH SIDE
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	LARGE TYPE F	MEDIUM TYPE F	SMALL TYPE F
	RMA = 110 feet	RMA = 110 feet	RMA = 100 feet
Coast Range, S. Coast	253	253	230
Interior & W. Cascades	297	297	270
Siskiyou	242	242	220
	RMA = 30 feet	RMA = 30 feet	RMA = 30 feet
Eastern Cascade & Blue Mountain	51	51	51

(2) The operator may develop site specific vegetation retention prescriptions for streams and their riparian management areas to achieve the vegetation retention goals described in OAR 629-643-0000 if:

- (a) The potential of the streamside stand to achieve conditions similar to mature forest stands in a timely manner is questionable;
- (b) In-stream conditions are impaired due to inadequate large wood or other factors; or
- (c) The site-specific prescription would result in less environmental damage than the standard practice.

(3) An operator who wishes to implement site specific vegetation retention prescriptions instead of the standard practice shall submit to the State Forester a plan for an alternate practice.

(4) The State Forester shall approve a plan for an alternate practice if the State Forester determines that, when it is properly executed, the alternate plan will have no significant or permanent adverse effects, and:

- (a) The plan shall meet or exceed the vegetation retention goals in a more timely manner than if the plan were not implemented;
- (b) The long-term benefits of the plan are greater than short-term detrimental effects; or
- (c) The plan will result in less environmental damage than if the standard practice were followed.

(5) The State Forester may consider the following non-exhaustive list of factors in evaluating the plan:

- (a) The potential of the existing streamside stand to achieve mature streamside forest characteristics;
- (b) The long-term supply of woody debris;
- (c) The survival of newly established trees or shrubs;
- (d) Fish and wildlife species' sensitivity to changes in water temperature and water quality;
- (e) The potential for sedimentation;
- (f) The stability of woody debris placed in aquatic areas; and
- (g) The State Forester's ability to monitor the direct effects of the proposed practices.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022
Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022
History:
DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-643-0500

Reforestation Within Stream Riparian Management Areas

Harvested portions of riparian management areas along streams are subject to the same reforestation requirements that apply to adjacent areas that are outside of the riparian management areas. A number of factors make reforestation more difficult in riparian management areas. To succeed with the required reforestation, landowners should anticipate and plan for factors including but not limited to brush control measures, animal damage problems, and tree species that are suitable for wetter sites.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022
Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022
History:
DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

Division 655
WATER PROTECTION RULES: PROTECTION MEASURES FOR “OTHER WETLANDS,” SEEPS AND SPRINGS

629-655-0000

Protection Measures for "Other Wetlands," Seeps and Springs

(1) Unless identified as stream-associated seeps, springs, or other wetlands under OAR 629-643-0135 and OAR 629-643-0145, there is no riparian management area for other wetlands, seeps, and springs. Important springs in Eastern Oregon, as described in division 645 Water Protection Rules: Riparian Management Areas and Protection Measures for Significant Wetlands rules, are not covered within this rule.

(2) When operating in or along other wetlands greater than one-quarter acre, the operator shall:

(a) Protect soil and understory vegetation from disturbance that results in reduced water quality, hydrologic function, or soil productivity. Operators shall protect hydrologic functions by minimizing disturbances to soils during forest operations and shall prevent accelerating the natural conversions of wetlands to uplands;

(b) Leave snags and downed trees in the wetlands, except for any snags determined by the State Forester to be fire hazards, or any snags that must be felled to achieve compliance with the safety requirements found in chapter 437, division 7, Forest Activities.

(A) Any snags felled because of safety or fire hazards shall be left unyarded.

(B) Snags and downed wood left within other wetlands, seeps, or springs may apply toward the requirements of ORS 527.676.

(3) When conducting operations along other wetlands less than one quarter acre, springs, or seeps, operators shall protect soil and vegetation from disturbances which would cause adverse effects on water quality, hydrologic function, and wildlife and aquatic habitat.

(4) Identification of other wetlands is sometimes difficult, especially when the wetland has no standing water. This is particularly true when the other wetland is forested or very small. In recognition of these facts, the State Forester shall apply appropriate discretion when determining compliance with this rule.

(5) Operators are encouraged to:

(a) Retain blocks of intact vegetation, including green trees and snags as required to meet ORS 527.676 around other wetlands, seeps, and springs; and

(b) For other wetlands that are forested, adequately consider how reforestation will be accomplished.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2500

Division 670
FOREST PRACTICES ADMINISTRATION — ENFORCEMENT AND CIVIL
PENALTIES

629-670-0000

Purpose

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

OAR 629-670-0000 through 629-670-0350 shall be known as the Oregon Forest Practices Act Enforcement and Civil Penalty Rules. These rules direct the State Forester to take fair and uniform enforcement action when there is a violation of the Oregon Forest Practices Act (ORS 527.610 to 527.770; ORS 527.990(1), ORS 527.992) or laws relating to Pesticide Applications by Helicopter (ORS 527.786 to 527.798). OAR 629-670-0300 and 629-670-0310 provide an outline of contested case hearings procedures, with specific contested case rules in OAR 629, division 1 and OAR 137, division 3.

Statutory/Other Authority: ORS 527.710 & 526.016 & section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.685

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 7-2002, f. & cert. ef. 7-1-02

DOF 7-1998, f. 3-31-98, cert. ef. 5-1-98

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95

629-670-0010

Definitions

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

As used in OAR chapter 629, divisions 670 through 680:

(1) "Board" means the State Board of Forestry.

(2) "Damage" means an adverse disturbance to a resource protected by the Oregon Forest Practices Act that cannot be immediately stabilized and corrected, resulting from a forest practice that is not in compliance with the Oregon Forest Practices Act or the forest practice rules.

(3) "Forest practice rule" means any rule regulating operations under the Oregon Forest Practices Act, as found in OAR chapter 629, divisions 600 through 680.

(4) "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.
- (5) "Operator" means any person, including a landowner or timber owner, who conducts an operation.
- (6) "Plan for an Alternate Practice" means a document prepared by the landowner, operator or timber owner, submitted for approval in writing by the State Forester describing practices different than those prescribed in statute or administrative rule.
- (7) "State Forester" means the State Forester or the duly authorized representative of the State Forester.
- (8) "Timely corrective action" means action to be taken by the operator within a specified time to prevent or reverse the damage potentially caused by an unsatisfactory condition.
- (9) "Repeat Violator" means an operator, timber owner or landowner for which a finding has been made by the State Forester under section 46(6), chapter 33, Oregon Laws 2022.
- (10) "Significant violation" as defined in section 40(15), chapter 33, Oregon Laws 2022:
 - (a) "Significant violation" means:
 - (A) Violation of ORS 527.670(6) by engaging in an operation without filing the requisite notification;
 - (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680(2)(a), (3), or (5); or
 - (C) A violation resulting in major damage to a resource described in ORS 527.710(2) for which restoration is expected to take more than 10 years.
 - (b) "Significant violation" does not include:
 - (A) Unintentional operation in an area outside an operating area of an operation for which sufficient notification was filed pursuant to ORS 527.670(6);
 - (B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680(2)(a), (3), or (5), where an operator demonstrates that it did not receive the order; or

(C) Failure to timely notify the State Forester of an intent to continue an operation into the next calendar year.

(11) "Unsatisfactory condition" means the circumstance which exists when an operator or landowner fails to comply with a practice specified in a forest practice rule or statute listed in ORS 527.990(1) or 527.992 and the State Forester determines that all of the following conditions exist:

- (a) The forest practice rule or statute applies to the type of operation conducted;
- (b) The practice is necessary to meet the purpose of the statute or rule; and
- (c) The operator has not been exempted from the rule or statute by obtaining approval for, or having obtained approval has not followed, a plan for an alternate practice as prescribed by OAR 629-605-0100.

(12) "Violation" means the circumstances which exist any time one or more of the following occurs:

- (a) An operator fails to comply with any provision of ORS 527.670(6) or (7) requiring notification to the State Forester before commencing an operation.
- (b) An unsatisfactory condition exists, and:
 - (A) Damage has resulted;
 - (B) The State Forester has determined that it is not feasible for the operator, by timely corrective action, to eliminate the consequences of the unsatisfactory condition; or
 - (C) A written statement of unsatisfactory condition has been issued to the operator, the deadline for action has passed and appropriate action has not been taken by the operator.
- (c) The operator has failed to follow a procedural practice required in statute or rule including, but not limited to, failure to submit a required written plan.
- (d) An operator has failed to comply with any term or condition of any order of the State Forester issued in accordance with ORS 527.680.

(13) "Written statement of unsatisfactory condition" means a written statement issued by the State Forester to a landowner or an operator that describes the nature of an unsatisfactory condition and that specifies the corrective action to be taken within a definite time limit.

Statutory/Other Authority: ORS 527.710 & 526.016

Statutes/Other Implemented: ORS 527.620, 527.674, 527.685, 527.700 & 527.715, section 40, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

DOF 7-2002, f. & cert. ef. 7-1-02

DOF 7-1998, f. 3-31-98, cert. ef. 5-1-98

FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95, Renumbered from 629-055-0005

FB 5-1988, f. 7-27-88, cert. ef. 8-1-88

629-670-0100

Inspections; Compliance Determination

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an

operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) The State Forester shall conduct inspections of operations consistent with section 43, chapter 34, Oregon Laws 2022.

(2) The State Forester shall conduct investigations of reported Oregon Forest Practices Act violations and make preventative and compliance inspections on forest operations subject to the Oregon Forest Practices Act.

(3) When inspecting operations, the State Forester shall examine practices used by the operator to assess compliance with the applicable forest practice rules and plans for an alternate practice. The State Forester may make recommendations that would help the operator avoid an unsatisfactory condition.

(4) When the State Forester determines that an unsatisfactory condition or a violation exists, enforcement action shall be initiated by the State Forester.

Statutory/Other Authority: ORS 527.710 & 526.016 & section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.680

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

DOF 7-2002, f. & cert. ef. 7-1-02

DOF 7-1998, f. 3-31-98, cert. ef. 5-1-98

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95, Renumbered from 629-055-0010

FB 5-1988, f. 7-27-88, cert. ef. 8-1-88

629-670-0200

Assessment of Civil Penalties; Notice of Penalty

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) In addition to any other remedy, the State Forester may assess a civil penalty for any violation described in ORS 527.992 (1) or 527.793.

(2) The purpose of this rule is to establish civil penalties that will be uniformly assessed by a civil penalty administrator who is appointed by the State Forester.

(3) After a citation is issued, the citation and any accompanying information shall be reviewed by a civil penalty administrator. The civil penalty administrator shall review the circumstances of the violation and determine the amount of penalty to be assessed.

(4) The State Forester shall give written notice of a civil penalty by certified and first class mail to the person incurring the penalty. The notice shall include but not be limited to:

(a) A reference to the particular sections of the statute, rule, standard, order or permit involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed and how it was calculated;

- (d) A statement that the party may request collaborative dispute resolution, within 20 days of service of the notice, in which an independent mediator would review the facts of the case, or facilitate any agreement to mitigate the penalty or penalties imposed;
- (e) A statement of the party's right to request a hearing within 20 days of service of the notice and an explanation of how a hearing or mitigation of a penalty may be requested;
- (f) A statement that the notice becomes a final order unless the person upon whom the civil penalty is assessed, makes a written request for a hearing within 20 days from the date of service of the notice; and
- (g) A statement that the record of the proceedings to date, including the agency file or files on the subject of the civil penalty, automatically becomes part of the contested case record upon default for the purpose of providing a prima facie case.

Statutory/Other Authority: ORS 527 & section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.683, 527.687, 527.992 & 527.793

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 7-2002, f. & cert. ef. 7-1-02

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95, Renumbered from 629-055-0030

FB 4-1992, f. & cert. ef. 4-21-92

FB 5-1988, f. 7-27-88, cert. ef. 8-1-88

629-670-0210

Amount of Civil Penalties

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) The amount of civil penalty per violation shall be the lesser of \$10,000 or the amount determined by the formula $\$B (C \times P) + (\$B \times D \times R)$ where:

- (a) \$B is a base fine established by type of violation in section (2) of this rule;
- (b) C is cooperation;
- (c) P is prior knowledge or prior violations;
- (d) D is damage to protected resources; and
- (e) R is the extent of damage that cannot be corrected, or prevented in the future, even though repairs are made.

(2) The base penalty value (\$B) shall be established as follows:

- (a) A base penalty of \$200 shall be applied to violations of a type where the operator fails to notify the State Forester of intent to operate or fails to submit a required written plan or obtain written approval of a plan for an alternate practice.
- (b) A base penalty of \$500 shall be applied to:
 - (A) Violations of any rule or statute which requires or sets standards for accomplishing reforestation.
 - (B) Violations involving a failure to comply with the terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.

- (C) Violations of a type where the operator fails to comply with any term or condition of an approved plan for an alternate practice.
- (D) Violations where the State Forester determines that an operator has intentionally failed to notify the State Forester of intent to operate, notwithstanding subsection (2)(a) of this rule.
- (E) All other violations of forest practice rules or statutes not specifically described in section (2) of this rule.
- (c) A base penalty of \$2000 shall be applied to violations of any rule or statute which sets a maximum size for harvesting operations.
- (3) The cooperation value (C) shall be determined by the State Forester after reviewing whether the operator is taking all feasible steps or procedures necessary or appropriate to correct the violation for which the penalty is being assessed. The value shall be assigned as follows:
- (a) A value of 0.5 shall be assigned when, in the judgment of the State Forester, the operator takes substantial initiative to correct the damage or problem that led to the violation. Substantial initiative may include, but is not limited to, reporting the violation before it is discovered, initiating effective repairs without having to be directed, or making substantive changes in operating procedures designed to identify and avoid potential recurrences.
- (b) A value of 1 shall be assigned when the operator cooperates in following the direction of the State Forester by immediately ceasing further violation and taking prompt action to repair damage or correct any unsatisfactory condition where deemed feasible by the State Forester.
- (c) A value of 2 shall be assigned when the State Forester determines that the operator does not immediately cease further violation, is evasive upon attempts to make necessary communications, or neglects to take necessary and timely action to repair damage or correct any unsatisfactory condition.
- (4) The prior knowledge value (P) shall be determined by the State Forester after reviewing department records of citations, operation notification or operation inspections. A value from 0.5 through 10 shall be assigned as follows:
- (a) A value of 0.5 is appropriate when the operator has little or no prior knowledge of the Oregon Forest Practices Act but has cooperated in ceasing violation and correcting unsatisfactory conditions.
- (b) A value of 1 is appropriate when the operator has general knowledge of the Oregon Forest Practices Act and rules, but has not had significant past experience with the practice in question, or has significant past experience with the practice, but the violation is determined by the State Forester to be inadvertent or accidental.
- (c) A value of 2 is appropriate when the operator has had significant past experience with a practice or condition, or has had specific correspondence or conversation with department personnel about the required practices or actions involved in the violation, before the violation.
- (d) A value of 4 is appropriate when the State Forester has issued a written statement of unsatisfactory condition to the operator for the violation and timely corrective action was not taken.
- (e) A value from 3 through 5 is appropriate when the operator has received citations for any other forest practice rule or statute within the past three years.
- (f) A value from 5 to 10 shall be assigned when the operator has been cited within the past three years for a violation of the same forest practice rule, statute, or condition; or in a case of failure to comply with an order to cease further violation, or order to repair damage, or order to correct an unsatisfactory condition (ORS 527.680(2)).

(5) The damage value (D) shall be determined by the State Forester as a measure of extent or relative adverse effect of damage. The specific value applied shall be based on the pre-operation condition of the site, if known, the severity and extent of damage associated with the violation, and any potential economic gain to any involved operators. The damage value should be consistent with the policy of deterring future violations. A value from 0 through 20 shall be assigned. The following shall guide the State Forester's determination:

(a) A value of zero shall be assigned when the violation has not resulted and will not result in resource damage.

(b) A value of 1 shall be assigned when the adverse effects of the violation left uncorrected are minor and the affected resources will naturally self-restore within one year.

Example: Siltation from exposed soil flows into the upper reaches of a stream, but the site will naturally revegetate within the next growing season, preventing further siltation.

(c) A value from 2 to 5 shall be assigned when the damage from the violations left uncorrected is more serious than described in subsection (b) of this section, but the affected resources will self-restore naturally within five years.

Examples: A small volume debris avalanche is caused by road construction material placed in an unstable location and the debris comes to rest in a fish-bearing or domestic use water; or logs are skidded across a stream without an adequate temporary crossing leaving ruts and disturbed soil areas that will flow muddy water directly into the stream.

(d) A value from 5 through 10 shall be assigned when the damage from the violation left uncorrected is major in relative effect, with natural self-restoration taking up to 10 years. A consideration in selecting a value from 5 to 10 may include, but is not limited to the size of the area affected.

Examples: Failure to reforest five acres may be assigned no less than a 5, while failure to reforest 50 acres may be assigned a 10. Removal of understory vegetation along 500 feet of a small stream may be assigned a 10.

(e) A value from 5 through 20 shall be assigned when damage is the result of harvest or destruction of trees or snags required to be maintained; or when the damage from the violation left uncorrected is major in relative effect, with self-restoration taking more than 10 years.

Example: Severe riparian management area soil disturbance, combined with the total harvest or destruction of what had been a fully stocked stand of trees required to be maintained, along more than 500 feet of a small stream may be assigned a factor of 20.

(6) The repair value (R) shall be assigned by the State Forester as a measure of the relative extent of the damage that is corrected or prevented through timely corrective action. The value shall be set by the State Forester between 0 and 1, inclusive and expressed as a decimal. The decimal indicates the degree of damage that already occurred and future damage that cannot be prevented, even after the repairs are completed as directed in the repair order.

Example: A tractor crossed a stream with no temporary structure, breaking the stream banks down, leaving exposed skid trails which eroded, creating turbidity, and leaving visible sediment in the stream. With no repairs, the stream bank and skid trails would revegetate in 4 years. The landowner performed all repairs as ordered, including mulching, placing rip-rap, and building waterbars. In the State Forester's judgement, compliance with the repair order will prevent all but 20% of the potential damage expected over the next 4 years. Therefore R equals 0.20. If repairs are not feasible or are not completed, R equals 1.0.

Statutory/Other Authority: ORS 527.710 & 526.016 & section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.674 & 527.685

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

DOF 7-2002, f. & cert. ef. 7-1-02

DOF 7-1998, f. 3-31-98, cert. ef. 5-1-98

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95, Renumbered from 629-055-0040

FB 5-1990, f. 7-27-90, cert. ef. 8-1-90

FB 5-1988, f. 7-27-88, cert. ef. 8-1-88

629-670-0214

Civil Penalty Administrator Discretion

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) The civil penalty administrator shall have the discretion to combine violations for the sake of assessing reasonable penalties, under the following circumstances:

- (a) Multiple citations have been issued for violations resulting from the same practice;
- (b) Multiple citations have been issued for violations resulting in the same damage; or
- (c) Upon a finding of the State Forester that a combination of violations is in the public interest and consistent with the policy of the Oregon Forest Practices Act, ORS 527.630.

(2) The civil penalty administrator shall have the discretion to find a penalty is not warranted for reforestation violation cases, when:

(a) The party cited for the violation was not the landowner at the time the harvesting operation reduced stocking below the minimum standards; and

(b) Planting is completed as directed in the repair order.

(3) The civil penalty administrator shall have the discretion to find a penalty is not warranted for cases where all of the following conditions exist:

(a) The violation arose inadvertently;

(b) There was little or no potential for damage;

(c) No damage resulted; and

(d) The cooperation of the operator shows there is little or no chance that the violation will be repeated.

(4) Penalties totaling less than \$100 shall be suspended, pending no further violations within one year of issuance of the citation.

(5) The civil penalty administrator shall have the discretion to reduce the amount of the civil penalty when the party assessed:

(a) Agrees to the facts of the case;

(b) Accepts responsibility for the violation; and

(c) Agrees to perform mitigation on the operation unit, or within the watershed, that is equal or greater in value than the amount by which the penalty will be reduced. Examples may include, but are not limited to, any of the following restoration and enhancement activities:

- (A) Reconstructing, relocating, or vacating roads that, because of their location, present a higher risk to water quality than if they had been located and designed to current forest practice rule standards;
 - (B) Restoring or enhancing upstream and downstream fish passage, including replacing crossing structures not designed to current forest practice rule standards;
 - (C) Restoring or enhancing fish habitat by placing large woody debris or other structures in or adjacent to stream channels;
 - (D) Retaining conifers adjacent to streams, to supplement current forest practice rule requirements, consistent with forest health considerations;
 - (E) Restoring or enhancing habitat for threatened and endangered species or other wildlife habitat;
 - (F) Restoring or enhancing the protection of salmonid production areas. Salmonid production areas include habitat identified through stream or other inventories as being important for spawning, rearing, or over-wintering;
 - (G) Participating in a research or monitoring program sponsored or endorsed by the Department of Forestry or the Department of Fish and Wildlife;
 - (H) Participating with Watershed Councils to conduct watershed assessments, develop action plans or implement restoration projects;
 - (I) Controlling noxious weeds or exotic species; or
 - (J) Implementing strategies to reduce the risk of catastrophic fire or insect or disease damage.
- (6) For the purpose of calculating civil penalties for a new violation, the civil penalty administrator shall consider a person's or entities' history of receiving temporary orders, orders of the state forester, citations, and violations. This may include consideration of:
- (a) As applies to individuals: business entities for which the individual was responsible for the actions of the business.
 - (b) As applies to businesses: individuals who are responsible for the actions of the entity, and the history of the entity should it have changed its name, form, ownership, or structure.

Statutory/Other Authority: ORS 527.710 & 526.016; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.685

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

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

DOF 7-2002, f. & cert. ef. 7-1-02

629-670-0225

Significant Violation Civil Penalties that have been Committed by Repeat Violators

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

- (1) The purpose of this rule is to establish civil penalties for Significant Violations committed by Repeat Violators.
- (2) Significant Violation civil penalty calculation when committed by a Repeat Violator:

- (a) The amount of civil penalty per Significant Violation shall be the lesser of \$50,000 or the amount determined by the formula $(\$B (C \times P) + (\$B \times D \times R)) \times N$ where:
- (A) \$B is a base penalty of \$2000 per (4)(b) of this rule;
 - (B) C is cooperation;
 - (C) P is prior knowledge or prior violations;
 - (D) D is damage to protected resources;
 - (E) R is the extent of damage that cannot be corrected, or prevented in the future, even though repairs are made; and
 - (F) N is the average Number of Notifications yearly.
- (b) The base penalty value (\$B) shall be \$2000 for significant violations.
- (c) The cooperation value (C) shall be determined using OAR 629-670-0210(3).
- (d) The prior knowledge value (P) shall be determined using OAR 629-670-0210(4).
- (e) The damage value (D) shall be determined by using OAR 629-670-0210(5).
- (f) The repair value (R) shall be determined by using OAR 629-670-0210(6).
- (g) The average Number of Notifications yearly (N) shall be determined by the State Forester after reviewing the department's reporting and notification system records of Notifications to determine using a 5-year average when possible. A value of 0.8 to 1.0 shall be assigned as follows:
- (A) A value of 1.0 is appropriate when the operator has been listed on 1 through 50 notifications per year.
 - (B) A value of 0.95 is appropriate when the operator has had been listed on 51 through 100 notifications per year.
 - (C) A value of 0.9 is appropriate when the operator has been listed on 101 through 200 notifications per year.
 - (D) A value of 0.85 is appropriate when the operator has been listed on 201 through 300 notifications per year.
 - (E) A value of 0.8 is appropriate when the operator has been listed on 301 or more notification per year.
- (3) In imposing a civil penalty for repeat violators under this rule, the State Forester shall consider, in addition to the factors described in subsection (2) of this rule:
- (a) The degree, if any, to which the operator, timber owner or landowner derived economic benefit from the significant violation.
 - (b) The proportion of total operations conducted by the operator, timber owner or landowner related to which significant violations have occurred compared to the total number of operations conducted by the operator, timber owner or landowner, while accounting for the organizational structure of the operator, timber owner or landowner.

Statutory/Other Authority: ORS 527.710 & 526.016; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.685

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

629-670-0228

Repeat Violators and Financial Assurances

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not

completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) The purpose of this rule is to establish a process for tracking Repeat Violators and requirements for financial assurances.

(2) The State Forester may make a finding that an operator, timber owner or landowner is a Repeat Violator, pursuant to section 46(6), chapter 33, Oregon Laws 2022. The State Forester's finding shall consider whether the operator, timber owner or landowner has a history of significant violations that shows a pattern of willful disregard for the requirements of ORS 527.610 to 527.770 or rules or orders adopted or issued thereunder. The State Forester will maintain a list of Repeat Violators for use with civil penalty calculations and financial assurance.

(3) If the State Forester makes a finding under subsection (2), the State Forester shall provide notice to the operator, timber owner or landowner, who may challenge the decision as an order of the State Forester pursuant to OAR 629-672-0100.

(4) The State Forester shall remove a Repeat Violator from the Repeat Violator list three years after the last significant violation citation was issued. On rare occasions the State Forester may remove a Repeat Violator from the Repeat Violator list sooner than three years after the last significant violation citation if the Repeat Violator provides evidence sufficient to demonstrate that significant violations are unlikely to be repeated. In considering whether to remove the Repeat Violator from the list, the State Forester may consider:

- (a) date the last citation was issued;
- (b) changes in ownership, personnel, or contractors;
- (c) changes in training, techniques, or equipment;
- (d) recent violation history; and
- (e) any other evidence submitted or available to the department relevant to the potential for future significant violations.

(5) If required by the State Forester, an operator, timber owner or landowner shall provide financial assurance before conducting a new operation. The State Forester may impose this requirement only if, within the preceding three-year period, the State Forester has made a finding under section 46(6), chapter 33, Oregon Laws 2022 applicable to the operator, timber owner or landowner. If required by the State Forester, the operator, timber owner or landowner shall acquire, post, and maintain a bond or other form of financial assurance as approved by the State Forester during the entire operation until the State Forester is notified that the operation is complete. The amount of the bond or financial assurance is based on the operation size or the operation type, whichever bond amount is greater:

(a) The operation acreage size:

- (A) Operations from 0 – 10 acres in size requires a bond of \$20,000.
- (B) Operations from 11 – 25 acres in size requires a bond of \$30,000.
- (C) Operations from 26 – 50 acres in size requires a bond of \$40,000.
- (D) Operations 51 acres or great in size requires a bond of \$60,000.

(b) The operation type:

- (A) Operations of all types of road construction or reconstruction without protected resources to include but not limited to HLHL, Streams, Stream Crossing, Wetlands requires a bond of \$40,000.

(B) Operations of all types of road construction or reconstruction with protected resources to include but not limited to HLHL, Streams, Stream Crossing, Wetlands requires a bond of \$75,000.

(C) Operations of pesticide application requires a bond of \$30,000.

(c) If an operator, timber owner or landowner with a new operation involving two or more protected resources, the State Forester may assess a bond as appropriate for the risk of the operation up to a value of \$250,000.

(6) The State Forester may make a claim against the bond or financial assurance and apply any money received towards correcting the conditions that give rise to the claim if the State Forester determines that:

(a) actions required under the forest practice rules were not completed and the State Forester would incur costs to repair damage or correct an unsatisfactory condition;

(b) protected resources were damaged;

(c) fines or civil penalties that were assessed for the violation; or

(d) the actions taken during the operation otherwise caused the State Forester to incur costs to correct the conditions that gave rise to the claim.

Statutory/Other Authority: ORS 527.710, 526.016; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.680

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

629-670-0350

Orders Prohibiting New Operations

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) The purpose of this rule is to respond to situations where an operator or landowner has failed to complete repairs ordered by the State Forester to correct or mitigate damages resulting from a violation of forest practice rules, or has failed to pay civil penalties or failed to obtain financial assurance as required by section 45(6), chapter 33, Oregon Laws 2022 and OAR 629-670-0225.

(2) If a final order directing a landowner or an operator to make reasonable efforts to repair damage or correct an unsatisfactory condition issued under ORS 527.680(2)(b) has not been complied with within the time specified by the order, the State Forester may issue an additional order that prohibits the landowner or operator from conducting any new operations on any forestland in Oregon until:

(a) The repairs are completed or the unsatisfactory condition is corrected to the satisfaction of the State Forester; or

(b) The order to prohibit conducting new operations has been revoked or modified following an appeal under the procedures of ORS 527.700.

(3) If a final order issued to a landowner or an operator under ORS 527.687 imposing civil penalties has not been complied with within the time specified by the order, the State Forester

may issue an additional order that prohibits the landowner or operator from conducting any new operations on any forestland in Oregon until:

(a) The civil penalty payment is received by the State Forester; or

(b) The order to prohibit conducting new operations has been revoked or modified following an appeal under the procedures of ORS 527.700.

(4) If an operator, landowner, or timber owner fails to obtain and submit a required financial assurance to the State Forester as required in section 45(6), chapter 33, Oregon Laws 2022 and OAR 629-670-0225 before beginning the operation, the State Forester may issue an additional order that prohibits the landowner or operator from conducting any new operations on any forestland in Oregon until a financial assurance is filed with the State Forester as required in OAR 629-670-0225.

(5) The intent of an order issued under the provisions of section (2) or section (3) prohibiting a landowner or operator from conducting new operations is to compel timely compliance by the operator with either an order to repair damage or correct an unsatisfactory condition or a final order requiring payment of a civil penalty. Orders may be issued in addition to any other remedy available to the State Forester under statute or rule to compel compliance. Orders may be issued when, in the opinion of the State Forester, the other available remedies would likely be less effective in compelling compliance in a timely manner.

(6) For the purpose of this rule, "new operation" means any operation requiring notification to the State Forester under the provisions of OAR 629-605-0140 and 629-605-0150 for which a notification has not been received by the State Forester, or, if a notification has been received, operation activity has not started before an order prohibiting new operations is issued under sections (2) or (3) of this rule to the landowner or operator.

Statutory/Other Authority: ORS 527.710 & 526.016; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.680

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 7-2002, f. & cert. ef. 7-1-02

DOF 7-1998, f. 3-31-98, cert. ef. 5-1-98

Division 672
FOREST PRACTICES ADMINISTRATION

629-672-0100

Orders of the State Forester

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(1) As used in OAR 629-672-0100 to 629-672-0310, order of the State Forester issued under ORS 527.610 to 527.770 means:

- (a) An order denying approval of a plan for an alternate practice (OAR 629-605-0173(3)).
- (b) An order to repair damage or correct unsatisfactory condition (ORS 527.680(2)(b)).
- (c) Temporary order to cease further activity (ORS 527.680(3)).
- (d) An order prohibiting new operations (ORS 527.680(5)).
- (e) An order denying approval of a stewardship agreement (ORS 527.662(13)).
- (f) An order requiring an operator, timber owner, or landowner to provide financial assurance pursuant to section 45(6), chapter 33, Oregon Laws 2022).
- (g) An order that an operator, timber owner or landowner has a history of significant violations pursuant to section 46(6), chapter 33, Oregon Laws 2022.

(2) Whenever an order affecting an operator, timber owner or landowner is issued under ORS 527.610 to 527.770, notice of the order shall be given to the affected party by personal service or certified mail. As used in this section, 'personal service' means service on the party by any officer, employee, or agent of the Oregon State Department of Forestry. The notice shall include:

- (a) A reference to the particular sections of the statute, rule, standard, order or permit involved;
- (b) A short and plain statement of the matters asserted or charged;
- (c) A statement of the person's right to request a hearing within 30 days from the date of service;
- (d) A statement that the notice becomes a final order unless the person makes a written request for a hearing within 30 days from the date of service or mailing of the notice; and
- (e) A statement that the record of the proceedings to date, including the agency file on the subject of the order automatically becomes part of the contested case record upon default, for the purpose of providing a prima facie case.

Statutory/Other Authority: ORS 526.016 & 526.041; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.662 & 527.674

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

DOF 3-1999, f. & cert. ef. 7-13-99

DOF 7-1998, f. 3-31-98, cert. ef. 5-1-98

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95, Renumbered from 629-055-0100

FB 2-1989, f. & cert. ef. 9-20-89

629-672-0200

Hearings for Operators, Landowners or Timber Owners

Note: This rule applies to all operations for which a notification is filed under ORS 527.670(6) on or after January 1, 2024 or a notification filed prior to January 1, 2024 if the operation is not completed on or before December 31, 2023. Rules that relate to fish streams apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

- (1) As provided in ORS 527.700(1), any operator, timber owner or landowner affected by a finding or order of the State Forester issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days of the issuance of the order. The request for a hearing shall be in writing and must include a specific statement as to the reasons for disputing the State Forester's order, including but not limited to disagreement with any findings leading to the order. In addition, the request for hearing shall state what relief from the order is sought.
- (2) Hearings under this rule shall be conducted as contested case proceedings under ORS 183.413 to 183.470.
- (3) The hearing shall be commenced within 14 days after receipt of the request for hearing and a final order shall be issued within 28 days of the request for hearing unless all parties agree to an extension of the time limits.
- (4) An administrative law judge from the Office of Administrative Hearings shall conduct hearings under ORS 527.700. The administrative law judge shall conduct the hearing and prepare the record for filing with the board within five working days of the close of the hearing. Except as provided in section (5) of this rule, no less than a majority of the board shall then review and consider the record, hold a meeting or telephone conference, and issue a final order.
- (5) If upon a determination by the chairperson of the Board of Forestry, the board cannot complete a final order in the matter within 28 days of the request for a hearing, the chairperson may delegate the authority to issue a final order to the administrative law judge as provided in ORS 527.700(2).
- (6) Failure of the person requesting the hearing to appear at the hearing shall be deemed a default and shall result in a final order being entered upon a prima facie case made on the record of the agency.

Statutory/Other Authority: ORS 527.710 & section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.700

History:

DOF X-XXXX, f. X-XX-XX, cert. ef. X-X-XX

DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06

DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06

FB 2-1995, f. 6-19-95, cert. ef. 7-1-95, Renumbered from 629-055-0110

FB 2-1989, f. & cert. ef. 9-20-89

Division 678
COMPLIANCE MONITORING

629-678-0000

Purpose and Goals

- (1) The purpose of the compliance monitoring program is to monitor forest practices rule implementation and analyze compliance rates.
- (2) The compliance monitoring program shall assess the Forest Practices Act and rule compliance and report findings to the Board of Forestry, legislature, and federal services under the terms of an approved habitat conservation plan.
- (3) The compliance monitoring program is intended to provide information that will allow for improvement in compliance of the forest practice rules through training, guidance, clarification, and targeted enforcement and to increase the public's trust in the implementation of the Forest Practice Act and Rules.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-678-0100

Administration

- (1) The Department of Forestry shall administer the compliance monitoring program.
- (2) Compliance monitoring may be conducted by the department, through department contractors, or both.
- (3) The department shall determine the status of the completion of forest activities that the State Forester received notification by the following measures:
 - (a) Landowners shall inform the State Forester of the completion of notified forest activities, as described in OAR 629-605-0150(10); and
 - (b) The State Forester is authorized under section 44, chapter 33, Oregon Laws 2022 to use the photogrammetric mapping for compliance monitoring.
- (4) The compliance monitoring program shall be supported by a stakeholder group consisting of representatives with expertise in the rules being monitored, including but not limited to the department, landowners, operators, tribes, and public representatives.
- (5) The board may direct the department to conduct compliance monitoring analysis for specific rules for multiple operations, multiple rules implemented at the operation unit level, or both, as appropriate to determine levels of compliance.
- (6) The department shall develop study designs, including sample selection and evaluation criteria to ensure a high level of confidence in the statistical modeling findings, by doing the following:
 - (a) Hire or consult an external, qualified statistician to aid in developing sample selection and evaluation criteria to ensure a high level of confidence in reported results;
 - (b) Be informed by past board and third-party compliance monitoring program assessments and by similar reviews of other compliance monitoring programs in nearby states;
 - (c) Explicitly define all sampling elements; and

- (d) Analyze rates of compliance at the appropriate temporal and spatial scale to reduce autocorrelation, variance, and statistical bias.
- (7) Forest landowners shall accommodate the State Forester by allowing access to the operation site, for activities that they have informed the State Forester of completion, as described in OAR 629-605-0150(10).
- (8) Notice shall be given to forest landowners before on-site compliance monitoring to provide the landowner an opportunity to be present with the State Forester.
- (9) The State Forester may petition the circuit court with jurisdiction over the forestland for a warrant authorizing the State Forester property access to conduct compliance monitoring.
- (10) When identified from the compliance monitoring, the department shall examine areas of noncompliance to determine the need for new training, guidance, rule clarification, or other action.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022; section 44, chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-678-0110

Rule Group Priorities for Compliance

- (1) The compliance monitoring program shall prioritize rules related to biological and aquatic resources, including the following:
 - (a) Division 625 Forest Road Construction and Maintenance rules.
 - (b) Division 630 Harvesting rules.
 - (c) Division 643 Water Protection Rules: Vegetation Along Streams rules.
- (2) The compliance monitoring program may monitor other rules as directed by the Board of Forestry.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

629-678-0200

Reports

The compliance monitoring program shall develop the following information and monitoring reports:

- (1) Information to support any required reporting to the federal services in support of a habitat conservation plan;
- (2) Information to support an annual report to the public on the overall habitat conservation plan performance;
- (3) A report to the Board of Forestry every two years that summarizes the results of completed compliance audits and provides a progress report of ongoing compliance monitoring efforts as described in OAR 629-678-0100(6)(a) through (d);

- (4) An aggregate cumulative report every eight years that includes compliance trends since the beginning of the compliance monitoring program; and
- (5) Other reports as directed by the board.

Statutory/Other Authority: ORS 527.710; section 2(1), chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715 & 527.765; section 2(2), chapter 33, Oregon Laws 2022

History:

DOF X-XXXX, f. XX-XX-XXXX, cert. ef. XX-XX-XXXX

Summary of modifications to proposed Forest Practices Act rule revisions

This document summarizes substantive changes to the proposed rules, organized by rule division. Staff reviewed public comment and the proposed rules to inform these changes.

All divisions	Summary of substantive modifications to proposed rules	Reason for changes
	Edited references to “State Forester” and “department” to be consistent throughout rule set	Clarified language for consistency
	Edited references to the “department’s reporting and notification system” to be consistent throughout rule set	Clarified language for consistency

Division 600. Definitions

Div. 600 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
(60)	Removed old technical guidance reference	Clarified language for consistency
(108)	Modified definition of research agenda to include all elements specified in OAR 629-603-0200(5)	Previous definition left out key elements in OAR 629-603-0200(5)
(149), (150), & (151)	Modified the definition of Type N, Type Np, & Type Ns to not be exclusive of any coincidental Type D classifications.	The changes to the definitions were needed to recognize the differences in stream classifications resulting that were exclusive of other beneficial use in the case of Type N streams. Type D streams may be coincidental with Type N, with the more protective measures taking precedent. A technical fix was needed to recognize Type N as either Np or Ns.

Division 603. Adaptive Management Program

Div. 603 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
0000(3), 0100(1)	Modified rule language to indicate that biological goals and objectives are static	Department staff learned that biological goals and objectives in habitat conservation plans are essentially static, and previous

		wording suggested these goals and objectives might easily change.
0000(6)	Added definitions to the purpose statement	Provides definitions within rule set
0160(3)	Specified which state agencies are not eligible for participation grants	For equity purposes, want to ensure that Legislative Commission for Indian Services is eligible for participation grants.
0200	Changed “servicers” to “contractor and other cooperators”	New wording is more accurate for what is needed.
0300(3) and (4)	Consolidated sections (3) and (4)	Section (4) mostly pertains to the federal services, and per statute they are not appointed by the board.
0300(5) (new section)	Added an option for interim members so an organization is represented continuously on the AMPC	During nomination of new members, the need for interim members became apparent. Note that the department decided this was not appropriate for the IRST because their role is likely too specialized to enable interim replacement, and their role is also less specific to a particular organization.
0600(1)	Updated wording to relate to biological goals and objectives.	Previous wording was for an incidental take permit, which won’t be issued for 4-5 years, and thus the need to use something applicable upon passage of the rules.

Division 605. Planning Forest Operations

Div. 605 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
0170(4)	Added effective date	Clarified conditional effective date
0170(10)(H)	Corrected rule reference and added effective date	Clarified rule reference and effective date

Division 607. Small Forestland Owner

Div. 607 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
0000(3)	Additional goal added and clarified language	Acknowledged that SFOs need support and resources from the SFO Office; adds specificity
0250(5)	Added “when filing a notification”	Clarified timing for the required submission of the road condition assessment

0300(2)(a)	Clarified language around addressing fish passage barriers	Added additional eligibility for program participation
0300(3)(b)	Clarified language on timing	Recognized the difference in time between application and award
0330(6)(a)	Clarified language around addressing fish passage barriers	Added additional eligibility for program participation
0400(4)	Removed “irrevocable” and text edits	Clarified the ability for deed restriction allowance
0450(1)	Added “tax” to title and second sentence	Clarified meaning of forest conservation credit

Division 610. Forest Practices Reforestation Rules

There are no substantive changes from the proposed rule.

Division 625. Forest Road Construction and Maintenance

Div. 625 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
Multiple	Changes to ODFW rule references to reflect ODFW rule number changes	Comment from ODFW
0300(g), (h) and (i)	Added references to technical guidance requirements	Identified ODF’s responsibility to provide technical guidance
0320(6)(e)(B)	Corrected text	Clarified text
0320(6)(i)	Corrected text	Clarified text
0320(6)(f)	Corrected text	Clarified text
0330(8)	Removed old technical guidance reference	Clarified terms for consistency
0650(5)(e)(B)	Corrected text	Clarified text
0700(4)	Removed old technical guidance reference	Clarified terms for consistency
0900(5)	Corrected text	Clarified text
0900: adds section 12	(12) For culverts meeting the definition of having imminent risk of failure, landowners shall repair or replace the culvert as soon as practicable but no later than two years after having been identified.	Detailed in the PFA report but not included in draft language.

Division 630. Harvesting

Div. 630 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
0900(1)	Corrected text	Clarified terms for consistency
0905	Title edit	Consistency with Div. 643 title format
0910	Title edit	Consistency with Div. 643 title format
0915	Title edit	Consistency with Div. 643 title format
0915	Added effective date	Clarified conditional effective date
0915 (3)	Corrected text	Clarified terms for consistency
0915(6)	Corrected text	Clarified terms for consistency
0920(9)	Corrected text	Clarified terms for consistency

Division 635. Water Protection Goals and Stream Classification

Div. 635 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
0200(11)(a) & (b)	Resolved delegation of authority regarding fish models	Removed reference to accord report and to connections to unpublished model regarding authorities of ODF and ODFW.
0200(11)(e)	Corrected the actor in rules to not reflect ODF authority.	Initial rule language directed outside agency to take action, which ODF has no authority.
0200(3),(4), (11),(14),(16) , (18)	Corrected text	Clarified terms for consistency

Division 643. Water Protection Rules: Vegetation Along Streams

Div. 643 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
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Tables throughout rule division	Updated table footnote	Clarified application of requirements in table
0000(2)	Added details to the date	Clarified date
0100	Added effective date	Clarified conditional effective date
0100	Title edit	Consistency with Div. 630 title format
0105	Title edit	Consistency with Div. 630 title format
0105(2), (4)(c), (5)(b)	Added rule reference	Clarified requirement
0120	Title edit	Consistency with Div. 630 title format
0120	Added effective date	Clarified conditional effective date
0120(4)	Added rule reference	Clarified requirement
0125	Title edit	Consistency with Div. 630 title format
0125(3)(d), 4(d), 5(c)	Added rule reference	Clarified requirement
0130(1)(c)	Corrected text	Clarified language
0135	Corrected table	Error in table
0140(2)	Corrected text and table	Clarified terms for consistency and error in table
0141	Title edit	Consistency with Div. 630 title format
0142	Title edit	Consistency with Div. 630 title format
0143	Title edit	Consistency with Div. 630 title format
0145	Title edit	Consistency with Div. 630 title format

Division 655. Water Protection Rules: Protection Measures for “Other Wetlands,” Seeps and Springs

There are no substantive changes from the proposed rule.

Division 670. Forest Practices Administration - Enforcement and Civil Penalties

Div. 670 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
All rules being	Added clarifying note about effective date at the top of each rule	Clarified effective date

amended or adopted		
0010(9)	Corrected text	Clarified terms for consistency
0214(6)(a)	Corrected text	Clarified terms for consistency on individuals
0214(6)(b)	Corrected text	Clarified terms for consistency on business
0225(3)	Corrected text	Clarified for consistency and reference. Did not need to reference statute and duplication of statute language
0228(2)	Corrected text	Included financial assurance
0228(3)	Added text for clarification	Clarified process to provide clear link for opportunity to challenge finding of State Forester
0228(4)	Corrected text to provide more defined process	Clarified terms and provided additional information on what can be considered for removal from the Repeat Violator list
0228(6)	Corrected text	Clarified terms and process for state forester to make claims from a bond or financial assurance

Division 672. Forest Practices Administration

Div. 672 rules affected	Summary of substantive modifications to proposed rules	Reason for changes
All rules being amended or adopted	Added clarifying note about effective date at the top of each rule	Clarified effective date
0100(f)	Corrected text	Clarified wording for consistency to match other section of 0100
0100(g)	Corrected text	Clarified wording for consistency to match other section of 0100

Division 678. Compliance Monitoring

There are no substantive changes from the proposed rules.

**Report to the Board of Forestry
On Rulemaking Hearings and Public Comments for Proposed Forest
Practices Act rule revisions directed by the enrollment of
Senate Bills 1501 and 1502**

Date: October 26, 2022

To: Chair Kelly, State Board of Forestry

From: Lisa Appel, Adaptive Management Program Coordinator,
Forest Resources Division – Hearings officer for Forest Practices Act proposed rule
revisions

Subject: Summary of written and oral comments received during the Comment Period on
Proposed Forest Practices Act rule revisions directed by the enrollment of
Senate Bills 1501 and 1502.

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A. Executive Summary

This hearings report contains summaries of agency outreach and both written and oral public comment, along with verbatim text of all unique public comments received. Written comments were accepted up until 11:55 p.m. on September 30, 2022.

On August 24, 2022, the Board of Forestry directed the department to open public comment for 30-days and hold public hearings for oral comment on the proposed Forest Practices Act rule revisions package. The [Notice of Proposed Rulemaking](#) was filed with the Secretary of State’s Office on August 29, 2022. The formal Notice was published in the [Oregon Bulletin](#) on September 1, 2022, announcing a public comment period that remained open until 11:55 p.m. on September 30, 2022.

The Department used the following outreach methods to notify the public to provide written comments and participate in hearings:

- Issued a news release,
- Promoted hearings through social media and a flyer,
- Posted the hearings schedule, Notice filed proposed rules, and rulemaking information in the Oregon Bulletin and posted the Notice of Proposed Rulemaking on ODF’s proposed laws & rules webpage,

- Posted the informational sessions, hearings schedule, and rulemaking information on ODF's Private Forest Accord webpage, and
- Used a shared e-mail address (sb1501.rulemaking@oregon.gov) to receive public comments.

The department specifically notified the following interested parties of the proposed rulemaking and opening of the public comment period through email:

- All Oregon legislators (Mandatory Notification to Legislators),
- Private Forest Accord gov delivery subscribers,
- Administrative rule notice gov delivery subscribers,
- All E-Notification subscribers (over 16,000 email addresses), and
- ODF committee and interagency members.

Note: The agency mailed a printed copy of the Notice statement to the ODF-maintained hard copy mailing list for administrative rule updates.

Public Hearings:

The purpose of the public hearings was to receive public comment on the proposed Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

The department scheduled three public hearings conducted through the Zoom webinar platform with phone call-in participation. The format of the public hearings was consistent with the Attorney General's Model Rules of Procedure under the Administrative Procedures Act. Those who wished to testify were asked to submit their name and location through the online platform, and those calling in on the phone were solicited directly to make comment. Participants were told the hearing was being recorded. Before receiving comment, the hearing officer provided a brief overview of the rule changes.

Overall, the public hearings gathered 21 comments via oral testimony for the record. Table 1 outlines the dates, participation and the number of comments received at each of the hearings. Staff recorded the hearings and transcribed testimony for the permanent record, as enclosed further in this report.

Table 1. Forest Practices Act rule revisions public hearings

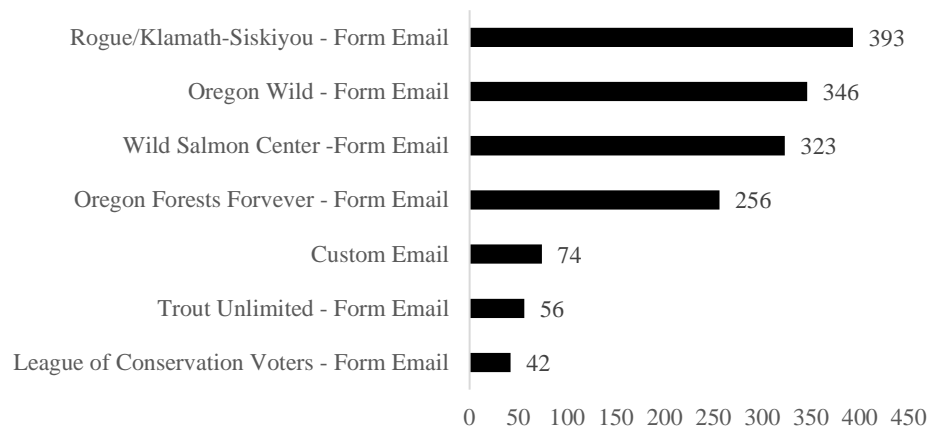
Date/Time	Comments	Registered
Sept. 26, 2022, 6 p.m.	8	40
Sept. 27, 2022, 10 a.m.	5	46
Sept. 28, 2022, 4 p.m.	8	34

Written Comments:

The agency accepted written comments until 11:55 p.m. on September 30, 2022, through the sb1501.rulemaking@oregon.gov email address. During the comment period, the department received about 1,490 email comments on the proposed rules and one duplicate mailed letter. Figure 1 provides an overview of the type of emails received. The report gives further detail and categories in later sections.

Figure 1: Overall Comments Received by Type

Private Forests Act Rule Revisions: Number of Comments Received Sept. 2022 by Type



General Observations:

- Interest from the conservation community, as signatories to the Private Forest Accord, has been supportive, citing the proposed rule changes as an important and needed update to the Forest Practices Act and administrative rules.
- Interest from the timber community, as signatories to the Private Forest Accord, has been supportive, citing regulatory certainty as a critical component to the proposed rule changes.
- Interest from the small forestland landowner owner community has been opposed: they feel they were left out of the process and monetary value is being taken unfairly out of their land.
- Interest from counties has been opposed, citing several concerns including they will not receive the benefits of the draft habitat conservation plan.
- Interest from trade organizations has been mixed both in support and in strong opposition, citing concerns about the process, economic impacts, and recommending specific changes to the proposed rules.
- The Committee for Family Forestlands appeared to be in general support of the proposed rules but had several recommendations on aiding landowners, outreach needs, disproportionate impacts, management, and enforcement.
- Several agencies provided suggestions for rule refinement and asked for clarification on multiple issues, as well as a suggestion to increase the scope of the adaptive management program.
- Supporters of environmental organizations appear unanimously in favor of the proposed rule changes.

B. Outreach

To help explain the proposed rule revisions and encourage public comment, the department conducted public outreach through three in-person events and one virtual informational session to give the public an opportunity to ask questions and learn more, see Table 2 for an overview of participation. ODF's Public Affairs and the Forest Resources Division collaborated to conduct the outreach. The outreach sessions all took place from approximately 5 to 7 PM and offered a 30-minute introductory presentation, followed by a Q&A open house format hosted by ODF staff. Staff made a guidance document available: *"Quick guide for making effective public comments to Oregon"*

Department of Forestry and other government organizations” to encourage participants to comment on the proposed rules. At each location, ODF district office staff and stewardship foresters also participated.

Table 2. Overview of Informational Sessions Outreach

Date	Location	Attendance
9/15/2022	Roseburg	15
9/20/2022	Pendleton	11
9/21/2022	Forest Grove	21
9/22/2022	Virtual	54

Common questions from session participants included:

1. How many new people are going to be hired for this new SFO program?
2. Are there going to be new Stewardship Foresters that we will be able to talk to about these new rules and regulations?
3. Is the tax incentive nonrefundable?
4. Can we apply the tax credit retroactively if we amend our tax returns?
5. Are the tax incentives only for small forestland owners with streams on their property?
6. Are there tax incentives for small forestland owners without streams on their property?
7. How can I comment on the draft rules when I don’t know the economic impact because the slopes model won’t be completed until next year?
8. What rules apply July 1, 2023?
9. Do small Type N streams have RMAs?
10. Do lateral small Type N streams have a protection requirement in Western Oregon?
11. When is the stream map going to be available to view?
12. How will you determine if a stream is perennial, seasonal, or if it is even a stream?
13. How does ODF apply protections in areas that have mixed land use such as agricultural and forestry?
14. How will the notification system work with the changes?

To further support the outreach, the department updated the Private Forest Accord webpage with new information, including one-page summaries on proposed changes:

- [Adaptive Management \(Division 603\)](#)
- [Notification of Completion and Compliance Monitoring Program \(Division 605\)](#)
- [Small Forestland Owner \(Division 607\)](#)
- [Road Construction and Inventory \(Division 625\)](#)
- [Harvesting on Steep Slopes \(Division 630\)](#)
- [Stream Classification and Vegetation Retention \(Division 635 and 643\)](#)
- [Enforcement and Civil Penalties \(Division 670 and 672\)](#)
- [Habitat Conservation Plan](#)

C. Public Hearings – Oral Comments

The department held three virtual public hearings. Table 3 outlines the participation at the hearings.

Table 3. Forest Practices Act rule revisions public hearings

Date/Time	Comments	Registered
Sept. 26, 2022, 6 p.m.	8	40
Sept. 27, 2022, 10 a.m.	5	46
Sept. 28, 2022, 4 p.m.	8	34

Table 4 provides a summary of testimony received at the public hearings. A description of the hearing and transcribed testimony follows. The summarized testimony below is grouped by interest.

Legend:	
	Small Forest Landowner Interest
	Environmental Interest
	Timber Interest

Table 4. Summary of Testimony at Public Hearings

Name/Organization	Date	Position	Summary of testimony
Russ Glascock, Small Forest Landowner	9/26/2022	Oppose	New rules are taking up 25 of my 100 acres out of rotation. We were promised we could make income on this for retirement. We have been paying property taxes for decades. Exempt SFO from these rules to allow thinning inside the riparian buffer. We provide habitat as the current rules are.
Scott Hayes, Small Forestland Owner	9/26/2022	Oppose	Please review my written comments regarding suggestions to SFO rules. Many people aren't aware of the rule changes coming. OSWA represents about 2,000 of 70,000 small forest landowners. The Department needs an outreach plan.
Derrold Burnett	9/26/2022	Oppose	Is there a plan to reach out to 70,000 landowners so they know what is happening and what the changes mean to them?
Russ Glascock, Small Forest Landowner	9/27/2022	Oppose	25% of my property is being taken away from me being able to thin. Will there be a refund of property taxes on the devalued part of my land? Will property taxes be reduced in the future? Will there be an exemption for personal use for fences, for example?
Brent Hennings, Small Forestland Owner	9/28/2022	Oppose	Small forest landowners did not have proper representation in the formulation of this legislation. It constitutes a taking that you can't harvest timber on land you have been

			paying taxes on it. There are other options to achieve the same result.
Sean Stevens, Oregon Wild	9/26/2022	Support	Signatory to the PFA; supports rule changes. Rules are major advancement to protect aquatic species and habitats. Represent hard work and compromise and they provide regulatory certainty. Adaptive management program will guide the evolution of rules over time.
Bob Van Dyk, Wild Salmon Center	9/26/2022	Support	Signatory to the PFA; supports rule changes. Noted improvements of stream and road rules for the health of salmon, and importance of SFO office and adaptive management process.
Joseph Vaile, Klamath-Siskiyou Wildlands Center	9/27/2022	Support	Signatory to the PFA; supports rule changes. Noted importance of road rules, better monitoring and adaptive mgmt. Work needed to support SFO and agency cooperation. Rules don't address all needs for drinking water protections.
Stacey Detwiler, Wild Salmon Center	9/27/2022	Support	Signatory to the PFA; supports rule changes. The Accord is a result of hard work and compromise. Noted importance of streamside protections, road standards and stream crossing rules, and planned yearly investments of \$15 million. More protections are needed through the adaptive management program.
Bob Rees, Northwest Guides and Anglers Association	9/27/2022	Support	Signatory to the PFA; supports rule changes, noted importance of adaptive management program, riparian buffers, road standards rules. Noted clean water assurances are needed in future.
Emily Bowes, Rogue Riverkeeper	9/27/2022	Support	Signatory to the PFA; supports rule changes, noted importance of road and stream crossing rules. Stated further protections for aquatic species will be needed in future.
James Fraser, Trout Unlimited	9/28/2022	Support	Signatory to the PFA; supports all rules noted importance of buffers, improved road rules and adaptive management program
Grace Brahler, Cascadia Wildlands	9/28/2022	Support	Signatory to the PFA; supports rules, noted importance of buffer rules and streamside slope protection.
Stacey Detwiler, Wild Salmon Center	9/28/2022	Support	Signatory to the PFA, noted importance of buffers, improved road standards, adaptive management and resources for SFO; stricter standards for drinking water are needed for the future.

Bob Sallinger, Portland Audubon Society	9/28/2022	Support	Signatory to the PFA; supports rules; more research on the needs of amphibians is needed for adequate protection. Additional species may need protection.
Kevin Tuers, Sierra Pacific Industries	9/26/2022	Support	Signatory to the PFA; supports rule changes. Adopt rules as drafted. New rules came from hard work and compromise and provide regulatory certainty; represent thousands of hours of work by PFA authors.
Megan Tuttle, Weyerhaeuser Company	9/26/2022	Support	Signatory to the PFA; supports rule changes. Adopt rules as drafted. Hard work to draft complex rules in short timeframe. Project management needed for smooth rule implementation, including revised technical guidance and new training.
Adrian Miller, Rayonier	9/26/2022	Support	Signatory to the PFA; supports rule changes. Noted importance of adaptive management program to put a stable, transparent regulatory process in place. Rule changes provide conservation uplift, while providing regulatory certainty.
Joe Newton, Lone Rock Resources	9/28/2022	Support	Signatory to the PFA; pass rules as written; consider and plan for challenges in implementation of the new rules.
Paul Betts, Miami Alternatives, LLC	9/28/2022	Support	Signatory to the PFA; supports rules but questions about whether rule changes do indeed provide regulatory certainty with ever-increasing regulations being pushed for? Will the compromise be worth it?
Seth Barnes, Oregon Forest Industries Council	9/28/2022	Support	Signatory to the PFA; supports rules as they represent compromise; attention is needed for project management and smooth implementation at the Department level to support steep learning curve of new obligations.

1. September 26, 2022, Hosted Virtually

Hearing Officer: Lisa Appel, Adaptive Management Program Coordinator,
Forest Resources Division, ODF

At 6:00 p.m. the hearing officer initiated the hearing process on proposed Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

There were 40 participants in the hearing, eight of them provided comment. Their testimony is below in the order in which it was received.

Russ Glascock, Landowner in Lincoln County, OR

"Hello, my name is Ross Glascock. Thank you for taking my phone call. I've been a landowner in Lincoln County for many decades. In 1977 I moved out here on my grandparent's place and after paying \$450,000 inheritance tax, it took 55% of the value of our place. We planted 10 acres along the Yaquina River. We were told, back in the seventies and eighties by the State, they were emphasizing of small landowners to plant trees, and we could retire on the money after planting the trees and harvesting later. And I've have thinned the 10 acres a couple times, and now in the current Forest Practices Act 100 feet along the river, I can continue to thin as the trees get bigger. Now, 110 acres - no thinning provides me no opportunity to make any money on those acres. I also planted in 2000, 90-acres up to the first bench on both sides of the Yaquina River, and multiple species and brush species to enhance wildlife. I anticipated thinning those acres along the Yaquina River to provide income and make the trees grow faster to help shade the river and enhance wildlife. And, Obviously, this new Forest Accord is going to take out those acres along the Yaquina River for me to be able to stand and make income for my retirement. I am 67 years old. I need to retire on this income. I planted 100 acres along the Yaquina River in anticipation of being able to thin it to make income for my retirement... You guys are taken up 25 of my 100 acres out of the rotation. I cannot thin inside of it starting next year. I think that is wrong. We were a promised that we can make retirement income off this property. We've been paying property taxes for decades and decades and decades. I think the committee should consider exempting small landowners from this harvest, that this riparian buffer allows thinning inside 100 acres as the existing rules are. We provide wildlife habitat as the current rules are. We are shading the river as the current rules are, and we are trying to do the right thing. But we also want to make retirement income. Thank you for your time."

Kevin Tuers, Sierra Pacific Industries, Eugene Oregon

"For the record. My name is Kevin Tuers. I am the Sierra Pacific Industry's Oregon Forest District Manager, in Eugene, Oregon. Chair, Kelly, and members of the Board. Thank you for the opportunity to testify today and support the Private Forest Accord draft rules. Sierra Pacific Industries is a third-generation family-owned forest products company. We are a leader in manufacturing and forestry, with over 2.4 million acres of sustainably managed forest land on the West Coast. 177,000 acres are located here in Oregon. In my role as the District Forestry Manager, I work closely with our crews of foresters, botanists, silviculturists, engineers, and manufacturing experts, and I want to express our support and appreciation for the thoughtful dialogue, evaluation, and compromise made by all involved with the Private Forest Accord working group. It is with thanks to this process, that decades of fighting between groups has ended, and we are now looking ahead to this place of certainty around the management of our private forest lands in Oregon. With the thousands of hours invested by many people in drafting the proposed rules, they now accurately reflect the intent of the PFA as it was written in the spirit of compromise and joint work by all sides involved. The rules provide land stewards like us, the certainty to continue our operations sustainably in communities across Oregon. But they may be costly, we understand the value of the long-term benefits, and we caution against the instinct to wordsmith, or modify, based on political or emotional pressures instead of science and data. We ask the

Board to support the draft rules as written, respecting the lengthy and thoughtful process navigated by technical experts to bring the rules to this point. Thank you for your thoughtful consideration.”

Sean Stevens, Oregon Wild

“My name is Sean Stevens and I am the Executive Director of Oregon Wild, a statewide organization dedicated to protecting and restoring Oregon’s wildlands, wildlife, and waters, as an enduring legacy for future generations, and I reside in Portland, Oregon. I’ve now worked for well over two and a half years with my conservation colleagues and our partners in the timber industry and small forest land owning communities on the Private Forest Accord. Both as an original signatory to the MOU in 2020 that led to the serious negotiations over Oregon’s forest practices and as a principal negotiator of the Accord itself. Oregon Wild strongly supports the rules being considered with some minor modifications, that we will submit in writing to the Department for consideration. These compromise PFA rules represent a major advancement in protecting aquatic habitats and species on private forest lands in Oregon. They are the product of well-intentioned people, crafting complex solutions to complex problems, attempting to do the most good possible for all who care about Oregon’s forests. These rules are meant to provide some significant level of regulatory certainty for those who seek to log their forests, while providing some significant level of habitat certainty for threatened and endangered species. But they’re not meant to be set in stone in perpetuity, and they are not perfect. Fortunately, there is a built-in adaptive management process to guide the evolution of these rules over time. And I think if there are aspects of these rules that the public thinks need changing, I urge everyone to engage in the upcoming adaptive management process that will be led by a diverse stakeholder group. Again, Oregon Wild supports these rules and supports the process that led to them, and I thank you for the opportunity to comment.”

Meghan Tuttle, Salem, OR Weyerhaeuser Company

“My name is Megan Tuttle. I am in Salem, Oregon, and I am the Environmental Affairs Manager for Weyerhaeuser Company. Weyerhaeuser is a signatory of the Private Forest Accord, was engaged in authoring the private forest accord report and participated in drafting the Forest Practice rules. I have two things I want to share today regarding revisions of the Forest Practices Act and Weyerhaeuser supports the comments of OFIC and industry Private Forest Accord co-authors during this public meeting process. Number one, we recommend the Board of Forestry adopt the Forest Practice rules as drafted. As discussed at prior board meetings, ODF staff, authors and others have collaborated to develop rule language that matched the historic agreement outlined in the Private Forest Accord and associated legislation. We would like to acknowledge the hard work of the ODF staff on driving this rule package under tight deadlines, and recognize that with 144 pages of updated regulations, including 110 administrative rule modifications, these rules changes are complex and detailed. Given the scope and breadth of the regulatory changes, we urge ODF Staff and the Board of Forestry to adopt the rules as drafted, and in particular, recommend the Board of Forestry avoid making substantive changes during the public comment process. Number 2: While the Forest Practices Administrative rule approval is a significant Private Forest Accord milestone, a lot of work remains after rule adoption in November. Senate Bill 1501 dictated a very aggressive timeline for this rulemaking effort, and the Board and staff should be commended for meeting the rulemaking timeline while engaging with PFA authors, state agencies like ODFW and other impacted stakeholders. However, many elements of Senate Bill 1501 and actions for successful rule implementation remain outstanding. These include upgrading the forest activity electronic reporting and notification system, otherwise known as FERNS, developing technical guidance,

creating training for steep slope certification and forming the Adaptive Management and Independent Research and Science teams. While long, this list is not exhaustive of all of the work in front of ODF, and does not even include longer term PFA commitments like rulemaking for tethered logging and post-disturbance harvesting. ODF leadership and the Board need to develop metrics, realistic timelines, and collaborative processes to ensure operational regulatory needs are completed well ahead of the January, 1 2024 rule implementation. Landowners, in particular, and regional Forest Practice Committees have a vested interest in a smooth FERNS update, clear technical guidance and development of appropriate and timely field training. In closing, we appreciate the efforts of ODF leadership, staff and the Board of Forestry in developing the draft Forest Practice regulations and strongly encourage the Board of Forestry to approve the collaborative rule drafts as presented. Furthermore, we look forward to ODF communicating and continuing to collaborate with stakeholders, as we transition from crafting rulemaking language to rulemaking implementation.”

Adrian Miller, Rayonier, Poulsbo, WA

“ My name is Adrian Miller. I reside in Poulsbo, Washington, and I represent Rayonier an Oregon forest landowner. We own and manage about 60,000 acres on the South Oregon coast. We are testifying today in support of this rule package, and I guess the tenor of my comment - I really want to focus around, what makes Oregon a successful place to own and manage timber. We've got some of the best soils and climate in the country for growing trees. We've got access to robust markets. We have access to a skilled labor force. But one of the things that we seem to miss in this equation is the ability to count on a stable regulatory process. The Private Forest Accord sets up a set of changes to how rules are changed. My friend and colleague, Sean Stevens, earlier alluded to this in the adaptive management program, and I agree with him for those who are interested in seeing changes in the future to understand and participate in this program. It attempts to take some of the conflict out of scientific debate and create a more transparent process for evaluating rule changes. So, this rule package creates a significant conservation uplift, and we hope it also provides additional regulatory certainty. This rule package does cost landowners and the state of Oregon, and we hope that the Board of Forestry continues to help implement these rules so that we can see the benefits of these rule changes, and that's all I've got, thank you very much.”

Bob Van Dyk, Wild Salmon Center, Forest Grove, Oregon

“Thank you for the record, Bob Van dyke I live in Forest Grove, Oregon, and I work for Wild Salmon Center. We're a conservation organization strongly committed to dedicated to abundant wild salmon runs. We strongly support the rule package before you today. The rule package contains a great many helpful improvements for our salmon runs. The larger stream buffers will help keep temperatures cool and regulate stream temperature, and also contribute significantly more large wood. The steep slope regulations will help regulate sediment as well as contributing more large wood. The road roles will also help reduce sediment from hydrologically-connected streams, and will dramatically increase fish passage. The new small forest landowner program includes a new office, tax credits and extensive outreach to this very important constituent for salmon habitat. And the new beaver rules and mitigation fund also promise significant improvements. We're also very pleased with the new adaptive management process, which helps give science and regulatory stability prominence. We encourage the Board to move to approve these rules, and to move with all deliberate speed toward the Habitat Conservation Plan. Thanks for the opportunity to testify tonight.”

Scott Hayes, Washington County, Oregon

"My name is Scott Hayes. I have a 40-acre tree farm. My wife and I have a home in Washington County. So, we are one of the SFO landowners, and I noted in the comments tonight there were a lot of folks that were supportive of this accord, and the rules, and I also agree. I did make some comments on September 10th I submitted the Board. I hope they review those. They really relate to the small SFO landowners, and I think it's important that maybe some of the issues be addressed that affect folks that have really small acreages, and they really don't know about these rules that are coming about. I do know some fellow tree farmers who are actually harvesting along riparian areas right now in anticipation of the new rules, which is a bad thing. We are not. But I hope that the Board would review my comments, and then also the comments of the gentleman that was the first on this evening who has a pretty significant financial impact. I do know that the Oregon Small Woodlands Association had great input into the process, and although they do represent about 2,000 of us tree farmers and small landowners in Oregon, there is 70 or 80,000 of them that really have no idea what is going on. So there needs to be a pretty significant outreach to those folks to what is happening on their streams and their stream riparian areas. So, thank you very much, and I will close now."

Derrold Burnett

"In regard to the comments made by Mr. Hayes. Is there a plan to reach out to those 70 to 80,000 other small forestland owners? So, they know what's happening, and what these changes mean to them? It's so important as the individual parcels may be small, but 70,000 of them represent a very large land mass. Thank you very much."

The Hearing was adjourned at approximately 6:40 PM after all the other participants were queried for interest in providing testimony.

2. September 27, 2022, Hosted Virtually

Hearing Officer: Lisa Appel, Adaptive Management Program Coordinator,
Forest Resources Division, ODF

At 10:00 a.m. the hearing officer initiated the hearing process on proposed Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

There were 46 participants in the hearing, five of them provided comment. Their testimony is below in the order in which it was received.

Joseph Vaile, Klamath-Siskiyou Wildlands Center, Ashland, OR

"My name is Joseph Vaile, and I'm with the group Klamath-Siskiyou Wildland Center. We're based in southern Oregon and I was a part of the signatory group and worked on the Private Forest Accord. Down here in southern Oregon I worked a lot on wildfire issues and fuel issues and forestry. We have a very important landscape down here in the Rogue Basin with a lot of private land intermixed with Federal land. So, it's really important how our watersheds are managed, and the Private Forest Accord is greatly important to us. I want

to express my strong support for the rule package and recommend that the Board adopt these rules. There are many important rule updates that would bring Oregon rules closer to what nearly every other Western State is doing in terms of forest practices. So, this is long overdue and I want to express my strong support for the rule package. I was able to work really closely on the roads division of the rules, and they are critical for ensuring that our streams and rivers have clean water for communities and for fish populations. Roads can bleed damaging sediment into streams. Also, these rules would help make sure that those roads are not in a place where they're blocking the migration of fish, which is what often happens in many of our roads. So, these rules are a huge step in the right direction. There's so much more in the rule package as you described that would benefit Oregonians, including better monitoring, adaptive management, and protections that would benefit other species of wildlife such as the beaver and amphibians. That said there's still plenty of work ahead including the need to make sure that small forest landowners get the support that they deserve. Also, ODF and ODFW must do a much better job, moving forward, of cooperating as a result of these rules. That will mean a better, closer working relationship is needed there. We also need develop a lot more rules to protect our streams after fire and disturbance, something that the Private Forest Accord did not address but instead set up a process to address in the coming months ahead. So that's really important not to forget. Lastly, I would just say, these rules are really designed around protecting endangered species, and that's the focus of them. They don't address all the other needs that we have in our communities drinking water and other protections that are needed in terms of how climate change is affecting our forests. So there's a lot more work ahead, but as far as these rules and aquatic resources. I just want to say my strong support for them and I hope they're adopted. I appreciate the opportunity to give this testimony."

Stacey Detwiler, Wild Salmon Center, Springfield, OR

"My name is Stacey Detwiler and I'm the Oregon Policy Manager at the Wild Salmon Center, which is a nonprofit organization dedicated to conserving wild salmon, steelhead, rivers and ecosystems here in Oregon and across the Pacific rim. Thank you for the opportunity to provide public comment today in support of the proposed administrative rule changes to the Oregon Forest Practices Act, and we also recommend that the Board adopts these rules. Together with 12 other conservation and fishing organizations and 13 timber companies, Wild Salmon Center worked to negotiate the Private Forest Accord, which is really only possible through decades of hard work by community members, organizers, and scientists who are advocating for needed changes on how our private forest lands are managed here in Oregon. Private Forest Accord was the true compromise, and there were many hard decisions. But despite these challenges, it's also the first major update to Oregon's logging rules on private forest lands in decades, expanding stream side protections for harvesting trees near streams, overhauling forest road standards and requiring a comprehensive inventory process, holding road stream crossings to new standards for flow and fish passage that reflect a changing climate and establishing a 50 year fund with investments of 15 million a year, from the state and industry for projects that increase wildfire resiliency, support beaver conservation, establish conservation easements, and many more. Today, we ask the department and the Board to finalize the proposed rules and build on the success of the Private Forest Accord by continuing to update protections for forested watersheds as part of the adaptive management program, particularly as we learn more about the practices and management strategies that are needed to protect cold, clean water for fish and people under a changing climate. More protections are still needed to ensure clean drinking water is protected for all Oregonians, especially on steep and unstable slopes, or where pesticide use and loss of shade that keep streams cool threaten drinking water supplies. But despite these difficult tradeoffs, the Private Forest Accord is a critical step to better protect clean

cold water for all Oregonians. Thank you for the opportunity to provide public comment today in support the Private Forest Accord and the proposed administrative role changes."

Bob Rees, Northwest Guides and Anglers Association

"My name is Bob Rees. I am Executive Director for the Northwest Guides and Anglers Association, and a professional fishing guide of 26 years in Oregon. Thank you for the opportunity to provide these comments today. This hearing and process represent the culmination of decades of hard work by the conservation community and private forest landowners. It's a long overdue improvement meant to improve the water quality and to prevent wild salmon from going extinct. Currently Oregon's wild salmon are at 3% of their historical abundance. We urge the department to build on the success of the Private Forest Accord as part of the adaptive management program as the needs of our fish and wildlife change along with our dynamic climate. In particular, we want to highlight the improvements of increased riparian buffers, improving forest road standards, and prohibiting commercial beaver trapping on private forest lands. The accord, however, did fall short of providing clean water assurances, and we hope that we could continue to work the department to improve those components of regulation in the future. Thank you. That concludes my comments."

Emily Bowes, Rogue Riverkeeper, Ashland, OR

"Hello! My name is Emily Bowes of Southwestern Oregon. I am the Conservation Director of Rogue Riverkeeper. Rogue Riverkeeper has been involved in PFA since its inception and as a PFA author. Rogue Riverkeeper is a nonprofit organization that advocates for water quality and water quantity in support of clean drinking water, native fish, and healthy communities in the Rogue River watershed. I'm providing comment today in support of the proposed administrative rule changes, and that the Board adopt these rules. The PFA is making huge steps forward on an update of Oregon's logging rules and practices on private forest lands. But I ask these updates continue further to increase protections for aquatic species, and the health of the surrounding communities. Rogue Riverkeeper supports the changes negotiated under Private Forest Accord in particular including new requirements to upgrade roads to provide fish passage, and construct road stream crossings to new standards, with flow and fish passage that reflect a changing climate, expanding streamside protections for harvesting trees near streams, and improving forest road standards and establish a road inventory. However, there is still more to advocate for to ensure full water protections within our private forested watersheds, such as increase protections to ensure sources of clean drinking water, providing Clean Water Act assurances and additional updates to Forest Practices that will be required to comply with the Clean Water Act and comprehensive policies to fully address global climate change, and how forest can help communities mitigate and adapt these impacts. Private Forest Accord is a critical step to better protect clean, cold water for our communities and aquatic wildlife. So, I thank you for the opportunity today to provide public comment in support of the Private Forest Accord and the administrative rule changes."

Russ Glascock, Landowner in Lincoln County, OR

"My name is Russ Glascock. I called yesterday and gave testimony. I think I want to expand a little bit today. 25% of my property along the river is being taken away for being able to thin, as in the current Forest Practice Act allows - a fish stream is a 100 foot buffer and you are allowed to thin inside of it. You were that the Forest

Accord does not allow anything inside there. I have a question if Lincoln County is going to refund my property taxes that I've been paying for decades and decades and decades on that land, for the devalued part of my land. In the future, are they going to reduce my property taxes and for everybody else in Lincoln County that's affected similarly? I appreciate the offer to talk to you. And I also want to know is there going to be any exemption for personal use along the river to take trees for building fences and barns and things like that. Have a nice day."

The Hearing was adjourned at approximately 10:30 AM after all the other participants were queried for interest in providing testimony.

3. September 28, 2022, Hosted Virtually

Hearing Officer: Lisa Appel, Adaptive Management Program Coordinator,
Forest Resources Division, ODF

At 4:00 p.m. the hearing officer initiated the hearing process on proposed Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

There were 34 participants in the hearing, eight of them provided comment. Their testimony is below in the order in which it was received.

Joe Newton, Lone Rock Resources, Roseburg, Oregon

"My name is Joe Newton, and I am a Forester for the Lone Rock Resources based in Roseburg, Oregon. Lone Rock is a signatory in the Private Forest Accord was involved in the negotiation that led to establishing the agreement and passing drinking water protection legislation as part of that agreement in 2020, as well as the negotiation that led to the final agreement announced last October. We also participated in the review and feedback of the draft rule changes and feel satisfied that these rules accurately reflect the changes outlined in the agreement. We encourage the Board to pass these rules as written. Several of our environmental partners have made comments about what they feel are unresolved issues that they would like to see the board address; namely, drinking water protections and herbicide application. I'd like to state for the record that drinking water protections were, in fact, part of these negotiations. They were the very first issue the signatories addressed via legislation passed with nearly unanimous bipartisan support that was signed into law by Governor Kate Brown in July of 2020. That legislation created buffers around homes, schools, and water intakes for helicopter application of herbicides on forestland. That are, to my knowledge, larger buffers than any other Western state. Those new buffers went to effect last year. It also created the first-ever electronic notification system to communicate neighbors in real time when forest landowners plan to use helicopters to do aerial applications. Again, no other State in the nation has a notification system like this, and because of that, ODF had to create this complicated notification system from scratch. Because of that, it only just rolled out last winter and has been in use for less than a year. As one might expect with the brand-new IT program, it hasn't been without hiccups. For example, some foresters have reported issues with the new system getting stuck with a little spinning computer screen circle of doom and not processing a pending notice properly. Clearly, it's going to take some time to provide feedback and get all the kinks worked out. I strongly encourage the department and Board to remain focused on accomplishing what has been started and resist calls to keep piling on new regulations before we even have time to fully implement the massive changes we've already put in motion. And that includes implementing the new adaptive management program so baseline monitoring can be established to inform for future policy discussion. That is a proper

path for those scientific questions, and we encourage the Board to use it to its full potential. Thank you very much for the opportunity to comment.”

James Fraser, Trout Unlimited, Portland, OR

“Hello, my name is James Fraser and I'm the Oregon Policy Advisor at Trout Unlimited. I live in Portland. Trout Unlimited is a non-profit organization dedicated to the conservation of cold-water fish, such as trout, salmon, and steelhead and their habitats. Our organization has more than 350,000 members and supporters nationwide, including over 3,500 members in Oregon. TU is one of the conservation coalition authors of the PFA report, and we supported related legislation during the 2022 session. We've also been involved in many of the conversations between industry representatives and the Department of Forestry regarding these rules. TU supports the draft PFA rules and the protections those will provide to native salmon, steelhead, and trout, as well as the other covered fish and amphibian species described in the PFA. The PFA in these draft rules will significantly change the regulatory framework for timber activities on private lands, and I will not try to summarize those changes here. Rather I'll just say that TU greatly appreciates and supports the rules, because they'll meaningfully expand riparian buffers in Oregon streams, improve road and stream-crossing standards, remediate abandoned and legacy forest roads, provide new protections for streams from runoff, and commit substantial new funding for habitat and water quality restoration work. It's certainly a lot to review but many changes in Oregon's administrative rules; however, this new approach is necessary. TU expects the new framework to provide benefits to Oregon's aquatic resources, while also providing regulatory certainty to Oregon's timber industry. The new adaptive management program is a highly important component of this new framework, and I want to emphasize to you support for it. That program will provide science-based recommendations and technical information to the Board that allows the State to incorporate best available science and forest management on an ongoing basis. The result should be continued incidental take permit coverage that's based on effective administrative rules. To be clear, these draft rules do not fully implement all of the regulatory changes that are necessary under the PFA and related legislation. For example, the post-disturbance logging rules are still to come, but these draft rules will achieve a lot and are a necessary step to providing regulatory certainty for the State, while also protecting the interests of valuable fish and wildlife. Thank you for this opportunity to provide comments on the draft rules.”

Grace Brahler, Cascadia Wildlands, Eugene, OR

“Hi there, for the record, my name is Grace Brahler, I'm from Eugene Oregon, and I am the Wildlands Director for Cascadia Wildlands. Cascadia Wildlands is a nonprofit conservation organization with a mission to defend and restore Cascadia's wild ecosystems in the forests, in the courts, and in the streets. We represent approximately 12,000 members and supporters in Oregon and throughout the United States, who envision vast old growth forest; clean, cold rivers full of salmon; wolves, howling in the back country; and vibrant communities sustained by the unique landscapes of the Cascadia Bioregion. Thank you for this opportunity to provide public comment today in support of proposed administrative rule changes to the Oregon Forest Practices Act as directed by Senate Bills 1501 and 1502 as part of the Private Forest Accord for which Cascadia Wildlands is a signatory. We want to keep it short and sweet, and express our strong support for these changes negotiated under the PFA, including increased streamside buffers to protect water quality and salmon and stronger protections for steep landslide prone slopes. While there is certainly still more to be

done, the PFA and the proposed administrative rule changes represent significant progress in Oregon's forest regulatory landscape. Thank you again for the opportunity to comment."

Stacey Detwiler, Wild Salmon Center

"Thank you, for the record, my name is Stacey Detwiler, and I'm the Oregon Policy Manager at the Wild Salmon Center, a nonprofit organization dedicated to conserving wild salmon and steelhead rivers and ecosystems here in Oregon and across the Pacific rim. Thank you for the opportunity to provide public comment today in support of the proposed and administrative rule changes to the Organ Forest Practices Act, and we recommend that the Board adopts these rules. Wild Salmon Center was one of the original signers of the MOU and one of the authors of the Private Forest Accord, along with 12 other conservation and fishing organizations and 13 timber representatives, including small forest landowners. The final Private Forest Accord is the result of many months of negotiations and tough decisions all made possible through the hard work of community leaders, scientists and organizers advocating for changes to how private forest lands are managed here in Oregon. Despite these challenges, it's really the first comprehensive overhaul of Oregon's rules on private forest lands in decades. It improves forest road standards and establishes the forest road inventory, requiring all large landowners to inventory their roads over 20 years, and ensure that those roads meet the new standards. It establishes new programs and resources for small forest landowners, including the new SFISH program which provides dedicated funding to replace and upgrade failing culverts at road-stream crossings. It establishes an independent science team that will conduct studies and report them to the Board of Forestry, and under the adaptive management process it prioritizes research into impacts on stream-dwelling amphibians to fill data gaps and ensure that those protections are adequate to sustain and recover imperiled amphibian species. Today, we ask that the Department and the Board finalize the proposed rules and build on the success of the PFA by continuing to update protections for forested watersheds as part of the adaptive management program; this process will inform how the new rules are working and any changes that are needed moving forward. This is increasingly important as we continue to learn more about the practices and management strategies that are needed to protect cold, clean water for fish and people under a changing climate. There's still a long road ahead for forest management practices that fully protect clean water for people and fish. Without a federally-approved habitat conservation plan by 2027, these rules will roll back and stricter standards after wildfires and in forests that provide drinking water supplies to Oregonians are still needed. Despite these difficult tradeoffs, the Private Forest Accord is a critical step to better protect clean, cold water for all Oregonians. Thank you for the opportunity to provide public comment today in support of the Private Forest Accord and the proposed administrative rule changes."

Paul Betts, Miami Alternatives, LLC, McMinnville, OR

"My name is Paul Betts, I'm the manager for Miami Alternatives LLC's lands in Grand Ronde, Oregon, a family timberland owner that has managed the property since 1910. Miami is not a signatory to the PFA. That being said, as Chair of OFIC Forest Management Policy Committee, I've likely invested as much, if not more time, in the rule Development work than anyone else, and was grateful that the process allowed for broader participation after the passage of Senate Bill 1501; however, please don't mistake this commitment as an enthusiastic endorsement of the PFA. Rather it was a pragmatic choice to help faithfully capture the agreement and the best rules possible, and I can say that I believe this has been done. Yet, I am frustrated by

how this agreement was forged, it's content, and it's cost. I represent a class of landowners that has a strong legacy of sustainable land management in Oregon. Miami has owned timberland in Oregon for over 100 years, and we are accustomed to regularly going above and beyond the rules in caring for our land. However, I found no recognition nor credit for doing so in the PFA, nor do I see the incentives for this style of management going forward. I'm told that what we purchased with our heavy sacrifice is regulatory certainty. Peace in our day. I find this highly dubious, especially since environmental signatories to the PFA have recently testified before this Board about the rulemaking, using a portion of their time to enumerate how this is just a starting point, and give their future wish list of yet more adventures in increasing regulations, all before the PFA rules have even been approved and adopted by this Board, let alone implemented monitored, or evaluated for effectiveness. Forest landowners have paid a steep price, and one that honestly threatens the continued existence of the class of family forest landowners that I represent. A decade from now, forest landowners will either feel that they secured a costly but strong and enduring compromise, or they will feel that they were suckered into a bad deal. It will be up to you, distinguished members of the Oregon Board of Forestry, to give either the truth or the lie to the promise of regulatory certainty through your work in the coming decade. I hope that you choose to honor the timber industry sacrifices, generate the promised regulatory certainty, and help cement the fragile and nascent cooperative relationships that developed these rules and that will be necessary for the PFA to be successful going forward. Thank you for your time."

Bob Sallinger, Portland Audubon Society

"Good afternoon, my name is Bob Sallinger and for the record I'm the Conservation Director for the Audubon Society of Portland. We were one of the signatories to the Private Forest Accord. We're also one of the six negotiating parties for the Forest Accord on the environmental side. We appreciate the hard work that our colleagues on the environmental side and the timber side put into forging this agreement, and we're here today to strongly support moving it forward. We think this does represent significant advancement for protection of aquatic species. And it has been a long, long time coming. We also want to recognize today that there are other elements of this plan that need to move forward, separate from this. And I think specifically of the work around beavers that is being done at ODFW. There is much work ahead, both in implementing the work under the Department of Forestry and also at other agencies as well. And it's important that the plan move forward holistically. I also want to recognize that there's uncertainty in this plan. We focused at Audubon specifically on amphibians. There is significantly less research about amphibians than there are about the fish that were covered into this plan. As a result of that, the protections are less certain. And the period for the habitat conservation plan is half of what it will be for the fish species that are covered. That's a reflection of the fact that there is much work to do to really understand the needs of covered amphibians. And that we need to prioritize them in the adaptive management and research that goes forward to make sure that we are adequately protecting them, and that changes won't be needed in the future. So, I want to highlight that as a top priority going forward. I also want to recognize that there are imperial aquatic species that we did not get to in this plan, I think about species like freshwater mussels and Cascade Torrent salamanders that may need additional protections in the future. We simply did not address the needs of those species specifically. So, while we covered a lot of the most imperiled species, there are still other species out there that we need to be aware of and thoughtful about. That being said we do strongly support moving this forward and adopting it. We think the work that's been done is very good and substantially advances protections for aquatic species in Oregon's forests. So, thank you for the opportunity to testify today."

Seth Barnes, Oregon Forest Industries Council, Salem Oregon

"Thank you for the opportunity to provide comment today. For the record, my name is Seth Barnes, and I am the Director of Forest Policy for the Oregon Forest Industries Council. I'm multi-generational Oregonian with a degree in Forest Management from OSU. Much has been said about the authors that came together to find common ground and abandon the battles of the timber wars seeking the common ground between environmental regulation and landowner certainty. The rules before you represent months of work, and now hours of conversation between parties. We appreciate the work of the department staff as well. These rules are the result of a lot of hard work and compromise, and there is no room for more. The original agreement was made in earnest consultation with professional foresters and engineers, and our members have continued to provide their expertise and practical experience to help shape these draft rules. There's no room for fine tuning and we humbly encourage the Board to support the collaborative nature in which these rules were created by adopting the rules as written. This agreement is a rare and genuine compromise. Not everyone got what they wanted, but everyone got something. We gave up a whole lot. We believe the sacrifice is worth it to get some certainty and stability for our future, and that's progress we're supporting. Senate Bill 1501 dictated a very aggressive timeline for this rule making effort and some elements remain outstanding, including many, many chapters of technical guidance. This rulemaking process that we're undergoing right now, and then another one for tethered logging and post-disturbance harvesting, and several trainings on top of all of that to develop and deliver. If there's one thing that we've learned in the rule drafting process is that to guarantee a thorough and complete job, the workload should be metered out at a measured pace and not run. We could sure use the Board's help and guidance making sure that happens and that all unresolved elements are resolved in the same collaborative spirit that has been cultivated. These PFA rules are indeed climate smart for those interested in additional trees growing and storing carbon in the forest, the PFA rules do that. For those concerned with stream temperatures and thermal refugia for wildlife species, the PFA does that. For those interested in promoting wood products and sustainable green jobs, the PFA was created to achieve certainty and a sustainable forest sector. And lastly, just wanted to remind everyone that the very first action taken by the Private Forest Accord authors was to agree upon new protection measures and a state-of-the-art neighbor communication tool for Helicopter Application of herbicides. These rules were adopted through Senate Bill 1602, which also directed the authors to continue to meet and come up with the rest of the PFA and seek that compromise that we're talking about today. These aerial application rules are indeed unique. No other State in the nation has greater protection or stronger communication tools. These too were rules developed through the collaborative process, and they only became operative in 2022. They offer greater protection for all water intakes, increased stream protections, strengthen compliance tools, and create real time and post-application communication for neighbors, and as was already mentioned the rules just went into place in 2022. We're still learning how to effectively implement and communicate with these new tools and we would appreciate the time to work out the kinks in all of this, and all of the other rules that are coming into place. It's hard to underscore the magnitude of this rulemaking process and what it's going to take. The significant lift it's going to take for every landowner large and small to not only learn what their new obligations are, but then to implement those things on the ground. And then we're not alone there, the department has to do the same thing. There's a steep learning curve with all of this, and we would appreciate people's patience and understanding as the department and the plan owners seeking to implement this properly work through that to ensure good compliance moving forward. Thank you."

Brent Hennings, Small Forestland Owner

"My name is Brent Hennings. I have a small tree farm, 160 acres. I have been a tree farm inspector for the American Tree Farm system, since 2009, and currently I'm listed as the East Douglas County Tree Farm Inspection Coordinator. I'm very upset by the fact that small landowners were not aware of what was going on during the development of the Private Forest Accord. An awful lot of people are still totally unaware of how they're going to be impacted. I know that Jim James from Oregon Small Woodlands Association was a party, supposedly representing small woodland owners. But OSWA, although they're the largest small woodland landowner organization in the state, don't represent anywhere near half of the small private landowners - forest landowners in the state of Oregon. And I don't feel that small private landowners obtained proper representation in the formulation of this legislation. It was done largely under the cloak of secrecy, there's rush through and special legislation, and I think there's going to be a lot of concern when people start realizing they can't harvest timber that they have been paying taxes on for a long period of time. Land that they've been paying taxes on, these new riparian rules, in my belief, constitute a taking, and I think there are other ways that could achieve the same result. Partial thinning operations with directional falling away from streams, still maintaining adequate shade - those kinds of things. And I'm very upset that wasn't part of the final solution. I know a large number of small landowners are in a process now of either aggressively thinning, or in some places clear cutting areas that may be potentially affected when these rules go into effect. I think the result of that is going to be exactly opposite of what was intended when these rules were put together. Thanks for listening."

The Hearing was adjourned at approximately 4:40 PM after all the other participants were queried for interest in providing testimony.

D. Written Comments

The agency received approximately 1,490 comments, 74 were unique, custom comments; the remainder of approximately 1,416 are "form" emails facilitated by advocacy organizations in support of the rules. Comments are catalogued and presented in the following categories by the order in which they were received. Table 5 provides a count of comments within each category.

1. Committee for Family Forestlands

2. State or Federal Agency

- a. Department of Fish and Wildlife
- b. US Environmental Protection Agency - Region 10
- c. Department of State Lands
- d. Department of Environmental Quality

3. County

- a. Josephine Board of County Commissioners
- b. Hood River County Board of Commissioners

4. Timber Company

- a. Rayonier
- b. Miami Alternatives, LLC
- c. Green Diamond Resource Company

5. Environmental Organization

- a. Private Forest Accord Conservation Coalition
- b. The Nature Conservancy

6. Trade Organization

- a. Coos-Curry County Farm Bureau
- b. Southern Oregon Timber Industries Association
- c. Oregon Forest & Industries Council
- d. Oregon Rural Electric Cooperative Association
- e. Oregon Farm Bureau

7. Small Forestland Owner

8. Environmental Supporter

9. Advocacy Email

Table 5. Count of Written Comments by Category

Category	Count
1. Committee for Family Forestlands	1
2. State or Federal Agency	4
3. County	2
4. Timber Company	3
5. Environmental Organization	2
6. Trade Organization	6
7. Small Forestland Owner	32
8. Environmental Supporter	24
9. Advocacy Email	1416

1. Committee for Family Forestlands



Committee for Family Forestlands Comments on the PFA Draft Rules September 1st, 2022



The Committee for Family Forestlands met on September 1, 2022, after individually reviewing the Draft Private Forest Accord Rules. The Committee's overarching comments are in bold headers below, with specific comments and quotes from Committee discussion following.

The Committee appreciates the opportunity to submit these comments on the new rules, and hopes that this document makes clear its support of the rules and key aspects including ongoing strong assistance for small forestland owners in learning about the rules, complying with them, and accessing new funding and advisory programs created by the rules.

Assistance for Landowners: The Committee notes the importance of ongoing assistance to small forestland owners and the importance of benefits intended to small forestland owners going to the small forestland owner community.

- There is a line in the rules about highly encumbered woodland owners assuming that there might be a small number of people whose property is really severely impacted; that is not comforting if you are one of those landowners. There should be some process to help.
- We really want to make sure the benefits of the Small Forestland Provisions go to the Small Forest Landowners. We are interested in the definition of what a Small Forest Landowner is, and want to make sure it doesn't become a mechanism for Larger Forest Landowners to put their land holdings into small individual LLCs to try and get the benefit of the funding that way, because for this program to be effective, the funding that is intended to be directed say for SFISH, needs to benefit actual small landowners, not ones that are affiliated with larger corporate groups.
- Committee members are interested in statistics about SFOs. How many landowners in Oregon qualify as 5000 or less, within that bracket that we define Small Landowner? Where is the median value? It seems that 5/10-acre owners are going to be deeply affected by this. Do we have a sense of how many 5, 10, 40-acre landowners we have vs. the larger chunk of the 3,000-5,000 acres? It seems this whole thing is missing the micro-ownership. 5,000 is a large chunk of land. The reality for micro-ownership is very hard because many of them will never harvest with some positive income, will never harvest 20 truckloads of timber, and they may not find a logger. "The rules speak to one thing very dear to me in line one of the opening; the purpose and goal is to minimize the number of land use conversions. That is super cool, it is a collective commitment that is trying to keep forestland that is very valuable and even more valuable to those micro landowners that they really have no timber value and the only thing they can do is transfer that against this goal. You may have 28 acres with some timber that could be harvested but you will not find a logger that will come in and do it for you because one and a half truck loads are not crucial to scale, so you are really stuck in-between wanting to do something with minimum amount and the impossibility of that being financially do-able."
- The Committee noted the 5% of watershed limit (over 5 years) for the minimum option; not all Small Forestland Owners are allowed to utilize the minimum option.

Outreach: The Need for Education, Communication, Technical Support–

- It is difficult to find what is being defined as a perennial stream vs. a seasonal stream, depending on what definition of perennial. What distinguishes some of the stream classifications? Sometimes it feels that some of the classifications/definitions are in conflict. Still confused on what is a perennial vs a seasonal stream.
- How do we communicate about these changes to all those landowners, the greatest majority of landowners, who may not know that they are involved in this.
- The committee discussed the need for a digestible guide that can support landowner's implementation and workshops, along with field tours. Outreach and education will be essential to help people feel successful about implementing these rules. It would be useful to have a guide to what a landowner mandatorily will have to do and what are the optional opportunities for landowners under the rules.
- The Small Forestland Owner Assistance Office is meant to coordinate and do communications and outreach about the Forest Practice Rules, these changes to them, grant programs under the Accord, and more broadly about programs and partnerships. That language seems to be stronger in the statute than it is in this rule. We'd like to see a broader spelling out that the Office should be a place for consolidated outreach because it is confusing having it diffused--we have heard that comment on the committee many times. Also, rules about mitigation grants are not referenced in these rules at all. It could be useful to have some kind of cross reference in the rules mentioning that under the Accord Mitigation Grant program there will be opportunities for Small Forestland Owners; this could be linked to the description of the Small Forest Landowner Office.
- AOL explained to the Committee that it is trying to help folks understand how they may be able to increase their business and to get help for the Small Forestland Owner when it comes to being an operator in that space. That's not all of AOL members but they do have a large portion of members who do both large and small forestland work. It's going to get complicated to explain the forest practice rules to AOL members because really in all reality there are four sets of rules now where there used to be one maybe two, East and West side, but then you also have the difference between Large and Small Landowner.
- It is important for landowners to know whom to contact. Is it the local ODF forester or is it going to be the office of Small Forestland Owners? For the Small Forestland Owner, who do they call first and what is the channel of their communication and learning?
- The SFO Assistance Office must take into account, and stewardship foresters must take into account, that many communities will have limited access to ODF resources and little knowledge of how to access digital materials.
- We should be investing in those organizations that will host those volunteers that will be assisting in outreach and grant additional capacity to those organizations to accomplish the outreach.
- It will be useful to have outreach that focuses on some of the positive aspects of the rules for the Small Forestland Owner community.

Disproportionate Impacts: small landowners with many streams, avoiding conversion-

- Our big concern is that forestland is not converted out of forestland into something else. There is a huge value in forestland staying forest. There is a concern about the ability of forestland to be self-sustaining.
- Will there be some process if some people feel really extraordinarily impacted, what will happen to them? Some Small Forestland Owners may have a dense network of streams.
- There are a lot of small woodland owners of modest means. Is there a process to identify extraordinarily encumbered landowners?

Management plans, agreements: need for clarity and support about required plans–

- The rules about waiver of statutory plans and stewardship agreements are complex. How will the Department support landowners in knowing what plans are needed? We can't expect that everyone can find a stewardship forester to write the landowner a plan.

- Landowners need to understand that there is a distinction between a management plan for property and a written plan for a specific forest practices operation on the property.
- In the definitions of written plans, the word statutory is crossed out, but below the rules keep referring to statutory written plans. This is confusing.
- How do we support private landowners with existing stewardship plans or management plans? They will be more affected by many of these new PFA guidance rules.
- Assistance for SFOs in determining what management plans are needed (for property in general; for specific operation) will be a key need of SFOs in future.

Enforcement: need for community input, process, and education -

- Violations/enforcement: is there an option for some mediation that will help a landowner if they are confronted by a violation? What is the process?
- Does the community have any input in this?
- From occurrence to violation what is envisioned from the knowledge and practice into implementing the next step?
- There are provisions in the rules making enforcement more stringent for repeat violators, and that information about enforcement, and mitigation of penalties under the rules, should be part of the outreach to SFOs.

General Comments –

- Really appreciate the glossary.
- This is a chunk of information, it's really a lot built in the document.
- The industrial member of the CFF noted that they are really, really excited about having this agreement come together. From a large industrial landowner's perspective, managing a large tract of land, this helps to manage a lot of the concerns from the environmental perspective and the differences of opinions and differences of standards that people wanted to see in how forests are managed. Both sides came together to work through these issues technically and reach agreement and specifically it gives some business security moving forward. There's a process for continuing monitoring and it's not going to be stagnant. There will be monitoring of how these new regulations apply and actually protect the resources they are intended to protect. There are scientifically defined changes through studies and monitoring that will promote additional protection standards; there is a mechanism to address that and move the forest practices regulations in that direction. This is an excellent opportunity for people to focus on what is important to them and a more consistent and defined business regulated opportunity is a good benefit for the industry.
- It would be helpful to have a list of the benchmark accomplishments and programs set out in these rules --the Small Forestlands Office, SFISH, and other programs.
- It would be useful to have just an overview of what things for sure will apply to Small Forest Landowners and what are more just opportunities.
- The definition of stumpage value is confusing. There can be some clarification of that including linking value to a specific date.
- It would be usefully to talk about the benefits specifically stated for Small Forestland Owners, for instances the availability for technical and funding assistance for culverts.

2. State and Federal Agency

Department of Fish and Wildlife

From: RITCHEY Alan D * ODFW <Alan.D.RITCHEY@odfw.oregon.gov>

Sent: Wednesday, September 07, 2022 9:03 AM

To: BARNARD Josh W * ODF <Josh.W.BARNARD@odf.oregon.gov>; ERB Greg R * ODF <Greg.R.ERB@odf.oregon.gov>

Cc: CLEMENTS Shaun * ODFW <Shaun.CLEMENTS@odfw.oregon.gov>; KRAHMER Rod W * ODFW <Rod.W.KRAHMER@odfw.oregon.gov>

Subject: RE: Public comments now accepted on proposed rule changes to Forest Practices Act from the Private Forest Accord

Hi Josh and Greg

I had a few minor comments on the latest draft rules that were provided to me. I think these are pretty minor and typo/wordsmithing more than context so thought I would just send them direct to you. Let me know if any questions.

My page numbers referenced below are from the August 10, 2022 version. I also attached the reviewed version with notes in the identified suggestions.

Pg 35 (5)(a). OAR 625-412-0015(2). I suggest deleting "(2)". This will likely point to the wrong and unintended number once passage rules revised. OAR 625-412-0015 is strictly the passage prioritization section of rule. This should not change the intent of the PFA rules. Alternatively, in the current/final draft out for public comment, (6) is the subsection and language that was previously (2) and the intended target of this reference. I expect it to stay (6) but can't confirm until approved.

Pg 51, typo in (4)(a). Delete "of"

Pg 51, (4)(g). I think "...from the stream of an approved dike...." should be "...from the stream by an approved dike...".

Pg 61, (5)(b). The reference to ODFW definition for fish passage OAR 635-412-0005(18) will not be accurate upon passage rule revisions. "Fish passage" will still be defined in 0005 but under a different number. You could delete (18), 0005 are the definitions and fish passage will be located here.

Pg 64, (5)(B). "...fish consistent with OAR 635-412-0015(2) and other...". With the upcoming passage rule revisions, I think this is now referencing the wrong OAR number. In the draft that is now out for public comment this subsection references obstructions where there is a legal agreement that passage is not required. I suggest dropping the "2" all together and just using OAR 635-412-0015. This is the OAR that is specific to Prioritization. Alternatively, in the current/final draft out for public comment, (6) is the subsection and language that was previously (2) and the intended target of this reference. I expect it to stay (6) but can't confirm until approved.

Let me know if any questions.

Alan Ritchey
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

OREGON OPERATIONS OFFICE

805 Southwest Broadway, Suite 500

Portland, Oregon 97205

September 30, 2022

Lisa Appel (lisa.m.appel@odf.oregon.gov)
Oregon Department of Forestry
2600 State St Bldg. D
Salem, OR 97310

RE: Notice of Proposed Rulemaking: Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

Submitted to: sb1501.rulemaking@oregon.gov (as directed in notice of proposed rulemaking).

Dear Ms. Appel

The Environmental Protection Agency, Pacific Northwest Region 10, appreciates the opportunity to provide comments on the Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502. The Oregon Department of Forestry specifically requested public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

The EPA commends the work of ODF, the Governor's Office, State Legislators and all the participants of the Private Forest Accord (PFA) for developing forest practices that support the harvest of timber while reducing impacts to natural resources and protected species. We understand the goal of the PFA stakeholders is for these forest practices to provide the basis of a Habitat Conservation Plan that will achieve the issuance criteria of an Incidental Take Permit under Section 10 of United States Endangered Species Act for the Covered Species.

While meeting Oregon's water quality standards may not be an explicit goal of the PFA stakeholders, the EPA believes the forest practice rules play an important role in protecting water quality and helping Oregon meet its obligations under the Clean Water Act.

Section 629-635-0100 paragraph (5) states "the overall goal of the water protection rules is to provide resource protection during operations adjacent to and within streams, lakes, wetlands and riparian management areas so that, while continuing to grow and harvest trees, the protection goals for fish, amphibians, other wildlife, and water quality are met." The protection goal for water quality (as prescribed in ORS 527.765) is to ensure through the described forest practices that, to the maximum extent practicable, non-point source discharges of pollutants resulting from forest operations do not impair the achievement and maintenance of the water quality standards.

Oregon Revised Statutes ORS 527.765 state “The State Board of Forestry shall establish best management practices and other rules applying to forest practices as necessary to insure that to the maximum extent practicable nonpoint source discharges of pollutants resulting from forest operations on forestlands do not impair the achievement and maintenance of water quality standards established by the Environmental Quality Commission for the waters of the state. Such best management practices shall consist of forest practices rules adopted to prevent or reduce pollution of waters of the state.”

While the proposed rules are clearly more protective of water quality than the existing rules, the PFA stakeholders did not explicitly assess whether the rules meet the protection goal for water quality as prescribed in ORS 527.765. The EPA recommends that the Board and ODF prioritize an assessment of the effectiveness of the rules in meeting water quality standards. This would help the Board meet its duty under ORS 527.765 to ensure nonpoint source pollutants from forest operations do not impair the achievement and maintenance of water quality standards established by the Environmental Quality Commission.

Without an assessment of effectiveness, there is uncertainty about the adequacy of some of the buffer prescriptions’ ability to meet water quality standards. We understand the December 9, 2021, MOU between ODF and ODEQ is intended to ensure any shortfalls in meeting water quality standards are address through implementation of Total Maximum Daily Loads. We also understand the MOU requires coordination between ODF and ODEQ in conducting sufficiency reviews of whether the PFA rules are meeting desired goals for protecting water quality.

Another option ODF should consider is to revise section 629-603-0100 paragraph (8) to include an assessment of the rule’s effectiveness in meeting water quality standards among the priorities in the initial phase of the adaptive management program. The EPA recommends ODF pursue this option and, if necessary, that the Board provide direction to do so under section 629-603-0200(3)(b) of the rule.

In addition to the above option for achieving the rule’s substantive goals as requested by ODF, we suggest an alternative option for Section 629-643-0300 that we encourage ODF to consider along with our additional attached comments. We thank ODF and the Board for considering the EPA’s comments. Please contact me at brown.dan@epa.gov or 503-326-6832 for any questions related to these comments.

Sincerely,
DANIEL
BROWN

Digitally signed by
DANIEL BROWN
Date: 2022.09.30
08:57:28 -0700

Daniel J. Brown
Natural Resource Advisor - Forest Sector
EPA Region 10, Pacific Northwest

Attachment: EPA Comments on Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502

CC: Jenifer Wigal, ODEQ; Eugene Foster, ODEQ; Josh Seeds, ODEQ

Attachment: EPA comments on Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502

- 1) The "biological goals and objectives" play an important role in the implementation of the rules and it is not clear what they are. The definition in Division 600 states "Biological goals and objectives" means the biological goals and objectives as set by the department for an approved habitat conservation plan." The rules should clearly state the biological goals and objectives and/or incorporate a reference where they can be readily found.
- 2) Section 629-625-0910 establishes that the department will consult with the EPA while leading a cooperative effort to identify abandoned roads. Any such cooperative effort should also include consultation with the Oregon Department of Environmental Quality. Paragraph (4) of this section specifies requirements for landowners following the identification of high-risk abandoned road segments. ODF should consider clarifying whether these landowner requirements apply to small landowners.
- 3) The water protection rules propose riparian buffers that are more protective of water quality than the current rules. At the same time, the rules eliminate the monitoring and evaluation provision of section 629-635-0110. While the new adaptive management program outlined in Division 603 will ensure some monitoring and evaluation of the rules, a focus on maintaining and improving water quality should remain to increase the level of confidence that the rules will maintain and improve the condition of the riparian vegetation and waters of the state over time.
- 4) Section 629-630-900: The "Slopes model" is defined as "the department's computer-generated model to identify designated debris flow traversal areas, designated sediment source areas, and trigger sources." Familiarity with the slopes model is limited. The 2022 Private Forest Accord Report describes Slopes Modeling in section 3.3.6 as using the models described in TerrainWorks (2022). The rule should be more specific in defining the "slopes model," providing references justifying the choice of the model and its application and whether it is based on the same methodology in TerrainWorks (2022). The PFA Report notes that most of the models used to identify landscape features have been published in peer-reviewed scientific journals (Miller and Burnett, 2007; Miller and Burnett, 2008; Burnett and Miller, 2007). However, some components of the model to identify Designated Sediment Source Areas based on the probability of sediment delivery to Type F or Type SSBT channels are new and have not been peer reviewed. Consequently, the Authors agree that the approach to identifying Designated Sediment Source Areas should undergo a scientific review before application. ODF should ensure all components of the "slopes model" have undergone scientific peer review/evaluation.
- 5) Section 629-630-0910 regarding Designated Sediment Source Areas and Slope Retention Areas, addresses a small proportion of potential landslide areas. The identification of slope retention areas is first limited to looking in "debris flow traversal area sub-basins," or those basins that contain debris flow traversal areas that have a probability of traversal in the upper 20 percent. Looking only in those "debris flow traversal area sub-basins," the slopes model is used to identify "designated sediment source areas," as hillslope areas

greater than 0.25 acres in size that provide the top 33 percent of the landslide-derived sediment to Type F or Type SSBT streams. Finally, among that population of “designated sediment source areas,” fifty percent are identified as “slope retention areas” where harvest of trees is not allowed. The EPA understands debris flows providing large wood and sediment are consistent with maintaining or improving aquatic habitat. However, debris flows without large wood reduces the benefits to streams. Therefore, this approach of providing limited slope retention areas should be monitored and evaluated as a priority of the adaptive management program. This is particularly true given that, as noted above, PFA authors indicated the approach to identify Designated Sediment Source Areas should undergo a scientific review before application.

- 6) Section 629-635-0200 paragraph (9) regarding fish use appears obsolete and could be deleted since the provisions for classifying fish use have been updated with the new rule language in paragraph (11).
- 7) Section 629-635-0200 paragraph (16) (c) states that “Any stream with a drainage area less than 200 acres shall be assigned to the small stream category regardless of the flow index calculated in (15)(a)” This paragraph carries over from the existing forest practice rules and seems at odds with the newly negotiated protections for Type N that vary based on stream size. Given the straightforward methodology for calculating average annual stream flow in paragraph (16)(a) of this section, there appears to be no rationale, scientific or otherwise, to support this default stream size for drainage areas of less than 200 acres. The EPA recommends striking this paragraph and relying on the methodology agreed to in the PFA as captured in paragraph 16(a).
- 8) Section 629-643-0130 Standard Practice Requirements for Small Type N Streams includes provisions for applying and R-ELZ and ELZ on Small Type N streams above the tree retention zones without providing a reference to the R-ELZ and ELZ width requirements. We recommend including a reference in this section that points the reader back to section 629-630-0800(8) where the R-ELZ and ELZ width requirements are described. We note the same language describing the R-ELZ and ELZ widths in section 629-630-0800(8) is included in section 629-630-700(6). An alternative could be to include the description of R-ELZ and ELZ and width requirements in the definitions of these terms in section 629-600-0100. It’s also worth noting that we are not aware of any assessment of the proportional length of small Type N streams covered by a 75-foot riparian buffer vs an R-ELZ nor the effectiveness of an R-ELZ prescription in meeting water quality standards. As noted in our comment letter, we recommend an assessment of the effectiveness of the rules in meeting water quality standards be conducted as part of the adaptive management program.
- 9) Section 629-643-0300 Alternative Vegetation Retention Prescriptions is at odds with the PFA Report and legislative direction in SB 1501. The short-term fixes ODF is proposing to existing provisions for Alternative Vegetation Retention Prescriptions (i.e., section 629-642-0600) do not account for significant advances in habitat and water quality protections provided by the PFA agreement that legislators directed ODF to adopt. It is apparent this discrepancy cannot be addressed by simply adjusting the basal area targets

in tables 5 and 6 while retaining outdated and inconsistent no-cut areas of 20 feet from the highwater mark. Furthermore, the alternative vegetation retention prescription for hardwood dominated sites appears to be in direct conflict with the PFA report which offers the following example of a restoration treatment, “removing conifers to ensure diverse hardwood habitats.” The PFA authors explicitly state “the current hardwood conversion option would not be used unless ODF makes a determination that the conversion would substantially improve the likelihood and timeline for reaching “desired future condition,” as it may hereafter be defined by the Board.” Both SB1501 and the PFA Report intend the Board and ODF to invest adequate time, adopting rules in November 2025, to define desired future conditions and alternative prescriptions that incorporate the increased habitat and water quality protections provided by the PFA. Therefore, EPA suggests ODF withdraw this section of the rule. To the extent landowners need alternative prescriptions for what the PFA report refers to as “activities genuinely undertaken for ecologically restorative purposes,” those alternatives could be provided as a plan for an alternate practice under the Site Specific Vegetation Retention Prescriptions for Streams and Riparian Management Areas under the provisions of section 629-643-0400. Alternatively, if ODF retains provisions for alternative prescription 1, wider no-cut buffers should be developed consistent with the new PFA riparian buffers and ODF should ensure basal area targets in tables 5 and 6 are adequate, particularly for the Eastern Cascade and Blue Mountain Geographic Areas, which appear comparatively low. If ODF retains provisions for alternative prescription 2, references for concluding that hardwood dominated sites cannot maintain fish, wildlife and water quality resources should be provided along with a demonstration that the alternative practices provide better protection of water quality resources than the standard practice vegetation retention prescriptions agreed to in the PFA.

- 10) Section 629-643-0400 Site Specific Vegetation Retention Prescriptions for Streams and Riparian Management Areas is carried over from the existing rules (section 629-642-0700) with minimum changes. Importantly this section requires the State Forester to review and approve any plans for alternate practice. While the factors to be used in evaluating the plans are substantively the same as the existing rules, the base-line level of protection provided by the new vegetation retention requirements are substantially better than the existing rules. Therefore, foresters will need to be trained to evaluate the ability of site specific plans for alternative practices to provide for the improvement to functions and values of streams and their riparian management areas that the increased vegetation retention goals provide. Since this can be a drastically different comparison compared to the existing riparian protection rules, we recommend ODF develop technical guidance for implementation of this section of the rules.

11) General comments:

- Language in Sections 629-643-0100 thru 629-643-0125 require operators to submit plans to the State Forester but it’s not clear whether those plans need to be approved prior to proceeding with them.
- There are over ten instances where ODF will be providing technical guidance for implementation of the rules. It would be helpful for ODF to share a general timeline for completing the technical guidance, including any opportunities for public review and comment.

Department of State Lands

Dear Christina Helige,

Thank you for the opportunity to provide comments on the proposed rule revisions to the Forest Practices Act (FPA). Please accept these comments from the Department of State Lands (DSL) for your consideration.

By way of background, under the direction of the Oregon Legislature and on behalf of the State Land Board, DSL is working to develop the Elliott State Forest (ESF) into a research forest. The forest will be managed by a new state entity called the Elliott State Research Forest Authority (ESRFA). To facilitate the ESRFA management of the forest, DSL is negotiating a Habitat Conservation Plan (HCP) for an Incidental Take Permit (ITP) that would cover three species: Northern Spotted Owl, Marbled Murrelet, and Coastal Coho Salmon. DSL is providing these public comments to seek further clarity on how the anticipated obligations under the proposed amendments to the FPA will align with the anticipated obligations under an ESRFA HCP.

Specifically, DSL is requesting that the Board of Forestry provide further clarity on the pass through protection of Section 14 of SB 1501. As DSL understands it, Section 14 provides that if the ESRFA has an ITP for the Northern Spotted Owl, Marbled Murrelet, and Coastal Coho Salmon, and the ESRFA is engaging in a forest practice that is in compliance with that ITP, then the ESRFA operations are not subject to any of the FPA provisions that relate to the protection of the three covered species. DSL would request that the proposed rules provide further clarity on the Board's interpretation of Section 14.

DSL would appreciate the opportunity to continue discussing these issue with ODF as the final rules are developed.

Thank you.

Bill Ryan
(he/him/his)
Deputy Director, Operations
Oregon Department of State Lands
Landline 503-986-5259
Cell 541-261-0336

DSL websites: www.oregon.gov/dsl; <https://lands.dsl.state.or.us>

Department of Environmental Quality

Begins next page



Oregon

Kate Brown, Governor

Department of Environmental Quality
Water Quality Division
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Portland, OR 97232
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FAX (503) 229-6123
TTY 711

September 30, 2022

Sent via electronic mail to sb1501.rulemaking@oregon.gov

Oregon Department of Forestry
2600 State Street, Building D
Salem, OR 97310

RE: Notice of Proposed Rulemaking: Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

To Whom It May Concern:

Thank you for the opportunity to provide comment on the rules implementing the Private Forest Accords (PFA). Because the direction and specifics of these forestry rules are mandated in legislation and the PFA Report, DEQ is focusing our comments to those regarding clarity of rule language and rules on additional topics beyond those specified in the PFA legislation and associated PFA agreements. We welcome any questions, are available to discuss our comments, and look forward to continuing our work with the Oregon Department of Forestry.

Clarity of Tables

The presentation of tables in Division 643 includes multiple errors that lead to confusion. There are some tables repeated and multiple tables numbered 1, 2, 3, etc. These should be clarified to ensure that landowners, forest operators, interested members of the public, and public agencies can understand what protections are required and where.

Type-D Definition and Protection Changes

Perennial non-fish (Type Np) and seasonal non-fish (Type Ns) streams are defined as those that are not salmon, steelhead, or bull trout (Type SSBT), fish-bearing (Type F), or domestic use non-fish (Type D) streams (OAR 629-600-0100(150) & (151)). Reviewing OAR 629-635-0200, the Type D stream protections are unchanged. This implies that non-fish streams with domestic use downstream (i.e. Type D), which would in most if not all cases flow into fish use streams (F/SSBT), will have less protection than non-fish streams that do not have drinking water use. For example, a small perennial stream without fish use flowing into an SSBT stream would have a 75ft no-cut for 500ft and then a 50ft no-cut for 650ft. That same stream, if it is within 3000ft of a drinking water intake, would only get a 20ft no-cut, even though it has the same implications for covered species and the risk reduction for drinking water would be less than the Np rule.

However, in the Division 643 stream protection rules, the tables do reflect the overlap of Type D and Type Np/Ns streams. Large and medium Type D streams have 75ft buffers in the tables, and the small Type D streams have 75ft buffers until the end of Type Np protections, according to the table and

footnotes. These new Type D requirements do not appear to be in the text of Division 643, other than in OAR 629-643-0150(1) [the Type D section]: "For classified small Type D stream segments that extend beyond the tree retention areas described in the Small Type Np requirements in OAR 629-643-0130 and OAR 629-643-0143, the operator shall retain in both Western Oregon and Eastern Oregon;

- (a) All understory vegetation with 10 feet of the active channel.
- (b) All trees within 20 feet of the edge the active channel.
- (c) All trees leaning over the channel."

This rule language and the footnotes under the tables do indicate that the small Type D prescriptions only apply where the more protective small Type Np prescriptions do not apply. It is not clearly stated that the Np rules apply on D streams for the set distances from F or SSBT streams. The Type D rule construction was appropriate when Type D streams had more protection than Type N streams, but it does not seem appropriate with the revisions as a result of the PFA.

DEQ recommends removing "Type D" from the Type Np and Ns definitions, so that small non-fish streams can be classified as both Type D and Type N, reducing ambiguity about protections for these streams. This Np/D classification overlap will take some extra education and explanation during implementation of the new rules. The riparian protection tables can be updated to have "Type D above Type N protections" rows. It may also be advisable to add descriptive sections to OAR 629-643-0105 and -0125 to make clear the overlap between Type D and Type N protections.

Post-Disturbance, Hardwood Conversion and Site Specific Rules:

629-643-0000(2) through (6), -0300, and -0400

OAR 629-643-0000(6) reads, in part: "In other cases, the existing streamside vegetation may not be able to develop into the desired future condition in a timely manner. In these cases, the operator may apply an alternative vegetation retention prescription as described in OAR 629-643-0300 or develop a site-specific vegetation retention prescription as described in OAR 629-643-0400. For the purposes of these water protection rules, 'in a timely manner' means that the trees within the riparian management area will substantially move towards the desired future condition more quickly than if the trees are left untreated."

The rules in this section are carried over from the existing forest practice rules (629-642-0600) with minor edits. DEQ understands that post-disturbance rules will be revised in a separate rulemaking, mandated in statute for completion by the end of November 2025, as stated in 629-643-0000(2). It appears that the hardwood conversion rules will also be evaluated at that time as part of the Board of Forestry evaluation of "desired future condition." As ODF is aware, this schedule will leave a gap between the implementation of the new PFA rules (July 2023 for fish-bearing streams, January 2024 for all other rules including non-fish streams) and the adoption and implementation of rules for post-disturbance and hardwood conversion activities (effective in 2026 at the earliest if adopted in late 2025).

3. County



Josephine County, Oregon

Herman E. Baertschiger Jr., Darin J. Fowler and Daniel E. DeYoung

Josephine County Courthouse
Board of Commissioners' Office
500 NW 6th Street, Dept 6
Grants Pass, OR 97526
(541) 474-5221 #2

September 28, 2022

Attn: PFA – Christina Helige
Oregon Department of Forestry
Forest Resources Division
2600 State St. Bldg. D
Salem, OR 97310-0340

Via email to sb1501.rulemaking@oregon.gov

Subject: SB 1501 & 1502 Rules Comment

Dear ODF & Board of Forestry,

Please exclude county owned forest tracts from the new Forest Practice Rules. It is possible that counties were not addressed by the legislation due to an oversight. The rules process is an opportunity to correct that oversight, and such a correction would result in a direct public benefit.

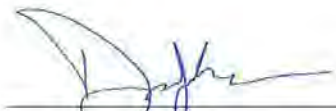
Josephine County is legally bound to operate its timber program on a sustained yield basis for the purpose of funding critical government programs, including the Juvenile Department and the Veterans Services program. Additionally, all of Josephine County's timber producing properties are open to the public for recreational use. The present draft of the Forest Practice Rules (FPR) will directly result in a decrease of harvestable ground, an increase in logging costs, and therefore a decline in revenue to support county programs.

Counties pay for the Harvest tax through reduced stumpage bids from purchasers. The Harvest tax will help pay for programs in the Private Forest Accord such as the Habitat Conservation Plan (HCP) that will cover only private timber lands. The HCP will not cover county owned timberlands, which will mean that under the current draft, counties are required to follow the new Forest Practice Rules without the benefit of HCP protection. That creates a situation whereby public landowners will be subsidizing private landowners. Without addressing this disparity in the rules, publicly owned property will become more encumbered and less valuable than privately owned property.

For these and other reasons Josephine County, by and through its Board of County Commissioners, formally requests that counties be excluded from the new Forest Practice Rules. In the alternative, it would be appropriate to classify counties as small landowners (under 5,000 acres) because zero acres in county portfolios are privately held. The point of contact for this matter is Josephine County Forestry Director Dave Streeter (541-474-5291 & dstreeter@josephinecounty.gov). Thank you in advance for addressing this important matter.

Board of County Commissioners


Herman E. Baertschiger Jr., Chair


Darin J. Fowler, Vice Chair


Daniel E. DeYoung, Commissioner

www.josephinecounty.gov



Hood River County Board of Commissioners

Jeff Hecksel, County Administrator

COMMISSIONERS

601 State Street · Hood River, OR 97031 · (541) 386-3970 · FAX (541) 386-9392

Michael Oates – Chair
Karen Joplin – District No. 1
Arthur Babitz – District No. 2
Robert Benton – District No. 3
Les Perkins – District No. 4

September 29, 2022

TO: Oregon Department of Forestry

RE: Hood River County Comments of Private Forest Accord and Proposed Rules

Sent via email to: sb1501.rulemaking@oregon.gov

Hood River County has successfully managed over 34,500 acres of designated forest since the 1940's for the primary purpose of providing revenue to the County General Fund through the sustainable harvest of forest products. The Hood River County Forest provides not only vital forest resources for homes and jobs but also a plethora of multi-use recreation opportunities enjoyed by locals and visitors alike. As the largest local government forest landowner in Oregon the County has often been involved in public forest practice rule change processes in the past.

Last fall the revelation of a closed-door private forest accord between selected forestland owners and environmental group representatives caught the County by surprise. Upon initial questioning, some indicated the Private Forest Accord would not apply to local governments as indicated by its name. Only recently was it confirmed the resulting new draft of the Forest Practices Rules would apply to local governments. Upon this news the County has begun to pursue the limited information available to provide comments.

At the Hood River County Board of Commissioners September 17, 2022, meeting, Commissioners determined providing comment on the proposed rules related to the Private Forest Accord would be necessary. It appears to the County that no local governments were involved in the stakeholder's group that developed the Accord. If the Accord and associated rules were to include local government lands, there should have been some local government participation in the stakeholder group meetings. Hood River County feels the process used was not adequate and is flawed.

While lands owned by local governments, and Hood River County in particular, may be a small percentage to the total amount of land to be regulated by these rules, it is an important resource managed at the local level with oversight from local elected officials for the benefit of the public. The County has both a Forest Advisory Committee and Recreational Trails Committee that provide input into use of County Forest lands as well as a Forest Management Plan that governs County forestry operations.

A Small County with a big mission: Providing Quality of Life for all.

While Hood River County is not necessarily opposed to changes to the Forest Practices Act, it is clear the new rules will remove timber from harvest which will have an effect on Hood River County's budget. The effect of the new rules on Hood River County is a reduction in harvest estimated at 5%-10%. Applying this to the past year's sales Hood River County would see a reduction of \$320,000 to \$640,000 in revenue. This will become an annual reduction in revenue and does not include extra road inventory and road improvement expenses mandated by the Private Forest Accord. Unlike small landowners represented in the Private Forest Accord, no compensation will be allocated to local governments for the reduction in allowed harvest limits. Hood River County's lost revenue will create a direct reduction of County Services and will place additional burden on local taxpayers. Service reductions could affect Public Health, Public Safety, and community wellness. Lack of inclusion in the process not only denied our opportunity for providing input, but also limited our window to plan for the impacts of the proposed changes.

Hood River County provides expansive public recreational access to most of its forestland and many roads. The new Accord has additional expectations regarding road condition which could also limit recreation access on county forestland due to increased maintenance costs related to passenger vehicle wear on the roads. Private landowners are not burdened with opening their land to recreational use for the public. The County upholds and strategically enhances the value of protecting streams and habitat and takes those matters into consideration when laying out timber sales. The County applies boots on the ground assessment to ensure resources are protected even when it means a reduction in harvest.

Regulatory certainty is promised and then downgraded in the Accord to just that portion relative to the HCP's and only 25 years for amphibians. The Forest Practice Act itself could still be further modified by more environmental restrictions within the next 25 years.

New stream protection rules are to be implemented July 1, 2023, followed by rule implementation by January 1, 2024. Hasty implementation of the rules will conflict with the timing of timber sale contracts. The County often lays out and sells timber for two (2) or more years. Contracts sold or laid out to be sold may conflict with new rules that are not even finalized at this time. Implementing rules less than two (2) years from the final Board of Forestry rule approval is unreasonable and does not give time for planning, layout changes or timber contracts to be completed as bid. Having to take timber, under contract, back due to changes would have detrimental effects to local government budgets.

The time allowed to develop, discuss, and review the draft policy is insufficient and exceptionally inconsistent with past Forest Practice Rule change process. The Senate

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Bills involved did not account for the time it takes to make informed policy and regulation amendments.

Hood River County encourages the State to allow an HCP to opt in for local governments that hold forestlands as the County would like to be included. At the onset of these rules, forest lands owned by the County should be exempt for at least two (2) years to avoid conflicts with existing contracts.

On behalf of the Hood River County Board of Commissioners, thank you for the opportunity to provide comment.

Sincerely,

DocuSigned by:

59708B871C71447...
Michael J. Oates, Chair

A Small County with a big mission: Providing Quality of Life for all.

4. Timber Company



September 26, 2022

Chair Jim Kelly
Oregon Board of Forestry
2600 State Street
Salem, Oregon 97310

Submitted electronically: sb1501.rulemaking@oregon.gov

Re: Public Comment on Private Forest Accord Rulemaking

Chair Kelly,

Rayonier is pleased to support the comprehensive updating to Oregon's Forest Practice Rules consistent with the Private Forest Accord (PFA) and Senate Bills 1501 and 1502 and House Bill 4045. Rayonier is signatory the PFA and we have participated in the public processes to develop the enabling legislation as well as the rulemaking before the Board of Forestry.

Oregon has nearly all the ingredients to help grow a sustainable forest products sector. It has the best climate and soils to grow trees, robust markets, and a skilled labor force. However, the regulatory environment in Oregon has been unpredictable with conflict on natural resource policy playing out through initiatives, legislation, regulation, and the courts. While all of these avenues are part of our system of government, they can be blunt instruments and not always well suited to addressing the inherent complexities within natural systems.

Beyond the conservation uplift that this rule package provides, these rules fundamentally change the process for development of future regulation. The section of rules termed as Adaptive Management, creates a structure for interest groups to develop collaborative research to evaluate and monitor the effectiveness of the regulatory system. This process is designed to avoid dueling science from different interest groups and instead focuses parties on developing questions and scientific enquiry collaboratively.

In addition to the Adaptive Management Process, these rules enhance the Department of Forestry's existing compliance monitoring program and increases the level of enforcement, including fines for failure to adhere to forest practice rules. After this rulemaking, the Department will be applying for a Habitat Conservation Plan to be reviewed by the National Oceanic and Atmospheric Administration and the United States Fish and Wildlife Service for coverage under the Endangered Species Act. Collectively, these measures will boost the public's confidence in the regulatory system.

Landowners have contributed a significant amount of value to implement these new conservation measures. In addition, the State has made historic levels of investment in staffing and funding for research and monitoring. All this investment is contingent on the passage of these rules.

Sincerely,

Adrian Miller
Director, Public Affairs

360.697.6626 P | rayonier.com
360.697.2953 F | 19950 7th Avenue NE, Suite 200
Poulsbo, WA 98370

Oregon Board of Forestry
Meeting Wednesday September 28, 2022
Testimony in cautious support of the PFA.

Good afternoon, for the record my name is Paul Betts. I am the Manager for Miami Alternatives, LLC's lands in Grand Ronde, Oregon, a family timberland owner that has managed the property since 1910. Miami is not a signatory to the PFA. That being said, as Chair of OFIC's Forest Management Policy Committee I have likely invested as much, if not more, time in the rule development work than anyone else, and was grateful that the process allowed for broader participation after the passage of Senate Bill 1501. However, please don't mistake this commitment as an enthusiastic endorsement of the PFA. Rather it was a pragmatic choice to help faithfully capture the agreement in the best rules possible, and I can say that has been done.

Yet, I am frustrated by how this agreement was forged, its content, and its cost. I represent a class of landowners that has a strong legacy of sustainable land management in Oregon. Miami has owned timberland in Oregon for over 100 years. We are accustomed to regularly going above and beyond the rules in caring for our lands. Yet I found no recognition nor credit for doing so in the PFA, nor do I see any incentives for this style of management.

I am told that what we purchased with our heavy sacrifice is regulatory certainty – peace in our day. I find this highly dubious. Especially since environmental signatories to the PFA have recently testified before this board about the rulemaking, using a portion of their time to enumerate their future wish list of yet more adventurous and increasing regulations. All before the PFA rules have even been approved and adopted by the board, let alone implemented, monitored, or evaluated for effectiveness.

Forest landowners have paid a steep price, one that honestly threatens the continued existence of the class of family forestland owners I represent. A decade from now forest landowners will either feel that they secured a costly, but strong and enduring compromise or they will feel they were suckered into a bad deal. It will be up to you distinguished members of the Oregon Board of Forestry to give either the truth or the lie to the promise of regulatory certainty through your work in the coming decade. I hope that you choose to honor the timber industry's sacrifices, generate the promised regulatory certainty, and help cement the fragile and nascent cooperative relationships that developed these rules and that will be necessary for the PFA to be successful.

Thank you for your time.



6400 Highway 66
Klamath Falls, OR 97601
(541) 884-2240 • greendiamond.com

September 30, 2022

Oregon Department of Forestry
2600 State St.
Salem, OR 97310

Re: Forest Practices Act Rule Revisions Directed by the Enrollment of Senate Bills 1501 and 1502 – September 2022

To Whom It May Concern,

Thank you for the opportunity to comment on the Forest Practices Act Rule Revisions. Green Diamond Resource Company owns and manages 695,658 acres in Oregon. The proposed revisions to the Forest Practices Act will have significant impacts to Green Diamond operations within Oregon.

629-625-0320 (4)(a) page 55: **(a) Permanent channel-spanning structures have at least of three feet of clearance between the bottom of the bridge structure and the water surface at the 100-year peak flow, unless engineering justification shows a lower clearance will allow the free passage of anticipated sediment and large wood.**

- The wording is unclear. The first "of" may need to be removed.

629-625-0320 (6)(e)(A) page 57: **(A) New water crossings in Type F and SSBT fish streams shall require manual placement of culvert bed materials during bed construction.**

- Why only manual placement for new water crossings? Natural accumulation and mechanical placement should be permitted with reasonable compliance expectations following a winter season. Mechanical and manual placement of culvert bed material may not be feasible in some size culverts. With proper invert embedded depth it is reasonable to naturally recruit substrate material during the first winter of culvert installation.

629-625-0320 (6)(f) page 58: **(f) Water depth and velocity. The maximum velocity in the culvert shall not exceed the maximum velocity in the narrowest channel cross-sections.**

- Water depth and velocity. "depth" should be removed since this metric is not used in this rule; only velocity is used. Clarification should be added to the velocity comparison expectation: Maximum culvert velocity to the narrowest natural cross sections.

629-625-0320 (8)(a) page 59: **a) Design temporary water crossings in Type N and Type D non-fish streams to pass at minimum the flows expected during crossing use with a minimum culvert diameter of 18 inches.**

- Ridged 18" culvert will require more streambed excavation and site disturbance than is necessary for most Type N and Type D streams that will have no to minimal flows. Flexible 6" should be minimum culvert size for feasibility. 6" minimum will better allow meeting the intent of 629-625-0320 (8)(i).

629-625-0320(8)(d) Page 59: **(d) Only use temporary water crossings on Type N and Type D non-fish streams:**

(A) In Western Oregon if installed after June 1 and removed no later than September 30 of the same year;

(B) In Eastern Oregon if installed after July 1 and removed no later than October 15 of the same year; or

- Adding "when dry or:" at the end of section (d) would meet the intent of the rule and add flexibility to the operating season in these areas.

629-625-0650 (5)(e)(B) page 68: **(B) Ensure stable side slopes that do not exceed a ~~horizontal to 1 vertical ratio, unless matching the natural stream bank or valley walls;~~**

- A specified horizontal to vertical ratio for excavated side slopes is not clear.

629-625-0900 (5) page 70: **(5) Pre-inventory. Landowners shall submit a pre-inventory of high conservation value sites on each road management block to the State Forester no later than January 1, 2025.**

- Pre-inventory of high conservation value sites. The definition of high conservation value sites should be added to the definitions section. Based on the examples provided on page 38, it is not clear how a pre-inventory of high conservation value sites can be completed without doing a complete inventory to know what issues are out on the landscape. Is this expected to be done through a pre-pre-inventory?

629-625-0900 (5)(a)(A) page 70: **(A) Areas of known chronic sedimentation. Consideration will be given to areas where log hauling will occur during the 5-year inventory phase.**

- What is the 5-year inventory phase? Is the pre-inventory intended to be a 5-year process? Section 629-625-0900 (5) states that pre-inventory is due Jan 1, 2025, which is less than 5 years away. Or is the 5-year inventory phase the post pre-inventory? When does the clock start for the 5-year inventory? It appears that it is due Jan 1, 2029 according to Section 629-625-0900 (6) which is 4 years from when the pre-inventory must be submitted to the State Forester.

629-625-0900 (5)(d) page 71: **(d) Landowners shall address prioritized pre-inventory projects after review from the department and Department of Fish and Wildlife beginning no later than January 1, 2026, and no later than January 1, 2029.**

- "beginning no later than Jan 1, 2026 and no later than Jan 1, 2029" is not clear. Is it intend to have pre-inventory projects completed no later than Jan 1, 2029?

6298-635-0220 page 99: Geographic Regions

For the purposes of assigning protection measures to waters of the state, [seven]the State Forester has defined two geographic regions ~~[have been delineated for forested areas within the state]~~ west and east of the Cascade Crest in Oregon, depicted as Western Oregon and Eastern Oregon, respectively. The boundaries and names of the geographic regions are displayed in Figure 1~~[. Precise boundaries are found on maps at department field offices.]~~. Geographic regions are not "forest regions" established pursuant to ORS 527.640.

- The western boundary of the Eastern Cascade region does not match the boundary between Western Oregon and Eastern Oregon; particularly at the north end near Hood River County and the southern end near Jackson/Klamath County.

629-643-0120 page 133: (A) The outer zone distances for each stream size, as described in Table 2, for the outer zone, as measured from the edge of the inner zone. To meet the basal area target requirement, the operator shall retain 27 trees from the largest diameter class per acre.

- Diameter size class should be added to the definitions section for consistency in application of this measure. What if there are not 27 trees in the largest size class? It would be clearer to clarify the language to "the largest available diameter class per acre."
- This rule is going to be very challenging and time consuming to implement on the ground. Foresters will be required to flag the inner zone, flag the outer zone, inventory the outer zone, determine the largest trees by diameter class per acre, then go back and located and mark them on every acre.

We appreciate the opportunity to comment on the revisions and look forward to being involved in the Technical Guidance development process.

Sincerely,

Robert Douglas

Robert Douglas
Timber Resource Analyst
Green Diamond Resource Company

5. Environmental Organization

Submitted to: sb1501.rulemaking@oregon.gov

Attn: PFA - Christina Helige
Oregon Department of Forestry
Forest Resources Division
2600 State St. Bldg. D
Salem, OR 97310-0340

September 29, 2022

We are writing to you as the conservation signatories to the Private Forest Accord and expressing our support for the proposed administrative rule changes to the Forest Practices Act as directed by Senate Bills 1501 and 1502.

There are 10 million acres of private forest in Oregon covering some of the most varied and ecologically significant forests in North America. The health of forested watersheds and adjacent communities are dependent on how those forests are managed. To this end, the Accord brings Oregon much closer to the mainstream of modern forest management practices that protect watersheds with endangered aquatic species. These are by and large practices that have been in place in Washington and California for over two decades.

While many painful compromises were made in the process, the Accord represents the first major update to Oregon's forest practices in decades, and we strongly support it. These difficult tradeoffs make this the first of many steps needed to ensure that the state's logging standards best protect clean, cold water for all Oregonians and all aquatic life. With the era of climate change already bringing more drought, wildfire, and stress to Oregon's forests, we ask that the Department and Board build on the success of the Accord. Please continue updating protections for forested watersheds through the Accord's Adaptive Management Program as we learn more about what is needed to ensure clean, cold water for fish and wildlife, as well as all Oregonians. Other modern forest management issues are outside the scope of the Accord and will require more work to find solutions.

Key improvements in the Accord.

Stream Buffers. The Accord expands streamside protections for harvesting trees near streams. The agreement would significantly expand streamside buffers, forested strips where forest conservation can help keep water cool and free of sediment.

Small Forestland Owners. Almost one third of private forests are owned by small forestland owners, and the Accord establishes new programs, standards, and assistance for small forestland owners to help them comply and conserve their streamside forests. Oregon's small forestland owners hold much of the state's best salmon habitat in their lowland properties, and these rules make some big changes for them.

Road Pollution and Fish Passage. The Accord improves road standards and establishes a 20 year inventory to ensure standards are met. This includes upgraded road-stream crossings to provide fish passage, and for flow and fish passage that reflect a changing climate.

Monitoring, Compliance, Adaptive Management. The Accord improves compliance monitoring and adaptive management by establishing a stakeholder body to inform rule effectiveness. It improves access to forestland to assess compliance and establishes a science team to conduct studies and report them to the Board.

Beaver and Amphibians. There are changes to reflect the critical role that beavers and beaver dams play in supporting fish and wildlife, including salmon, and improves protections for stream-dwelling amphibians.

Mitigation Funding. The Accord invests in protecting water quality and improving habitat with an annual commitment from landowners (\$5 million) and the state (\$10 million) to a 50-year fund to help improve habitat and protect water quality.

What is left to do under the Accord?

Implementing the Programs. There is a great deal of work to do to implement the Forest Accord. Not only do the new Adaptive Management and Small Forestland Owner programs need to be created and administered, but the new rules need to be communicated to the public and landowners. In addition, the PFA creates several areas of greater cooperation between ODF and ODFW, and we encourage the State Forester and DEQ director to develop an MOU to memorialize and clarify that new relationship.

Getting the HCP. The PFA mandates a Habitat Conservation Plan (HCP) based on the new rules to be completed by 2027. It is critical that the Board and Department keep the focus on that outcome.

Post-Disturbance Logging. The Accord does not address the standards that are needed to ensure that clean water and communities are protected from harmful logging practices after forest disturbances such as wildfire, insects, or windstorms. As part of the Accord negotiations, SB 1501 requires that rulemaking to address post-disturbance logging is completed by November 2025. It is critically important to address the impacts to watersheds from streamside logging practices immediately after fire. We urge the department and board to urgently address this gap in the Accord, especially because we cannot support harvest under the current rules being covered activities under the HCP.

Tethered Logging. The PFA also mandates formal rulemaking on tethered logging, and our community is ready to engage in that work.

Outstanding issues in our community.

Drinking Watersheds. The Accord did not include explicit protections for logging in areas that are sources of drinking water for Oregon communities. Moving forward, more protections are needed to ensure that sources of clean drinking water are protected for Oregonians across the state, especially on steep, unstable slopes, or where the loss of shade, pesticide use, and sedimentation can harm drinking water.

Aerial Spray. The Accord did not address limits to aerial pesticide spray as part of the negotiations beyond the provisions in SB 1602. The increased notification requirements and bans on aerial pesticide spray within 300 feet of schools and homes, within 300 feet of all drinking water sources, and within at least 50 feet of tens of thousands of miles of small streams are improvements, but many members of our community are interested in more protective measures. This is an issue that must be addressed in the future.

Clean Water Act. Unlike Washington State's private forest HCP, the Accord was not designed to seek Clean Water Act assurances. Given that the Accord only addresses the needs of listed fish species within their distribution, it is likely that there are additional updates to forest practices that will be required to comply with the Clean Water Act.

Carbon. We know this Board has put a strong focus on the importance of forests both to mitigate climate change and to adapt to it. We applaud your steps in that direction, and look forward to shaping policies to address the global climate crisis.

Please support this rulemaking.

The Private Forest Accord is the result of decades of hard work by community members, forest advocates, and scientists calling for change. The Accord and the proposed administrative rule changes to the Forest Practices Act as directed by Senate Bills 1501 and 1502 represent significant progress in Oregon's forest regulatory landscape. Despite the difficult tradeoffs, the Accord is a critical step to better protect clean, cold water for all Oregonians.

Sincerely,

Chrysten Rivard
Trout Unlimited

Kelly Burnett
Fisheries Biologist and PFA Negotiator

Sean Stevens
Oregon Wild

Bob Van Dyk and Stacey Detwiler
Wild Salmon Center

Bob Salinger
Portland Audubon

Nick Cady
Cascadia Wildlands

Joseph Vaile
KS Wild

Emily Bowes
Rogue Riverkeeper

Glen Spain
Pacific Coast Federation of Fishermen's
Associations

Kasey Hovik
Umpqua Watersheds

Lisa Arkin
Beyond Toxics

Bob Rees
Northwest Guides and Anglers Association

Doug Moore
Oregon League of Conservation Voters



The Nature Conservancy in Oregon
821 SE 14th Avenue
Portland, OR 97214-2537

tel 503.802-8100
fax 503.802-8199
nature.org/oregon

September 30, 2022

Re: Comments supporting the proposed revisions to Oregon Forest Practices Act rules

Submitted by: Pete Caligiuri, Forest Strategy Director

Oregon Department of Forestry and members of the Oregon Board of Forestry:

Thank you for the opportunity to provide comments on the proposed revision of the Oregon Forest Practices Act Rules as negotiated through the Private Forest Accord (PFA). The Nature Conservancy (TNC) recognizes the historic nature of the agreements reached through the PFA process and remains grateful to all the parties who worked so diligently over many months to find common ground to strengthen private forest management requirements in Oregon.

TNC is a science-based, non-partisan organization committed to conserving the lands and waters on which all life depends. In Oregon, TNC has over 80,000 supporters and members in every county. Based in communities around the state, we employ scientists, land stewards, fire managers, and conservationists to manage and protect lands and waters in varied ecosystems and partner with ranchers, farmers, fishers, timber and environmental interests on some of the most challenging conservation issues facing people and nature. Drawing from this experience we evaluated the proposed revisions to Oregon's Forest Practices Act (OFPA) rules and would like to share the following feedback for your consideration as this much-needed update to the OFPA is made.

Division 600 – Definitions

- The proposed definition of “forestland” means land that is used for the “growing *and* harvesting” of trees. TNC is concerned that this definition might transfer to other state level policies. For example, a definition will need to be created for Natural & Working Lands GHG inventory work and it would be problematic if the “growing *and* harvesting” language would be carried forward into other policy spaces and unintentionally exclude non-harvested forests from this definition of forestland. We recommend that it be made clear that this definition of “forestland” be clearly noted to only apply to these rules.

Division 630 – Harvesting

- Operational requirements in the R-ELZ (i.e., 30 feet in Eastern Oregon and 35 feet in Western Oregon) specify that disturbance from equipment shall be minimized and all trees less than 6” DBH and shrub species are retained where possible. TNC is concerned that this requirement to retain all trees under 6” DBH could impede conservation organizations like ours and other landowners who want to implement ecological restoration treatments aimed at reducing conifer encroachment and re-establishing hardwood species dominance in riparian areas, particularly in Eastern and Southwestern Oregon. Moreover, we are also concerned that the requirements do not include the retention/protection of old trees, which provide critical structural and ecological functions in riparian forest systems.

Division 635 – Water Protection Rules

- The development of plans for alternate practices includes a provision to provide “...opportunities to complete ecological, restoration, or operational objectives.” TNC appreciates the inclusion of considerations for ecological and restoration objectives, which is often necessary to improve the long-term function of riparian and aquatic systems. However, we would like to see additional clarification on “operational objectives”, to ensure there are adequate environmental sideboards within such plans.
- The proposed revisions reduce the state to two geographic regions (i.e., Western and Eastern Oregon), with no geographic designation for Southwest Oregon. TNC is concerned that this simplification could lead to potential unintended consequences for the ability to do ecological restoration treatments in the fire-adapted forest systems in Southwest Oregon.
- Finally, we are uncertain whether the fish distribution models (Fransen et al. and Penaluna et al.) that will be used for designating fish use are appropriate for both the Western and Eastern Oregon geographic regions and have concerns that certain species might be missed in these models.

Division 643 – Water Protection Rules: Vegetation Along Streams

- The desired future conditions for streamside vegetation in Western Oregon and the inner zone in Eastern Oregon are biased in favor of conifer forest cover and the development of mature conifer forest conditions. While this may be appropriate in the context of some Western Oregon industrial forestlands where the conifer component may be missing from riparian vegetation (e.g., riparian sites dominated by red alder) and thus not on a trajectory to provide inputs of long-lasting instream coarse woody debris, we would like to see additional nuance in the requirements for Eastern Oregon where conifer dominance is not always desired and may be counter to ecological restoration goals. This includes requirements for Type F, Type SSBT, and medium and large Type N streams in Eastern Oregon, which dictate all vegetation shall be retained within the inner zone (30 feet), and may not be consistent with restoration goals or re-establishment/recruitment of hardwood species that have been replaced due to changes in hydrology and fire exclusion.
- We appreciate that the species retention guidelines recognize the importance of fire-resilient species in Eastern Oregon (and should do the same in much of Southwest Oregon), but in some contexts within fire-adapted systems, it may be more appropriate to maintain riparian-adapted species, such as Englemann spruce or native hardwoods.
- Furthermore, the proposed rules dictate that hardwoods can only count for up to 30 sq. ft. of BA per 1000 feet of stream in some cases (e.g., Medium Type D and N streams), when in some systems (i.e. fire-adapted forest landscapes) hardwoods should constitute a majority of riparian vegetation cover.
- As a whole, we would like to see this issue addressed with more site-specific vegetation retention prescriptions that allow for retention goals that would intentionally shift riparian areas back to hardwood dominance consistent with ecological restoration goals where appropriate (i.e., fire-adapted forest landscapes).

In conclusion, we commend the Department and the Board for advancing these long overdue revisions to the OFPA, and for the work of the many NGO, private, state, federal, and tribal partners who engaged in the PFA and set the stage for this work. TNC appreciates the opportunity to share specific feedback on the proposed rules and encourages consideration of the points outlined above to address potential unintended consequences.

Sincerely,

Pete Caligiuri
Forest Strategy Director
The Nature Conservancy

6. Trade Organization



Coos-Curry County Farm Bureau

87518 Davis Creek Lane, Bandon, Oregon 97411

September 7, 2022

Attention: PFA – Christina Helige
State Forester Cal Mukmoto
Oregon Department of Forestry
Forest Resources Division
2600 State St. Bldg. D
Salem, Oregon 97310-0340

Comments delivered via email: sb1501.rulemaking@oregon.gov

RE: Extension of Public Comment Period for the Private Forest Accord Rulemaking process

State Forester Cal Mukmoto and Board of Forestry:

Coos-Curry County Farm Bureau (CCFB) appreciates the opportunity to comment on the proposed Private Forest Accord rulemaking. At the monthly CCFB Board meeting tonight, it was brought to the Board's attention that there was still on-going negotiation on the Private Forest Accord Rulemaking with OFIC. It is assumed that the negotiations will bring about changes in the initial draft rules. Therefore, the CCFB request extending the public comment period. The CCFB Board represents multi-generational Small Forestry Ownerships as well as large timber ownerships. CCFB intends to write comments but do not feel it is appropriate to comment on draft rules that are ever changing. CCFB recommendation is to restart the comment period of 30 days only after the negotiation has been completed and the Board of Forestry has reapprove moving the negotiated rules forward. The other option CCFB discussed was to extend the rulemaking on the PFA rules to 60 days after the rulemaking is assumed to be the final draft with no further negotiation.

Coos-Curry County Farm Bureau thanks you for your consideration of extending the timeline for public comment in the PFA rulemaking. This PFA rulemaking has extensive impact to timber operations in our counties.

Respectfully submitted,

Marc Van Camp, President



Coos - Curry County Farm Bureau

87518 Davis Creek Lane, Bandon, Oregon 97411

September 29, 2022

Lisa Appel
Oregon Department of Forestry
2600 State Street Bldg. D
Salem, Oregon 97310

Submitted Via Email: sb1501.rulemaking@oregon.gov

RE: Forest Practices Act rule revisions as directed by the enrollment of Senate Bills 1501 and 1502

Ms. Appel:

Thank you for the opportunity to provide written comment on the Forest Practices Act rule revisions. The Coos-Curry County Farm Bureau's (CCFB) membership includes not only agriculture producers on the southern Oregon coastal region but also many small and larger woodland owners in both Coos and Curry Counties. The CCFB Board has been diligent at reading the draft documents proposed under the PFA and have had thorough discussions on the impact of this rulemaking on the family forestry operations and Small Forest Owners (SFO) in our area. The southern Oregon Coast is habitat to most of the species defined in the HCP as well as rivers and streams that are fish bearing and non-fish bearing. The slopes are another major concern and overall, the coastal Oregon timber industry is the hardest hit by these rules. Yet, our members and other landowners are the ones doing so much of the fish and wildlife habitat restoration, water quality, as well as a multitude of conservation practices.

CCFB's major concerns are summarized below:

- (1) Page 24, 629-603-0600 (1): Remove: "the Board of Forestry may use the adaptive management program rulemaking process for rules that are not intended to achieve the biological goals and objectives." This is an open ended process and could totally shut down the forestry industry. The goal should be to develop practices to enhance our industry and encourage sustainable management of timber as well as to engage in practices that reduce the fuel loading which causes the devastating wildfires Oregon is experiencing.
- (2) Page 25, 629-605-0150(3)(c): Remove the 6 month timeline. Not all years are the same and in the coastal area, due to the amount of rain, the landowner may not be able to log until July or later.
- (3) Page 26, (8): The section on fertilizers should be removed. The use of fertilizer is an uncommon practice in small family forests. Fertilizers enhance soil health and the growth of trees which is a positive management tool.

Page 1 of 3

(4) Page 29, 11 (d): Remove “Comments provided by the State Forester do not constitute an approval of the written plan or operation”. Concern has been expressed that landowners should know the comments provided by the State Forester, if followed, should make their plan compliant with the rules.

(5) Page 31: The Division 607 rules should have been developed with actual small forestry owners. It appears no one on the team was an actual small forestry owner who understands the goals, management, and harvesting of these small tracks of timber. Contrary to (5), these rules do not “address the significantly disproportionate impacts on small forestland owners of modest means who are highly dependent on revenue from locations with highly dense concentrations of streams by the Forest Practice Administrative rules.” The SFO rules section should not be approved and a committee of actual small forestry owners should draft alternative rulemaking to realize and address the needs of the small family forestland owners throughout Oregon especially the coastal region where the HCP and rules will have the greatest impact on landowners.

(6) Page 32, 629-607-0200(1)(b)(B): Remove this section. If there is harvest, ODF has those records. How much a SFO harvests within the last three years should not be criteria for determining SFO’s.

(7) Page 32, (1)(b)(C): This section basically restricts the small forestry landowner’s harvest. Again, this is an inappropriate requirement for SFO’s. Harvest amounts should depend on landowner goals and maturity of trees, not a government regulation.

(8) Page 32, (1)(c): It is inappropriate for the rules to determine when a SFO can harvest more than the maximum allotment based on certain criteria.

(9) SFO Tax Credit: In reviewing this section, the amount of dollars received for the tax credit is insignificant when compared to the loss of trees, land use, and cost to comply with the rules.

(10) Page 36, 629-607-0400(4) Except in this section, the rules only refer to a “deed restriction”. This paragraph states “an **irrevocable** deed restriction prohibiting the owner and the owner’s successors in interest from conducting a harvest or otherwise removing trees within the forest conservation areas.” By legal definition, *irrevocable* means it cannot be changed and yet under 629-606-0700 there is a process for removal of the deed restriction. Therefore, “**irrevocable**” needs to be removed from these rules.

(11)Page 44: Division 625 rules will greatly increase the cost of constructing and maintaining roads. This section fails to acknowledge the fire protection benefits of a well-maintained road system, while disproportionally increasing costs to family timberland owners. Unlike large corporate timberland owners, family timberland owners do not have a large staff of professionals to develop and maintain these requirements. This is a common theme throughout the entire FPA rule revision. The blanket requirement for 100 year peak flow sizing and minimum 18” diameter for culverts is an unreasonable and unnecessary requirement. Culverts should not need to be replaced simply because a generalized calculation result that does not consider local factors. There needs to be an opportunity for landowners to use site specific data to show that existing culverts are adequate. Blindly replacing all culverts represents a greater risk to water quality with the construction process due to the scale of such an endeavor on the South Coast.

The reality is family timberland owners find the roads section to have significant impact on the cost of logging especially in the coastal regions. Why plant and grow trees if one cannot harvest them economically. Complying with the new fish passage rules is a challenge and costly for our coastal timberland owners.

(12) There is great concern also with the amount of timber a single small forestry owner will lose with the new slopes rulemaking, let alone the dramatic increase in riparian buffers. Timber is a

part of the small landowner's financial basis. These new rules will have an impact on the financial stability as well as the use of land our members have purchased, planted and managed for many generations. No one has the right to take this crop and land away without "just compensation".

There has been no economic study as to the impacts these rules will have on family timber operations, county governments, or the economics of Oregon's rural counties. CCFB realizes the Board of Forestry has heard numerous speakers on behalf of the Private Forest Accord. One of our concerns is that these presenters appear to have no on-the-ground basis for their comments especially when it comes to impacts to rural Oregon. Coos County, for example, has forestland which is harvested on a sustained yield to supplement the County budget. The Coos Forestry Department must follow the same Forest Practices rules as we private landowners. The cost of logging to meet those requirements under the new rules as well as the expansion of riparian buffers and slopes will definitely have a financial impact on Coos County's budget.

After thorough evaluation, Coos-Curry County Farm Bureau oppose these rules as written and would like to see the rules amended through a collaborative open process so that family forestland owners and small forest owners are not forced out of business. An economic impact study of the financial impacts to family forest ownerships, county governments as well as the State of Oregon should be completed prior to any approval of these rules.

Thank you for the opportunity to provide comment on this rulemaking process.

Respectfully,



Marc Van Camp, President



P.O. Box 310 • Medford, Oregon 97501 • (541) 773-5329

September 3, 2022

PFA - Christina Helige
Oregon Department of Forestry Forest Resources Division
2600 State St. Bldg. D
Salem, OR 97310-0340
Via email: sb1501.rulemaking@oregon.gov

RE: Forest Practices Rules Revision Comments

Thank you for the opportunity to comment on the Oregon Department of Forestry (ODF or Department) proposed revisions to the Forest Practices Act. These comments are submitted on behalf of the Southern Oregon Timber Industries Association (SOTIA). SOTIA promotes healthy forests and forest related industries through responsible management of public and private forests that sustain timber, wildlife, recreation and scenic beauty for the citizens of the area. Members of SOTIA are located in Curry, Jackson, Josephine, Klamath, and Siskiyou Counties where they have various roles in the growing, harvesting, and manufacturing of wood products. In this area there are nearly 10,000 people employed in forest products related industries.

The greatest impact of the proposed rules will be the economic harm that it imposes on timberland owners and the entire forest industry. The similarities of the proposed rules to those adopted in Washington under the Forest and Fish agreement are easy to recognize. When those rules were adopted, it reduced the private land harvest in Washington by 15 percent. That is a significant loss of revenue for forest landowners. Some landowners had a greater reduction.

The impact these proposed rules will have on the supply for forest products manufacturers is very concerning. These rules are estimated to reduce the harvest from private land by over 400 million board feet. Combine the reduction from these rules with the reduction in supply from the 2020 wildfires and the State Forests HCP and there is a tremendous loss of raw materials for Oregon mills. This loss will lead to mill closures and the loss of employment for hundreds of Oregonians.

If an analysis has been done to reflect these economic realities it is not easily found. The State of Oregon should conduct an analysis on the economic impact these rules will have on the Oregon economy as well as those in the forest industry. Conducting such an analysis would ensure compliance with ORS 527.630 (1) where *"it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land..."* Without such an analysis, the State

does not know how these rules will affect the landowners to ensure that forestry is still a viable business on their lands.

It is disappointing the stream type model mentioned at 629-635-0200 (11) and the steep slope mentioned at 629-630-0900 are not complete. We understand the models will not be available until the spring and early summer of 2023 which does not offer time to comment. It also leaves little time for adjustment prior to the stream rules going into effect on July 1, 2023.

These two models will have a significant impact on the implementation of rules and the operable land base. Without the output from those models, landowners can not fully analyze the effects of these rules on their ownership. That makes it difficult to offer comprehensive comments on the proposal.

SOTIA members are disappointed that the differences in geographic regions around the state will no longer be recognized. The elimination of the Siskiyou Region is particularly concerning. Recent history has shown that this portion of Oregon is a dry, and fire prone. Increased buffers and basal area along streams in this region will increase the fire intensity along streams. Since much of this area is a checkerboard of private and federal land, these buffers will act like wicks connecting the high fuel loads on federal land. The resulting burned acres will have long-term environmental effects on streams and water quality.

Implying that access to private lands will be mandated for the Adaptive Management Policy Committee, Independent Research and Science Team (629-603-0100 (3)), and the diverse group of stakeholders involved with compliance monitoring (629-678-0100 (7)) causes great concern. Diverse stakeholders implies that people adverse to timber harvest and the use of natural resources for profit will be on industry property. There is nothing that will keep the information they receive while visiting private lands confidential. Past articles and pictures that defame the industry from this group cause concern that their access will facilitate more propaganda decrying the timber industry.

It is unclear how adaptive management (629-603-0000) will be funded whether it be general funds, harvest taxes, grants, or a combination of the above. SOTIA feels strongly that this portion of the new rules be funded by the general fund. The operations of the Department of Forestry have struggled with adequate funding in the past. Adding this burden to their budget will greatly reduce their ability to provide other services.

All the additional requirements for written plans (629-605-0170 (10)(b)) will require significantly more ODF staff time. This will require additional staff and related expenses. Funding for additional staff should also come from the general fund.

Having significantly different rules which are less onerous for small landowners may provide incentive to large landowners to sell parcels under 5,000 acres. Most large landownerships are comprised of small tax lots. Selling tax lots under 5,000 acres may have a better financial benefit than retaining a parcel impaired by the new rules. This is another study that ODF should conduct to determine the long-term effects of the rules.

It is unclear how the Small Forestland Owner Assistance Office will be funded long-term. SOTIA strongly urges the department to get these programs funded from the general fund in the future. Again, ODF has a difficult time already providing the services required of them. Adding programs without guaranteed funding will lead to failure.

SOTIA appreciates the assistance that small forestland owners are proposed to receive and understands the sentiment behind the Small Forestland Owner Assistance Office. However, the discussion about the new rules potentially having disparate financial impacts on small forestland owner raises the question, what level does resource protections standards become disproportionate for small landowners? Does this level also work for landowners over 5,000 acres? If the threshold for a small landowner's revenue from their forest land is a reduction of 20%, does a large landowner receive assistance if their revenue declines by

20% due to the new rules? Not all large landowners are the same and the Department should acknowledge that some large landowners may be harmed significantly as well.

In 629-625-0100 (5)(a) Written Plans for Road Construction, the requirement of an operator to provide their transportation needs and management objectives for a water crossing is unnecessary. The Department does not need this information to ensure compliance with the rules. If the landowner or operator desire to have a water crossing, ODF should ensure they comply with the rules and do not cause resource damage.

The lack of necessity is also true for identifying risk factors at a watershed scale requested at 629-625-100 (5)(C). An operator may not know the factors such as event history, projected land management and projected watershed conditions. They may only own a portion of the watershed and not know what operations are planned on other ownerships. Asking for this information is burdensome and unnecessary.

The phrase in 629-625-0320 3 (b) states that operators should design water crossings to allow for the movement of water, wood, sediment, and organisms to the maximum extent possible. This terminology leaves the water crossing design to the interpretation of each individual. A culvert that meets the 100-year flood event but is within budget for the operation may be one interpretation. Another interpretation may be that a bridge is required on every crossing to maintain current stream conditions regardless of cost. It is not practical to install expensive crossings in all locations that fish may use. Such requirements will make utilizing the land for forestry uneconomical and could result in fragmentation of intact forests. SOTIA suggests this portion be written to say the operator will design water crossings to efficiently cross the stream minimizing disturbance to current stream processes.

OR 629-625-0900 Forest Road Inventory and Assessment (FRIA) will be very expensive for large landowners. The Road Maintenance and Abandonment Plan (RMAP) requirement in Washington is very similar to the Forest Road Inventory and Assessment. Millions of dollars have been spent in Washington to improve roads and water crossings in the state. During periods when returns on owning forestland were low or negative, much of this work was paused. In some cases, landowners stopped their RMAP work and passed the responsibility on to future owners. The State of Oregon should be aware that this is a possibility for this program and provide financial assistance or incentives to ensure FRIA work is complete.

The use of models as described in 629-635-0200 (11) Water Classification is concerning. The best assessment of fish distribution and use is by physical surveys. Having to verify modeled stream information is likely to be expensive. Trusting models in resource management is not the best method for the resources. If the model indicates fish use where there has not been any in the past, waiting for a new survey will be expensive for the landowner. 12-24 months may miss significant economic opportunities. There need to be an expedited method of field verifying fish presence to allow landowners and operators to work efficiently.

The current rule language at 629-630-0900 through 0925 indicate the Slopes Model delineation for designated debris flow traversal areas and sediment source areas are final. Even if stream classifications change, the slopes model will not change immediately. There should be an avenue for review and change these designations. Models do not always reflect conditions in the field properly.

Slope model concepts are new for the Department as well as landowners and operators. The learning curve for this new concept will be steep, as are the slopes that will be reviewed for operation. This will require more time for ODF staff as well as those submitting a plan. The implementation of these rules will likely be difficult and therefore cause greater harvest deferrals than anticipated.

SOTIA members appreciate the effort to reduce the number of repeat offenders and forest practices violations. Those that do not adhere to the rules provide a poor image for those in the industry that are good stewards. The new rules should help reduce the number of bad actors.

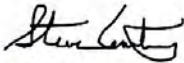
SOTIA applauds the Department for updating technical notes and providing technical guidance in many places throughout the new rules. This guidance will be necessary, particularly for those not trained in forest operations or do not perform them regularly. Publishing the guidance prior to the implementation of the rules will be a difficult, but necessary task.

This rule proposal has several new concepts and requirements for operators to understand. This will require extensive training for ODF field staff, landowners, and operators. If the ODF does not have a good training program planned prior to the enactment of the rules, implementation under the rules will be delayed until proper training can occur. We understand that ODF is trying to hire more personnel that will help deliver the training necessary to implement the rules. It will be difficult to get training accomplished prior to enactment of the rules.

SOTIA will be glad help facilitate training in the SW Oregon region once training programs are available.

Thank you for the opportunity to comment. We look forward to the progression of these rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Courtney".

Steve Courtney

Executive Vice President



OREGON FOREST & INDUSTRIES COUNCIL

SUSTAINABILITY. SCIENCE. INNOVATION. GROWTH.

PO Box 12826
Salem, Oregon 97385
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www.ofic.com

September 29, 2022

Oregon Board of Forestry

Submitted via email: sb1501.rulemaking@oregon.gov

Re: Private Forest Accord Rulemaking

Thank you for the opportunity to provide comment. The Oregon Forest & Industries Council (OFIC) is a statewide trade association representing forestland owners and forest products manufacturing firms in Oregon. Its members own more than 90 percent of Oregon's private, large-owner forestland base. OFIC's core mission is to advocate on behalf of its members to maintain a positive, stable business operating environment for Oregon's forest products community that fosters long-term investments in healthy forests; to ensure a reliable timber supply from Oregon's public and private forestlands; and to promote stewardship and sustainable management of forestlands that protect environmental values and maintain productive uses on all forestlands.

Much has been said about the authors that came together to find common ground and abandon the battles of the timber wars- seeking the common ground between environmental regulation and landowner certainty. The rules before you represent months of work, and hours of conversation between parties. These draft rules, as written, are an accurate reflection of the Private Forest Accord (PFA) agreement and OFIC encourages the Board of Forestry to adopt them. We appreciate the diligent efforts of the Department of Forestry staff, and the time they invested in putting together the draft rules being considered.

Support for draft rules- stability for the forest sector

These rules are the result of a lot of hard work and compromise and there is no room for more. The original agreement was made in earnest consultation with professional foresters and our members have continued to provide their expertise and practical experience to help shape these draft rules. There is no room for fine tuning, and we humbly encourage the Board to support the collaborative nature in which these rules were created by adopting the rules as written.

This agreement is a rare and genuine compromise. Not everyone got what they wanted, but everyone got something. We gave up a whole heck of a lot, but we believe the sacrifice is worth it to get some certainty and stability for our future.

A lot of work remains

Senate Bill 1501 dictated a very aggressive timeline for this rulemaking effort, and some elements remain outstanding, including chapters of technical guidance, rulemaking processes for both tethered logging and post disturbance harvesting, and several trainings to develop and deliver. If there's one thing we learned in the rule drafting process, it's that to guarantee a thorough and complete job the workload should be metered out at a measured pace and not rushed. We could use the Board's help and guidance making sure that happens and that all unresolved elements are resolved in the same collaborative spirit that has been cultivated.

These are Climate Smart Rules

These PFA rules are “climate smart”. For folks interested in additional trees growing and storing carbon in the forest- the PFA does that. For those concerned with stream temperatures and thermal refugia for fish and wildlife species- the PFA does that. For folks interested in promoting wood products and sustainable green jobs- the PFA was created to achieve certainty and a sustainable forest sector.

Chemical Application was part of PFA process- first thing done/ state of the art

The very first action taken by the Private Forest Accord authors was to agree upon new protection measures and a state-of-the-art neighbor communication tool for helicopter applications of herbicides. These rules were adopted through Senate Bill 1602, which also directed the authors to continue to meet to seek compromise and agreement on other important updates to the Oregon Forest Practices Act. These aerial application rules are indeed unique, no other state in the Nation has greater protections or stronger communication tools. These too were rules developed through this collaborative process, and only became operative in 2022. They offer greater protection for all water intakes, increase protections around streams, strengthened compliance tools, and create real-time and post-application communication for neighbors.

Thank you for the opportunity to provide comment.

Seth Barnes
Director of Forest Policy
Oregon Forest Industries Council

September 30, 2022



Oregon
Rural
Electric
Cooperative
Association

Via Electronic Filing

Oregon Department of Forestry Written Comments Email Address

sb1501.rulemaking@oregon.gov

RE: Forest Practices Act Proposed Rule Revisions

Attention: Christina Helige and fellow Forest Resources Division staff

Consumers Power Inc. (CPI) appreciates the opportunity to submit comments concerning the proposed revisions to the Forest Practices Act published at the beginning of September 2022. CPI understands that the revisions to the Forest Practices Act were authored by a coalition of timberland owners and conservation groups, in order to meet their shared goals of protecting the environment and wildlife in Oregon, while reducing the burden of litigation related to timber harvesting activities. CPI appreciates the collaborative effort but feels that this coalition was not properly representative of all the stakeholders who will be affected by the revisions and offers the following comments and perspectives on the draft rules.

CPI is an electrical cooperative, which is a type of privately held non-profit electrical utility owned by its members (customers). Electrical cooperatives were originally formed during the Great Depression and the post war years to provide electrical power to underserved rural areas. There are currently 18 electrical cooperatives operating across rural areas in Oregon. CPI itself was incorporated in 1939, and to this day mainly serves members in rural areas and within the Wildland Urban Interface. Like all cooperatives, CPI's core mission is to provide safe, reliable, and cost-effective power to our members. After reviewing the proposed revisions to the Forest Practices Act, CPI is concerned that adopting the revisions as drafted will degrade the safety, and reliability of rural electrical systems and consequently drive increased utility costs for rural Oregonians and their businesses.

CPI maintains over 3,000 miles of power lines and a great many of those lines run along and across rivers such as the Yaquina, Siletz, Santiam, Luckiamute, and others, along with their various tributaries. These are areas where the proposed revisions to the Forest Practices Act would make it very difficult to remove trees and other vegetation. Like all electrical utilities, CPI has a legal (OAR 860-24-0016(4)) and ethical responsibility to keep our lines clear of vegetation that could damage our system and cause outages, public safety hazards, and wildfires. CPI operates our system within a defined Right-of-way that is quite narrow in relation to the height of trees in Oregon's forested areas. Consequently, CPI depends on landowner partners to help remove hazardous trees and vegetation from outside our Right-of-way before they can fall through our lines. Draft rule OAR 629-643-0105(6) and its counterparts in the draft ruleset allows falling snags that pose a safety hazard but not hazardous living trees. CPI has already had some issues with landowners being unwilling to remove hazardous trees because of the proposed draft rules. If the revisions are adopted as written, CPI expects the hazard tree issue to

become more serious, and pose an ever-increasing threat to rural electrical systems in Oregon as the years pass.

If these proposed rules are adopted and hazardous trees near power lines within the stream buffer limits are tolerated, it will have several easy to anticipate negative consequences to the people of Oregon. The most serious consequence is the increased probability of wildfires starting and propagating in rural areas. Trees falling through power lines often cause thermal events (sparks and flame) that can and do start wildfires in forest lands. The Oregon Public Utility Commission recently adopted new OARs in their Division 24 rules that are meant to help prevent such wildfires. These proposed rules would not only increase fire danger but will also force utilities to pick and choose which OARs they can comply with in different areas. The connected issues of increased fire danger and regulatory dissonance make some of these proposed rules very problematic for utility companies and the people they serve.

Additional anticipated consequence related to the probability that more trees will fall through power lines more often all year round. This will greatly reduce the reliability of rural electrical supplies as outages become more common and last longer. Another consequence is reduced safety due to downed lines caused by falling trees. Downed lines can pose a direct safety threat to members of the public and first responders who may be in the vicinity of live wires. The upshot of these consequences is the increased operations costs that events such as system damage and wildfires lead to. Rural electrical utilities will simply be unable to absorb the costs of additional maintenance due to escalating system damage, and the financial consequences of wildfires. CPI and other rural electrical utilities will simply have to pass those costs on to the people they serve.

CPI understands the genesis of the Private Forest Accords and respects the efforts of the authors to protect wildlife habitat in Oregon. CPI feels that despite their laudatory work, the authors of the accord were not sufficiently aware of the knock-on effects that their proposed rules would have on the comfort and safety of rural Oregonians outside of their areas of interest and expertise. CPI therefore respectfully requests that the Oregon Department of Forestry consider adding limited exemptions to draft rule OAR 629-643-0105(6) and its counterparts in the ruleset. Specifically, CPI requests exemptions that will encourage landowners to remove hazardous vegetation from the vicinity of power lines and other critical infrastructure located near waterways. CPI envisions that an effective exemption would specify that both hazardous snags and trees are allowed to be felled, and that they can be taken to market if they are outside the limits of the pre-revision buffer distances. An exemption like this would not only allow landowners to help protect electrical infrastructure but also incentivize them to do so. Such exemptions would likely have little effect on the overall goals of the Private Forest Accords authors but would enhance the safety and security of rural Oregonians by protecting them from extended power outages, electrical safety hazards, and wildfires.

Sincerely,

Roman Gillen

President/CEO

Consumers Power Inc.

Ted Case

Executive Director

Oregon Rural Electrical Cooperative Association



September 30, 2022

Lisa Appel
Oregon Department of Forestry
2600 State Street, Bldg D
Salem, Oregon 97310
Submitted Via Email: sb1501.rulemaking@oregon.gov

*Re: Oregon Farm Bureau Comments on the Forest Practices Act rule revisions
directed by the enrollment of Senate Bills 1501 and 1502*

Ms. Appel,

Thank you for the opportunity to provide written comments on the Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502. By way of background, the Oregon Farm Bureau (OFB) is the state's largest agricultural trade association, representing nearly 7,000 farm and ranch families in the state, including many small woodland owners.

While we appreciate all of the hard work that went into the Private Forest Accord (PFA) by the signatories and support the industry's work toward a Habitat Conservation Plan, our members – particularly those who are small woodland owners – feel very strongly that the PFA is not workable for their operations and will result in the sale of some of their multi-generational forestlands and we have expressed this concern at every available public comment opportunity since the release of the PFA. Unfortunately, because the groups who were at the table to negotiate the PFA were restricted from sharing information about the negotiation, our small woodland owner members did not have the ability to provide feedback on the PFA or share the impacts it would have on their operations. To that end, OFB once again writes to share those concerns, not only with the impact of the agreement on the viability of Oregon's small woodlands, but also the increased bureaucracy in Oregon Department of Forestry (ODF). Finally, OFB is troubled by the provisions that would remove a landowner's entitlement to just compensation for restriction of their use of real property due to these new land use regulations on their private forestlands.

Lack of Transparency

Since the beginning of the PFA it has remained a behind closed doors discussion where only a privileged few were able to add input. To continue to say small forest owners were represented because Oregon Small Woodlands Association (OSWA) provided input and was represented is completely misleading and disregards the voices of many Oregonians who are deeply affected by these new provisions. OSWA leadership did not discuss this with membership at any level

including directors of county chapters. Even if they had, OSWA represents a very small fraction of small forest landowners across the State. OFB's crossover membership has expressed deep concern that the OSWA representative was a past executive director of the organization who essentially was no longer beholden to the organization or its members. Additionally, to have the same behind closed door process used to develop these rules, with the drafting done by the same creators of the PFA, once again done behind closed doors continues to frustrate the same small woodland owners who already feel that their lands have been sacrificed by the state and larger timber owners.

629-607-0400 Forest Conservation Tax Credit

There are many levels where the economics of the PFA seem flawed, to both the small forest owner and the State. The PFA promises the small forest owner tax credits for participation while the up-front cost of participating far outweighs what is even paid in credits. Although there is language in the legislation of 1501 and 1502 to help the small forest owner, the cost of cruising, valuing, surveying and documenting (deed record) far outweighs what any tax credit or subsidization will pay. The additional cost of a small forest owner paying a consultant to flag additional streams will further cut into any revenue generated in small forest owner harvest due to harvest units on average being 30-50 ac and not the 80-120 ac size seen on industrial ownerships. Non-fish streams that will now require buffers could take a full day to flag especially on the coast where these regulations will hit the hardest. A small woodland owner may still be able to harvest timber in these cases, but they will still have to be flagged. Coastal harvests could see harvest layout costs triple in many cases and this does not even include the increase in operational costs as harvest logistics will certainly change as a result. Also included under item 4 in this section is the word "**irrevocable**" which does not show anywhere else and should be removed, as it has long lasting consequences for landowners.

629-625-0920 Road Condition Assessment

The road condition assessment should be removed for small forest owners. Operational roads, including haul roads, would make sense but requiring small forest owners to do a full road assessment could prove very costly in both time and money. Small forest owners do not have staff forestry like the larger industrial or investment forest owners to prepare these assessments. Some parcels could be more than a thousand acres and include miles of abandoned roads, which could take days if not weeks of work. Abandoned roads are not part of the operational area have no impact on the current operation being notified and only set the stage for retroactive regulation.

Exemptions

The proposed rules include no real exemptions, and there should be an outlined list of exemptions that is not exclusive but anticipates for items like forest fire salvage. The goal should be to harvest and replant especially regarding small type N streams. The dead trees will be providing minimal shade at this point and stumps will still provide bank stability. Landowners should have the option of an emergency exemption to recover loss as well as begin forest restoration on their property.

Oregon Department of Forestry Funding

OFB is also remains very concerned about the new bureaucracy this creates within Oregon Department of Forestry (ODF), and how those positions are funded and filled long-term. ODF continues to struggle with adequately funding their current programs and with the creation of our comprehensive wildfire program under SB 762 last session, it remains unclear to OFB how the agency will remain solvent. While the PFA supports funding ODF implementation from the general fund and the parties made no commitment to seek additional revenues from landowners to fund ODF, the current legislature cannot bind future legislatures. As experience demonstrates, when we are in a cut budget scenario for the state, natural resources agencies usually see the largest cuts in terms of percent of budget. We are concerned that after just a couple biennium, ODF could see cuts to new programs that are being created within the agency, along with decreases in harvest on state managed forestland, which equates to less income coming into the agency as well. In these cases, the legislature often looks to increase taxes and fees on regulated entities, which our small woodland owners will not be able to afford, particularly in light of the reduced harvest from the new buffer restrictions. Additionally, how will ODF create 20+ new positions with qualified and competent personnel to adequately assist with forest operations or forest appraisal that would be required by the new rules?

For these reasons we oppose the rules as written and would like to see the rules amended through a collaborative open process so that small forestland owners are not forced out of business. Thank you for the opportunity to provide comment today and please do not hesitate to reach out with any questions.

Sincerely,



Lauren Poor
Director of Government & National Affairs
Oregon Farm Bureau
lauren@oregonfb.org

7. Small Forestland Owner

APPEL Lisa M * ODF

From: Russ and Linda Glascock < >
Sent: Friday, September 02, 2022 12:08 AM
To: RULEMAKING Sb1501 * ODF
Subject: My comments on the Oregon Forest Accord

My name is Russ Glascock from Eddyville. I am sending you comments on the Oregon Forest Accord (OFA).

My grandparents acquired 1240 acres in 1942. I have been at the ranch since January 1977. When my grandfather passed in 1978, the federal and state governments accessed 450,000 dollars in death taxes. This was a 55% rate after a 75,000 dollar exemption. That debt was paid over 15 years, and the rest of the family sold 1000 acres in 1994.

The forest practice act in Oregon has been changed 5 times (including the new OFA) since I moved here. In 1977, we planted 10 acres along the Yaquina river with doug fir seedlings. We were told that this would be a good investment for retirement. The OFA increases the stream side width from 100 feet to 110 feet. No thinning is allowed.

The ranch that I own includes 2 miles along the Yaquina river. In 2000, I planted 90 acres along the river with multiple species to help shade the river and provide wildlife habitat. Logs and stumps were placed along the river bank. Culverts were improved. The OFA will not allow me to thin trees within 110 feet of the river. Thinning would help with faster tree growth and provide me with retirement funds.

The OFA has convinced several of my Lincoln county neighbors to harvest trees in no cut buffer areas before the end of 2022. Without the OFA those trees would not have been harvested.

It takes 40 to 60 years to grow trees to harvest size. Family tree farms make decisions to plan for future income. This new rule is taking a significant portion of my retirement funds. After unfair death taxes and paying decades of property taxes, the OFA takes away financial use of large portion of my property.

I feel the State should reimburse small private timber land owners affected by the OFA for loss of income due to rule changes. Property taxes should be lowered to reflect loss of income.

Small private timber land owners contribute improvements to riparian areas and should be appreciated by the state, not punished financially.

Better yet, have the rules committee exempt small timber land owners from the rules of the OFA.

RRG

APPEL Lisa M * ODF

From: OLIVOS-ROOD Hilary * ODF
Sent: Tuesday, September 06, 2022 5:07 PM
To: RULEMAKING Sb1501 * ODF
Subject: FW: Opposing PFA Draft Rules

The sender of this email verified that the below comments are to be shared with the Board and the PFA rulemaking team as a public comment. See below.

From: Jennifer Hamaker <[REDACTED]>
Sent: Monday, September 05, 2022 11:49 PM
To: ODF_DL_Board of Forestry <BoardofForestry@odf.oregon.gov>
Subject: Opposing PFA Draft Rules

Opposing the Private Timber Accord with ODFW's own reports and studies-

As an Oregonian I oppose the draft rules for implementing the Private Forest Accord.

These rules will undermine our forests as well as punish the people and businesses that keep our forests healthy.

Oregon's forests and timber industry remain healthy and continue to support tens of thousands of family wage jobs in rural Oregon, despite paying 1 1/2 times more taxes than any other industry, while our timberland is being closed down with HCP's which allow for little forest management - if any, while taxes, regulations, fees, paperwork etc are ever increasing, and while we are governed by the strictest of laws in any industry in the United States by the Forest Practices Act.

To punish them by making more unmanaged timberlands on their successfully managed timberlands is irresponsible and surrenders yet again to the Environmental groups anti-management agenda.

The rules are not a balanced approach to support both conservation and economic viability for Oregon's rural communities, and the science proves this.

There is no need for increasing the riparian buffers. Coho and steelhead populations have been increasing as reported in the studies done by Oregon Department of Fish and Wildlife (attached link).

Coho spend about 1.5 years at sea and before coming back to spawn whereas Steelhead spend up to 4 years in fresh water, and 3 years in the ocean and some survive spawning to return to freshwater. Ocean conditions play a major role in fish populations. The proposed rules have nothing to do with ocean conditions, but the timberland owners will be punished for them. That is neither balanced or fair!

Current spawning and resident bull trout distribution in Klamath basin is highly fragmented and limited to a few headwater streams. Poor water quality and irrigation diversions have isolated populations, minimizing opportunities for bull trout to express a migratory life history, mix among populations, and colonize unoccupied habitats. This has nothing to do with riparian buffers, and more to do with Klamath Basin's lack of water due to drought.

The 13 timberland owners and environmental group negotiating this Accord do not represent Oregon's 60,000 timberland owners. The environmental groups don't have to pay for the changes in rules, the timberland owners do.

Oregonians are ready to leave behind the years of fighting and litigation that have threatened our rural communities for decades with proven science. We were told to follow the science during the pandemic, shouldn't we apply the same thinking to forest management. It is NOT balanced or fair to cherry-pick fact and twist truths to push an agenda.

Environmental group's agenda should be exposed and held accountable for their hands-off approach instead of proper forest management as well as the destruction to our forests and wildlife due to wildfires that decimate unmanaged forests. The severity of fires can be mitigated substantially with healthy forests that are properly managed. Environmental groups are adding to global warming with their hands-off approach to managing our forests.

Please think long and hard about your vision of Oregon's forests as a whole. By supporting the PFA, you are not only treading on private land and you are making our forests less resilient to wildfire, infestation, and disease by adding swaths of unmanaged forests to timberland that was once managed and resilient with cherry-picked facts and then twisting them.

Sincerely concerned,

Jen Hamaker
Oregon Natural Resource Industries

<https://www.dfw.state.or.us/fish/ONFSR/docs/final/01-coho/coho-summary.pdf>

<https://www.dfw.state.or.us/fish/ONFSR/docs/final/06-winter-steelhead/ws-summary.pdf>

Sent from my treehouse made of renewable and sustainable wood.

APPEL Lisa M * ODF

From: nancyn@everyactioncustom.com on behalf of Nancy Nichols <nancyn@everyactioncustom.com>
Sent: Tuesday, September 06, 2022 4:37 PM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new Private Forest Accord

Dear Chair Jim Kelly,

My husband and I own 65 acres of forest land in Western Lane County. We support improving Oregon's forest practices. California and Washington have stricter regulation which are working. It is time for us to catch up.

We are in favor of increased buffers along streams and protections for steep landslide prone slopes. We experienced landslides during the 1996 flooding and can see how better forest practices would reduce landslides in heavy rain events.

We expect that you will also be addressing post-fire logging rules to make sure there is no a huge loophole for burned timber.

I'm sure this is a challenging job. Thank you for taking it on.

Sincerely,
Ms. Nancy Nichols
93849 Deadwood Creek Rd Deadwood, OR 97430-9715

APPEL Lisa M * ODF

From: Susan and Scott Russell < >
Sent: Thursday, September 08, 2022 10:02 AM
To: RULEMAKING Sb1501 * ODF
Subject: Forest accord comments

Thank you for the opportunity to comment on this new rule.

The taking remedies as a result of this rule need to be modified. It appears that there are two choices regarding the trees adjacent to non-fish bearing streams, harvest the trees before the rule is in effect or, apply the value of the existing trees to the landowner's taxes. The first option will create less shading of these tributaries, contributing to higher stream temperatures, and the second option is not reasonable, see the following description. When The Dalles Dam flooded Celilo Falls in 1957, the Native Americans who had used the area for 11,000 years, were given \$3,700. (HistoryLink.org) For reference, the list price for a 1957 Chevrolet was \$2000. This was poor policy when you consider the result to generations to follow. I suggest that those who choose retaining their trees in the newly created riparian area; that in addition to the value of the existing trees, future compensation, which could also be used to offset taxes, be made every twenty years based on the site class of the land. The chances that the riparian area will be changed in the future to the now existing status is slim to zero. The loss of productivity will extend past the current owner's lifetime. Let's be reasonable to what we leave to the next landowners. Every time a new punitive requirement to forest land is made, the land becomes less attractive to the next generation to maintain and keep forests healthy. So often, the passing of an owner results in the unplanned clearcutting of the land.

Thank you,
Scott Russell
31291 Raymond Creek road
Scappoose, OR 97056

APPEL Lisa M * ODF

From: Judy Dickerson < >
Sent: Thursday, September 08, 2022 1:20 PM
To: RULEMAKING Sb1501 * ODF
Subject: New/old rules???

My husband, Clay worked for and helped write plans for ODF several times, retiring in 1999.

Except for the logging community, ODF has never been seen as an enforcement agency by the local SWO public. Even there, Clay seldom wore his badge and uniform when dealing with forest law when inspecting log operations. He found several who reacted with much less agitation when his clothing matched theirs. He usually was met with at least a gruff "Hello", and perhaps a hand-shake. His regulatory method was to educate and inform, then bring into compliance. He seldom wrote citations for minor or first-time offenses, but was tenacious tracking down violations such as trespass or overt safety issues. He was both respected and liked in the SWO District. Outside of that community, few people realized what Clay's work entailed. Many of our friends didn't even realize he often was fighting fires (locally or out of district) during the summer.

We've been closely connected to ODF summer fire for seven decades - so many family and friends have worked there. The current, very closest individual is our youngest grandson. He is in his 3rd season as crew on a patrol rig. Also, his older sister (who worked a notable project fire camp one summer, plus two additional summers in Dispatch) is engaged to a 7 yr veteran FO - both in SWO.

Since Clay's death I've been hesitant to offer too many comments about forestry beyond what I knew he would say. My interest is high, but my expertise is barely above the level of most common citizens - perhaps my view has some merit too? My 50+ years of close contact with ODF through marriage and his shared Forest Management ideas maybe gave me some insight beyond the obvious. Also we have always lived in or near the woods, and I still own about 140+/- acres of mixed pasture and woodlot in Douglas County.

This is not technical, but please bear with me as I write these thoughts.

I see two points ODF may want to address before going into this cycle of future rule planning. One is the current Public Image of the department and the second is the changing attitude of Oregonians in regard to State Land Management.

PUBLIC IMAGE:

ODF has relied on excellent fire suppression as a great way to sell themselves to the public. Reality is, you lost a lot of ground with your seasonal workers with the Covid shot mandate last fall. (THAT was an ugly mess - less said the better.) The SWO district was just beginning to pull it together when the Fire Map came out. I know ODF quickly realized the egg-on-face with the Fire Map issuance. The Governor's Office (either purposely or by accident) put ODF into the role of "bad-guy" in that situation. The big fires and the professional manner (as always) that ODF handled them partially put things back into balance BUT also should alert ODF to the potential harm of how the map might blow-up again in the future. ODF is on shaky ground, so I'd advise you move with caution going into the rule planning cycle ... and note you WILL be working with a new governor. Watch your 6.

SUGGESTIONS:

a.) When you return to the map at a future date tweak the presentation AS A GUIDELINE/ADVISORY. Also try (mightily and in every possible way) to show ODF less of the regulatory agency. At least minimize. (It was bad enough when the pot growers were taking shooting at ODF rigs in the 80's; do you want them shooting at the patrol rigs? I don't!)

b.) The map would be A LOT more useful for the public AND FOR ODF AND LOCAL AGENCIES if it wasn't so general. Make it a useful tool - a cross between a site-specific forest mgmt. species type map and the sweeping zone labels of the map you publicized. You already know the hot spots
- some special marker there instead of all red zones???

c.) BE AWARE. Do NOT assume or trust. The Covid shot mandate made some sense for office folk but not much for field personnel - some of you good people walked and didn't come back. The map thing from the gov's office - well Since you know there will be a new governor BE OVERLY PREPARED TO EDUCATE THE NEW PEOPLE SPECIFICALLY IN THAT OFFICE ABOUT THE BASIC FACTS OF FORESTRY!!! Politicians of any type are not necessarily friends of BALANCED forest practices or ODF either. (I'm 75 yr. old - All my working years I was employed by county or state agencies. I've learned the "game" of politics is played well only by those who willingly throw ANYTHING under the bus for a "deal".)

FOREST MANAGEMENT PLANNING:

Living in SWO obviously I'm most aware of what happens locally. You might not know the positive reaction to the late last winter brush clearing on Merlin Hill along I-5 north of Grants Pass. A huge number of people applauded ODF for that work. I don't get into Grants Pass very often, but sure heard about who did that work and how grateful the Josephine County people were. About summer fires - SWO population in general for decades has seen ODF snuff hundreds (probably thousands) of big and little fires, but watched USFS let millions of local acres burn. They are pro-firefighters across agency, but have a pretty low opinion of USFS as first responders. You and I know there are several good reasons why certain things happen - but we also know the USFS has had some very different initial attack methods that have allowed some fires to "GO BIG" that didn't have to. (I'm not pointing fingers - just some inside facts we all know.) About winter fires - As fall and winter comes and time comes for prescribed burning, remember (at least down here in southwestern Oregon) there have been many escaped WINTER BURNS over decades of time. USFS had a loooooong history of lighting up at some very questionable times of the year. ODF has lost a few too. As far as I know those fires have been mid-winter and much smaller.

SUGGESTIONS:

a.) Hire more winter saw crews, maybe put them to work for ODOT in high traffic fire-prone locations but put up ODF signage. By keeping your summer help they will be more likely to stay for next year (see the second sentence under "Public Image" above), and training will take less effort. Have those PI people promote ODF like crazy.

b.) Have you ever considered actively recruiting summer firefighters from high schools during the winter - disguised as a forestry/wildlife/outdoor/fire/ educational program? (Double advantage - maybe fewer accidental fires too?) I don't mean some environmentally driven agenda? I mean something that enlists math, science and (if possible lang. arts) teachers? I would suggest you check with UCC and RCC for potential partnership. (I know there are scads of materials that are around if you look. OSU's 4-H youth development program has useful materials. I know 'cause I wrote it. If I remember ODF has something too. Ted Mahl -if he's still around might know where. I've got a great book Clay wrote that is perfect for that age group too. At one time I had a whole box of reference materials - not that hard to find.) Maybe grants \$\$\$ out there???

d.) After the New Mexico escape, USFS will likely be ham-strung on doing prescribed burns. They so often fall into blanket reactions. If you have nervous people just remember, prescribed burns can be tricky. Choose your fire-boss and crew locally and with care. From there the timing and location should fall into place.

e.) Use the wisdom and information you have on hand, (including files and retired people with knowledge). ODF has always had a goodly share of excellent brains and knowledge to call on - make good use of all your assets, even old materials. Get boots on the ground. Public input is okay but use good judgement, not popular opinion. Stay independent as thinkers, do the right thing by Oregon's lands and the trust it's people have given to you to be good stewards using balanced management.

Lastly - for GOSH SAKE ! If you could plug your ears just for a little bit to shut off the noise - then look up at the mountains. Those "pointy" trees up there are growing because some not-so-dumb fellow who is now dead and long buried tried out a "new" management idea years and years ago – AND IT WORKED!!! If there is or isn't a climate thing, don't get your shorts into a wad. The trees and plants will adjust; they always have. Errors can teach as much or more than success. In decision making we can only go by good sense and what happened before. That's called "experience". It's a word for "been there - did that".

Teeny-boppers and Office-hoppers don't happen to have that qualification in forestry . Guesses about the future can't be made on wishes or dooms-day predictions.

Hopes for good decision making to you all ... Remember, the rains will come!

Judy D

Date: September 10, 2022

To: Board of Forestry Chair Jim Kelly
Members of the Board of Forestry

From: Scott Hayes, Small Forestland Owner

Subject: Comments on proposed rule changes to Forest Practices Act from
the Private Forest Accord

Chair Kelly,

Please thank the people who worked so hard on the Private Forest Accord Report and the legislation resulting in the proposed amendments to the Forest Practices Act. A special recognition is in order for the hard work by the Oregon Department of Forestry staff.

Following are my Recommendations 1, 1.1, and 1.2 that relate to policies that promote small forestland owner voluntary protection measures. Recommendation 2 removes a harvest requirement in order to trigger a Forest Conservation Tax Credit. Recommendation 3 adds Type 4 harvests as a tax credit trigger. Recommendation 4 is about forest carbon. Recommendation 5 is a request to the board to consider amendments to tax credit transfers.

Recommendation 1. Encourage Small Forestland Owners to apply voluntary protection measures.

The board is encouraged to add a goal to encourage voluntary actions by small forestland owners who exceed the standard harvest rules. For example, in 629-607-0000(3) Purpose and Goals:

- (3) Goals for this division include helping small forestland owners:
- (a) Comply with the Forest Practices Act and rules;
 - (b) Meet the biological goals and objectives;
 - (c) Practice standard harvest and road management rules;
 - (d) Implement minimum options;
 - () Apply voluntary protection measures that exceed the standard harvest rules;
 - (e) Use the forest conservation tax credit;
 - (f) Seek funding under the Small Forestland Investment in Stream Habitat program; and
 - (g) Minimize the number of land-use conversions of timberlands to other uses.

Recommendation 1.1. Amend the statute and rules to allow voluntary actions.

Notes on Recommendations 1 and 1.1

The draft purpose and goals in Division 629-607-0000 focus on minimum rule compliance. Past boards have often stated their desire to provide small forestland owner incentives. Many small forestland owners, including myself, are willing and able to meet or exceed the standard

protection options outlined in the draft rules. Most of us with management plans certified by the American Tree Farm System substantially exceed the standards set in the FPA.

The premise that all small forestland owners are interested in meeting the minimum protection standards for all FPA resources is false. It is understandable why many large landowners argue for minimum standards, in large part due to the economics of their businesses. A valid concern may also be that if voluntary actions are “sanctioned or encouraged” by the board, then any higher protection standards may be held up, over time, as necessary for all landowners to follow.

Many of the almost 2,000 members of the Oregon Small Woodland Association manage their lands above the minimum standards in the FPA. Considering the 80,000+ small forestland owners who are not OSWA members, it may be true there are thousands of unengaged small forestland owners interested in applying higher levels of protection to their riparian areas. A board policy confirming that interest would be a positive step.

If the board’s policy is to encourage small forestland owners to voluntarily apply higher levels of protection to their riparian areas, it seems appropriate that the draft rules should reward those actions. Just as the current draft rules provide alternatives for small forestland owners who under “... rare circumstances... become highly encumbered by Forest Practice Administrative Rules...”, the board can amend the Program Participation Rules under 629-607-0200 to include small forestland owners who apply voluntary protection measures above the standard options.

If the board considers a voluntary protection goal, the related Forest Conservation Tax Credit draft rules, and the underlying statutes, should be amended to allow the tax credit to include up to 100% of the stumpage value voluntarily left in a fully-protected riparian area.

Recommendation 1.2. Eliminate Type N stream RH Max distances.

Notes on this Recommendation

If small forestland owners are willing to apply voluntary protection measures, the board should consider elimination of the Type N stream **RH Max** distance to a Type F or SSBT stream. If this somewhat arbitrary distance is suspended when voluntary protection measures are applied, the small forestland owner should be eligible to apply for the Forest Conservation Tax Credit.

Most likely the discussions between the administrative rule authors about Type Np and Type Ns protection measures were contentious. The compromises reached on the riparian area widths and the unique distances between Type N and Type F streams are telling.

Our forestland is an example how voluntary protection measures above the standard protections, with the RH Max distances eliminated, could benefit wildlife and water quality on Type N streams.

Our 40 acre woodland has a Type Ns Stream (~1,300 feet long) and one Type Np Stream (~500 feet long) where it becomes a Type Ns Stream (~400 feet long). The Type Np Stream exits the property and flows ~1,000 feet to a small Type SSBT stream, Little Beaver Creek. In 1992 the previous owner clearcut 12 acres above the Type N stream, leaving a substantial no-touch buffer. The rules at that time allowed the owner to harvest all riparian area trees. A 1994 aerial photograph is on page 6.

Incidentally, there is no evidence of any historic harvest in this riparian area. Most of the timber is old growth western red cedar, Douglas-fir, white fir and big leaf maple. Most foresters, hydrologists and biologists would conclude that this Type Np stream riparian area is at the “desired condition”.

When we purchased the forestland in 1996, a large percentage of the timber basis was in the Type Np stream riparian area. Today, absent a pathway for us to qualify for the Forest Conservation Tax Credit, there is no financial incentive to retain the timber. When we sell the property there is no way to prevent a new small forestland owner from clearcutting this important riparian area. If we applied voluntary protection measures and were given the opportunity to obtain the tax credit, the deed restriction would solve our dilemma and protect an important resource.

As a side note, it has been suggested that a conservation easement could protect the riparian areas. We checked with several organizations. Unfortunately, there is no interest in entering into an agreement because of the small size of the riparian area and its relation to the 40 acre tax lot, which includes our homesite.

Recommendation 2. Remove the harvest requirement to trigger the tax credit process.

Notes on this Recommendation

The board should decouple the Notification of Operation trigger from a completion of harvest that allows a small forestland owner to apply for a Forest Conservation Tax Credit.

The statute suggests the tax credit will be granted when the proposed harvest is completed. The draft rule is silent on whether the harvest is completed. It may be that the intent of the law requiring a completed harvest is to limit the number of small forestland owners applying for the tax credit. If the board’s goal is to encourage willing landowners to provide protection prescriptions at, or above, the standard prescriptions - that endure for 50 years - then requiring a completed harvest before a tax credit is granted seems counterproductive. An easy way to meet this goal is to allow a small forestland owner to file a notification to trigger the tax credit review process without requiring a harvest next to a stream.

Recommendation 3. Include Type 4 harvests as a tax credit trigger.

Notes on this Recommendation

If a completed harvest remains as a trigger to receive a tax credit, Type 4 harvests should not be excluded as a trigger.

It is not clear why Type 4 harvests were excluded in SB1502. Disallowing Type 4 harvests reflects a common bias against a very important forest management tool. Stand density management is critical to forest growth and yield, forest health and reducing wildfire risk.

Type 4 harvests are not popular for some large landowners and small forestland owners. Reasons include increased costs related to thinning (especially on steeper ground), lower immediate income than from Type 1, 2 or 3 clearcut harvests, and the complexity of thinning operations. For small forestland owners a key barrier is a lack of loggers with the skills,

equipment and willingness – especially when a Type 4 harvest covers a few acres with low timber volumes.

The Natural Resources Conservation Service (NRCS) offers technical and financial assistance to small forestland owners willing to complete of Type 4 harvests that reduce stand density for the benefit of wildlife and forest health. In August we completed a 9 acre Type 4 harvest, adjacent to our Type Ns stream, to reduce stand density to create an open stand structure. This is Conservation Practice E666F under the NRCS Conservation Stewardship Program.

Most silviculturists, water quality specialists, biologists and many landowners agree that a conducting a Type 4 harvest bordering a stream riparian area is a good management strategy.

Recommendation 4. Promote forest carbon storage in riparian areas.

The board is encouraged to include forest carbon in a subsection in OAR 629-607-0000 Purpose and Goals:

- (3) Goals for this division include helping small forestland owners:
 - () Increase forest carbon sequestered in the trees, shrubs and down wood on their woodlands and in riparian areas.

Notes on this Recommendation

The board has the opportunity to introduce forest carbon into the FPA rules in alignment with its policies in *2022-2024 Climate Change and Forest Carbon Work Plan*. Forest carbon is an import solution to climate change. Small forestland owners are critical players.

Recommendation 5. Remove the bias against small forestland owner successors.

Notes on this Recommendation

Reference: SB 1502, Section 2(a)(b) “A credit under this section may not be transferred to a successor forestland owner.” and Section (6) “Upon the death of a small forestland owner that holds a certification”. Also refer to draft OAR 629-607-0600 Forest Conservation Tax Credit - Transfer to Heirs.

The board should propose an amendment to the statute to allow small forestland owners who hold a Forest Conservation Tax Credit to transfer any remaining tax credit to a new small forestland owner.

It is not clear why SB1502 excludes the transfer of the tax credit to a new small forestland owner. The fundamental question is why a small forestland owner’s estate is allowed to transfer the tax credit to a family member (or even a neighbor or a friend, aka a devisee), but a living small forestland owner is denied the same transfer right to a new (and alive) small forestland owner.

Around 2010, the Board of Forestry met in Washington County. During discussions on how to help family woodland owners, the son of a recently deceased landowner stated he was not interested in his parent’s forest. He did not share their passion. It surprised many, but his story

may be common with many of Oregon's 80,000+ small forestland owners. Plus, there are small forestland owners who do not have heirs.

It may be that the authors of the Forest Accord and SB1502, and the authors of the rules, focused on the heir issue because of estate and tax planning implications. The Oregon Small Woodlands Association encourages its members to address estate planning and involve their heirs in the management of their forestlands. That important focus is reflected in the law and these rules, which is good.

However, the tax credit should be viewed as a reward to current and future small forestland owners in exchange for providing a higher level of stream protection - for 50 years. A tax credit should be one of the bundle of rights in a small forestland owner's investment in land and trees. The statute and administrative rules should allow the tax credit to be transferred to a successor forestland owner.

Summary of Recommendations

I took the liberty (as a subcommittee of one) to draft a new OAR 629-607-0455. It includes the general concepts in the above recommendations and some of the language in the proposed draft rules. It is written in red to honor Ms. Craighead, my 11th grade English Literature teacher. As I recall, her review of my homework usually included many red notes.

629-607-0455 Small Forestland Owner Voluntary Vegetation Retention Prescriptions in Stream Riparian Areas

1. The goal of this rule is to encourage small forestland owners to voluntarily apply maximum protections to stream riparian areas on forestlands under their ownership. Their goals may include, but are not limited to:
 - (a) Minimizing the conversion of timberlands through a system of incentives, education, and regulatory stability for the small forestland owner;
 - (b) Receiving incentives to improve streamside riparian areas for the benefit of water quality, wildlife habitat and forest carbon storage;
 - (c) Committing to increasing the forest carbon sequestered in the trees, shrubs and down wood within their stream riparian areas; and
 - (d) Ensuring that their commitment to enhanced riparian area protections are preserved by their heirs or any future owners of their forestlands.
2. For the purposes of this rule, a landowner who qualifies as a small forestland owner, as described in OAR 629-606-0200, may apply to voluntarily retain 100% of all trees, down wood and shrubs, above the requirements of the standard practices, within the full width of the riparian area(s) on their forestlands.
3. The small forestland owner exercising this option is eligible for the Forest Conservation Tax Credit described in OAR 629-606-0300 when a notice of operation is filed for a Type 1, Type 2, Type 3 or Type 4 harvest on forestlands adjacent to any riparian area. The notified harvest may, or may not, be started or completed. A filed notification of operation is the trigger to begin the tax credit review and approval process.

About Our Forestland

In 1996 we purchased 40 acres in NW Oregon, about seven miles west of Banks. Over the last two decades we harvested 299 MBF of Douglas-fir. The standing volume of merchantable timber is higher today than it was twenty-six years ago. Our management plan is certified under the American Tree Farm System and we are in our seventh year managing the forest under a Conservation Plan with the Natural Resources Conservation Service. Completed projects include several wildlife habitat and timber stand density thinnings, small patch-cut harvests, pollinator plantings, oak woodland conversion, and a current carbon storage agreement on twenty-one acres.

Arbor House Tree Farm T2N, R4W, Section 30, NE ¼ NW ¼ Washington County, Oregon



Photo Reference to Recommendation 1.2. Eliminate Type N stream RH Max distances.

APPEL Lisa M * ODF

From: tom madison < >
Sent: Tuesday, September 13, 2022 7:16 PM
To: RULEMAKING Sb1501 * ODF
Subject: Forest Practices Act rule revisions

Dear Chair Kelly,

I wouldn't support anything either Oregon's or Portland's government would recommend. I came to Oregon in 1989, when society was in a balance. Twenty three years later....defund the police? legalize controlled substances? caravans of homeless people infringing on our neighborhoods, expecting our children to understand transgender transitions, ignoring graffiti, litter, human waste.... unbelievable. And our leaders continue to direct our well-being and sanity slide into the abyss. Most of our state and federal monies go into projects in Portland, while the rest of the rural population struggles for jobs, education and health care. I wouldn't trust our Forestry department to improve or govern the land which lies in the hands of private citizens. Our forestry service doesn't investigate the cause of so many fires on public land, and if they happen to uncover the person that caused the fire, they don't ID this person nor punish them (Eagle Creek). Leave the landowners alone. They have a vested interest in the resources that own.

Thank you for the opportunity to comment on the rulemaking process for the Oregon Private Forest Accord. I urge the Board of Forestry to approve the draft administrative rules presented to the Board on August 24, 2022, in order to align the Forest Practices Act rules with the Private Forest Accord Report.

I support the Private Forest Accord and proposed administrative rules because the new framework will: (i) significantly increase riparian buffers for logging near streams (whether or not fish are present), (ii) invest millions of dollars annually in a fund to improve aquatic habitat and protect water quality, (iii) add protections against erosion of steep slopes in logging areas, (iv) create a new system for cataloguing - and then completing - road system and fish passage improvement projects to benefit aquatic species and water quality, and (v) establish a new adaptive management program to better inform resource managers about resource management on private lands.

The Private Forest Accord brings much needed updates to Oregon's logging rules for private forest lands. I encourage you to approve the rules so that we can fully implement the Private Forest Accord.

Sincerely,

tom madison
3407 SW 64th Pl
Portland, OR 97221

APPEL Lisa M * ODF

From: Cody Coons < >
Sent: Wednesday, September 14, 2022 10:20 AM
To: RULEMAKING Sb1501 * ODF
Cc: Rep Smith D; Sen Heard
Subject: Comments against SB 1501

- In article 1 section 26 of Oregon constitution, how were the inhabitants of the state able to redress our grievances when the private forest accord was subject to mediation privilege for the majority of its creation, especially with the hindrances of meeting legislative representatives under COVID-19 pandemic restrictions?
- In article 1 section 17 of Oregon constitution "all civil cases have a right of trial by jury shall remain inviolate", OAR 629-672-0200 (4) is a direct violation of this?
- In article 1 section 9 of Oregon constitution "unreasonable searches or seizures", OAR 629-678-0100 in aggregate is a direct violation.
- In article 1 section 20 of Oregon constitution "equality of privileges and immunities of citizens" OAR 629-607-0000 to 629-607-00800 is a direct violation by basis of discrimination by property sizes or amount of stumpage harvested.
- In article 3 section 1 "separation of powers", OAR 629-607-0200 1(c) confers arbitrary lawmaking powers to the state forester is a violation of this section!
- Repeal Senate Bills 1501, 1502, and House Bill 4055
- Actually include all parties to redress our grievances to the legislative branch and then carefully finalize the laws before implementation starts, instead of this limbo land of regulatory guessing of what the new laws will be.

Thanks,

Cody Coons
Brookings, Oregon

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From: Charles DeMoisy < >
Sent: Friday, September 16, 2022 5:18 PM
To: RULEMAKING Sb1501 * ODF
Cc: Charles DeMoisy
Subject: Changes to the FPA rules

Dear People,

If it ain't broke, don't fix it. There seems to be so little understanding that we currently have one of the best system's in place in the world. One that provides timber harvest for eternity. But instead there's a huge push to stop production, and the Feds are burning everything up with almost no salvage (what could be billions in revenue) and not reforestation (creating poor future forests, increased fire danger, and less carbon storage).

Looks like a lot of extra work for foresters and Small Forestland Owners. Regs on reports for logging road upkeep and maintenance or restrictions on streams running through a property.

Owners don't need big government help farming our forests. We know how to care for and harvest trees, then replant after the trees are cut. More regulation developed by government bureaucrats is not going to help us do our job better. And we know how to keep our land and streams safe. Restricting logging with over-regulating Small Forestland Owners will only make it more difficult to turn a profit with farm forests. Restrictions and more regulation will not mitigate fire danger but make it worse.

This entire document is a huge mistake and should be thrown out. We're good with what we have.

Charles DeMoisy
Glide OR Landowner

APPEL Lisa M * ODF

From: OLIVOS ROOD Hilary * ODF
Sent: Monday, September 19, 2022 8:48 AM
To: RULEMAKING Sb1501 * ODF
Subject: FW: Rule-making for the Private Forest Accord

The sender of this email verified that the below comments are to be shared with the Board and the PFA rulemaking team as a public comment. See below.

From: Candace Bonner < >
Sent: Friday, September 16, 2022 12:23 PM
To: Oregon Department of Forestry <boardofforestry@oregon.gov>
Subject: Rule-making for the Private Forest Accord

Jim Kelly Board of Forestry Chair, Oregon Board of Forestry
Oregon Board of Forestry Oregon Board of Forestry
September 14, 2022

RE: PFA rule-making

Dear Chair Kelly and Board of Forestry Members,

I am writing as a small forest owner in support of the rule making for the Oregon Forest Practices Act to implement the Private Forest Accord (PFA.) The PFA provides a much needed and long overdue step forward in riparian protection. It does not deal directly with climate change, and carbon storage, but the waters of the state are increasingly vulnerable to degradation as climate change progresses. Improved protection of riparian resources mitigates the effect of climate change on our streams.

One of the most important aspects of the new rules for small forest owners—specifically those with forest acreage under 1,000 acres who live on their forest land—is the no-cut no-entry riparian buffers in the new rules. This is the long hoped for end to active management in the RMA, basal area calculations, tree spacing requirements, etc, so complicated for small forest owners who often harvest only once in a lifetime. Please, please, preserve this simplicity. It makes enforcement of rules so much easier as well, and so much less labor intensive. The PFA does give small forest owners the option of using the old rules, which include active management in the RMA. It is likely most resident small forest owners will prefer the new, no entry RMA, especially with a tax credit. ODF's own survey showed most did not enter the RMA with harvest under current rules.

Many of these resident small forest owners enjoy the beauty of their forests and streams. It can be hoped that at some later time climate change will be more directly addressed, such as with conservation easements with the state, so that small forest owners can reap the financial value of their trees without cutting them down. As climate change progresses, this may well be a cost-effective long term climate change mitigation strategy for the state.

I have much gratitude towards the negotiators on both sides who produced the PFA agreement. I urge the Board to implement these new rules.

Mahalo nui,
Candace Bonner, MD, MPH
Small forest owner in Corbett, OR.

Member, Northwest Regional Forest Practices Committee

APPEL Lisa M * ODF

From: Susan Phillips <[REDACTED]>
Sent: Monday, September 19, 2022 7:29 PM
To: RULEMAKING Sb1501 * ODF
Subject: Restrictive management

Hello,

I have reviewed somewhat the sb1501 and find it to be much more restrictive to the small woodland owner and more complicated for us to conduct land improvement within the forest.

This is in contrast to some widely destructive practices conducted by large tract timber operators that have been somewhat slipshod with nobody to answer to apparently.

Susan Phillips

APPEL Lisa M * ODF

From: Thomas Lancefield <thomas@lancefield.com>
Sent: Wednesday, September 21, 2022 12:13 PM
To: RULEMAKING Sb1501 * ODF
Cc: Thomas Lancefield
Subject: Comment on Private Forest Accord Proposed Rules

Hello - My family has an approximately 4-acre woodlot in one corner of our farm in Yamhill County. The woodlot is managed with periodic thinning harvests in mind, but also for wildlife habitat. It was replanted in Douglas Fir 30 years ago, after a clearcut. We had a first commercial thinning two years ago, which generated a small positive return, \$700 after expenses. Our woodlot is adjacent to a large, Type F (fishbearing) stream on two sides.

Under the proposed new rules, the riparian buffer strip for our timber stand would increase from 100 feet to 110 feet. When the woodlot was clearcut 30 years ago, the width of the no-harvest buffer strip was 50 feet. I didn't particularly appreciate the expansion to 100 feet, which encroached on our timber stand, and 110 feet is just a little worse. Maybe there was a good reason to expand the buffer to 100 feet; I love amphibians and other wildlife, but I'm no ecologist, so I lack solid criteria for judging.

I am struck by the seeming arbitrariness of the buffer strip rules, current and proposed. The large stream bordering our property has more-or-less permanent log jams interspersed along its length, and each winter sees lots of driftwood logs carried downstream (we're at about 200 feet elevation). I like coarse woody debris in the riparian zone, for habitat values. But some of it is at risk of being washed downstream in winter high water events. In a more perfect world, buffer strip widths might be determined for each land parcel based on evaluation by knowledgeable forester-ecologists, rather than laid down in a fairly arbitrary fashion. I recognize that such an 'ideal' scenario would require staffing levels in ODF that are not realistic.

You may appreciate my feelings a little better if I share that in the second summer after re-planting 30 years ago, I carried buckets of water to all 1,000-plus fir seedlings, twice, to avoid the sort of 30% die-off we experienced in the first summer. Plus hoeing 18 inches around each seedling to prevent girdling by voles.

The effort to forestall repeated battles over initiative measures on forest management is a worthy one. Initiative measures often include even less reasonable rules.

Thank you.

Tom Lancefield
part-owner, Lancefield Farm Co.
Amity, Oregon

APPEL Lisa M * ODF

From: Lance Morgan ✓
Sent: Friday, September 23, 2022 3:24 PM
To: RULEMAKING Sb1501 * ODF
Subject: new rules

I would like to make some comments on some of the new rules from the Private Forest Accord that will be implemented as the new Oregon Forest Practices rules. I will be focusing on the stream rules since that is the only segment I have had time to read. And the rest of the rules will not be implemented until a later date.

I will start by addressing the idea of only having 2 geographic areas for the entire state. The only reason to do such a thing would be to make the process easier for the authors and to speed up the process so the governor can claim it as a feather in her cap before she leaves office. The forest I manage is on the southern Oregon coast. Most of which is less than 10 miles from the ocean. The highest point in that forest is about 500' above sea level. To think this should be lumped in with the west side of the Cascade mountains and the inland valleys is ludicrous. And to not consult with all your ODF stewardship foresters that have on the ground experience says it all. You don't care about what is really happening on the ground.

We have devastating winds that can exceed 100mph. Rain that can reach 80" annually. Soft loamy soils. The buffers that are in the new rules are ridiculous to say the least for this type of terrain near the coast. Even with the buffers we have been applying for the last several years we have had complaints from ODFW and South Slough Reserve about the amount of sediment that enters streams from uprooted trees near the stream. And that was maybe ten trees. Do the authors have any idea how much sediment will enter the streams near the Oregon coast when we are leaving thousands of trees as buffers along not only fish bearing streams but also the soon to be required perennials.

I have included three photos below to demonstrate. There is no good way to photograph the devastation, but I have done the best I could. The first one is the entire 1000' buffer strip. It originally had 66 buffer trees with 134 sqft of basal area. There are maybe half at best left. This is relatively new and hasn't had a catastrophic wind even yet.

The second picture's buffer is in the foreground. There were originally 154 buffer strip trees left in the 1000' buffer.

There are maybe 20 of them left standing. That buffer was only 25' wide. We sometimes have very dense stands clear down to the water edge.

The last picture is of a stand logged 8 years ago. There were 66 buffer trees on the right side of the 600' creek buffer with 134 sqft of basal area. There maybe 5 of them left standing. Can you imagine the devastation when the new buffers are in place? And the sediment that will enter the streams? On the coast there can be a lot of perennials that can flow almost to the ridge tops since it is such a short distance. You think those buffers are going to survive a wind storm? Even the fish buffers are sometimes only 100' in elevation below the ridge tops. Pretty short sighted thinking by the authors. The fact that these rules were made in secret, the real words the governor's press release should of said instead of "met quietly", is beyond comment. This is a taking of land base plain and simple. If the authors and the government want to go ahead with this taking its time to pay up. Not just once, but every harvest rotation the land owner decides on. And let them implement the new rules on their lands only. This will most likely cost the people of Coos County a million dollars a year if not more from the Coos County Forest. That is not only the timber dollars lost, but the extra staff it is going to take to implement this boondoggle of a documents rules. This is one of the poorest counties in Oregon. We cannot afford this.

I could go on and on and write a book about the flaws of this document, but why. You most likely are going to shove it through. You are just going through the legal process. You are screwing over the small landowner and trying to appease him by throwing him a bone, small public forests who didn't have a seat at the table and stand to lose the most, and everyone else that wasn't represented. You screwed up. Admit it and start over.

Lance Morgan
Coos County Forester







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APPEL Lisa M * ODF

From: Eric Farm < >
Sent: Monday, September 26, 2022 4:59 PM
To: RULEMAKING Sb1501 * ODF
Subject: PFA Comments

Good afternoon,

My name is Eric Farm and I'm a consulting forester based in Coos County. I have four items that I think need to be looked at prior to the final rules going into effect.

1. Covered Lands Agreement: Tribes in Oregon own land both in Trust and in Fee. The lands in trust have their own forest management plans approved by the Bureau of Indian Affairs. The lands they own in fee have been historically subject to the forest practices act. The author's report states that the PFA doesn't apply to "Land held by an Indian Tribe", so I wonder what version of the forest practices act will their fee ownership be regulated against? Will their fee lands be subject to the 2018 version of the FPA?
2. Creating the SFOAO within ODF and staffing it with close to 20 foresters seems to be in direct competition with local consulting foresters. Small landowner assistance is a cornerstone to my business and if the state is going to provide this scale of assistance free of charge, it could put me and my three employees out of business. I propose that rather than hire more state employees to staff the SFOAO, that instead the ODF partner with local consulting foresters to provide this service to small woodland owners. The NRCS Technical Service provider model could work well. Payment is made either to the landowner to hire a consultant or the state pays the consultant directly. Either way, state is not burdened with additional full time employees and doesn't have to try to hire experienced foresters to provide this service in a very difficult labor market.
3. 629-607-0400: This rule requires an SFO to provide an appraisal and documentation of stumpage values as part of the tax credit process. No sideboard were provided on what constitutes a valid timber appraisal. Performing timber appraisals that are unbiased and independent requires experience and sound methodology. I would recommend that this rule be revised to require an appraisal produced by a professional consulting forester (preferably an accredited Full Member of the Association of Consulting Foresters). This will ensure that appraisals produced by this rule are fair to both small landowners and the state.
4. The definition of a "Parcel" needs to be explained a little more clearly. SFOs need to understand what is actually being asked for when the road condition report for the entire parcel is required. In many cases this may require an assessment of the entire ownership prior to the first harvest. This could be a challenge for landowners at the upper end of the acreage criteria.

Thank you for the opportunity to provide comments to this rulemaking.

Respectfully,

Eric Farm, PE, ACF
Farm Unlimited

Comment regarding the Private Forest Accord.

As a small woodland owner, I believe the Private Forest Accord creates a problem under the 14th Amendment to the U.S. Constitution—Equal Protection under the Law.

In the rush to further bludgeon the weakened and failing timber industry in Oregon during a temporary period of one-party dominance, the Portland political power base has lumped small forestland owners into the arcane web of burdensome and onerous new rules of the PFA.

By creating a small group of underprivileged Oregonians, small forestland owners, the PFA violates the constitutional guarantee that no citizen or group of citizens shall be denied protection afforded to all other citizens. The PFA does exactly that. Private forestland owners are held accountable for special rules and regulations that do not apply to any other group of Oregonians.

I believe the new law is unconstitutional. I do not believe the PFA will survive a Supreme Court challenge. I envision a class action lawsuit, Small Forestland Owners vs. State of Oregon, supported by Pacific Legal Foundation and others, that will reach the United States Supreme Court where the PFA will be tossed out.

I do not want this to happen. I want all Oregonians to adhere to the new rules, not just small forestland owners. For example, I met on site with the ODF Stewardship Forester on my land, pointed to a failed culvert under the County Road that blocks fish passage to and from a small Type-F stream draining my property, and said, "If this was all private forestland, the County Road and the land on both sides, wouldn't that be a violation under the Forest Practices Act?" He said, "Yes, not only is it a violation to not replace a failed culvert that is blocking fish

passage, but they would also be required to place straw bales to filter the gray water storm runoff that is flowing from the gravel road into that fish-bearing stream right now!”

Why are county road departments, city street departments, Oregon Department of Transportation, and the Federal Highway system exempt from these new standards of compliance? Shouldn't all citizens of Oregon who drive a car or truck on a public road be held accountable for failing infrastructure, stormwater runoff, stream sedimentation, contamination from oil spills, anti-freeze, and toxic tire wear chemicals entering aquatic ecosystems across the state? What are we doing about homeless people defecating on the sidewalks in Portland causing opioids and other contaminants to flow into the Willamette River?

If we are serious about reducing environmental damage caused by roads, then let's apply the new standards of the PFA equally to all roads in Oregon.

Paul Chantiny

APPEL Lisa M * ODF

From: Cathy Steere < >
Sent: Tuesday, September 27, 2022 3:58 PM
To: RULEMAKING Sb1501 * ODF
Cc: Sen Anderson
Subject: RE: Comments - Private Forest Accord

I am reaching out to protest finalization of the Private Forest Accord. Thirty plus years ago we planted timber and planned to work to retirement expecting to log off areas of our property and then replant and leave timber for our children to log off when we are gone. The Private Forest Accord will prevent either from happening. Our acreage under Timber Deferral designation will also be affected. If we are no longer able to harvest trees, what happens to our Timber Deferral designation? If we are mandated a sudden death payment of Timber Deferral tax, how are we able to pay it when we cannot make a profit from our timber? If large chunks of property are untouchable due to the Private Forest Accord, then it is also untouchable as an Ag Deferral designation as well. So next we have acres and acres of property that we are taxed on that we cannot make a profit on?

Even though small woodland owners had a representative seat at a "behind the closed door" table, we had no opportunity to bring reality and known science to the proposed rule changes. With the new stream width buffers, very little of our property is harvestable, and proposed road access restrictions makes it too expensive to harvest the little plots not bound by stream buffers. This is devastating to our family.

Please consider the damage that this will cause thousand's of small woodland owners.

You are destroying forestland owner's livelihoods and retirement.

Cathy Steere
3870 S. Immonen Road
Lincoln City, OR 97367
971-237-1111

APPEL Lisa M * ODF

From: Dick Beers <
Sent: Tuesday, September 27, 2022 11:33 PM
To: RULEMAKING Sb1501 * ODF
Subject: new taking rules

Rehashing the same territory and story
DICK BEERS

2185 Carmel Ave

Eugene, Oregon 97401

Descendant of Lane County Homesteader of 1895 on Indian Creek in Western Lane County, Oregon.

September 27, 2022

Gentlemen

I have reviewed the forest practices acts on acts and have concluded that the new revision and definition is a deed restriction which was not in the prescript deed on the property under the Homestead Act of 1895. The US Government controlled the land and the transfer of land to Oregon should be reviewed as to the authorization of control by the counties and states. In 1940 a logging permit was issued for the assurance of fire safety and nothing more. Review permits issued in the early logging permitted days. In the Last 20 years the land has been restricted to the degree, that the land of forest is sacred and only good for restricted viewing. I want the entire forest accord thrown out and the land rights reverted to the deeded owner. What small landowner can take the patience and read through 100 pages of gobblegook definitions and restrictions and know the rights left of the deeded property owner. Definitions on definitions, lines drawn through words and changed each week at the whim of a degreed expert, who has never talked to the private landowner or even know about the personal forest land and feelings of the deeded owner. Government and environmentalists are always right and know best for the simpleton property owner. The ignorant poor owner needs his government daddy and environmental mother to tell them their property really isn't theirs but can still pay the tax and any other cost seen fit by big brother. The nontax believers say all trees, water, dirt fish, birds, bugs, plants and any imagined something are under the control of the big and better sacred leader. The owner must worship and bow to all persons feeling the right to someone else's forest legal property and all accoutrements.

Having read through the new specifications, there is no recourse for the owner. Violations are spelled out to the nth degree. Restrictions are vocabularied to unheard of words that relate to forestry or trees. Land is no longer yours if you have any type of moisture on the property. This is a taking of property rights, property access and the right quiet enjoyment by the property owner. Again, this is an illegal taking and should and will be addressed by the supreme court of the United States. The forest landowner in dire threat by a hundred-page document regarding the ownership of forest property. Why is this?

Case in fact of history. Indian Creek was homesteaded in the late 1880s and all trees along the approximately 18 miles of creek and land were cut right down to the creek edge for farming and

fields. The creeks were a place to put dirt limbs and other residual from land clearing. The fish came back in droves. Logging of public timber started in the late forties and ended in the early 1990s. Families thrived from jobs in the forest industry that was free to employ workers, pay taxes and provide for the common school fund. Muddy streams, muddy roads and lots of turbidity prevailed. Fish, salmon, steel head, silvers, blue backs, eels, freshwater clams, crayfish, and dace, were in great abundance. Now comes the intellectual forest service, the tree hugging environmentalist along with the Oregon state selected board of forestry, the spotted owl lovers, the marble murrelet (no fact of real danger) and wham poor rural residents are controlled by the urbanites who cannot identify a tree. Now the supposedly representatives of forestry want to inhibit all types of activity on rich prosperous tree growing ground. There is no proof that 100 feet on the side of a stream will protect the fish nor the stream (remember, this area was bare to the stream edges for years. All the coast range is inundated with side streams seeps and small rivulets that abound throughout the rich growing timber properties.

This whole concept is an illegal taking and will have to be address by the Oregon Supreme Court. Tax credits don't work unless there is taxable income. Cash for government use of property will require rent to be paid in a monthly or yearly fashion. You cannot use someone else's private land or infringe on the land without just compensation. Upon implementation of the accord, I will be billing a monthly charge to the Oregon Department of forestry for the use of all trees, land and deed restrictions. I will be requesting payments for use of private property in the amount of around \$100,000 for 20 years plus a tree factor growth charge of around 7% per year. Thanks, my future retirement income and the family for the next 20 years. This is not to be construed as a tax credit. This a conscripted rent use of private property and rent is to be received accordingly. Forest tree and land use by government is no different than a rented building or vacant lot.

Thanks for the future income

R F Beers – future impacted landowner

APPEL Lisa M * ODF

From: Dave & Dianne Rankin < >
Sent: Wednesday, September 28, 2022 3:17 PM
To: RULEMAKING Sb1501 * ODF
Subject: Private Forest Accord

To Whom It May Concern:

We have been trying to decipher the effect the new rules that will be instituted under the PFA will have on our property. There is not enough time in the day, week, month, year to come to a complete understanding. All we are convinced of is that the new rules will severely restrict any future harvest that might take place due to increased stream retention zones and proposed slope protections. The proposed changes are supposed to insure protection of endangered species, in particular, salmon. Let us say that having witnessed many efforts to improve the return of salmon to the Siuslaw River the general effect has been disappointing. Case in point: there is no fishing for salmon on the Siuslaw River this year. The efforts to save the salmon, while noble, are what we refer to as "faith based environmentalism." All the efforts seem to be based on faith that what is being done will have a beneficial outcome. That outcome is yet to be seen.

Our management plan is to complete a clear-cut harvest for stand improvement on a parcel that is not well stocked with merchantable timber. A former ODF Forester described this area as a "decrepit woodland." Our goal is to achieve a stand that will, in a 40 to 60 year harvest rotation, become a forest that would contribute to Oregon's economy. So now we two small woodland owners, who are not some wild eyed land and environment destroyers, must contend with a new set of rules that make owning and caring for our land as we had previously planned an exercise in futility. The new rules will restrict our ability to responsibly harvest the "decrepit woodland's" timber products and establish a stand that in a 40 to 60 year harvest rotation would be managed as a healthy commercial tree farm. It becomes apparent that we might just as well forget considering a harvest under the proposed rules. The proposed rules would preclude a harvest that could achieve our best laid management plans and goals for a healthy commercial tree farm, the best land usage for Oregon's coastal prime Douglas fir growing environment. In attempting to understand the effect the rules will have for us, we come to the conclusion that we should immediately prepare for a major clear-cut on this parcel. This choice is not what we had in mind for Rankin Woodlands.

Rankin Woodlands has another parcel, approximately 60 acres of property formerly owned by others, that was clear-cut in 1989 and replanted in 1991. This acreage abuts both a freshwater wetland and an estuary which we assume would severely limit the extent of possible harvest due to increased riparian zone retention rules. Doing a little arithmetic one sees that the trees have been growing for 31 years. We see many truckloads of this age timber going down the road to mills that prefer the small diameter timber. While we would like to keep this timber in a 40 to 60 year harvest rotation, it again seems appropriate to seriously consider harvesting this timber. Not exactly what we had in mind.

These choices and consequences are forced upon us by the proposed new rules. In light of this reality, we believe the process of adopting these new rules should not take place until a complete and

thorough explanation of the total effect upon the small landowner can take place. We assume that this suggestion will be dismissed by those who are about to make the decision to adopt these rules as too late in coming and from those who should have done their "homework" earlier. Perhaps that is true. However, please consider the actions that we and other small woodland owners may be forced to take in order to avoid the effect of these new restrictions. We don't believe that forcing small woodland owners to make hasty and presumptuous decisions to harvest was the intent of these rules. Let us step back and further consider the total results of these rules before their adoption.

Sincerely,
David and Dianne Rankin
Rankin Woodlands LLC
85668 South Slough Road
Westlake, OR 97493

APPEL Lisa M * ODF

From: Russ and Linda Glascock <
Sent: Wednesday, September 28, 2022 4:33 PM
To: RULEMAKING Sb1501 * ODF
Subject: Oregon Forest Accord Rule Making Committee comments 2.0

These are comments directed to the Oregon Forest Accord rule making committee.

I am Russ Glascock, from Lincoln County. I own 100 acres of trees that we planted along the Yaquina river. 10 acres were planted by my family in 1977. I have thinned those acres twice, and the stand is shading the river and providing wildlife habitat. In 2000, I planted multiple species on 90 acres up to the first bench along the river. The current Oregon Forest Practice Act allows thinning within 100 feet of the fish stream. I dispute that occasional thinning in riparian areas harms fish. To the contrary, the thinning helps the leave trees to grow faster and taller, providing shade to the river faster. Thinned forests also provide wildlife habitat. And the thinnings provide income for my retirement. I request the Oregon Forest Accord rule making committee to exempt small forest land owners from the no cut buffer rules, instead revert to the existing Forest Practice Act rules.

My tree farm suffered from a fire about 15 years ago. I remember driving home from my job as a timber cruiser and seeing smoke from the general direction of my house. As I came upon a road closed ahead sign, I started to drive a little faster. Fire trucks on your property are not what you want to see when you get home. I was thankful that the Toledo Oregon Department of Forestry was on the scene and put down the flames that burnt 66 of my douglas fir plantation. I harvested those trees, cutting out the burnt trunks.

The reason for this story is to ask the committee to give small timber land owners the right to fight fires in the timber in riparian areas and clean up after the fire. The 66 trees I lost to fire were a stones throw from the riparian area.

Having lived through the 1962 Columbus day storm - "Originally named Typhoon Freda by meteorologists and called the Big Blow by many, it may have been the most powerful extratropical cyclone ever to hit the western United States. It had the force of a category 3 hurricane" - a large tree hit our garage, and I learned about firewood at age 7 during the cleanup. Many wind, snow and ice storms have come since.

I request that the committee give small forest land owners an exemption of the stream buffer rules to clean up timber affected by fire, floods, wind storms, snow storms and ice storms. The occasional cleanup will have no negative impact to fish.

Russ

From: Charles DeMoisy < >
Sent: Wednesday, September 28, 2022 5:50 PM
To: RULEMAKING Sb1501 * ODF
Cc: Charles DeMoisy
Subject: Changes to FPA rules

Dear people,

After listening to the hearing today, Sep 28th at 4 PM, I've come to the conclusion this entire process to change the rules was a sham. The hearing started out with environmentalist and conservationist representatives stating their absolute support for the new rules. These folks obviously were stooges, requested in advance to attend and support the new rule changes. They wrote the rules. They read from prepared scripts spewing words of support for a mountain of changes supporting streams, road improvements, fish, salamanders, birds and bees.

Only at the end do we hear from a small forest landowner, Mr Hennings, who like me, was never notified of the senate bills or need for changes to the FPA rules. One question... were any small forestland owners asked to participate in the draft rule-making process? This is like asking the Democrats or Republicans in congress to pass bills unilaterally in a partisan way without working across the aisle.

Why have these hearings? SB 1501 and 1502 passed. The draft is complete and now ready to sign. That's when you bring it up for public comment? Do you really think you will make any changes to the bill now?

So here is what you will get a few years from now as a result of these burdensome rule changes: Lumber prices will double or triple or worse yet, you won't be able to get lumber at all to build your houses as many

forestland owners will not be able to comply with these new rules - too costly. They'll go bankrupt or just quit farming. Then what, the forests sit there without being thinned or clear cut and replanted, making this land even more vulnerable to forest fires. What will that do to the streams, fish and bird sanctuaries? I don't feel like anyone drafting these rule changes were forestland owners themselves, just a bunch of bureaucrats, only concerned about the environment and not about the cost to landowners. I support the environment but there has got to be some compromise with rulemaking.

I realize my comments are too late now as this is a done deal, but I want you to know I think this is a grave mistake placing an unnecessary regulatory burden on forestland owners. Sometimes you get unexpected consequences from your actions. Expect you'll see the error of your ways in the near future. Shameful.

Sorry to say it,

Charles DeMoisy
Forestland owner, Glide, OR

PS. BTW, My dad, Ralph DeMoisy, was a forester. He taught at OSU in the late 40s after serving in WWII and went on to work for Weyerhaeuser and FibreBoard Corp before he retired. He bought and farmed this land in Glide and would be rolling in his grave right now if he saw what you've done to the FPA rules and forestland owners. So Sad.



September 29, 2022

Mr. Cal Mukumoto
Oregon State Forester
2600 State Street
Salem, Oregon 97310

Dear Mr. Mukumoto and Members ODF Board of Forestry

I am Richard W. Courter, ACF, CF, Professional Consulting Forester.

My family has owned timber land near Vernonia, Columbia County, Oregon for over 80 years. Our property is adjacent to the Nehalem River. Like many Oregon family landowners our ownership is on lower slopes closer to major waterways, thus, in many cases are impacted more heavily than those ownerships higher up slope.

The Private Forest Accord significantly impacts my family ownership. The proposed Private Forest Accord rule changes, locks up a minimum of 40% perhaps 50% of our ownership acres to which my family can never earn income from growing and harvesting timber. In fact we could lose more than 50% of the acres depending upon how the Private Forest Accord as published by the Working Forest Coalition Authors is interrupted by the Oregon Department of Forestry.

That compares to Government approaching me saying, "We understand your banked and growing savings account currently has \$500K on deposit. Government hereby notifies you that 50% of that growing savings account now belongs to the people of Oregon. That bank account will remain in your name and you will still have the opportunity to visit your bank account watch and witness it's growth but you will never be able to withdraw for your personal use anymore than 50%".

Not only is timber on affected acres devalued to zero but the entire ownership will have less resale value forever. That resale value could be far less than 50% of my property value prior to implementation of the Private Forest Accord if in fact anyone is interested in purchasing a property with heavy government regulated restrictions. Delivery volume to mills could also be affected.

So, this Private Forest Accord will impact families in more ways than one. Your answer might be that "Oh, you have the ability to be compensated under the Accord". I say good luck to anyone believing that comment. First, in my situation, I have plenty of holdover management expenses to lower my taxes for many years. Likely, I could never use credits that I might gain even if the credits were increased to 125% due to the five year 5% maximum wrinkle, which applies to any family landowner within any watershed being placed on a list waiting for their time to surface because to many participating acres are requesting credits during that 5 year window.

Secondly, as we all understand, the makeup of elected legislators frequently change. I would predict that sometime in the future Oregon's legislature will have second thoughts about handing out

1600 N.W. Skyline Blvd. Portland, Oregon 97229

(5 03) 297-1660

large amounts of tax credits effectively reducing revenue return to the State of Oregon. In all likelihood these credits could disappear during some future Legislative Session.

Furthermore, it is not clear to me how or whom calculates the tax credits and who approves.

Similarly, Senate Bill 100 creating the current Forest Practices Rules in the early 1970's included language compensating takings to which I have no knowledge of anything ever being paid.

No landowner should ever have government restrictions placed over their personal belongings to the level of severity as proposed to be placed over my family property.

Certainly, I consider myself, a Professional Consulting Forester, to be a good steward of my land and the lands I have been involved while advising other private landowners, but these types of radical Forest Practice Act changes causes us to complete activities that we would otherwise never consider. It bothers me that in all likelihood large numbers of private family landowners have no clue what is happening to them because of improper representation. These locked up acres likely will become over time accumulations of dead and dying material leading to potentially devastating wildfires to which my and other landowner remaining acres could be more heavily impacted.

Granted, family forest land owners had representation in the coalition leading to the Private Forest Accord legislation. Our vote was one (1) out of twenty-five (25) on that coalition. No wonder family ownerships were impacted heavily. Even industry had no significant vote having eleven (11) votes compared to thirteen (13) NGO votes. On top of that, all discussions were held in secrecy.

The argument heard often is that science is the driver. Well, over the years large amounts of science has been presented that directly disputes scientific interpretations used to formulate these rules. I witnessed presentations of much of that science by reputable forest researchers during the SSBT hearings roughly 6 years ago. Next to no presented applicable science was applied even then.

It disturbs me that those having the most to loose had the fewest votes. Families for example own the majority of timberland acres in Oregon compared to other owners and our representation had a minuscule one (1) vote. Should these kinds of regulations being implemented continually impact stake holders, it would be time for all Oregonians to monetarily be impacted not just those of us that have a lifetime invested in growing and improving our asset.

I encourage the Oregon Board of Forestry to rethink this issue. Please understand my concern that private family forest landowners were not properly represented during this process, and that we are the landowner group that could in all likelihood be affected to the greatest degree.

I, furthermore, encourage the Oregon Board of Forestry to abandon thoughts of implementing the Private Forest Accord Legislation. But, instead please return to the legislature and ask them to review this proposal in more depth and develop a more fair outcome.

I am in full support of protecting the landscape to include fisheries, but this Private Forest Accord goes way to far overboard.

Sincerely,



Richard W. Courter, ACF, CF
Professional Consulting Forester
Oregon Family Forest Owner

September 29, 2022

Lisa Appel
Oregon Department of Forestry
2600 State Street Bldg. D
Salem, Oregon 97310
Submitted via email: sb1501.rulemaking@oregon.gov

RE: Forest Practices Act rule revisions directed by Senate Bills 1501 and 1502

Ms. Appel,

My husband and I are small forestry owners along the southern Oregon coast. I wrote comments and provided testimony during the legislative process on the Private Forest Accord. We own and operate a Century Ranch which means the original property we own has been in the family over 100 years. We believe our family has managed the land well over the years. We have planted thousands upon thousands of trees on our properties for retirement income and future generations. We have completed many conservation and water quality projects as well as have been active in the conservation community including SWCD's, Watersheds, SGT, etc. Trees are a crop and the people of Oregon have no rights to our crop let alone our property, all of which we have bought and paid for as well as managed. Coastal Oregon is the home of almost all the HCP listed species. Coastal Oregon lands are riddled with rivers, streams, steep slopes, and fast growing tree sites. These rules will put many a small woodland owner out of business. Those who can manage to hold onto their land will pay an exuberant price just for the privilege of being a small woodlot owner. Contrary to what was stated in the September, 2022 Board of Forestry meeting, the rulemaking has a huge impact on not only our county government but the economics of our area as well as the private landowners and wood processing mills.

Unfortunately, this process has lacked transparency from its beginning. Even when inconsistencies in the bills were pointed out, it seemed no one would provide a fix. The following comments reflect some of the changes that need to be addressed in the existing rulemaking that is directed by Senate Bills 1501 and 1502.

1. These rules take away the rights of landowners for "just compensation" from land use regulation. As a small forestry landowner, we anticipate we will lose around 25% of our overall timber land and the balance will have an increase in harvest costs which results in a major loss of income from our forest land. The creators of the PFA had no right to take away our legal right to "just compensation" under the law. This section of the rules should be removed.
2. Page 24, 629-603-0600(1): Remove: "the Board of Forestry may use the adaptive management program rulemaking process for rules that are not intended to achieve the biological goals and objectives." This is an open ended process and could totally shut down the forestry industry. The goal of this process should be to develop practices to enhance the forestry industry through management as well as reduce the fuel loading which causes extensive wildfires.
3. Page 25, 629-605-0150(3)(c): Remove the 6 month timeline. Not all years are the same weather wise. In the coastal area, due to the varying amounts of yearly rainfall, the

landowner may not be able to log until July or later. These rules need to reflect that not all of Oregon is the same.

4. Page 26, (8): The section on fertilizers should be removed. From our knowledge, the use of fertilizers is uncommon in small family forests. Fertilizers enhance the soil and growth of trees which is a positive management tool. Fertilizer can be found in the same tubes used to protect the trees the first years of life from the wildlife. In my opinion, it is inappropriate to mandate notification and rates of fertilizers in the forest practices rules.
5. Page 29, 11(d): Remove: "Comments provided by the State Forester do not constitute an approval of the written plan or operation." Landowners/operators should know the comments by the State Forester, if followed, should make their written plans compliant with the rules. There should be a sign off by the forester so landowners/operators know their plan is compliant with the rules when followed. It is inappropriate to cite a landowner/operator when they have followed the plan as reviewed by ODF foresters.
6. Page 31: The Division 607 rules should have been developed by actual small forestry owners/operators so we SFO's were provided an equal voice in the process. Contrary to (5), these rules do not "address the significantly disproportionate impacts on small forestland owners of modest means who are highly dependent on revenue from locations with highly dense concentrations of streams by the Forest Practice Administrative rules." The SFO rules should be amended and a committee of small forestry **owner/operators** should draft alternative rulemaking to address coastal Oregon issues as well as statewide small forestry issues. New draft rulemaking should provide an equitable economic benefit for the losses. The definition of a SFO should be landowners/operators under 5,000 acres. Eliminate the other two requirements.
7. Page 32, 629-607-0200(1)(b)(B): Remove this section. There is no reason for the DOF to know the amount of harvest. If there is harvest, they have those records. How much a SFO harvests within the last three years should have absolutely nothing to do with this section and meeting the criteria of a SFO.
8. Page 32, (1)(b)(C): This section basically restricts the landowner's harvest amount to 2 million board feet per year for TEN years unless you fit into the designated criteria. Again, this requirement for the SFO's is inappropriate. The Government should not be telling the small landowner how much they can harvest. Harvest should be the landowner's choice based on their goals and the maturity of the trees, not government regulations. There is nothing in the rulemaking requiring MBF limits on the large corporate commercial timber companies. Discrimination between the big boys and us small forestry people is inappropriate.
9. Page 32, (1)(c): Again, the Government should not be determining when a SFO can harvest more than the maximum allotted based on certain criteria. This is a crop and should be harvested according to the goals of the landowner and the maturity of the trees.
10. SFO Tax Credit: In reviewing this section, the amount of dollars received for the tax credit is insignificant when compared to the loss of trees, use of the land and the cost to meet the Tax Credit criteria.
11. Page 36, 629-607-0400(4): Except in this section, the rulemaking document refers to a "deed restriction". This paragraph states "an **irrevocable deed** restriction prohibiting the owner and the owner's successors in interest from conducting a harvest or otherwise removing trees within the forest conservation areas." By legal definition, *irrevocable* means it cannot be changed and yet under 629-606-0700 there is a process for removal. Therefore, the term "*irrevocable*" needs to be removed from these rules.

12. Without going through the entire road rule individually, both SFO's and family timberland owners will find the roads section to have a significant impact on the cost of logging especially in the coastal regions. Do you expect timber owners to hire engineers and build roads to who knows what specifications let alone meet the new proposed fish passage rulemaking? Do you not realize family forestland owners do not have a staff of professionals to construct and maintain forest roads? Why should we even plant trees as a crop for harvest when these rules are making it uneconomical to harvest? Let the trees burn and develop the land into something that will make money. A McMansion or a golf course would make much more financial sense.
13. The amount of timber land the coastal Oregon timber producer will lose due to the riparian buffers and slopes is extraordinary. Again, this will put many small family timberland owners out of business and will reduce the value of the land. Due to the PFA, we can't even get our property taxes reduced due to the loss of the land use. These rules restrict the land use to a point where we can no longer produce an income from the land (buffer areas). It is totally inappropriate for the Department of Forestry and Legislature to take away our crop and the use of our land.
14. I won't go into the beaver management section as that is another lengthy issue. Just know if you don't have beavers on your property, you shouldn't be making the rules. I suggest all relocation of beavers be to urban regions of the State.
15. I have listened to the numerous speakers testify and speak on behalf of the Private Forest Accord. One of the concerns I have had is the lack of knowledge by PFA representatives. They are not the "boots on the ground" people who have planted the trees, managed the forest land, seen the damage from wildlife and experienced those losses, built the roads, harvested the trees as well as individually paid the expenses to plant these forest lands and calculate the profit and loss bottom line. Those of us who have worked 50 years to be where we are today lose a portion of our retirement, income, and timber we have planted for the next generation's future. The riparian and slope buffers will eventually decay or die wreaking havoc with riparian areas. Why didn't anyone think of that? The goal should be for healthy forest management which is what we all should want. Timber land whether it is a buffer/conservation area or a harvest area needs proper management, harvesting, and reforestation to maintain healthy habitat and a healthy stand of trees. This plan does not promote healthy riparian habitat.
16. It is mind boggling this piece of legislation has gone this far without an actual economic impact study. I have heard presenters tell you that the PFA has very little impact on County Governments. They obviously have no knowledge of rural Oregon governments, the economy of rural Oregon, or the contribution the forestry industry, small or commercial, makes to the economics of the community.

Thank you for the opportunity to provide comments on this issue. This non-transparent regulatory process has major economic impacts on family forestry owners, SFO's, and the rural counties and communities. Please request an economic impact study immediately. You need to put on your boots and walk the land, measure the buffers and slopes and see what is left in the southern Oregon coast region.

Respectfully,



Sharon Waterman, timber owner
Coos County, Oregon

APPEL Lisa M * ODF

From: CLEMENTS Paul R * ODF
Sent: Friday, September 30, 2022 11:54 AM
To: RULEMAKING Sb1501 * ODF
Subject: FW: comments - 9/22 virtual mtg

From: svaught1@juno.com <...>
Sent: Thursday, September 29, 2022 8:54 PM
To: CLEMENTS Paul R * ODF <Paul.R.CLEMENTS@odf.oregon.gov>
Subject: comments - 9/22 virtual mtg

Paul --

I feel the 9/22 meeting was well done by all ODF people involved -- please share my comments with your co-workers. In my opinion you are all working under very tight deadlines to implement a complicated [and costly] forest regulatory regime [Private Forest Accord]. In my opinion / observation:

- ODF probably had very little input into the PFA as it was being crafted [behind closed doors].
- The PFA may be an expensive, bureaucratic solution to an ideological conflict [only time will tell].
- The PFA is a solution in search of a [non-existent] significant and demonstrable environmental problem.
- The SFO community was not equitably represented during PFA "negotiations" [OSWA accounts for small percentage of that community]; many in the SFO community [outside of OSWA] have not yet heard of the PFA, much less have any idea what it is.
- The SFO incentive tax credit with its "deed restriction" may actually be more of a dis-incentive to many SFO's. The SFO incentive mechanism appears to be complicated [both for the SFO and ODF] and the complexity by itself, is a disincentive. That along with the deed restriction will likely be a non-starter for many SFO's.

Thanks for the opportunity to give comments.
Steve Vaught

9/28/2022

To: Oregon Board of Forestry
RE: Private Forestry Accord (PFA)

I am a small forest landowner with 160ac in Lane Co. and 40ac in Baker Co with 160ac. parcel enrolled in the American Tree Farm System. I have been actively involved in forestry and agriculture my entire adult life. I started planting trees when I was 13 years old as part of restoration the “Big Cow” burn on the Malheur National Forest in 1963 with my father who was a tree planting contractor at the time. I continued working in forestry projects and paid my way through college at Oregon State University graduating with two degrees – Forest Engineering and Forest Management. After college I worked for several timber companies in salaried positions, and later as a timber faller, and as a logging and biomass thinning contractor. I've worked on a number different land ownerships, both public and private, in both Oregon and California and have witnessed substantial changes in forest management rules and regulations. Since 2009 I have worked as a voluntary tree farm inspector for the American Tree Farm System trying to assist other small forest landowners meet the goals of sound forestland stewardship

I always dreamed of owning my own tree farm and was able to acquire 160 acres of cutover land in Lane Co. in 1989. After more than thirty years of management I've developed a substantial stand of timber. This did not happen by accident. I have clear cut a total of 6 ac. of the 160 ac. in more than 33 years of ownership and have consistently worked to improve my property. I've limited harvesting activities to periods when soil moisture content is low, thinned overstocked stands, identified areas with disease problems, worked at controlling invasive species and modified road systems to benefit fish passage.. I purchased a portable sawmill to utilize forest products that local companies can't utilize. Until very recently I left my property open for other people to use until theft of my first portable mill made that unfeasible. All that being said, I have felt a commitment to manage my property with the idea in mind that future generations should benefit from the productivity of the land.

It came as a shock to me and many other small landowners when the PFA was announced Oct. 31. It was stated that small landowners had representation during the talks when in fact almost no small woodland owners were aware of the talks underway. I've been told that participants of the discussions were sworn to secrecy. As a member of OSWA at the time I was not told that Jim James was to be representing my interests. Further OSWA represents only a portion of the private forestland owners and none of the forestland ownerships of less than 10 acres. Rules proposed under the PFA were adopted by reference as law without public input and I have been informed by ODF that they will not be modified as a result of public comment. That and the fact that most owners of very small parcels are not even aware that they will be impacted may be why there has been so little participation during the so called public comment zoom meetings.

The total no-cut rules of the PFA riparian setbacks without “just compensation” feels as bad to me as the theft of my sawmill. From what I have witnessed over my lifetime, these total no-cut rules are not necessary to provide habitat for aquatic species except in wetlands. Compared to timber harvest of fifty years ago, when fish populations remained high, today's practices are remarkably improved. Rules put in place less than ten years ago which allowed limited harvest in riparian protection areas were adequate and have not been given time to show the long term benefits that will result from their implementation. Further, there are a number of factors which have caused much greater impacts on fish populations (offshore commercial fishing, changes in predation from other species, pollutant runoff

from city water drain systems, climate related change and I am certain many others) which should be addressed, but are not, due to political reasons. In any case, if the government has determined that it is in the public interest to take private property (which these new rules do because there is no other viable economic use of the land set aside for no timber harvest under Oregon law) for the benefit of the public then landowners must be provided "just compensation" as provided under Article 5 of the U.S. Constitution unless the landowners agree otherwise which, because of lack of representation in formulation of the rules, they have not.

I see two possible solutions to this problem-1) Through the adaptive management plan modify the rules to allow limited harvest of trees in riparian set asides over time. 2) Pay landowners fair market value for the land and timber and reduce taxation to reflect loss of acreage in an ownership.

In general, continuous increase in regulations limiting ability of foresters on the ground to make decisions often results in bad outcomes. It becomes more difficult for small forest operators to function as part of the timber production process and it deters future generations from continuing the management of family owned tree farms. Ultimately, many owners of smaller timber parcels will sell their properties to large timber companies which I feel is detrimental to our society. We've seen the decline of small family ownership nationally in agriculture and forestry.

I do applaud supporting the cost of improving drainage structures being supported by the state. In general, concerns about mass debris flow or mass wasting from logging operations should be focused on road and landing construction which may have more potential to change water flow/drainage leading to slumps, etc. than actual timber harvesting.

On a broader scale, we have seen a shift in timber production from the Pacific Northwest to the Southeastern region of the U.S. With the Southeastern region producing almost 50% more wood products than the Northwest. Many of our large landowners are shifting operations out of our area at least in part to changes in the regulatory environment

Respectfully,

Brent Hennings
Cottage Grove, Oregon

01521 Winchuck River Road
Brookings, Oregon 97415
September 29, 2022

To Oregon Board of Forestry,

Thank you for the opportunity to comment on the proposed Forest Practices Act administrative rules resulting from Senate Bills 1501 and 1502.

My family owns 235 acres of forestland on both sides of ¾ mile of the Winchuck River in Southern Oregon. In addition to the river, two streams are designated SSBT. The bench land is rich in water resources with at least 14 additional streams that will be affected by the proposed rule changes. Using the minimum option for harvesting, the changes would expand the RMA on the property to 31.4 acres.

My family has lived here for 71 years. We have carried out limited conservative timber harvests. As a result of these proposed rule changes we will prioritize harvests in the areas that will be affected by the change in the riparian area prior to the date the rules become effective.

I appreciate the effort to make accommodations for small woodland owners. A stated goal is to "Minimize the number of land-use conversions of timberlands to other uses." For us, the only choice may be to convert the land to other uses. Many of the rule changes will make it more difficult for us to meet the requirements without employing a professional forester, increasing the price of operations.

629-607-000 Purpose and Goals #5 indicates that the "department will work to develop a process prior to July 1, 2023, to address the significantly disproportionate impacts on small forestland owners of modest means who are highly dependent on revenue from locations with highly dense concentrations of streams by the Forest Practice Administrative Rules." The process to address the impacts should be in place by effective date.

Given the fickle nature of politicians and the public, I am concerned that future state funding may not be adequate for the changes these rules require. There are no guarantees that woodland owners won't be charged increased fees to meet the costs of expanded administrative structures and staffing.

As a member of OSWA, I have followed the process from MOU to PFA to the current proposed rules. The purpose and goals of the Forest Practice Act haven't changed significantly in the proposed new rules. From the beginning, no scientific evidence has been presented to show that the proposed overhaul will better protect Oregon streams. Making changes because a portion of the population feels our forestry rules are too weak is not an adequate reason to make these changes.

My experience of small woodland owners in Oregon is that they are a dedicated group of people who protect and enjoy clean waters and the wildlife that thrives in the riparian areas. In the 20 years I have been managing this piece of property, regulations have continued to restrict our harvests. In my 70+ years on this land, I have watched the density of the forest surrounding the streams increase and the fish population decrease. Since the 1960's there has been limited timber harvest in the Winchuck River drainage. The homeless live on the river bars in the forest, polluting them with garbage and human waste. The USFS doesn't maintain their roads or lands. Vehicles carrying yard debris and garbage pass my house regularly, dumping the load in the forest. There is no oversight of existing septic systems along the river. No amount of regulations on forest land owners (large or small) will make a difference if the whole of the problem continues to be ignored.

Sincerely,

Cilde Grover
Operations Member – Grover Timberlands, LLC

To Oregon Dept of Forestry regarding the Private Forest Accord.

September 30, 2022

From: William Hanson, Manager of Big Fir Timber LLC, a small private family company, Vernonia, Oregon. Big Fir Timber is a Small Forest Owner.

Our little company is the legacy of our ancestors and we are proud of how we take care of the land, plants and creatures. At least 29 types of native trees and shrubs, world-class timber, many native flowers and fungi and all types of animals inhabit our forest which comprises about one tenth of one percent of Columbia County, Oregon, one of the smallest counties in the state. I have personally submitted more than 30 NOAPS while manager of our company. I am a board member and also chair of the seedling program for Columbia County Small Woodlands Association, a chapter of OSWA and I have an advanced degree in science from a research university.

I appreciate and respect the hard and sincere work that has been done and is still being done by dedicated and sincere ODOF employees and others to create the PFA. I do not question their efforts or knowledge but I do resent the coercive situation during which this has happened.

Were Small Forest Owners represented by only 1 of 20 negotiators for the Private Forest Accord while under threat from law suits and adverse legislation? Tyranny of the majority?

I will address two topics: 1) my opinion as to the inequity of the riparian rules; 2) reasons why the optional tax credit for the incremental enlargement of the riparian areas may not be of value to some or many SFOs.

- 1) Almost everyone wants clean water, forested landscapes, abundant and thriving wildlife and native vegetation. We are proud of our riparian areas and how we have protected them except for two seasonally dry gullies which in recent years were claimed to be fish-bearing and will thereby enable a process to take another strip 100 feet wide from us. We paid a 51% tax for that land and timber before it was declared riparian. That is not fair. We have 7000 linear feet of riparian areas that we protect and for which we pay taxes. How much more is to be taken? The Private Forest Accord does not end the bit by bit taking. The marbled murrelet lurks like a raven in the trees except that I am not sure that one has ever been seen in this county. Agricultural, residential, and incorporated land is interspersed with our forest land and other forestland in this area. Those hay fields next to us have little or no forest along the streams and industrial activity occurs right up to the bank, including excavation but we are required to, and do, maintain a healthy, no touch riparian buffer including fir trees as great as 4 feet in diameter. Now our buffer will increase to 100 to 110 feet but nearby, nothing.
- 2) It is contrary to my professional experience to support the enlarged and expanded riparian areas without knowing how much and what land is to be conscripted and the cost of harvest prohibitions and impacts to access of forestland. How much land and timber? What %? What value and what cost? Further, I foresee that with the costs of administering the PFA and SFO

options by the Oregon DOF and Dept of Revenue, soon an argument will be made that our taxes should be increased to pay for these costs, but the benefits are claimed to be for all Oregonians?

- 3) I thank those who have worked hard to devise ways to provide flexibility and fairness to SFOs. Regardless, I can think of multiple situations for which the **tax credit** for timber that may not be harvested because of the incremental enlargement & regulatory change for the riparian areas, will be of little or no value.

A. A Century Farm, now all forestland of about 400 acres, much of which is young timber, has had to harvest timber every year to pay their property tax. An income tax credit will be of no value to this historic family company.

B. A person on social security who harvests a small amount of timber each year to pay the bills will not benefit from an income tax credit.

C. When an estate is settled, a tax as great as 51% is paid. Because of the step up in basis for the value of the timber, the income tax credit is of little value.

I know that this writing has delivered complaints without solutions. I apologize for that but we have had only a few days to comment and there are other responsibilities. My principle recommendation at this time is that because of the declared importance of the PFA to all citizens of Oregon and the USA, the **burden should be shared** and SFOs should not be treated as the "bad guys" but rather as the "**good guys**" who have protected and preserved the natural resources. To encourage SFOs to use the new riparian rules, a property tax credit should be an option.

William Hanson

Vernonia, Oregon

APPEL Lisa M * ODF

From: Frieda Kessi < >
Sent: Friday, September 30, 2022 11:27 AM
To: RULEMAKING Sb1501 * ODF
Subject: Comments on the proposed administrative rule changes to the Oregon Forest Practices Act

I have been involved with small forest acreage land management for over 50 years. I have witnessed over my lifetime numerous changes to the Oregon Forest Practices Act and the negative consequences of these efforts primarily in relation to riparian rule changes. Most likely, greater flexibility in the rules would yield more long term benefits for the environment and the small forest land owner.

I would recommend staying with the current more localized district office for ground management and planning, because the familiar and longer lasting relationships with current and future stewardship foresters is invaluable for small forest land owners.

Regarding: Section 5.3.4 Requirements and Limitations on the Use of the Riparian SFO Minimum Option, paragraph b., Page 102.

I recommend increasing horizontal lineal feet of streams owned by SFO's from 5% to 10%. This change would help minimize the record keeping and enable viability of small forest ownerships.

Thank you for your careful consideration of our comments.
Don and Frieda Kessi

Sent from [Mail](#) for Windows

APPEL Lisa M * ODF

From: Aol !! < >
Sent: Friday, September 30, 2022 6:25 PM
To: RULEMAKING Sb1501 * ODF
Subject: PFA
Attachments: PFA Testimony Figures 9-30-22.pdf

To whom it may concern:

Overall we are concerned about the PFA. We and many others were not included in the process which was conducted behind closed doors. We were not represented. OSWA does not represent us.

We own forest land in Hood River County where we manage this land ourselves, which means management activities as well as hands on work. We precommercial thin, do brush conversion, fuel reduction, felling, skidding and loading ourselves with our own equipment. We have for 50 years operated under the Individual Tree Selection method brought to us by Richard and Mark Smith of Woodland Management. We do not clear cut. Historically we have principally only salvaged logged, removing dead, down and dying trees while they are still merchantable.

The new stream buffers will harm our ability to pay for taxes, insurance, wildfire mitigation work and reforestation work. The narrative around stream protection does not take into account our practices. The "science" in no way supports the buffers to be No Cut buffers. Our logging methodology is not represented in the considerations. Limited removal of dead, dying, blow down trees, for example on a Medium Fish Stream between 30 and 70 feet from stream will not alter stream shading or stream tree recruitment. See Figure 1.

We measured standing volume on 5 tenth acre plots along the stream channel. Volume averaged 34 MBF per acre, 170 trees per acre average. We calculated that it would take a stream buffer of 28 ft to achieve the current 140 sq ft of basal area per 1000 feet of stream side. This means that currently we could cut all of the timber in the area outside of 28 ft. According to the new rules for SFO's we will not be allowed to cut from the 28 ft to 70 ft area along Medium Fish Streams. This means a loss of gross revenue of \$116,000 on this one stream area.

If we cut a limited amount in the area from 28 ft to 70 ft as shown by the X marked trees in Figure 2. it would be impossible to find a significant statistical effect on stream temperature, wildlife habitat, or tree recruitment. There is no science on this experimental design. It is likely that up to 20% of the timber volume could be removed every ten years without effect as long as roads and skid trails were done properly. So why the current rules?

If we consider the Standard buffer area, that doubles the area of protection when compared to the SFO area if we use the 30 ft (28 ft-140 sq ft basal area) protected buffer. The loss of gross revenue then is \$233,000.

How do SFO's recover any of this value? If an SFO chooses to do the Standard option, the SFO' must cut an area adjacent to and equal in size to the area they want to claim a credit on. To obtain all of the permanently lost value the SFO must clear cut. So we are incentivizing clear cutting. Seems like not the goal. And we don't clear cut so we are forced to make a full donation of all of this value.

There are SFO's where almost all of the timbered property is along a stream. This will be an extreme hardship on them and in cases will result in families losing their land.

In our case will not be able to recover thousands and thousands of dollars of timber we have responsibly grown and paid taxes on for 100 years. We have counted on this value to pay expenses to keep the land in our family.

There needs to be a tax credit that helps families recover the value lost in the areas similar to our example above. Timber owners are subsidizing and unproven public value.

Mike McCarthy
China Hill Farm
541 806-6476

Figure 1

Actual Data

CHF Medium Fish Stream 2100 ft length

Vol per Acre 34 MBF

Buffer Width to get 140 sq ft Basal 28 ft - Old Rules

170 Trees/Acre PFA
SFO

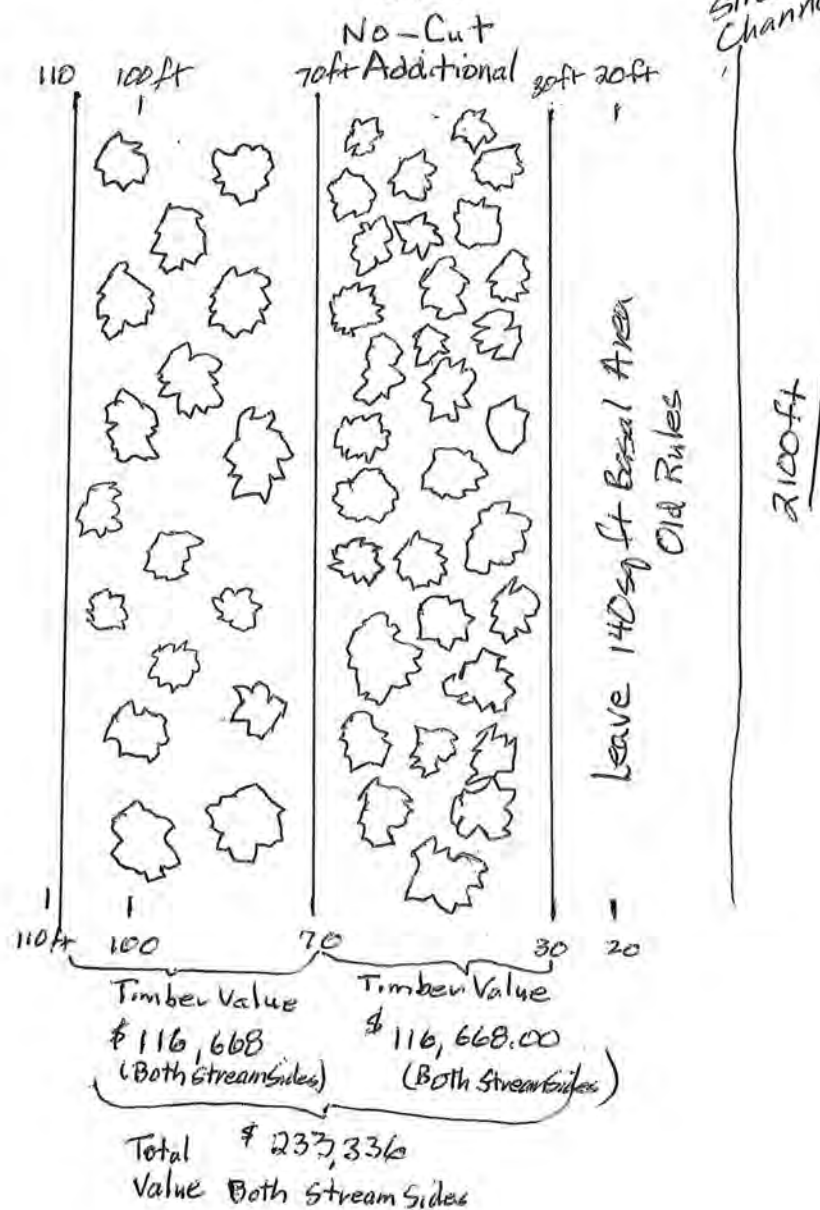


Figure 2

Actual Data

CHF Medium Fish Stream 2100 ft length

Vol per Acre 34 MBF

Buffer Width to get 140 sq ft Basal 28 ft - Old Rules

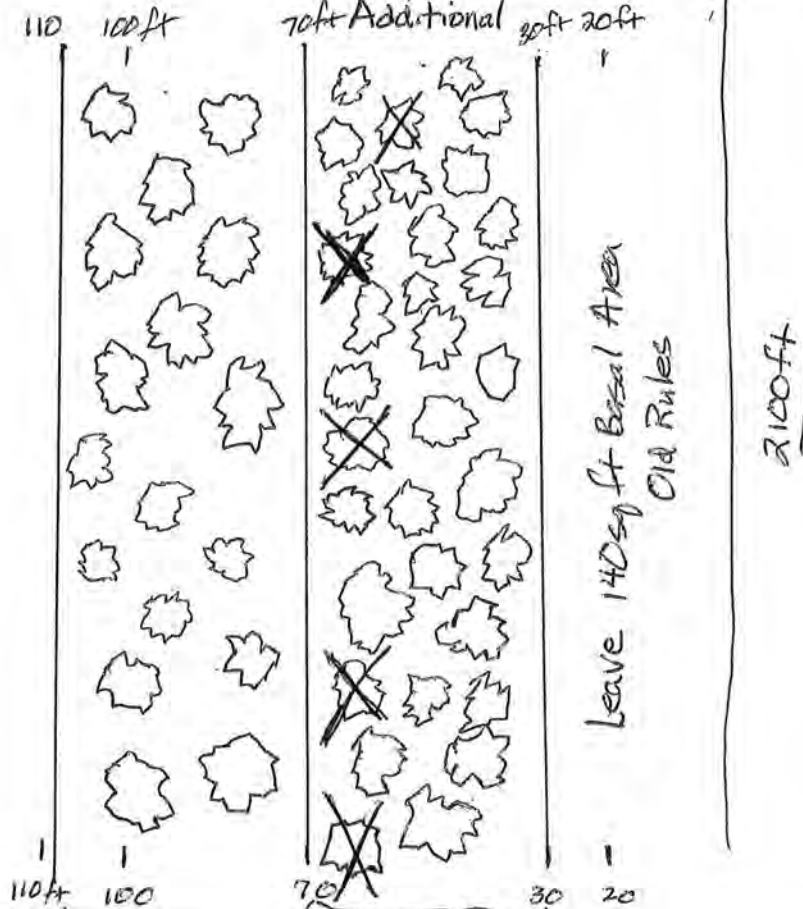
170 Trees/Acre PFA

SFO

No-Cut

70 ft Additional 20 ft 20 ft

Medium
Fish
Stream
Channel



Leave 140 sq ft Basal Area
Old Rules

2100 ft

Timber Value

\$116,668

(Both Stream Sides)

Timber Value

\$116,668.00

(Both Stream Sides)

Total \$233,336

Value Both Stream Sides

APPEL Lisa M * ODF

From: NANCY HATHAWAY <nancy.hathaway@odf.org>
Sent: Friday, September 30, 2022 7:36 PM
To: RULEMAKING Sb1501 * ODF
Subject: thoughts on sb 1501

Re: sb1501

Dear lawmakers,

You have passed this discriminatory bill against timber growers. But you have some facts wrong.

1. The correct term for "environmentalists" is "anti-forestry activists." Fisher persons want 100' either side of a stream on my property so they can kill more fish. Everybody wants something for free. No science has proved that 100' feet adjacent to a stream will provide more fish. It hasn't happened in California or anywhere else. And I doubt it ever will with population increasing every day.
2. Accord is another term you have wrong. Forest owners were blackmailed into agreeing. When threatened with multi-million dollar initiative petitions and anti-timber advertising, you would agree to sign most anything.
- Reminds me of the Golden Rule! Whoever has the gold, makes the rules!
3. Why do you feel that Oregon should follow California and Washington rules? California is a failed state and Washington isn't far behind. I've always felt that Oregonians figured things out based on science and common sense. Notice that we Oregonians aren't flocking to California.
4. I am a small woodland owner and member of Oregon Small Woodlands Association. We've had members drop their membership due to the onerous rules imbedded in the FPA and our participation in its development.
5. Conservationist??? The only things they want to conserve is somebody else's property.
I am the environmentalist and conservationist, always working in the woods to improve forest health, clean water, carbon sequestration, and wildlife habitat.

6. And, we're going to be monitored for compliance!! With one person in ODF to help approximately 70,000 forest landowners. Wow!

The idea of an Accord was good, but threatening timber owners with millionaire-backed never-ending regulation and initiative petitions doesn't leave us with a win-win feeling.

Thank you,
Nancy Hathaway
Corvallis, Oregon

September 29, 2022

Lisa Appel
Oregon Department of Forestry
2600 State Street Bldg. D
Salem, Oregon 97310

Submitted Via Email: sb1501.rulemaking@oregon.gov

RE: Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502

Ms. Appel:

As a small forestry owner, I oppose the proposed rulemaking. Since the beginning of the PFA, we small landowners were basically left out of the process and OSWA had no authority to represent the majority of small landowners as their membership only represents a small portion of small timber ownerships. Members of OSWA that I talked to felt they were not represented in this process either. Yet, corporate and commercial timber was well represented as well as the environmental community. I am fine with large timber being regulated by these rules since their representatives signed off on the agreement and they had a large voice in this process. Their representatives also meet with the legislators to push this legislation forward. I ask you not to approve the small forestry ownership section and allow SFO's to work collaboratively to develop rules that are workable for the small timberland ownerships. Remove the section that takes away our rights to "just compensation" under the law. Remove the section that takes our right to reduce property taxes since these rules make the so much of our land worthless. Make reasonable rules for road building and maintenance and do not expect small landowners to hire an engineer and other professions just to put in a road that will be used very seldom except during harvesting, planting, and management over the next 40-50 years. Include selective harvesting, planting and management plans for the riparian buffers because 50 years from now those partial or fully grown trees today will decay or die wreaking havoc with the rivers and streams as they blow over and provide fuel for wildfires. The goal of this rulemaking should be for a healthy managed riparian area but it will not happen since these rules take away any income and incentive for a landowner to manage the area for fish and wildlife habitat.

Please oppose this rulemaking especially for small timber land owners and go back to the table with actual timber owners to draft new rules which will not put these landowners out of business, will not take their trees and will not make their land non-income producing and unusable.

Thank you for the opportunity to comment. The SFO's should have had equal representation in the process and the process should have been transparent rather than being done behind closed doors and then shoved through by the signers of the agreement.

Respectfully,


C. H. Waterman, Member
C & S Waterman Ranch, LLC
Bandon, Oregon 97411

APPEL Lisa M * ODF

From: Kathleen Flannigan < >
Sent: Friday, September 30, 2022 9:19 PM
To: RULEMAKING Sb1501 * ODF
Subject: Forest Accord Comments

Hello,

I am a small woodland owner and I do greatly appreciate the recognition of the differences between small woodland owners and large industrial owners. The efforts made to address some of the challenges the private Forest accord changes will have on the small woodland community is commendable. That said, I do have some concerns.

- Like many small woodland owners, I have a regular job and being asked to review, understand, figure out all the ways this will impact my property, and make meaningful comments on this level of change, in the time frame allowed, is not realistic.
- There doesn't seem to be anyone to help a person understanding the proposed rules or their impacts as the stewardship foresters don't know the answers and have yet to receive any training on them.
- It is difficult to comment on programs that are not yet developed. Funding the AMPC, IRST, their work and the additional employees is covered by saying, the state forester, cooperators and legislature will work to secure funding. There is also no budget or budget projections I am aware of. Is this going to increase the harvest tax to the point you can't harvest at a profit?
- Who and how is the disproportionate impact to a small woodland owner derived. Who and how will the determination of modest means that are highly dependent on the revenue calculated.

I bought my property with the plan to help supplement my retirement and because I enjoy forestry and looking after and improving a piece of land. My biggest concern is that these changes will take my ability to harvest at a profit and/or devalue my land. Will I be required to hire engineers, geologists, hydrologists, biologists, and professional foresters to do any work on my property. That may not be the intent, but I think back to the 1994 NW Forest Plan. Part of the deal was that harvest would be reduced 80% from the traditional cut and there would be a steady and predictable supply of wood from the federal lands. All the restrictions were implemented but the government produced less than half of the 20% of board footage for at least the 15 or so years of the agreement.

There are people that will cherry pick or misuse science to meet their objectives. There is an often quoted, peer reviewed study that suggests that wood loses 2% of its carbon each year so wood over 50 years old doesn't sequester any carbon. I have seen wood much older burn and can assure you it is full of carbon. If wood can't hold carbon for more than 50 years a 300-year-old tree would have 250 years of growth without any carbon in it with the last 50 years decreasing from full carbon to 2%.

Using the best science we have is the right thing to do but history shows that some of the best science is wrong, for example it wasn't long ago that we were removing woody material from streams to help fish passage. Much more of our understanding is incomplete. The tailed tree frog in Washington was believed to be old growth dependent. After Mt St Helens wipe out a

bunch of old growth the frog's numbers increased. Turns out the pollywog food supply does better in streams with good sun. Not what one would expect but nature doesn't care about what we think. A lot is made of sediment delivery to streams but I think some sediment delivery has always happened and is good. A lot of organisms from lampreys to bacteria live in the muck,

mire, and sand of the streams. These organisms may well be critical to the base of the food chain. A stream full of good spawning gravel isn't beneficial if the fry all die of starvation. I care about my land and the land and wildlife around me. That is why I choose to live there. I am not looking to do harm, but we can't do anything without some potential impact. There needs to be room for common sense. Should we have biologists patrol all the roads in case a Western Pond turtle or Fenders Blue butterfly is in the area and shut the road down. Risk, cost and reward have to be considered.

My 25 acres won't impact log supply or greatly impact wildlife but when you add up all the small woodlands it does make a difference. Less timber supply means higher home prices, that leads to fewer people able to buy a home or afford rent. That will lead to more homeless. It also increases the demand for third world wood and many countries have few or no environmental protections.

One of your stated objectives is to decrease the land use changes from forestry to other uses. If harvesting can't be done at a profit many landowners will seek to change the use of their land so they can pay their taxes and feed their families. If they can't get a land use change, I suspect folks will run cows, goats, or whatever to try and make some money. Most certainly they won't put time or money into maintaining or improving their land for wood production or wildlife habitat.

Some parting thoughts. There is also an element of fairness and private property rights. Logging is looked at by many as being a bad thing should be stopped. I would argue that it is necessary and can be done so it brings positive benefits to the land. Perhaps everyone should follow similar rules for protecting the environment. After all we are all in this together. Much of the best potential habitat and forestry ground in the state is under urban areas. Urban areas should do their part too. Zoning doesn't mean anything to fish and there is a lot of development along fish streams in urban areas that impact and destroy RMA's. Should this be stopped, and current developments removed? Should parks plant native vegetation along all stream banks and keep people out so as not to disturb wildlife? Do hiking trails need to be removed? Mountain biking only done in dry conditions? No more oak savanna should be lost to vineyards. No property landscaping near streams etc. (Mill Creek in Salem might be a good place to start.) The laws requiring replanting seemed once to be about timber supply and now seems to be going toward protecting the environment. The government owns a lot more land than I do. You may be better putting your efforts into good management of those lands.

Sorry if my tone got a little snarky but this is an important issue for me. I realize you can only work on things that are within your authority and the goal is to do good. I just worry about the unintended consequences of the effort.

Sincerely,
John Flannigan

APPEL Lisa M * ODF

From: Greg Peterson < >
Sent: Friday, September 30, 2022 11:23 PM
To: RULEMAKING Sb1501 * ODF
Cc: Nancy Hathaway
Subject: comment on PFA

COMMENT ON PFA

Background

I'm a small woodland owner, retired from a five decade career in environmental engineering. I have tended my 60 acres of forestland for 25+ years, anticipating that I would be able to conduct a harvest and supplement my limited fixed income and perhaps help put my grandson through college. Unfortunately, we are now overwhelmed by 40 year high inflation rate and basic needs are becoming out of reach, so every \$ counts more than ever before. Two years ago, It came as a great shock that the government wanted a PFA "take" amounting to 15% of my property, by restricting harvest areas and adding further access restrictions. This "take" did not reduce my property taxes or obligation to manage fire risks, and only reduced the harvest area. With the emergence of PFA, the viability of my 60 acre investment suddenly changed and became in serious jeopardy.

Environmentalists vs. Forest Industry

For decades, the environmental lobby and Democrat officials have incessantly tried to limit the viability of Oregon's forest industry. In 2019, they gathered sufficient financial backing to threaten that unless forest owners succumbed to their demands, they would start an endless series of ballot initiatives to entirely shutter forestry in Oregon. Even the large timber companies could not afford such a sustained fight, and small landowners were unable to support such a contest, but were caught up in an unprecedented tidal wave of politically-directed money thrown against them.

The forest industry has a long history of boom and bust cycles, and during 2020/2021, a period when lumber prices were at all-time highs, the Environmentalists saw an opportunity and began pushing the PFA-concept hard. They claimed that industry was making so much money that greed shouldn't get in the way of "protecting the environment", even though it was only 14 months since prices bottomed at the lowest level in a decade. There's never been any evidence of forestry causing any environmental harm. The environmentalists acted as if forest landowners had endless funds and that an average 8% take of property wouldn't affect the viability of forest ownership and stewardship.

Today, lumber prices are only 30% of their May 2021 high, and at these prices, PFA's financial burden becomes even more apparent. The WSJ forecasts that as interest rates rise, lumber prices will continue to fall for the foreseeable future (Ref; Lumber Prices Fall Back to Around Their Pre-Covid Levels, WSJ Sept 27, 2022).

The PFA was forced on forest landowners by coercive tactics by environmentalists, the Governor's overwhelming political pressure, and strong-arm tactics by NOAA. These heavy-handed political tactics reduce the area available for harvest, greatly increase government's control of daily operations, require detailed mapping and stream computer simulation, and significantly increase reporting.

NOAA's involvement was particularly egregious, since they came with a predetermined list of wants, which included mandatory minimum riparian widths, with no scientific basis or justification to support them. They showed no interest in various Oregon studies showing that the existing stream buffer widths were adequate to protect fish and enhance spawning. They looked at ODF's 2019 Ripstream study, which a peer review debunked in many areas, including the fact that it only gathered 17% of the required minimum data set, failed to have a local weather stations, and many other significant deficiencies. They paid no heed to the three independent paired watershed studies that rigorously gathered full data sets, and were thoroughly peer reviewed. These studies all concluded that the existing riparian buffers were adequate to limit temperature change and significantly increased fish populations.

As Steve Vaught, retired ODF forester told me recently, "PFA is essentially the federalization of forestry"

Small forest owners are caught up in the "federalization of forestry"

Small forest owners don't have the resources or scale of harvests of large landowners, so they are usually limited to small harvest areas (average 5-7 acres) and less than optimum markets, since it's impossible for a small woodland owner to find a logger and trucker during peak markets. This results in significantly lower returns than large landowners, who enjoy substantial economies of scale with large harvests and have in-house logging capability.

Under PFA, small landowner involvement in the detailed mapping and stream simulation is temporarily deferred until the first harvest on a parcel. However, once a harvest is proposed, a small landowner will already have a lot on his plate to select a logger and prepare the site roads. With PFA, there will also be an avalanche of data required by ODF and if there is a need to install or replace a culvert on a fish-bearing stream (Type F or SSBT), culvert size and complexity has significantly increased under the PFA. If there is such a need, it begins the overwhelming challenge of gathering detailed site data, designing, and contracting for the work. No small woodland owner has a staff of experienced engineers and other professionals, ready to take such a significant project that will take up to a year to complete and permit. The project will likely cost between \$100,000 to \$750,000, or more, so it is no small undertaking. The bidding process will be complicated and open to ODF scrutiny. Once a contractor is selected, the landowner will be able to put his project on the SFISH list and will then have to wait for funding priority, which could require months or years. Selected contractors will be exposed to inflationary cost increases during this wait and thus will have to have their bid adjusted, as time passes.

Ideally, a small woodland owner would be able to start the design and bidding process for any fish-bearing culvert a year or two before a harvest. This would significantly reduce the crunch on time, resources, and site access. The PFA is silent on whether there will be funds for a landowner to hire an engineer to help him with this effort, which would also enable the project to be put on the SFISH list earlier, with the goal of having the work completed before a harvest occurs.

The typical small woodland owner is going to need a LOT of help from the SFISH office. If the SFISH office is unable to provide meaningful help to the landowner, who will be already consumed by organizing for the proposed harvest, then word will soon get out that PFA's added bureaucracy is excessive and many small woodland owners will defer harvests and the land will fall into disrepair and the landowner will be unable to afford to be a good steward of the land.

As an experienced professional engineer with over 5 decades experience, I believe the SFISH role will play a vital role, but to be meaningful, it must have credible resources that the average small woodland owner lacks. Establishing SFISH will pose a substantial challenge as unfortunately, its scope is woefully vague under the PFA. To be a success, it will require a lot of outside expertise to set up and manage such an important office for the 70,000+ small woodland owners in Oregon. ODF likely will not have the in-house expertise to create this office. It should be periodically overseen by outside experts and a small woodland owner(s), aware of the specific needs of SFOs.

Other small woodland owner issues:

Small woodland owners need access to riparian areas for pre-commercial and commercial thinning for forest health, to lower fire risk, and to achieve Desired Future Forest conditions. If riparian areas are not thinned, they will become clogged with an excessive number of trees, which will increase fire risk substantially. These areas are also prone to being overtaken by invasive species and noxious weeds, and need to be actively managed, as needed.

Stream fords can be the only access for remote forest properties and have been historically used for most of the year. Their use should be allowed to continue, except during high flow periods and when use would disturb stream sediment.

During our last conversation, ODF's Greg Urb was not certain that bridges would be eligible for SFISH cost-reimbursement when installed or replaced at a fish-bearing stream crossing. Since bridges and culverts provide the same permanent stream crossing function, and it is often a site-specific call as to which is used at a particular stream crossing, both bridges and culverts should be eligible under the SFISH scope.

Perennial fish streams (Type F & SSBT) require an 18" minimum culvert. Other perennial stream culverts should be at least 15" diameter.

Ditch relief culverts, ditch crossing, groundwater/spring water collection, and non-perennial streams should have no minimum size

A stream's Point of Perenniality (point of zero flow for >25 ft) should be designated no earlier than Sept 30.

Regards,
Greg Peterson PE

8. Environmental Supporter

APPEL Lisa M * ODF

From: Millie Mathis <team@speak4.co>
Sent: Thursday, September 01, 2022 8:50 AM
To: ODF_DL_Board of Forestry
Subject: Support Compromise Over Conflict

September 01, 2022 @ 03:44pm
Support Compromise Over Conflict

I am reaching out to voice my support for the draft rule changes to the Oregon Forest Practices Act that were a result of the Private Forest Accord.

As someone who supports compromise, I was pleased to see that the decades of fighting between groups could end, and Oregonians will have some certainty around the management of our private forest lands.

In support of clean water, jobs and healthy forests, I ask that you support these rules changes as written.

Thank you.

Ms. Millie Mathis
1 Meadow Lane,
Shady Cove, OR 97539

360-751-0489

APPEL Lisa M * ODF

From: william conklin <team@speak4.co>
Sent: Thursday, September 01, 2022 8:50 AM
To: ODF_DL_Board of Forestry
Subject: Support the Future of Forestry

September 01, 2022 @ 03:44pm
Support the Future of Forestry

As an Oregonian I support the draft rules for implementing the Private Forest Accord.

These rules will ensure that Oregon's forests and timber industry remain healthy and continue to support tens of thousands of family wage jobs in rural Oregon. The rules are a balanced approach to support both conservation and economic viability for Oregon's rural communities, which in turn is good for all of Oregon.

Oregonians are ready to leave behind the years of fighting and litigation that have threatened our rural communities for decades. Please adopt the proposed rules as written and support a new era of forestry in Oregon.

Thank you.

william conklin
205 s 54 th st k springfield oregon, k,
Springfield, OR 97478

541-726-6816

From: oregon-gov-web-services@egov.com <oregon-gov-web-services@egov.com>

Sent: Tuesday, September 06, 2022 7:19 AM

To: ODF_DL_Board of Forestry <BoardofForestry@odf.oregon.gov>

Subject: Rulemaking

Name	Greg Miller
Email	_____
Subject	Rulemaking
Comments	<p>RE: Private Forestry Accord Draft Rules September 6, 2022 Dear Members of the Oregon Board of Forestry, Respectfully, I ask you to support and adopt the draft rules as written for implementing the Private Forestry Accord. At the end of 2019 and on into the first half of 2020, it was my honor to manage the initial project to build the foundation of the Private Forestry Accord. As you know, Senate Bill 1602 passed during a special session of the Legislature on June 26, 2020. It was the first step. In addition to formalizing the Private Forest Accord, it increased drinking water protections on our private forestlands. Watching from afar, I know all sides poured their souls through difficult compromise into Senate Bills 1501 and 1502 which Governor Brown signed into law. Before you now are the draft rules for implementing the Private Forest Accord. The agreement and proposed rules are a product of more than two years of negotiations among devoted Oregonians with very different perspectives. They put aside their differences, came together, and stayed at it reaching a historic agreement. A remarkable achievement often known as the" Oregon Way". These rules ensure Oregon's forests and timber industry remain healthy and continue to support tens of thousands of family wage jobs in rural Oregon. The rules are a balanced approach to support both conservation values and economic viability for Oregon's rural communities. This is good for all Oregonians. Please adopt the proposed rules as written and support this new era of forestry in Oregon. Thank you. Peace and blessings to you all, Greg Miller (Forester, retired)</p>

Submission ID: 0db3573b-b7e8-42f0-b897-a9f95a388b44

Record ID:

From: esterbentz@everyactioncustom.com on behalf of [Ester Bentz](#)
To: [RULEMAKING Sb1501 * ODE](#)
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules
Date: Tuesday, September 06, 2022 1:20:26 PM

Dear Chair Jim Kelly,

As a local frequent hiker/forager on the Wallowa Whitman NF, I've been sickened in recent years in the clear-cutting by pvt. timber co's. on the steep slopes above salmon-spawning streams (i.e. Crow Cr., out the "46" Rd.).

The various agencies to which I complained assured me that state guidelines for pvt. landowners are being followed. To which I responded: THEN THE GUIDELINES HAVE GOT TO CHANGE!..

Of course, enforcement is always the 'bugaboo'. Given our relatively remote location, I fear we're often overlooked when it comes to oversight where the environment is concerned (DEQ ignores us completely)

I so hope these proposed new guidelines make it harder for the 'cut & run timber beasts' to do their dirty work.

Thankyou for your service.

Sincerely,
Miz Ester Bentz
303 Residence St Apt 28 Enterprise, OR 97828-1680

APPEL Lisa M * ODF

From: klillebo@everyactioncustom.com on behalf of Karen Lillebo <klillebo@everyactioncustom.com>
Sent: Tuesday, September 06, 2022 2:14 PM
To: RULEMAKING Sb1501 * ODF
Subject: Oregon needs sustainable forests

Dear Chair Jim Kelly,

I am writing today in support of the comprehensive rule changes proposed as part of the implementation of the Private Forest Accord and to urge you to continue to improve the state's logging standards to better protect clean, cold water for all Oregonians.

This is the first major upgrade to Oregon's Forest Practices in decades and brings Oregon closer to the protections that have been standard practice in Washington and California for years.

The Board will also be faced with rulemaking in the coming years related to post-disturbance logging. With fire an increasing factor in forests across Oregon, it is very important that the Board ensure harmful post-fire logging practices currently allowed under the OFPA are amended to comport with the best available science and to match the intent of the new PFA stream buffer rules. Stricter standards will ensure that clean water and communities are protected from harmful logging practices after wildfires.

I urge the Board to keep the pressure on the Oregon Department of Forestry to conduct the proper landowner education and to take seriously their role as the enforcement entity charged with ensuring these rules are followed.

Thank you for your service on the Board and to Oregon.

Sincerely,
Ms. Karen Lillebo
636 NW Saginaw Ave Bend, OR 97703-1122

APPEL Lisa M * ODF

From: tidmorek@everyactioncustom.com on behalf of Kayla Tidmore <tidmorek@everyactioncustom.com>
Sent: Tuesday, September 06, 2022 2:53 PM
To: RULEMAKING Sb1501 * ODF
Subject: PFA Rules are a GO!

Dear Chair Jim Kelly,

I'll keep this short and sweet, I highly support the new PFA rules and see it as a giant step forward in preserving Oregon's prized natural resources. We have fallen significantly behind in terms of modernizing outdated forest regulations, and because of this, face dire consequences as we are on the brink of losing some of our most iconic species, salmonids specifically. We have a long way to go in righting the wrongs of our predecessors, but, the Private Forest Accord is a step in the right direction. I would also like to acknowledge the new jobs that are coming with this new legislation, as I personally have just applied for a job made only possible by the PFA.

Please keep the momentum and positive change going!

Sincerely,
Ms. Kayla Tidmore
6923 N Fork Siuslaw Rd Florence, OR 97439-9261

[illegible]

2022_05_09%26sponsored%3D0&data=05%7C01%7CSB1501.RULEMAKING%40oregon.gov%7C2250cf88725b43ddf29308da9059cd4b%7Caa3f6932fa7c47b4a0cea598cad161cf%7C0%7C0%7C637981012616441760%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&data=tfDm%2BruCV6RgVHxWfGcL6Y6QyfCBsqTV3JlcNdpgApw%3D&reserved=0
Force of Nature - Soil and the Gut

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fforceofnaturemeats.com%2Fblogs%2Fdefending-meat%2Fsoil-and-the-gut-two-ecosystems-with-a-deep-connection%3Ffbclid%3DIwAR3_oKUGZqPHmHvN5A3BlyqbQNc4UpqHB3pQMaDNZ0k4drGwpgW14DiFjdQ&data=05%7C01%7CSB1501.RULEMAKING%40oregon.gov%7C2250cf88725b43ddf29308da9059cd4b%7Caa3f6932fa7c47b4a0cea598cad161cf%7C0%7C0%7C637981012616441760%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=ei6PTIUyXhZJO35Qyg%2BHruyq82Ucdb7GajOF3GHFi4%3D&reserved=0

An essay by WC Lowdermilk - Conquest of the Land Through Seven Thousand Years

You'll have to find this on your own - I have the essay but no URL. It explains how misuse of soil has collapsed civilizations.

Finally the one everyone involved with forest management should be required to read. An excellent study and the best reason we must change our harvesting techniques:

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ffe360.yale.edu%2Ffeatures%2Fexploring_how_and_why_trees_talk_to_each_other&data=05%7C01%7CSB1501.RULEMAKING%40oregon.gov%7C2250cf88725b43ddf29308da9059cd4b%7Caa3f6932fa7c47b4a0cea598cad161cf%7C0%7C0%7C637981012616441760%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&p;sdata=c7dSb2yBH%2BAQKZDD3eQIgTIP5lp%2FmgKvjvMi0QuXxWY%3D&reserved=0

Sincerely,

Mr. Ted Chudy

1395 E Briarcliff Ln Eugene, OR 97404-3201

APPEL Lisa M * ODF

From: johnsd@everyactioncustom.com on behalf of David Johns <johnsd@everyactioncustom.com>
Sent: Tuesday, September 06, 2022 6:22 PM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules

Dear Chair Jim Kelly,

I was born in Oregon and have lived her most of my life. I travel the west (wet) side and east side for recreation. Too many waterways of all sorts have been exposed to heat, silt and other degradation by logging, road building and grazing. Strong rules need to be proposed and implemented as part of the Private Forest Accord. Please do so. .

The Private Forest Act was a compromise resulting from dueling initiative efforts and industry fear they would have to really start behaving. This compromise is certainly not all I want or what is needed. But it's a start after decades of weak rules and damaging logging that has hurt forests and wildlife.

The difficult tradeoffs in the Private Forest Accord make this the first of many steps to improve the state's logging standards to better protect clean, cold water for all Oregonians, including fish.

The new rules aim to increase stream buffers, expand protections for steep slopes prone to landslides, and ensure the road network does not cause excess sedimentation are critically important. This agreement is built on modeling and assumptions that spring from our current best understanding of the science. It will be imperative going forward that the Board ensure all parties are participating in the adaptive management process in good faith so that these rules can evolve as our understanding of these complex systems increases.

With fire an increasing factor in forests across Oregon, it is very important that the Board ensure harmful post-fire logging practices currently allowed under the OFPA are amended to comport with the best available science and to match the intent of the new PFA stream buffer rules. Stricter standards will ensure that clean water and communities are protected from harmful logging practices after wildfires.

No doubt some will have a steep learning curve to adjust to these new rules. I urge the Board to keep the pressure on the Oregon Department of Forestry--which is too often in bed with industry, to conduct the proper landowner education and to take seriously their role as the enforcement entity charged with ensuring these rules are followed. A huge part of the success of the PFA will hinge on the Oregon public trusting that logging operators are following these new rules and that ODF is protecting the public interest.

Thank you for your service on the Board and to Oregon.

Sincerely,
Mr David Johns
PO Box 725 McMinnville, OR 97128-0725

APPEL Lisa M * ODF

From: kimberly.brown@everyactioncustom.com on behalf of Kim Brown
<kimberly.brown@everyactioncustom.com>
Sent: Wednesday, September 07, 2022 8:36 AM
To: RULEMAKING Sb1501 * ODF
Subject: Private Forest Accord

Dear Chair Jim Kelly,

I have studied the effects of forestry pesticides on our streams and bivalve organisms. Our streams have detectable amount of chemicals in them that are hurting our valuable fishing and aquaculture industries not to mention the ecosystems they inhabit. This, I urge you to support the rule changes proposed as part of the implementation of the Private Forest Accord.

Many of these chemicals that we spray out use in household products have not been adequately tested for the health of the ecosystems, the organisms that encounter them or the health of the communities in the area. We need more protections at least to the point of coming more in line with the practices in California and Washington.

Sincerely,
Dr. Kim Brown
3606 SE Kelly St Portland, OR 97202-1843

APPEL Lisa M * ODF

From: kpottermom@everyactioncustom.com on behalf of Dave Potter
<kpottermom@everyactioncustom.com>
Sent: Wednesday, September 07, 2022 11:18 AM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules

Dear Chair Jim Kelly,

My wife and I strongly feel that water is the most important component of life here in Oregon...and everywhere. We all know that stresses and strains and shortages are happening to water supplies. It is past time for all, government and citizens do everything we can to protect and improve our watersheds and the water they provide us...Or else we'll have even bigger problems coming decades.

We totally support broad brush, comprehensive upgrades/changes as part of the Private Forest Accord. You - please - should do all you can to enact them and improve other forest laws to give strong protections to waterways [streams, rivers, etc.] and their most vital components: the watersheds and associated plant - not asphalt, not the current logging way too close to waterways and not large clear-cuts! - coverage.

Oregonians must have water! Most Oregon water comes directly or indirectly from land covered by trees and other vegetation. These lands [water sheds] must be better protected for the benefit of all of us.....Please!

Sincerely,

Mr. Dave Potter

3930 Rio Vista Way Klamath Falls, OR 97603-7729

APPEL Lisa M * ODF

From: bbharris1936@everyactioncustom.com on behalf of William Harris <bbharris1936@everyactioncustom.com>
Sent: Wednesday, September 07, 2022 11:23 AM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules

Dear Chair Jim Kelly,

The PFA is a wonderful accomplishment. I am thrilled and proud of Oregon.
I am writing today in support of the comprehensive rule changes proposed as part of the implementation of the Private Forest Accord and to urge you to continue to improve Oregon's forest laws so that community and environmental health are adequately balanced with sustainable logging.

Please adopt the proposed rules relating to healthy streams and sustained wildlife and enforcement.

In addition, move forward with the very important broad challenge to require that private forest practices do not degrade stream water supply for communities and do promote maximal green house gas storage in addition to production of wood and wood products. All elements of our society must manage in a manner that reduces global warming.

The challenges will continue. I expect the Department and the Board to commit to and put continuous effort into refining and increasing actions which support long-term life in Oregon.

We should expect to become equal to California and Washington in effective forestry.

Thank you for your service on the Board and to Oregon.

Sincerely,
Dr. William Harris
2803 NW Cumberland Rd Portland, OR 97210-2803

APPEL Lisa M * ODF

From: shavana@everyactioncustom.com on behalf of Ellen Fineberg <shavana@everyactioncustom.com>
Sent: Wednesday, September 07, 2022 11:58 AM
To: RULEMAKING Sb1501 * ODF
Subject: YES to new PFA rules; push for more rules for forests on private lands

Dear Chair Jim Kelly,

YES! to the comprehensive rule changes proposed as part of the Private Forest Accord.

That is a great step.

We HAVE to consider our health even more important than getting as much wood as possible.

Thank you.

Sincerely,

Dr. Ellen Fineberg

PO Box 474 Williams, OR 97544-0474

APPEL Lisa M * ODF

From: kevinrussell1958@everyactioncustom.com on behalf of Kevin Russell <kevinrussell1958@everyactioncustom.com>
Sent: Monday, September 12, 2022 8:28 PM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules

Dear Chair Jim Kelly,

Please protect the vulnerable forest streams.

Sincerely,
Mr. Kevin Russell
1055 W 7th Ave Apt 5 Eugene, OR 97402-4651

APPEL Lisa M * ODF

From: kathnzz@everyactioncustom.com on behalf of Kat Balogh <kathnzz@everyactioncustom.com>
Sent: Friday, September 16, 2022 2:32 PM
To: RULEMAKING Sb1501 * ODF
Subject: Request to approve new PFA rules; More sustainable rules needed!

Dear Chair Jim Kelly,

Hello,

I strongly support the new proposed Private Forest Accord (PFA) rule changes. In addition, I'm requesting your support to increase the forestry standards to implement more sustainable practices like those established in WA and CA.

We need to:

- increase stream buffers,
- expand protections for steep slopes prone to landslides,
- and ensure roads to not erode into water bodies.

As a board member, I ask you hold the ODF accountable by ensuring education and compliance with the PFA.

Thank you in advance.

Sincerely,

Ms. Kat Balogh

30765 Pisgah Home Rd Scappoose, OR 97056-220C

APPEL Lisa M * ODF

From: maggiedo2525@everyactioncustom.com on behalf of Maggie O'Sullivan <maggiedo2525@everyactioncustom.com>
Sent: Friday, September 16, 2022 10:29 PM
To: RULEMAKING Sb1501 * ODF
Subject: Please comprehensively implement strong new PFA rules to protect our forests!

Dear Forestry Board,

Please comprehensively implement strong new PFA rules to protect our forests! As a local Central Oregonian, and someone who has had the privilege of growing up in such a beautiful place, it pains me to see our natural spaces being encroached upon as Bend expands. Please think of the future generation rather than profits. Love our Earth please.

-Maggie O'Sullivan

Junior at Bend Senior High School

Sincerely,

Maggie O'Sullivan

60643 Thunderbird Bend, OR 97702-9653

APPEL Lisa M * ODF

From: DrLaurenOliver49@everyactioncustom.com on behalf of Lauren Oliver <DrLaurenOliver49@everyactioncustom.com>
Sent: Wednesday, September 21, 2022 1:55 PM
To: RULEMAKING Sb1501 * ODF
Subject: Support for Oregon Forest Stream Protections

Dear Chair Jim Kelly,

I am writing to express my support for the proposed administrative rule changes to the Forest Practices Act as directed by Senate Bills 1501 and 1502. I urge you to continue to improve Oregon's forest laws so that community and environmental health are adequately balanced with sustainable logging.

There are 10 million acres of private forest in Oregon covering some of the most productive and significant forests in North America. The rivers, streams, and wetlands that are affected by the management of these forests are home to a breadth of fish and wildlife species, as well as downstream communities.

The Private Forest Accord brings Oregon much closer to the mainstream of modern forest management practices that protect watersheds with endangered aquatic species. The Accord and the proposed rule changes represent significant progress in protecting our watersheds from the ravages of industrial logging and chemical spraying.

I urge you to ratify and strictly implement this accord and the protections it offers.

Thank you for your service on the Board and to Oregon.

Sincerely,
Dr. Lauren Oliver
175 Beacon Hill Ln Ashland, OR 97520-9701

APPEL Lisa M * ODF

From: roughskinnednewt@everyactioncustom.com on behalf of Dianne Ensign
<roughskinnednewt@everyactioncustom.com>
Sent: Wednesday, September 21, 2022 7:44 PM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules

Dear Chair Jim Kelly,

As a person with a lifelong concern for the environment and other species, this issue is extremely important to me. I strongly support the comprehensive rule changes proposed as part of the implementation of the Private Forest Accord and urge you to continue to improve Oregon's forest laws so that community and environmental health are adequately balanced with sustainable logging.

As you know, the PFA is the product of decades of hard work by community members, organizers, and scientists calling for change and is ultimately the product of compromise between parties who have long been in conflict. This is the first major upgrade to Oregon's Forest Practices in decades and brings Oregon closer to the protections that have been standard practice in Washington and California for years.

The difficult tradeoffs in the Private Forest Accord make this the first of many steps to improve the state's logging standards to better protect clean, cold water for all Oregonians.

The new rules to increase stream buffers, expand protections for steep slopes prone to landslides, and ensure the road network does not cause excess sedimentation are critically important. This agreement is built on modeling and assumptions that spring from our current best understanding of the science. It will be imperative going forward that the Board ensure all parties are participating in the adaptive management process in good faith so that these rules can evolve as our understanding of these complex systems increases.

To that point, the Board will also be faced with rulemaking in the coming years related to post-disturbance logging. With fire an increasing factor in forests across Oregon, it is very important that the Board ensure harmful post-fire logging practices currently allowed under the OFPA are amended to comport with the best available science and to match the intent of the new PFA stream buffer rules. Stricter standards will ensure that clean water and communities are protected from harmful logging practices after wildfires.

The changes contemplated by these rule updates are significant and there is no doubt that some will have a steep learning curve to adjust to these new rules. I urge the Board to keep the pressure on the Oregon Department of Forestry to conduct the proper landowner education and to take seriously their role as the enforcement entity charged with ensuring these rules are followed. A huge part of the success of the PFA will hinge on the Oregon public trusting that logging operators are following these new rules and that ODF is protecting the public interest.

Thank you for your service on the Board and to Oregon.

Sincerely,
Ms. Dianne Ensign
11600 SW Lancaster Rd Portland, OR 97219-7655

APPEL Lisa M * ODF

From: Jukka
Sent: Wednesday, September 28, 2022 5:16 PM
To: RULEMAKING Sb1501 * ODF
Subject: comments to implement new rules to Oregon FPA

From: Jukka Naukkarinen, local tax payer and forest owner,
Deadwood, Oregon, 97430,

Comments:

Please limit clear cutting much more. Planting new trees will not restore biodiversity that existed.
Once you got down older trees
you degrade the ecosystem that took centuries to form with little human intervention.

There should be 30 day mandatory advance written notification to all neighbors for any logging operation, or helicopter/land pesticide spraying, including the name and type of spray used. The direction of the wind must not carry the said spray toward neighbor's property.

Mandatory clear markings of all trees to be "fell" within 200ft of neighbor's boundary.

To insure compliance and understanding of regulations, there should be mandatory inspection of timber operations of 10 acres or more by ODF Forester before, during and after the operations.

Mandatory biological survey by independent, certified biologist, at the expense of timber companies to determine presence of endangered species on any timber harvest operation greater than 30 acres, private or public land.

Chemicals used for pesticide spraying should be EPA approved based on long term research, 10 years or more.

No helicopter spraying within 10 mile radius of any neighbor's residence without their advance approval. Notification is not enough, said approval is required.

Thank You,
Jukka Naukkarinen

From: Francesca Anton < >
Sent: Thursday, September 29, 2022 8:19 AM
To: RULEMAKING Sb1501 * ODF
Subject: Private Forest Accord (PFA), and Senate Bills 1501 and 1502, proposed rule changes to Oregon Forest Practices Act (FPA)

Dear Committee and Support Staff,

First, let me thank you all, along with our Governor, Kate Brown, who has worked so hard to try to bring some sanity, in the form of accountability and transparency, at least, to the way we approach the (once) Pacific Northwest temperate rainforest biome humans have benefitted from for so many years, for all the work completed up to this date.

As a (now retired) science educator, farmer, business owner and devoted Oregon resident I have spent long years constantly interested in deepening my knowledge of Oregon's natural and human histories. We all know, without a doubt, that the history of logging in Oregon, like so many other human endeavors throughout our history, has been one of "Boom and Bust". Driven by a perceived outrageously "lucky" opportunity for easy wealth, human greed has led the way in terrorizing almost everything once healthy and abundant about the Pacific Northwest forests. It is glaringly obvious that, without intervention on the part of a few thoughtful state and federally elected government leaders, there would be nothing left for future generations by now. Even the title of "Private Forest Accord" is inaccurate and misleading. There are no *private forests*". There is only private (and some state-owned) **industrial timberland**.

I have watched the clear-cutting, even on steep mountainsides and down to the delicate stream waters, for years. I have walked through (yes, I know it's illegal) acreage of "private forestland" in many counties, just to see what happens when industrially-planted trees replace once, even moderately healthy forest. These areas are dank, dark and lifeless. The soil is depleted and no-longer able to support a healthy soil biome. Logging companies know that at some point they will no longer be able to grow "wood", as any trees planted will no longer grow fast enough to keep the corporate shareholders swimming in their expectation of good profits. We cannot EVER call these industrial woodlots "forests", and everytime I hear timber companies, who spend millions of dollars hiring their Public Relations professionals to sweeten their message, refer to private woodlots as forestland, I cringe, and am filled with sorrow for the children coming who are being robbed of a healthy Oregon.

Many people have documented this travesty on the part of the Timber Industry quite accurately, including the fact that this industry has had their hands around the necks of Oregonians and Oregon state government for years, making sure their profits are not disturbed, so there is no need for any of us to bore each other with additional diatribes.

So my humble request of this committee, which I believe is of absolute importance, is that this committee **formally acknowledge** the unnecessary abuse and neglect of both the natural and human communities in Oregon by the timber industry. Our young people, our rural communities who have been used up and spit out, our citizens who have been, and are currently being lied to, need to hear this. Our polluted and compromised waterways from the smallest to the largest, need to formally hear a deep apology, even though they cannot speak for themselves.

I know that the same abuse and neglect of land with trees happens on the part of private landowners also, and this is due to our ridiculous insistence that we should be able to wreck and abuse anything we own just because we are "free" to

do so, with no responsibility for what comes after. Because we Oregonians, as a whole, have not educated ourselves and stood up to this kind of thoughtless abuse and neglect in the form of demanding better care of the lands that support such incredible trees and wildlife, we are culpable also. It rarely, if ever, occurs to us as we drive into Home Depot, Parr Lumber, etc., that while we happily purchase the wood we so value, our Timber companies are not only abusing and neglecting Oregon lands for their own profit, but conducting business knowing that there isn't a future of decent wood for future generations. Many of us do the same on our own land. Still, our Timber industry needs to apologize to Oregonians for inappropriately abusing our government to maintain control of their own profits, and not taking a stand about helping us be better stewards ourselves.

This would be a good start to moving forward with clear eyes and heavy hearts, as we try, hopefully together, to be honest and forthright about what Oregon's future looks like. Despite climate scientists telling us loud and clear that a complete collapse is coming, we must attempt, as best as possible, to be stewards of a healing land. That means we MUST turn our focus away from profits. We MUST turn our focus to using our good science, along with a great humility, to how we can both have healthy and abundant, true, *forestlands*, and still provide some wood for human life, knowing that we have options we haven't used yet of other building materials that don't destroy our land and climate. Any other choice will bring us to a dead end. And not in the "distant" future, but sooner than we are completely unprepared for.

I now live in the Upper McKenzie River Valley. The Holiday Farm fire started just west of my 8 acres of abused and neglected old meandering river sandy loam that I am deeply involved in helping to heal. I'm doing this even tho' everything

I see around me speaks of collapse. The historic abuse of this valley since white settlers inhabited it is breathtaking, literally. When people aren't finding ways to benefit from this extraordinary river and environs, we have collectively treated it as

Public Enemy Number One. I'm talking about both individuals *and* timber companies. And it's still happening as I write this letter. Driving up and down Hwy 126 is depressing as Hell. And it didn't have to happen.

It turns out that Lane Electric Cooperative never established exactly WHO would attend a fire that started from downed electric lines up here. Can you imagine that this community never inquired about this, and with such a historically meager ability to deal with a fire caused by downed electric lines? Unbelievable. We all know now that industrial timberlands burn far faster and hotter than a healthy forest, and that's exactly what happened. We all know that a majority of people living up here allowed

their properties to become funeral pyres with all the crowded plant material, much of it invasive species, and their own "Junk" lying around, and many residents failed to purchase fire insurance!. We all have seen the clear-cut and mono-planted trees on the mountainsides, now covered by black stumps all the same diameter and height (and currently getting logged, leaving the ground hopelessly barren). We all know we have been warned for years by knowledgeable experts that we've been *courting with disaster* in the mismanagement of our forest and timberlands, and still, collectively, we did nothing. We have no one to blame but ourselves for this devastating fire.

This once unique and extraordinary river valley is just about finished, with the exception of the humble attempts of the McKenzie River Trust and a few others who are trying to bring some human sanity back. And even so, the timber interests have

actually been arrogant enough to CHARGE the McKenzie River Trust for land they have compromised and ravaged that the trust strives to help heal! I don't know how much worse it can get. But if the members of this accord can't face the truth

about the grave situation we face today, none of us should have any hope for a better future.

Thank you for your effort to give us Oregonians the chance to weigh in on this crucial topic. I hope something good and true comes from it.

Respectfully submitted, Francesca Anton
54841 McKenzie River Drive, Blue River, Oregon 97413

541.822.1084

APPEL Lisa M * ODF

From: Kate Evans <[REDACTED]>
Sent: Friday, September 30, 2022 5:43 AM
To: RULEMAKING Sb1501 * ODF
Subject: ODF rule-making hearings for the Forest Practices Act

Sirs,

I support rule-making that puts the FPA agreement into rules that fully incorporate the agreement.

Kate Evans

General Comment: I support adoption of these rules as a key aspect of the implementation of the Private Forest Accord. Thank you for the opportunity for input.

Specific and Technical Comments:

Rule 629-600-0100: (definition 24). Common Ownership; Look-through rules re SFO qualification & affiliates. It is important for the Minimum Option for Small Forestland Owners ("SFOs") and other benefits intended for SFOs are in fact available for true SFOs. The rules should include terms by which a landowner, for purposes of qualification as an SFO, is deemed to hold interests held by its affiliates. That is, the statutory definition of "Common ownership" should be detailed in the rules to avoid manipulation by creating new LLCs or other entities to hold small acreages and qualify as SFOs. Specific suggestion follows (adding language in italics to current draft rule):

"Common ownership" means direct ownership by one or more individuals or ownership by a corporation, partnership, association, or other entity in which an individual owns a significant interest. *For purposes of these rules, common ownerships of an entity, by an entity, and otherwise affiliated with an entity shall be taken into account, including with respect to qualification as a small forestland owner and eligibility for SFISH and other programs.*

Rule 629-600-0100 (definitions 124 and 125). The definitions of "Small forestland" in definition 124 does not incorporate the entire definition of "Small forestland owner" in definition 125. This should be fixed so that definition 124 refers not only to acreage but also volume of harvest. Also, "person" as used in Definition 125 of "small forestland owner" should be replaced with "individual or entity".

Rule 629-600-0100 (definition 138). The definition of Stumpage value should include a date of valuation.

Rule 629-607-0200: SFO Minimum Option. The rules allowing SFOs to follow small forestland minimum option in the case of compelling and unexpected obligation should be expanded to make clear that a landowner's compelling and unexpected obligation can't be applied to more than one year in ten.

Rule 629-607-0000: SFO Office. The statute states that the SFO Office is to support programs associated with the Accord and also with other programs, partnerships and educational opportunities for SFOs. The rule (subsection (4) is narrower than the statute. It should clarify that programs under SB 762, for instance, will be included. Expand to include "other programs providing technical, funding, or other assistance to SFOs."

Rule 629-603-0000 & ff. (Adaptive Management). There should be a specific procedure for addressing any budget shortfalls and their affect on programs. This may belong in another place, but there should be a provision for addressing funding, budget, and appropriations issues in the future.

Rule 629-605-0170 (Statutory and Non-Statutory Written Plans). It is not clear why the word "Statutory" has been deleted in the heading of this section, and how this relates to the definitions of Statutory Written Plans and Non-Statutory Written Plans in the following sections.

September 29, 2022

Oregon Board of Forestry
Private Forest Accord comments
Emailed to: sb1501.rulemaking@oregon.gov.

Dear Board of Forestry,

Thank you for improving protections for fish through the Private Forest Accord, the proposed administrative rule changes to the Oregon Forest Practices Act (OFPA) as directed by Senate Bills 1501 and 1502. It is long overdue. I have witnessed landslides and other sediment falling into fish-bearing streams from nearby clearcuts – all legal clearcuts.

The Private Forest Accord brings Oregon closer to our neighbors with more modern forest management practices that protect watersheds with endangered aquatic species. This rule-making is a step in the right direction. However, it doesn't go far enough. Please continue updating protections for watersheds, especially watersheds that supply Oregonians with drinking water.

The new rules to increase fish stream buffers, expand protections for steep slopes prone to landslides, and improve the road network are important. Thank you! Going forward, the Board must make sure that all parties are participating in the adaptive management process in good faith so that these rules can improve in the future.

One area of the OFPA that needs improvement is the 120-acre limit for clearcut openings. For post-fire logging this is relaxed, so we have seen entire sections clearcut after the Archie Creek fire. The fragile, burnt soils are laid bare for as far as the eye can see in some areas, with road-related landslides already impacting streams. These harmful logging practices allowed under the OFPA must be amended to better align with the best available science and to comply with the new PFA stream buffer rules.

I also encourage you to increase protections for all aquatic species, even those in Type N streams more than 1,150' from fish streams. I have a Type Np stream on my property that is further than 1,150' from a fish bearing stream. All of the wildlife that depend on water flowing in these streams should be protected from sediment, low water flows, clearcuts, and herbicide spraying. We have put trail cameras at our Type Np stream and have documented spotted owls, red legged frogs, red shoulder hawks, townsend's big-eared Bats, pacific giant salamanders, and other vulnerable species and species on Oregon's Conservation List.

When Seneca clearcut the headwaters of our stream, a High Landslide Hazard Location, the ODF came to our house to see if we would be impacted by the public safety regulations. They measured the height of our home above our creek. We were told we were safe because our home was 28' elevation above the creek, 8 feet above the danger zone of 20'. Therefore, we were assured, a landslide from the Seneca clearcut would not kill us. But no consideration was given to any of the wildlife using the creek that would be destroyed.

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Thank you for improving some aspects of the Oregon Forest Practices Act, especially on fish-bearing streams. Next, please protect ALL streams that flow into fish-streams, more than a tiny 1,150 feet upstream.

Finally, I am not clear on why Oregon wants a Habitat Conservation Plan (HCP). This is expensive and will not improve anything. The OFPA has been allowing the "taking" of endangered fish for decades. Why now, with the proposal to increase protections for fish, is the expense of an HCP necessary? If you are going for an HCP to incidentally take fish, shouldn't you also get an HCP for the coastal marten or spotted owl? If you are going to spend taxpayer dollars for an HCP, why not include all endangered species impacted by private land logging?

Thank you for considering my comments.

Sincerely

Francis Eatherington
Douglas County Oregon
541-643-1309

APPEL Lisa M * ODF

From: erichmreeder@everyactioncustom.com on behalf of Erich Reeder
<erichmreeder@everyactioncustom.com>
Sent: Friday, September 30, 2022 1:21 PM
To: RULEMAKING Sb1501 * ODF
Subject: Support for Oregon Forest Stream Protections

Dear Chair Jim Kelly,

When considering adding new regulations to Oregon's forest laws, it is worth asking ourselves, why do we need any regulations at all? Why indeed do we even have a FPA? After all, is it not in the self-interest of all private owners of Oregon's forest lands to responsibly care for the lands and waters temporarily under their stewardship? To manage those forest lands so that the soils, streams, and forests remain healthy and productive?

Alas, experience teaches us when short term profits may be made despite long-term ecological damage we'll often go for the cash. So, regulations to protect Oregon's lands and waters are necessary, and must be updated when weak.

Thus, I am writing to express my support for the proposed administrative rule changes to the Forest Practices Act as directed by Senate Bills 1501 and 1502. It is a small step, but an important one, in a miles long journey we need to make conserving the magnificent forest lands, waters, and wildlife of Oregon. I urge you to continue to improve Oregon's forest laws so that community and environmental health are adequately balanced with sustainable logging.

There are 10 million acres of private forest in Oregon covering some of the most productive and significant forests in North America. The rivers, streams, and wetlands that are affected by the management of these forests are home to a diversity of fish and wildlife species, as well as downstream communities.

With the era of climate change already bringing more drought, wildfire, and stress to Oregon's forests, I ask that the Department and Board build on the success of the Accord. Please continue updating protections for forested watersheds as we learn more about what is needed to ensure clean, cold water for fish and wildlife, as well as all Oregonians.

As you know, the PFA is the product of decades of hard work by community members, organizers, and scientists calling for change and is the product of compromise between parties who have long been in conflict. This is the first major upgrade to Oregon's Forest Practices in decades and brings Oregon closer to the protections that have been standard practice in Washington and California for years.

The difficult tradeoffs in the Private Forest Accord make this the first of many steps to improve the state's logging standards to better protect clean, cold water for all Oregonians.

The new rules to increase stream buffers, expand protections for steep slopes prone to landslides, and ensure the road network does not cause excess sedimentation are critically important. This agreement is built on modeling and assumptions that spring from our current understanding of the science. It will be imperative going forward that the Board ensure all parties are participating in the adaptive management process in good faith so that these rules can evolve as our understanding of these complex systems increases.

To that point, the Board will also be faced with rulemaking in the coming years related to post-disturbance logging. With fire an increasing factor in forests across Oregon, it is very important that the Board ensure harmful post-fire logging practices currently allowed under the OFPA are amended with the best available science to match the intent of the new PFA stream buffer rules. Stricter standards will ensure that clean water and communities are protected from harmful logging practices after wildfires.

The changes contemplated by these rule updates are significant and there is no doubt that some will have difficulty adjusting to these new rules. I urge the Board to keep the pressure on ODF to conduct the proper landowner education and to take seriously their role as the enforcement entity charged with ensuring these rules are followed. A huge part of the success of the PFA will hinge on the Oregon public trusting that logging operators are following these new rules and that ODF is protecting the public interest.

Thank you for your service on the Board and to Oregon.

Sincerely,
Mr. Erich Reeder
41 Eastwood Dr Medford, OR 97504-7501

From: Sandy Duveen <sduveen@odf.org>
Sent: Friday, September 30, 2022 5:31 PM
To: RULEMAKING Sb1501 * ODF
Subject: Subjects for Consideration

regarding the upcoming ODF regulations review:

I am writing to request that ODF implement regenerative practices in their approach to the timber industry. The writing is on the wall when we witness catastrophic events like hurricane Ian with increasing frequency. Besides the recognized role of fossil fuels' effects on catastrophic climatic events, it needs to be acknowledged that the industrial chemical industry, too, has wreaked havoc on the planet and its inhabitants. Including the soil.

What follows is a potential win-win solution that I believe needs to be considered in the new legislative bill.

"Since the 1930 s there has been a growing concern about the consequences of industrial agriculture — chemical-based agriculture and factory farming of animals — on human health. Intensive techno-agricultural practices of the last 70 years have taken their toll on American soil. The soil is depleted and poisoned with the toxic chemicals sprayed on them, which, in turn, poisons aquatic life and everything else in the food chain.

"Soil is one of our most important resources. A healthy, well-balanced soil is alive and crawling with microbes, fungi, worms, nematodes, small insects and rodents. Like the organs in the body, each performs a vital function necessary for the whole to survive.

"The relationship between plants [especially trees] and soil microbes is symbiotic. Plants make a nutritional food that attracts and sustains soil microbes. In return for this benefit, microbes produce chemical substances that stimulate plant growth and reproduction and help them resist extreme temperatures and drought.

Some fungi even secrete antibiotics or chemicals that inhibit the growth of pathogenic species. Working together in balance, they thrive. A healthy soil food web can protect plants and humans from the toxins that are being dumped into our environment. If microbes are present in the soil, they do their best to ingest and digest toxic chemicals into less harmful compounds. The bacteria *Bacillus laterosporus* and the fungal species *Phanerochete* are known degraders of 2,4-D and DDT.

"With the death of basic soil organisms, the system slips out of balance and pathogens proliferate. Plants become vulnerable to disease-producing organisms. Chemicals are applied. Organisms die or fight back and mutate. More chemicals are applied. The system is out of control.

"Optimum health and our resistance to disease is interconnected with the health of the soil, and the health of our planet. With soil and plants, we can co-create a sustainable and healthy environment that supports and nurtures all of life."

Excerpted from the article : *The Crucial Connection: Human Wellbeing Can Only Happen with Healthy Soils* by Jessie Emerson. The full article appears in the [September 2020 issue](#) of the *Acres U.S.A.* magazine.

POST SCRIPT: The use of rodenticides needs to be outlawed absolutely. Dead and dying rodents are known to be fodder for many species on the food chain, including the Northern Spotted Owl, which will ultimately become extinct.

APPEL Lisa M * ODF

From: billkucha@everyactioncustom.com on behalf of William Kucha <billkucha@everyactioncustom.com>
Sent: Friday, September 30, 2022 6:09 PM
To: RULEMAKING Sb1501 * ODF
Subject: Please comprehensively implement strong new PFA rules to protect our forests!

Dear Forestry Board,

I am writing to express my support for the Private Forest Accord agreement and the comprehensive rule changes within it that amend our state's logging regulations to offer greater protection for ecosystems and at-risk species. I urge you to steadfastly continue improving Oregon's logging laws to safeguard vulnerable communities and the health of our state's forest lands from the consequences of irresponsible and unsustainable industrial logging.

The PFA agreement between environmental groups and timber companies was decades in the making, and implementing the new rules laid out by this compromise signals a major advance in Oregon's forest conservation practices, finally amending our lax logging laws to diminish climate impacts on forest ecosystems and threatened species.

New rules put in place by the PFA to increase distance buffers between logging sites and aquatic streams, expand preventative measures for logging on highly prone to landslides, and install road building guidelines that put an end to excess sedimentation and runoff to nearby ecosystems are all vital for the preservation of our forests. Extensive scientific research went into determining these rules, and as the climate changes, we must change our state's industrial logging practices to diminish the impacts of climate change on the incredible forests that Oregon is known for.

While implementing the updated PFA rules for loggers on the ground offers considerable benefit to endangered species, and aquatic habitats there is still much work to be done in the protection of our forests. I encourage you to continue doing all you can to conserve our state's public forest lands from the pollution and destruction of big timber, as there are still many changes that must be made before Oregon's logging practices can even begin to be considered truly "sustainable." Further, if the PFA rules are passed, we must continually monitor big timber's implementation and observance of these rules, and keep up the pressure towards logging companies and landowners to adjust their industrial logging practices in more climate-friendly ways.

Thank you.

Sincerely,
William Kucha
3673 Otter Crest Loop Depoe Bay, OR 97341-9779

Roger Sabbadini, Ph.D.

3124 NW Quiet Rider Lane Bend, Oregon 97703

Date: September 29, 2022

Via Email: sb1501.rulemaking@oregon.gov

To: Attn: PFA - Christina Helige
Oregon Department of Forestry
Forest Resources Division
2600 State St. Bldg. D
Salem, OR 97310-0340

RE: Testimony on Private Forest Accord rulemaking

Dear Ms. Helige:

I am in full-support of the Private Forest Accord (PFA) in its goals to establish comprehensive rulemaking in implementing the ground-breaking PFA that was passed in the last legislative short session. In general, rulemaking as outlined in the Private Forest Accord Report has achieved a good first start.

However, I have some issues with the compliance and enforcement provisions outlined in the Private Forest Accord Report (the Report) on rulemaking.

According to the Compliance and Monitoring Program (CMP) outlined in the Report, The Board of Forestry (the Board) is charged with oversight of the PFA to ensure that implementation of the PFA is in conformance with the Habitat Conservation Plan (HCP) and the Oregon Forest Practices Act (Report, p 123). The CMP reports to the Board and to the Legislature. Despite my reservations regarding deficiencies in the Forest Practices Act, I believe that the mandate CMP is reasonable.

I have some problems with the membership composition of the Adaptive Management Plan Committee (AMPC) which will do the real work of assessing compliance and enforcement according to the CMP (outlined beginning on p. 133 of the Report). Of the ten proposed members of the Committee, only one position is represented by a conservation group, and one position is to be held by a tribal person. Many of the other voting members have potential conflicts of interest such as the landholder community, timber industry stakeholders, and small forest landowners. There is not one scientist who would be a voting member of the Committee. Regarding scientific input, the Committee is charged with nominating to the Board, people who would serve on the Independent Research Science Team (IRST) (Report, p. 135). However, the IRST is charged only with "research projects that the AMPC prioritizes and delineates." As such, the IRST does not participate in compliance and enforcement and its composition is subject to biases and economic interests of the Committee composition. Thus, both the AMPC and IRST are lacking independent scientific input on rulemaking, compliance, and enforcement. As such,

the plan is terribly flawed in that forests, wildlife, and streams may not be adequately protected due to lack of oversight by forest ecologists, fish biologists, and limnologists.

Regarding the enforcement provisions outlined beginning on p. 127, my overall concern is that the PFA will be an empty shell of a law if private landowners are not held accountable for violations of the rules. I was quite disturbed by the opening statement on enforcement that says, "ODF lacks staffing and statutory authority to adequately enforce laws and rules." It goes on to say that education of landowners and other stakeholders (presumably the timber industry) will be the "foundational component" of enforcement. Firstly, there will be no penalties or sanctions if there is inadequate monitoring of compliance. In addition, the penalties that are anticipated are entirely inadequate in deterring violators from harvesting timber in violation of the PFA and FPA. Remote sensing is identified as a principal method to identify violators. The ORF is charged with enforcement, but only three FTEs are assigned to the task with only one of the three FTEs specifically charged with enforcement (Report, p. 130). This lack of sufficient human resources devoted to enforcement will not ensure compliance with the rules.

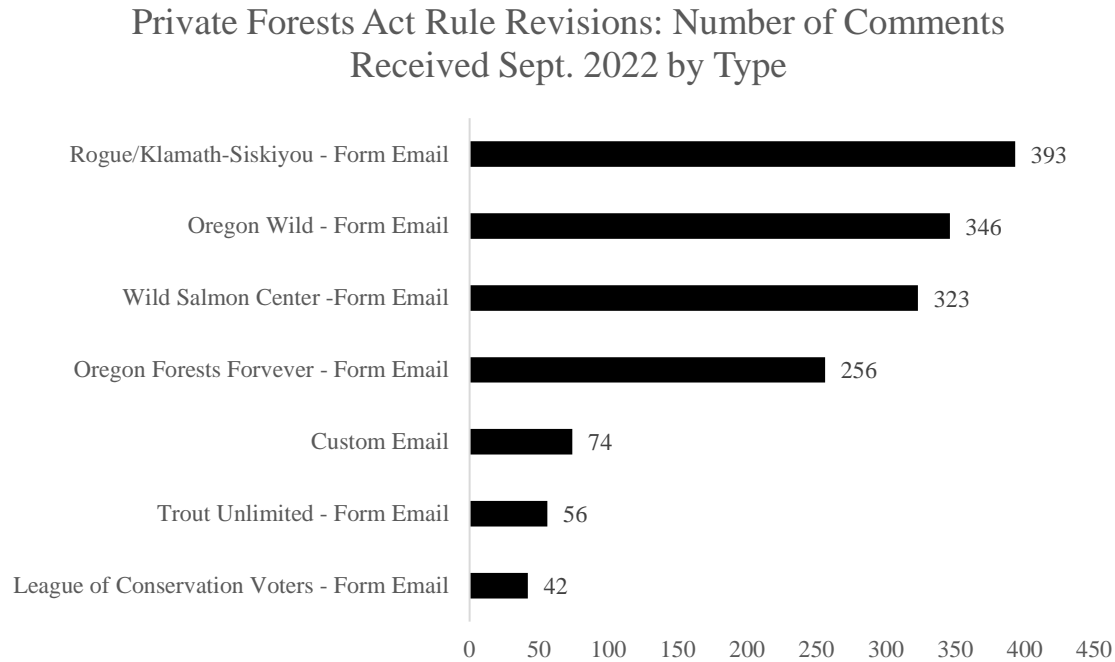
Sincerely,

Roger Sabbadini, Ph.D.
Emeritus Distinguished Professor of Biology
San Diego State University
3174 NW Quiet River Lane
Bend, Oregon 97703
619 787-0570 (cell)

9. Advocacy Email

The agency received several “form” advocacy emails that appeared to be facilitated by conservation organizations in support of the proposed rules. Figure 1 provides an overview of comments received in this format. Examples of those emails follow.

Figure 2: Overall Comments Received by Type



The following pages provide an example of a “form” email that appears to be from supporters of Rogue Riverkeeper and Klamath-Siskiyou Wildlands Center, of which the agency received approximately 393 copies from distinct email addresses.

APPEL Lisa M * ODF

From: klsbkr777@everyactioncustom.com on behalf of Kelsey Baker <klsbkr777@everyactioncustom.com>
Sent: Wednesday, September 21, 2022 6:57 PM
To: RULEMAKING Sb1501 * ODF
Subject: Support for Oregon Forest Stream Protections

Dear Chair Jim Kelly,

I am writing to express my support for the proposed administrative rule changes to the Forest Practices Act as directed by Senate Bills 1501 and 1502. I urge you to continue to improve Oregon's forest laws so that community and environmental health are adequately balanced with sustainable logging.

There are 10 million acres of private forest in Oregon covering some of the most productive and significant forests in North America. The rivers, streams, and wetlands that are affected by the management of these forests are home to a breadth of fish and wildlife species, as well as downstream communities.

The Private Forest Accord brings Oregon much closer to the mainstream of modern forest management practices that protect watersheds with endangered aquatic species. These are by and large practices that have been in place in Washington and California for over two decades.

With the era of climate change already bringing more drought, wildfire, and stress to Oregon's forests, I ask that the Department and Board build on the success of the Accord. Please continue updating protections for forested watersheds as we learn more about what is needed to ensure clean, cold water for fish and wildlife, as well as all Oregonians.

As you know, the PFA is the product of decades of hard work by community members, organizers, and scientists calling for change and is ultimately the product of compromise between parties who have long been in conflict. This is the first major upgrade to Oregon's Forest Practices in decades and brings Oregon closer to the protections that have been standard practice in Washington and California for years.

The difficult tradeoffs in the Private Forest Accord make this the first of many steps to improve the state's logging standards to better protect clean, cold water for all Oregonians.

The new rules to increase stream buffers, expand protections for steep slopes prone to landslides, and ensure the road network does not cause excess sedimentation are critically important. This agreement is built on modeling and assumptions that spring from our current best understanding of the science. It will be imperative going forward that the Board ensure all parties are participating in the adaptive management process in good faith so that these rules can evolve as our understanding of these complex systems increases.

To that point, the Board will also be faced with rulemaking in the coming years related to post-disturbance logging. With fire an increasing factor in forests across Oregon, it is very important that the Board ensure harmful post-fire logging practices currently allowed under the OFPA are amended to comport with the best available science and to match the intent of the new PFA stream buffer rules. Stricter standards will ensure that clean water and communities are protected from harmful logging practices after wildfires.

The changes contemplated by these rule updates are significant and there is no doubt that some will have a steep learning curve to adjust to these new rules. I urge the Board to keep the pressure on the Oregon Department of Forestry to conduct the proper landowner education and to take seriously their role as the enforcement entity charged with ensuring these rules are followed. A huge part of the success of the PFA will hinge on the Oregon public trusting that logging operators are following these new rules and that ODF is protecting the public interest.

Thank you for your service on the Board and to Oregon.

Sincerely,

Ms. Kelsey Baker

2310 NE 8th Ave Apt 1 Portland, OR 97212-3860

This page provides an example of a “form” email that appears to be from supporters of Oregon Wild, of which the agency received approximately 346 copies from distinct email addresses.

APPEL Lisa M * ODF

From: chmackie1948@everyactioncustom.com on behalf of Craig Mackie <chmackie1948@everyactioncustom.com>
Sent: Tuesday, September 06, 2022 1:01 PM
To: RULEMAKING Sb1501 * ODF
Subject: Approve new PFA rules and continue to push for more sustainable private forest rules

Dear Chair Jim Kelly,

I am writing today in support of the comprehensive rule changes proposed as part of the implementation of the Private Forest Accord and to urge you to continue to improve Oregon’s forest laws so that community and environmental health are adequately balanced with sustainable logging.

As you know, the PFA is the product of decades of hard work by community members, organizers, and scientists calling for change and is ultimately the product of compromise between parties who have long been in conflict. This is the first major upgrade to Oregon’s Forest Practices in decades and brings Oregon closer to the protections that have been standard practice in Washington and California for years.

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Thank you for your service on the Board and to Oregon.

Sincerely,
Mr. Craig Mackie
PO Box 636 Camp Sherman, OR 97730-0636

This page provides an example of a “form” email that appears to be from supporters of Wild Salmon Center, of which the agency received approximately 323 copies from distinct email addresses.

Dear Oregon Board of Forestry,

I am writing to express my support for the Private Forest Accord agreement and the comprehensive rule changes within it that amend our state’s logging regulations to offer greater protection for ecosystems and at-risk species. I urge you to steadfastly continue improving Oregon’s logging laws to safeguard vulnerable communities and the health of our state’s forest lands from the consequences of irresponsible and unsustainable industrial logging.

The PFA agreement between environmental groups and timber companies was decades in the making, and implementing the new rules laid out by this compromise signals a major advance in Oregon’s forest conservation practices, finally amending our lax logging laws to diminish climate impacts on forest ecosystems and threatened species.

New rules put in place by the PFA to increase distance buffers between logging sites and aquatic streams, expand preventative measures for logging on highly prone to landslides, and install road building guidelines that put an end to excess sedimentation and runoff to nearby ecosystems are all vital for the preservation of our forests. Extensive scientific research went into determining these rules, and as the climate changes, we must change our state’s industrial logging practices to diminish the impacts of climate change on the incredible forests that Oregon is known for.

While implementing the updated PFA rules for loggers on the ground offers considerable benefit to endangered species, and aquatic habitats there is still much work to be done in the protection of our forests. I encourage you to continue doing all you can to conserve our state’s public forest lands from the pollution and destruction of big timber, as there are still many changes that must be made before Oregon’s logging practices can even begin to be considered truly “sustainable.” Further, if the PFA rules are passed, we must continually monitor big timber’s implementation and observance of these rules, and keep up the pressure towards logging companies and landowners to adjust their industrial logging practices in more climate-friendly ways.

Thank you.

The following pages provide an engagement summary report from Oregon Forests Forever with examples of messages from 256 of their supporters.



October 3, 2022

To: boardofforestry@odf.oregon.gov; sb1501.rulemaking@oregon.gov.

RE: Support for draft Private Forest Accord rules

Please see attached list of 256 Oregonians sent to the Oregon Department of Forestry and the Oregon Board of Forestry during the September 2022 comment period by Oregonians in support of the draft rules changes that resulted from the Private Forest Accord legislation, SB 1501. A summary of their comments can be found below.

- The agreement protects water quality and wildlife habitat for generations to come and is an example of how opposing sides can work together on viable solutions to some of the toughest problems facing Oregonians today.
- Please pass these rules as drafted to ensure this rare compromise is complete so we can turn the page on the Timber Wars of the past.
- Compromise isn't easy. This agreement comes with a significant price tag for the timber industry and those who depend on our forests. But the sacrifice is worth it as it puts decades of fighting to rest and creates certainty for the forestry industry and the tens of thousands of family-wage jobs it supports.
- The agreement sets forth an important new framework for how future water-related changes to Oregon's forest practices will be made that incorporates a robust and thoroughly vetted scientific process – and importantly, it ensures timber voices remain at the table when those changes are considered
- The agreement will protect a stable forest products sector, family-wage jobs, ample recreation opportunities and management options that reduce wildfire risks.

In addition to the full list of names, we have also attached a few sample comments.

We ask that you please hear their request.

Sara Duncan
Oregon Forests Forever

Oregon Forests Forever is growing statewide coalition of individuals, organizations and businesses – led by the Oregon Forest & Industries Council — who support active, sustainable management of Oregon's forests.

Submitted	First Name	Last Name	Email	City	State	Zipcode
9/30/2022 18:25	Gregory	Stinson		Gresham	OR	97080
9/30/2022 2:30	MORGAN	MCNAUGHTAN		Salem	OR	97301
9/29/2022 20:13	Billie	Unruh		Eugene	OR	97404
9/29/2022 13:35	Alice	Knapp		Baker City	OR	97814
9/29/2022 8:27	Frances	Bandelman		Roseburg	OR	97470
9/28/2022 22:02	Steven	Dietrich		Gresham	OR	97030
9/28/2022 19:34	Susan	Ellison		Florence	OR	97439
9/28/2022 17:58	judiths	seltzer		Grants Pass	OR	97526
9/28/2022 17:46	Bruce	Alber		Portland	OR	97203
9/28/2022 17:38	Doris	Bedsole		Happy Valley	OR	97086
9/28/2022 16:51	Jerry	Lackner		Lyons	OR	97358
9/28/2022 16:20	Jeanne	Olson		Creswell	OR	97426
9/28/2022 13:32	Lloyd	Wilson		Vernonia	OR	97064
9/28/2022 8:09	Annett	Berger		Portland	OR	97239
9/28/2022 6:00	Tom	Benedict		Florence	OR	97439
9/28/2022 5:28	Holly	Thomas		Winchester	OR	97495
9/28/2022 4:19	Kimberly	Parish		Grants Pass	OR	97526
9/28/2022 3:35	Cassandra	Mendoza		Hillsboro	OR	97124
9/28/2022 2:57	Arlon	Solomon		Dallas	OR	97338
9/28/2022 2:22	Bret	MAHONEY		Central Point	OR	97502
9/28/2022 1:50	Tod	Jones		Eugene	OR	97402
9/28/2022 1:47	Patty	Gooderham		La Grande	OR	97850
9/28/2022 1:18	Maxine	Schwartz		Portland	OR	97202
9/28/2022 1:00	Gary	Herge		Troutdale	OR	97060
9/28/2022 0:48	John	Coppoletti		Amity	OR	97101
9/28/2022 0:26	Linda	Williamson		Cottage Grove	OR	97424
9/28/2022 0:08	Bret	MAHONEY		Central Point	OR	97502
9/28/2022 0:04	Elizabeth	Campbell		West Linn	OR	97068
9/27/2022 23:40	Chester	epperson		Forest Grove	OR	97116
9/27/2022 23:09	Jessie	Godden		Prospect	OR	97536
9/27/2022 22:58	Ed	Casey		Tualatin	OR	97062
9/27/2022 22:33	William	Foust		White City	OR	97503
9/27/2022 22:18	karen	reed		Eugene	OR	97402

9/27/2022 22:01	JANIS	HANCOCK		Eugene	OR	97405
9/27/2022 21:35	Brian	Conover		McMinnville	OR	97128
9/27/2022 21:19	Karla	Kirchner		Florence	OR	97439
9/27/2022 21:08	Marlene	Gleason				
9/27/2022 21:03	Cheryl	Anderson		Silverton	OR	97381
9/27/2022 21:00	Judy	Anderson		Cottage Grove	OR	97424
9/27/2022 20:44	John	Ward		Klamath Falls	OR	97603
9/27/2022 20:41	Brittany	Kilmer		Springfield	OR	97478
9/27/2022 20:39	Donald	Stone		Florence	OR	97439
9/27/2022 20:32	Dyann	Shaver		Madras	OR	97741
9/27/2022 20:25	Larry and Carol	Larson		McMinnville	OR	97128
9/27/2022 20:24	Clark	Nelson		Lake Oswego	OR	97035
9/27/2022 20:18	Dan	Connolly		Springfield	OR	97477
9/27/2022 20:13	Joseph	Kovich				
9/27/2022 20:01	Kristin	Rasmussen		Portland	OR	97203
9/27/2022 20:00	Brian	Vick		Bandon	OR	97411
9/27/2022 19:51	Donna	Grubbs				
9/27/2022 19:44	John	Ernst		Gilchrist	OR	97737
9/22/2022 3:36	Melissa	Fullerton		Summerville	OR	97876
9/19/2022 3:28	Jeff	Gottfried		Corvallis	OR	97333
9/17/2022 15:12	Jerry	Chetock		Salem	OR	97305
9/16/2022 21:47	Megan	Vanderpool		Drain	OR	97435
9/16/2022 14:46	nigel	Bray		Beavercreek	OR	97004
9/16/2022 14:00	John	Mergl		Philomath	OR	97370
9/16/2022 8:28	Sue	May		Salem	OR	97302
9/16/2022 3:13	Nicholas	Martin		Philomath	OR	97370
9/15/2022 19:39	Stacey	Bowman		Harrisburg	OR	97446
9/15/2022 18:55	Edwin	Cochran		Dairy	OR	97625
9/15/2022 17:12	Gail	Rosenquist		Salem	OR	97305
9/15/2022 15:52	Jim	nylund		Springfield	OR	97478
9/15/2022 14:42	Ruth Anne	Fackler		Estacada	OR	97023
9/15/2022 8:54	Paulette	Switzer-Tatum		Beaverton	OR	97078
9/15/2022 6:18	Deborah	Swenson		Tangent	OR	97389
9/15/2022 5:46	Daniel	Radke		Portland	OR	97220

9/15/2022 3:12 Estella Kissell
 9/15/2022 3:10 Ralph Wiley
 9/15/2022 2:05 christine hurd
 9/14/2022 23:57 Lise Hull
 9/14/2022 22:31 Wendy Hart
 9/14/2022 21:57 Clark Nelson
 9/14/2022 21:55 Tim Teal
 9/14/2022 21:51 Deborah Loftis
 9/14/2022 21:14 Ronald Paul Paul
 9/14/2022 19:48 Debbi Weiler
 9/14/2022 19:11 Deborah Lackowitz
 9/14/2022 18:45 Patrick Parker
 9/14/2022 18:41 David Gould
 9/14/2022 17:30 Pamela Collord
 9/14/2022 16:48 Carol Lofgren
 9/14/2022 16:35 Richard W.Ziegler
 9/14/2022 16:32 Denise Cohen
 9/14/2022 16:31 John McMurtray
 9/14/2022 16:31 Willis McCollum
 9/14/2022 16:30 Pavla Zakova-Laney
 9/14/2022 16:26 Terry Silbernagel
 9/14/2022 16:17 chuck mihevc
 9/14/2022 16:15 Keith Galitz
 9/14/2022 16:07 Monte Gingerich
 9/14/2022 16:02 TAMMY FLEMING
 9/14/2022 15:54 Jacquelin Muro
 9/14/2022 15:46 Rachel Janzen
 9/14/2022 15:32 John Glen
 9/14/2022 15:31 Ulrich Lau
 9/14/2022 15:31 John Glen
 9/14/2022 15:31 Connie Hoskin
 9/14/2022 15:28 Karen Roldan
 9/14/2022 15:28 sandy kammeijer
 9/13/2022 19:28 B Bond Starker

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 Medford OR 97504
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 Newport OR 97365
 Blodgett OR 97326
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 Scio OR 97374
 North Bend OR 97459
 Portland OR 97267
 North Plains OR 97133
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 Salem OR 97317
 Myrtle Creek OR 97457
 Canby OR 97013
 Corvallis OR 97333
 WARRENTON OR 97146
 Canby OR 97013
 Happy Valley OR 97086
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 Bandon OR 97411
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 Saint Helens OR 97051
 Lake Oswego OR 97035
 Corvallis OR 97333

9/12/2022 2:34 Karen Holder
 9/10/2022 4:13 Amy Strommer
 9/8/2022 14:10 William Hales
 9/8/2022 0:05 Valerie Conner
 9/7/2022 22:28 Connie Ronda
 9/7/2022 21:29 Robert Teran
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 9/7/2022 2:21 rachel paul
 9/6/2022 20:35 Beverly Lousignont
 9/5/2022 23:08 John Tupper
 9/5/2022 18:13 Kenneth Swartout
 9/5/2022 16:55 Susan Wood
 9/5/2022 0:14 Gary Whitaker
 9/4/2022 16:08 Pamela Schossau
 9/4/2022 15:27 Martha Vest
 9/4/2022 6:06 Dean Marney
 9/3/2022 22:45 Dyane Lloyd
 9/3/2022 22:17 Marnie Jeffers
 9/3/2022 22:17 Renee Clark
 9/3/2022 22:10 Carl Schock
 9/3/2022 19:03 Susan Naanes
 9/3/2022 13:52 Lee Hohman
 9/3/2022 5:12 Ken Barrios
 9/3/2022 3:52 David Burns
 9/3/2022 2:56 wade boyd
 9/3/2022 0:21 Melissa Hathaway
 9/2/2022 21:22 David Gratke
 9/2/2022 17:09 Matt Bjornn
 9/2/2022 13:04 Fauna Fauth
 9/2/2022 12:44 Collin Edwards
 9/2/2022 8:24 Sydney Layton
 9/2/2022 5:32 Bacilio Miguel
 9/2/2022 3:43 Sarah Burton
 9/2/2022 3:36 Jean Troudt

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 Springfield OR 97478
 Newberg OR 97132
 Astoria OR 97103
 Monmouth OR 97361
 Hillsboro OR 97123
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 Lincoln City OR 97367
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 Beaverton OR 97007
 Merlin OR 97532
 Lyons OR 97358
 Rainier OR 97048
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 Cottage Grove OR 97424
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 Tigard OR 97224

9/2/2022 3:25 Nan
 9/2/2022 3:11 Clarence
 9/2/2022 2:40 Mary
 9/2/2022 1:21 Paul
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 9/2/2022 0:33 Marsha
 9/2/2022 0:24 Bonnie
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 9/1/2022 20:38 Sharon
 9/1/2022 20:22 Sharon
 9/1/2022 20:16 Marilyn
 9/1/2022 20:01 Terry
 9/1/2022 19:33 Fred
 9/1/2022 19:18 Cristy

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 Woodburn OR 97071
 North Bend OR 97459
 Corvallis OR 97333
 Eugene OR 97402
 Eugene OR 97402
 Gresham OR 97030
 Mapleton OR 97453
 Ontario OR 97914
 Swisshome OR 97480
 Portland OR 97213
 McMinnville OR 97128
 Mapleton OR 97453
 Woodburn OR 97071
 Eugene OR 97408
 Springfield OR 97477
 Lebanon OR 97355
 Corvallis OR 97333
 Yamhill OR 97148
 Phoenix OR 97535
 Lebanon OR 97355
 Portland OR 97220
 Roseburg OR 97471

9/1/2022 19:07 Bil
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 9/1/2022 18:25 Tom
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 9/1/2022 18:21 Marilyn
 9/1/2022 18:04 Susan
 9/1/2022 18:03 Gary
 9/1/2022 18:00 Traci
 9/1/2022 17:54 Shelley
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 9/1/2022 17:49 Ted
 9/1/2022 17:43 William
 9/1/2022 17:42 Cathleen
 9/1/2022 17:42 James
 9/1/2022 17:36 Michael
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 9/1/2022 17:12 Jerry
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 9/1/2022 17:02 Jackie
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 9/1/2022 16:53 Susan
 9/1/2022 16:51 William
 9/1/2022 16:50 Brian
 9/1/2022 16:47 Michael
 9/1/2022 16:38 Therese

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 Walsh
 Meier
 Meier
 Lovelace
 Lamb
 Baker
 TerBush
 Studer
 Walentynowicz
 Starmach
 Lackner
 Lackner
 Momsen
 Harrington
 Herring
 Shelby
 Hanson
 Hales
 Sparks
 Rutledge
 MacGregor

Salem OR 97317
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 Prineville OR 97754
 McMinnville OR 97128
 Central Point OR 97502
 Portland OR 97222
 Trail OR 97541
 LA Pine OR 97739
 Post OR 97752
 Mulino OR 97042
 Jefferson OR 97352
 Oregon City OR 97045
 Gresham OR 97030
 Sublimity OR 97385
 Sublimity OR 97385
 Grants Pass OR 97526
 Brookings OR 97415
 Vida OR 97488
 North Plains OR 97133
 Portland OR 97204
 Seaside OR 97138
 Portland OR 97213
 Lyons OR 97358
 Lyons OR 97358
 Portland OR 97222
 Salem OR 97306
 Sisters OR 97759
 Portland OR 97209
 Portland OR 97236
 Monmouth OR 97361
 Madras OR 97741
 Central Point OR 97502

9/1/2022 16:38 Michael Query
 9/1/2022 16:36 Jen Hamaker
 9/1/2022 16:31 Nola Train
 9/1/2022 16:27 Prof Dave White
 9/1/2022 16:23 Lora Brockman
 9/1/2022 16:21 Judith Mosteller
 9/1/2022 16:18 Pat Finley
 9/1/2022 16:17 Linda Hartig
 9/1/2022 16:16 Kari Brennan
 9/1/2022 16:16 Debra Fromdahl
 9/1/2022 16:15 Marjorie Ackerman
 9/1/2022 16:15 Bruce Zuber
 9/1/2022 16:14 Jonathan Todd Kourlas
 9/1/2022 16:11 GEORGE PARHAM
 9/1/2022 16:09 Linda Barrett
 9/1/2022 16:08 Patti Timothy
 9/1/2022 16:06 Tonja Stradley
 9/1/2022 16:04 Raymond Block
 9/1/2022 16:02 William J Wiggins
 9/1/2022 16:00 Anna Holub
 9/1/2022 15:58 JODIE FLANARY
 9/1/2022 15:58 Susan Hough
 9/1/2022 15:58 Michael Carmichael
 9/1/2022 15:57 Eric Kaizer
 9/1/2022 15:57 Kathleen Ruiz
 9/1/2022 15:56 Paul Banas
 9/1/2022 15:55 Barbara Bell Taylor
 9/1/2022 15:51 Steve Wier
 9/1/2022 15:44 Millie Mathis
 9/1/2022 15:44 william conklin
 9/1/2022 15:44 Kate Bolinger
 9/1/2022 15:42 jason hunton
 9/1/2022 15:40 Diane Ferguson
 9/1/2022 15:39 Jennifer Miller

Salem OR 97305
 Springfield OR 97478
 Coquille OR 97423
 Portland OR 97229
 McMinnville OR 97128
 Portland OR 97223
 Sutherlin OR 97479
 Beaverton OR 97008
 Portland OR 97213
 Roseburg OR 97470
 Newport OR 97365
 Gold Beach OR 97444
 Beaverton OR 97005
 Talent OR 97540
 Bonanza OR 97623
 Myrtle Point OR 97458
 Sandy OR 97055
 Reedsport OR 97467
 LA Pine OR 97739
 Tygh Valley OR 97063
 Lowell OR 97452
 Eugene OR 97405
 Grants Pass OR 97527
 Nehalem OR 97131
 Seaside OR 97138
 Depoe Bay OR 97341
 Pacific City OR 97135
 Portland OR 97230
 Shady Cove OR 97539
 Springfield OR 97478
 Bend OR 97703
 Junction City OR 97448
 Central Point OR 97502
 Sheridan OR 97378

9/1/2022 15:39 Yvonne Brod
 9/1/2022 15:37 David D. Hunter
 9/1/2022 15:36 Brian Schorzman
 9/1/2022 15:36 KEVIN MCELWEE
 9/1/2022 15:35 Bethany Dengler-Germain
 9/1/2022 15:33 Terry Stewart
 9/1/2022 15:30 Sara Duncan
 9/1/2022 15:30 Nathaniel Brown
 9/1/2022 15:30 Paul Barnum
 9/1/2022 15:30 Juan Martin Ruiz Ortiz
 9/1/2022 15:30 Karen von Borstel
 9/1/2022 15:29 Shelley Wright
 9/1/2022 15:28 Steven Graeper
 9/1/2022 15:27 dorinda kelley
 9/1/2022 15:27 Kurt Spak
 9/1/2022 15:27 Ulrich Lau
 9/1/2022 15:26 Dianna Paz
 9/1/2022 15:26 Kurt Spak
 9/1/2022 15:25 Donald Wirth

Portland OR 97224
 Forest Grove OR 97116
 Gresham OR 97080
 Springfield OR 97478
 Corvallis OR 97333
 Portland OR 97219
 Lake Oswego OR 97034
 Portland OR 97221
 Eugene OR 97408
 Salem OR 97301
 Corbett OR 97019
 Beaverton OR 97007
 Rhododendron OR 97049
 Portland OR 97213
 Portland OR 97206
 Bandon OR 97411
 Springfield OR 97478
 Portland OR 97206
 Tangent OR 97389

Dear Board of Forestry,

I am reaching out to voice my support for the draft rule changes to the Oregon Forest Practices Act that were a result of the Private Forest Accord.

As someone who supports compromise, I was pleased to see that the decades of fighting between groups could end, and Oregonians will have some certainty around the management of our private forest lands.

In support of clean water, jobs and healthy forests, I ask that you support these rules changes as written.

I am convinced we thin and log our forests or we watch them burn. I am really upset that Portland Beauracrats let an 8,000 acre fire burn for a month before it blew up to over 100,000. I am not buying the "It was in a steep area" They let it burn and lost a chunk of Willamette National forests! Will they salvage the Timber or let it rot on the stump? Rest in Peace Waldo Lake Wilderness

Thank you,

Janice Hancock, Eugene

Dear Board of Forestry,

With the exception of the taking of 50 feet on both side of a waterway, as an Oregonian I support the draft rules for implementing the Private Forest Accord.

These rules will ensure that Oregon's forests and timber industry remain healthy and continue to support tens of thousands of family wage jobs in rural Oregon. The rules are a balanced approach to support both conservation and economic viability for Oregon's rural communities, which in turn is good for all of Oregon.

Oregonians are ready to leave behind the years of fighting and litigation that have threatened our rural communities for decades. Please adopt the proposed rules as written and support a new era of forestry in Oregon.

Thank you.

Robert Siegmund, Eugene

Dear Board of Forestry,

I support for the draft rule changes to the Oregon Forest Practices Act that were a result of the Private Forest Accord.

Some certainty regarding the management of our private forest lands should help land and resource managers make mutually beneficial decisions.

In support of clean water, jobs and healthy forests, I ask that you support these rules changes as written.

Thank you.

Linda Barrett, Bonanza

Dear Board of Forestry,

As an Oregonian I support the draft rules for implementing the Private Forest Accord.

These rules will ensure that Oregon's forests and timber industry remain healthy and continue to support tens of thousands of family wage jobs in rural Oregon. The rules are a balanced approach to support both conservation and economic viability for Oregon's rural communities, which in turn is good for all of Oregon.

Oregonians are ready to leave behind the years of fighting and litigation that have threatened our rural communities for decades. Please adopt the proposed rules as written and support a new era of forestry in Oregon.

As a professional forester and consulting arborist for over 40 years I support this compromise.

Thank you,

David D. Hunter, Forest Grove

Dear Board of Forestry,

As an Oregonian I support the draft rules for implementing the Private Forest Accord.

These rules will ensure that Oregon's forests and timber industry remain healthy and continue to support tens of thousands of family wage jobs in rural Oregon. The rules are a balanced approach to support both conservation and economic viability for Oregon's rural communities, which in turn is good for all of Oregon.

Oregonians are ready to leave behind the years of fighting and litigation that have threatened our rural communities for decades. Please adopt the proposed rules as written and support a new era of forestry in Oregon.

Manage to reduce fire hazard and for yield of saw able timber.

Thank you,

Donald Wirth, Tangent

This page provides an example of a “form” email that appears to be from supporters of Trout Unlimited, of which the agency received approximately 56 copies from distinct email addresses.

APPEL Lisa M * ODF

From: Chuck Gehling <user@votervoice.net>
Sent: Wednesday, September 14, 2022 12:51 PM
To: RULEMAKING Sb1501 * ODF
Subject: Forest Practices Act rule revisions

Dear Chair Kelly,

Thank you for the opportunity to comment on the rulemaking process for the Oregon Private Forest Accord. I urge the Board of Forestry to approve the draft administrative rules presented to the Board on August 24, 2022, in order to align the Forest Practices Act rules with the Private Forest Accord Report.

I support the Private Forest Accord and proposed administrative rules because the new framework will: (i) significantly increase riparian buffers for logging near streams (whether or not fish are present), (ii) invest millions of dollars annually in a fund to improve aquatic habitat and protect water quality, (iii) add protections against erosion of steep slopes in logging areas, (iv) create a new system for cataloguing - and then completing - road system and fish passage improvement projects to benefit aquatic species and water quality, and (v) establish a new adaptive management program to better inform resource managers about resource management on private lands.

The Private Forest Accord brings much needed updates to Oregon's logging rules for private forest lands. I encourage you to approve the rules so that we can fully implement the Private Forest Accord.

Sincerely,

Chuck Gehling
1613 Freedom Loop
Hood River, OR 97031

This page provides an example of a “form” email that appears to be from supporters of League of Conservation Voters, of which the agency received approximately 42 copies from distinct email addresses.

APPEL Lisa M * ODF

From: rosegerstner@everyactioncustom.com on behalf of Rosemarie Gerstner
<rosegerstner@everyactioncustom.com>
Sent: Friday, September 16, 2022 3:17 PM
To: RULEMAKING Sb1501 * ODF
Subject: Please comprehensively implement strong new PFA rules to protect our forests!

Dear Forestry Board,

I am writing to express my support for the Private Forest Accord agreement and the comprehensive rule changes within it that amend our state's logging regulations to offer greater protection for ecosystems and at-risk species. I urge you to steadfastly continue improving Oregon's logging laws to safeguard vulnerable communities and the health of our state's forest lands from the consequences of irresponsible and unsustainable industrial logging.

The PFA agreement between environmental groups and timber companies was decades in the making, and implementing the new rules laid out by this compromise signals a major advance in Oregon's forest conservation practices, finally amending our lax logging laws to diminish climate impacts on forest ecosystems and threatened species.

New rules put in place by the PFA to increase distance buffers between logging sites and aquatic streams, expand preventative measures for logging on highly prone to landslides, and install road building guidelines that put an end to excess sedimentation and runoff to nearby ecosystems are all vital for the preservation of our forests. Extensive scientific research went into determining these rules, and as the climate changes, we must change our state's industrial logging practices to diminish the impacts of climate change on the incredible forests that Oregon is known for.

While implementing the updated PFA rules for loggers on the ground offers considerable benefit to endangered species, and aquatic habitats there is still much work to be done in the protection of our forests. I encourage you to continue doing all you can to conserve our state's public forest lands from the pollution and destruction of big timber, as there are still many changes that must be made before Oregon's logging practices can even begin to be considered truly “sustainable.” Further, if the PFA rules are passed, we must continually monitor big timber's implementation and observance of these rules, and keep up the pressure towards logging companies and landowners to adjust their industrial logging practices in more climate-friendly ways.

Thank you.

Sincerely,
Rosemarie Gerstner
5198 Sterling Creek Rd Jacksonville, OR 97530-9073



Private Forest Accord Rulemaking Timeline

July 2022
Draft rules complete

August 24, 2022
Special Board meeting to open public comment period

30 Day Draft rule public comment period & public hearing

October 26, 2022
Special Board meeting to consider final rules

Mid November 2022
Board to approve draft Habitat Conservation Plan

Nov 30, 2022
Deadline for Board to adopt rule package

Dec 31, 2022
Deadline to submit draft proposed Habitat Conservation Plan

July 1, 2023 Rules for fish stream buffers for large landowners

Spring 2023 -Winter 2024
Training and outreach.

Jan 1, 2024 All other new rules effective

August 2022 (*subject to change*)