

Housekeeping Adjustments directly related to Riparian Rulemaking 2016-2017

629-605-0170

Statutory 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) if the operation activity will not directly affect the physical components of the riparian management area. Further direction of when a waiver will be granted is described in Technical Note FP10 dated July 1, 2017.

(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.** 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 527.700(3) or 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) 629-625-0100(2)(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;

(g) 629-625-100(2)(c) — Constructing a road within the riparian management area of a medium or large Type N stream;

(h) 629-625-0100(3) — Constructing a road on high landslide hazard locations;

(i) 629-625-0100(4) — Placing woody debris or boulders in the stream channel of a Type N stream for stream enhancement;

(j) 629-625-0320(1)(b)(B) — Constructing a permanent stream crossing fill over 15 feet deep in a Type N stream;

(k) 629-630-0200(3) — Locating a landing within the riparian management area of a medium or large Type N stream;

(l) 629-630-0700(3) — Yarding across streams classified as medium or large Type N;

(m) 629-630-0800(4)(c) — Constructing a temporary stream crossing fill over 8 feet deep in a Type N stream;

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

(o) 629-660-0050(1) — Removing beaver dams or other natural obstructions located farther than 25 feet from a culvert in a Type N stream;

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

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

(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.

629-605-0173

Plans for an Alternate Practice

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

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

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

(4) An operator must comply with all provisions of an approved plan for an alternate practice.

(5) The following rules require an operator to submit a plan for an alternate practice and obtain approval from the State Forester of the plan before starting the specified practice or operation:

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) 629-610-0040(3) — Extending the time allowed for reforestation when natural reforestation methods are utilized;

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

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

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

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

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

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

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

(v) 629-~~640642~~-0100(13) — Modifying the vegetation retention requirements in the riparian management area along a Type F stream to allow the removal of roadside trees which pose a safety hazard;

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

~~(wx)~~ 629-640~~642-0200~~**0400**(14) — Modifying the vegetation retention requirements in the riparian management area along a Type D or Type N stream to allow the removal of roadside trees which pose a safety hazard;

~~(xy)~~ 629-640~~642-0210~~**0500**(4) — Placing wood in a Type F **or Type SSBT** stream or conducting other activities to meet the same purpose as leaving green trees and snags along small Type N streams subject to rapidly moving landslides.

~~(yz)~~ 629-640~~642-0400~~**0700**(1)(a) — Utilizing site specific vegetation retention prescriptions for streams and riparian management areas;

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

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

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

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

~~(deee)~~ 629-665-0110(3) — Structural replacement of an osprey site;

~~(eeff)~~ 629-665-0110(4) — Temporal exceptions near an osprey site;

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

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

629-605-0500

Modification of Requirements for Forest Health and Public Safety

Protection requirements for streams, lakes, wetlands and riparian management areas may be modified by approval of a plan for an alternate practice by the State Forester for reasons of forest health or because of hazards to public safety or property. Hazards to public safety or property include hazards to river navigation and hazards to improvements such as roads, bridges, culverts, or buildings. Forest health concerns include fire, insect infestations, disease epidemics, or other catastrophic events not otherwise addressed in OAR ~~629-640642-0300~~**0600**. Such modifications of protection requirements

should prevent, reduce or alleviate the forest health conflict or hazard while meeting the intent of the protection goals as much as possible.

629-611-0000

Purpose

(1) The purpose of OAR 629-611-0000 to 629-611-0020 is to implement ORS 526.490, providing an incentive for landowners to convert parcels of idle land or land in other uses to commercial forest use.

(2) The provisions of ORS 526.490 shall be called the afforestation incentive and OAR 629-611-0000 to 629-611-0020 shall be known as the afforestation incentive rules.

(3) The afforestation incentive in these rules is a one-time exemption from most tree retention requirements in the forest practice rules as described in section (5) of this rule.

(4) For the purposes of the afforestation incentive rules, "planted" trees means those trees that a landowner establishes as an initial forest stand to qualify for the incentive and includes:

(a) All trees the landowner plants or causes to be planted; and

(b) All naturally established trees that are established within ten years prior to, or following, the date the parcel is certified as qualified for the incentive.

(5) Notwithstanding forest practice rule provisions prohibiting harvest of trees, the afforestation incentive allows landowners to harvest all planted trees on certified afforestation incentive parcels with the following limitations:

(a) The afforestation incentive applies only to the land and timber located more than 20 feet from ~~large or medium Type F, Type D, or Type N streams, or small Type F or Type D streams~~ the high water level of the following streams:

(A) Type F streams;

(B) Type SSBT streams;

(C) Type D streams; or

(D) Large or medium Type N streams.

(b) Any forest operations on such parcels must comply with all forest practice rules that require practices other than restrictions on harvesting the planted trees.

(c) A planted tree that later becomes a key component of a specified resource site normally requiring protection under the forest practice rules may be harvested; however, the State Forester may temporarily prohibit harvesting during an annual critical period of use of the site, as provided in the specified resource site protection rules.

(d) (For information only) Federal law prohibits a person from taking threatened or endangered species. Taking, under the federal law, may include significant alteration of habitat on any class of land

ownership. Compliance with the afforestation incentive rules is not in lieu of compliance with any federal requirements related to the federal Endangered Species Act.

629-615-0300

Prescribed Burning

(1) Prescribed burning is a tool used to achieve reforestation, maintain forest health, improve wildlife habitat and reduce wildfire hazard. Prescribed burning is to be done consistent with protection of air and water quality, and fish and wildlife habitat. The purpose of this rule is to ensure that necessary prescribed burning is planned and managed to maximize benefits and minimize potential detrimental effects.

(2) When planning and conducting prescribed burning, operators shall:

(a) Comply with the rules of Oregon's "Smoke Management Plan."

(b) Adequately protect reproduction and residual timber, humus and soil surface.

(c) Consider possible detrimental effects of prescribed burning upon riparian management areas, streams, lakes, wetlands, and water quality, and how these effects can be best minimized.

(d) Lay out the unit and use harvesting methods that minimize detrimental effects to riparian management areas, streams, lakes, wetlands, and water quality during the prescribed burning operation.

(e) Fell and yard the unit to minimize accumulations of slash in channels and within or adjacent to riparian management areas.

(f) Minimize fire intensity and amount of area burned to that necessary to achieve reforestation, forest health, or hazard reduction needs.

(3) Operators shall describe in a written plan how detrimental effects will be minimized when burning within 100 feet of Type F, **Type SSBT** and Type D streams, within 100 feet of large lakes, within 100 feet of wetlands larger than eight acres (non estuaries), bogs and important springs in eastern Oregon and within 300 feet of estuaries; especially when burning on highly erosive soils, for example decomposed granite soils and slopes steeper than 60 percent.

(4) During prescribed burning operations, operators shall protect components such as live trees, snags, downed wood, and understory vegetation required to be retained by OAR 629-635-0310 through 629-650-0040. When the operator has taken reasonable precautions to protect the components, but some detrimental effects occur, the intent of the rule is met if the overall integrity of the riparian management area is maintained. Operators shall not salvage trees killed by prescribed fire in a riparian management area if the trees were retained for purposes of 629-635-0310 through 629-655-0000.

(5) When the need for prescribed burning outweighs the benefits of protecting components required to be left within the riparian area, aquatic area and wetlands, protection requirements may be modified through a plan for an alternate practice. Approval of such a plan shall consider the environmental impacts and costs of alternative treatments.

(6) (For information only) When water is to be withdrawn from the waters of the state for use in mixing pesticides or for slash burning, ORS 537.141 requires operators to notify the Water Resources Department and the Department of Fish and Wildlife. Notification to the State Forester does not satisfy this requirement.

629-620-0300

Locations of Mixing, Transfer, and Staging Areas for Chemicals and Other Petroleum Products

(1) Operators shall conduct the following activities only in locations where spillage of chemicals or other petroleum products will not enter the waters of the state:

(a) Mixing chemicals;

(b) Transferring chemicals or other petroleum products between equipment or containers including, but not limited to, fueling of aircraft or heavy equipment;

(c) Cleaning tanks or equipment used during chemical applications;

(d) Landing and staging aircraft.

(2) Notwithstanding section_(1), operators shall not locate chemical mixing and staging areas for aerial chemical applications within 100 feet of Type F, Type SSBT or Type D streams.

629-620-0400

Protection of the Waters of the State and Other Resources When Applying Chemicals

(1) When applying chemicals aerially or from the ground, operators shall protect waters of the state and other forest resources by following the requirements of the chemical product label and by meeting the additional protection measures listed in this rule.

(2) When applying herbicides near or within riparian management areas or waters of the state, operators shall maintain vegetation required to be protected by the water protection rules.

(3) Weather conditions such as temperature, relative humidity, wind speed, wind direction, atmospheric temperature inversions, and precipitation may strongly affect the deposition and drift of chemicals during aerial and pressurized, ground-based chemical applications. Operators shall apply chemicals only

under weather conditions which will protect non-target forest resources and comply with the product label and the other sections of this rule.

(4) Except where the product label or sections (2), (6), or (7) apply more stringent requirements, when applying chemicals by aircraft, operators shall not directly apply chemicals within 60 feet of:

- (a) Significant wetlands;
- (b) The aquatic areas of Type F, Type SSBT and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(5) Except where the product label or sections (2) or (6) apply more stringent requirements, when applying chemicals from the ground, operators shall not directly apply chemicals within 10 feet of:

- (a) Significant wetlands;
- (b) The aquatic areas of Type F, Type SSBT and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(6) Operators shall not directly apply fertilizers within 100 feet of Type D streams and the domestic use portions of Type F or Type SSBT streams. For other waters of the state, no untreated strips are required to be left by operators when applying fertilizers, except that operators shall not directly apply fertilizers to:

- (a) The aquatic areas of other Type F or Type SSBT streams or to large and medium Type N streams;
- (b) Significant wetlands;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(7)(a) Except as allowed under subsections (d) and (e), operators shall not directly apply fungicides or non-biological insecticides by aircraft, within 300 feet of:

- (A) Significant wetlands;
 - (B) The aquatic areas of Type F, **Type SSBT** and Type D streams;
 - (C) The aquatic areas of large lakes;
 - (D) The aquatic areas of other lakes with fish use; or
 - (E) Other areas of standing open water larger than one-quarter acre at the time of the application.
- (b) Operators shall not directly apply fungicides or non-biological insecticides by aircraft within 60 feet of the aquatic areas of Type N streams containing flowing water at the time of application.
- (c) For the purpose of this rule, "biological insecticide" means any insecticide containing only naturally occurring active ingredients including, but not limited to, viruses, bacteria, semiochemicals (pheromones), or fungi.
- (d) Plans for alternate practices that modify the requirements of subsections (a) and (b) may be approved by the State Forester. Approvals of such plans shall be based on a written finding by the State Forester determining that:
- (A) Such a modification is essential to control a fungus or a population of an insect species to reduce damage to, and to better provide for, the overall maintenance of forest resources protected under the Forest Practices Act;
 - (B) The operational or weather condition constraints placed on the application by the plan for alternate practice, in addition to the requirements of the forest practice rules and the product label, will reduce the potential for the fungicide or non-biological insecticide to drift outside the operation area or to enter the waters of the state; or
 - (C) Adequate documentation has been submitted by the operator indicating the toxicity to humans, fish populations, or to aquatic invertebrate populations of the fungicide or non-biological insecticide to be applied is lower than the documented toxicity of the fungicide chlorothalonil or the non-biological insecticide carbaryl, as used in forestry prior to September 4, 1996.
- (e) The requirements of sections (a) and (b) do not apply to pest eradication programs conducted on forestland by the Department of Agriculture.
- (8) The operator shall make all aerial chemical applications parallel to the edge of the water when applying chemicals within 100 feet of:
- (a) Significant wetlands;
 - (b) The aquatic areas of Type F, **Type SSBT** and Type D streams;

- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

629-620-0800

Notification of Community Water System Managers When Applying Chemicals

(1) The purpose of this rule is to ensure that community water system managers are appropriately notified of planned chemical operations so that they can coordinate their monitoring activities with planned operations.

(2) This rule applies to community water systems where the surface water drainage area upstream of their intake is 100 square miles or less. The State Forester shall maintain a list of community water systems for which notification is required. A community water system with a drainage area of more than 100 square miles upstream of its intake may request to be added to the list based upon its ability to conduct effective monitoring in the watershed. The list shall be available at department field offices where notifications are submitted.

(3) When chemicals will be aurally applied within 100 feet, or applied from the ground within 50 feet of domestic portions of Type F, **Type SSBT** or Type D streams, and the water use is by a community water system as designated under section (2) of this rule, the operator shall notify the water system manager of a planned chemical operation at least 15 days before the operation commences.

(4) The operator shall provide the following additional information before commencing the operation if requested by the manager of the affected water system at the time of notification required in section (3) above:

- (a) The application technology that will be used;
- (b) Practices that will be followed to minimize drift toward the stream;
- (c) Any monitoring efforts that will be conducted by the landowner; and
- (d) The planned time schedule for the application.

629-623-0300

Public Safety Risk Levels

(1) The exposure categories described in OAR 629-623-0200 and the impact rating described in 629-623-0250 are used to determine the downslope public safety risk level and the applicable forest practice rules that apply to the operation, as described in Sections (2) through (10) of this rule.

Substantial downslope public safety risk

(2) For Exposure Category A, substantial downslope public safety risk exists if the impact rating is extreme or serious.

(3) For Exposure Category B, substantial downslope public safety risk exists if the impact rating is extreme and the State Forester informs the operator that these site specific conditions warrant substantial public safety risk practices.

(4) Substantial Downslope Public Safety Risk operations are regulated by OARs 629-623-0400, 629-623-0450, 629-623-0600, and 629-623-0700.

Intermediate downslope public safety risk

(5) For Exposure Category A, intermediate downslope public safety risk exists if the impact rating is moderate.

(6) For Exposure Category B, intermediate downslope public safety risk exists if the impact rating is serious.

(7) For Exposure Category C, intermediate downslope public safety risk exists if the impact rating is extreme and the State Forester informs the operator that these site specific conditions warrant intermediate public safety risk practices.

(8) Intermediate Downslope Public Safety Risk operations are regulated by OARs 629-623-0500, 629-623-0550, 629-623-0600, 629-623-0700, and 629-630-0500.

Low downslope public safety risk

(9) All other operations not described in sections 2, 3, 5, 6 and 7 of the rule are determined to have low downslope public safety risk.

(10) Low Downslope Public Safety Risk operations are regulated by OAR 629-630-0500 and by OAR 629-625-0000 through 0700 and all other applicable rules.

Applicability of regulations and use of leave trees

(11) As required by ORS 195.256(4), forest practice rules shall not apply to risk situations arising solely from the construction of a building permitted under ORS 195.260(1)(c).

(12) Leave trees required to comply with timber harvesting rules for shallow, rapidly moving landslides and public safety may also be used to comply with ORS 527.676 except those required to be retained in riparian management areas by OAR 629-640642-0000 through 629-640642-05000800.

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 or Type D streams, lakes or significant wetlands; or

(c) Constructing roads in riparian management areas.

(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 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.

629-625-0430

Stream Protection

(1) When constructing stream crossings, operators shall minimize disturbance to banks, existing channels, and riparian management areas.

(2) In addition to the requirements of the water protection rules, operators shall keep machine activity in beds of streams to an absolute minimum. Acceptable activities where machines are allowed in streambeds, such as installing culverts, shall be restricted to periods of low water levels. Operators shall submit a written plan to the State Forester for machine activity in Type F, Type SSBT or Type D streams, lakes, and significant wetlands.

(3) For all roads constructed or reconstructed operators shall install water crossing structures where needed to maintain the flow of water and passage of adult and juvenile fish between side channels or wetlands and main channels.

(4) Operators shall leave or re-establish areas of vegetation between roads and waters of the state to protect water quality.

(5) Operators shall remove temporary stream crossing structures promptly after use, and shall construct effective sediment barriers at approaches to channels.

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.

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** and Type D streams, 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 N streams, 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.

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 yarding corridors through retained streamside trees as long as 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 (f) of this section:** streams classified as Type F or Type D, any large or medium Type N streams, lakes, or significant wetlands.

(a) Type F streams;

(b) Type SSBT streams;

(c) Type D streams;

(d) Large or medium Type N streams;

(e) Lakes; or

(f) Significant wetlands

(4) When yarding across **any of** Type F or Type D streams, any large or medium Type N streams, lakes, or significant wetlands **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 N streams;

(e) Lakes; or

(f) Significant wetlands

(5) Cable yarding across streams classified as small Type N 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.

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 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.

(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.

629-680-0020

Resource Site Defined for the Purpose of a Hearing

(1) Notwithstanding OAR 629-600-0100(~~6162~~), 629-665-0110(1), 629-665-0120(1), 629-665-0220(1), 629-665-0230(1), and 629-665-0240(1), key components are not considered a part of the resource site in determining the place from which distances are measured for the purpose of requesting a hearing under ORS 527.670(4) and 527.700(3).

(2) For threatened or endangered bird species, the place from which such distances are measured is the active nest tree, roost trees, or foraging perch.

(3) For birds which use sensitive bird nesting, roosting or watering sites, the place from which such distances are measured is the specific nest tree, roosting tree or watering place.

(4) For significant wetland types identified in OAR 629-680-0310, the place from which such distances are measured is the significant wetland boundary as determined by the State Forester.

(5) For other sites protected under ORS 527.710(3)(a), the place will be defined by rule as rules are adopted to protect the sites.