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ARCHIVES DIVISION  
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## NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 629  
DEPARTMENT OF FORESTRY

**FILED**

08/29/2022 3:02 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Forest Practices Act rule revisions directed by the enrollment of Senate Bills 1501 and 1502.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/30/2022 11:55 PM

*The Agency requests 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.*

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Oregon Department of Forestry  
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Salem, OR 97310

Filed By:  
Hilary Olivos-Rood  
Rules Coordinator

### HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 09/26/2022

TIME: 6:00 PM

OFFICER: ODF Forest Resources Division Representative

ADDRESS: Virtual Public Hearing in Zoom

Hosted by Oregon Department Forestry

2600 State St

Salem, OR 97310

### SPECIAL INSTRUCTIONS:

To register for the hearing, visit this link:

[https://odf.zoom.us/webinar/register/WN\\_jmTi8MSqQuCOlaWx\\_-9opw](https://odf.zoom.us/webinar/register/WN_jmTi8MSqQuCOlaWx_-9opw)

To provide written comment, submit it to the department at [sb1501.rulemaking@oregon.gov](mailto:sb1501.rulemaking@oregon.gov)

DATE: 09/27/2022

TIME: 10:00 AM

OFFICER: ODF Forest Resources Division Representative

ADDRESS: Virtual Public Hearing in Zoom

Hosted by Oregon Department Forestry

2600 State St

Salem, OR 97310

### SPECIAL INSTRUCTIONS:

To register for the hearing, visit this link: [https://odf.zoom.us/webinar/register/WN\\_VqJEUBFnTi2fiNRKF8-dZA](https://odf.zoom.us/webinar/register/WN_VqJEUBFnTi2fiNRKF8-dZA)

To provide written comment, submit it to the department at [sb1501.rulemaking@oregon.gov](mailto:sb1501.rulemaking@oregon.gov)

DATE: 09/28/2022

TIME: 4:00 PM

OFFICER: ODF Forest Resources Division Representative

ADDRESS: Virtual Public Hearing in Zoom

Hosted by Oregon Department Forestry

2600 State St

Salem, OR 97310

SPECIAL INSTRUCTIONS:

To register for the hearing, visit this link: [https://odf.zoom.us/webinar/register/WN\\_j\\_pA3AVwS0uNGeKJsNttUQ](https://odf.zoom.us/webinar/register/WN_j_pA3AVwS0uNGeKJsNttUQ)

To provide written comment, submit it to the department at [sb1501.rulemaking@oregon.gov](mailto:sb1501.rulemaking@oregon.gov)

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#### NEED FOR THE RULE(S)

The proposed rule changes are required by the enrollment of Senate Bills 1501 and 1502 from the 2022 Oregon Legislature.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Private Forest Accord Report, dated February 2, 2022: <https://www.oregon.gov/odf/aboutodf/documents/2022-odf-private-forest-accord-report.pdf>

Senate Bill 1501: <https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1501>

Senate Bill 1502: <https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1502>

Senate Bill 1602: <https://olis.oregonlegislature.gov/liz/2020S1/Measures/Overview/SB1602>

House Bill 4055: <https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/HB4055>

Board of Forestry, August 24, 2022 Virtual Special Meeting:

<https://www.oregon.gov/odf/board/Pages/bofmeetings.aspx>

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rule package is not subject to the requirements of ORS 183.333 or 183.335 pursuant to section 3(3), chapter 33, Oregon Laws 2022.

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#### FISCAL AND ECONOMIC IMPACT:

This rule package is not subject to the requirements of ORS 183.333 or 183.335 pursuant to section 3(3), chapter 33, Oregon Laws 2022.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

This rule package is not subject to the requirements of ORS 183.333 or 183.335 pursuant to section 3(3), chapter 33, Oregon Laws 2022.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Senate Bills 1501 and 1502 directed the department to draft rules in close consultation with the Private Forest Accord Report authors, which included small business forestland owners. This consultation informed the development of the rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Senate Bills 1501 and 1502 directed the department to draft rules in close consultation with the Private Forest Accord Report authors, and the department followed this legislative direction.

RULES PROPOSED:

629-600-0100, 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, 629-605-0150, 629-605-0170, 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, 629-610-0100, 629-625-0000, 629-625-0100, 629-625-0200, 629-625-0300, 629-625-0310, 629-625-0320, 629-625-0330, 629-625-0340, 629-625-0410, 629-625-0420, 629-625-0430, 629-625-0440, 629-625-0600, 629-625-0650, 629-625-0700, 629-625-0800, 629-625-0900, 629-625-0910, 629-625-0920, 629-630-0000, 629-630-0150, 629-630-0300, 629-630-0500, 629-630-0600, 629-630-0700, 629-630-0800, 629-630-0900, 629-630-0905, 629-630-0910, 629-630-0915, 629-630-0920, 629-630-0925, 629-635-0100, 629-635-0110, 629-635-0200, 629-635-0210, 629-635-0220, 629-635-0300, 629-635-0310, 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, 629-643-0000, 629-643-0100, 629-643-0105, 629-643-0120, 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, 629-655-0000, 629-670-0000, 629-670-0010, 629-670-0100, 629-670-0200, 629-670-0210, 629-670-0214, 629-670-0225, 629-670-0228, 629-670-0350, 629-672-0100, 629-672-0200, 629-678-0000, 629-678-0100, 629-678-0110, 629-678-0200

AMEND: 629-600-0100

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. New definitions are added.

CHANGES TO RULE:

629-600-0100

Definitions ¶¶

As used in OAR chapter 629, divisions 605 through 669 and divisions 680 through 699, unless otherwise required by context:¶¶

(1) "Abandoned resource site" means a resource site that the State Forester determines is not active.¶¶

(2) "Active resource site" means a resource site that the State Forester determines has been used in the recent past by a listed species. 'Recent past' shall be identified for each species in administrative rule. Resource sites that are lost or rendered not viable by natural causes are not considered active.¶¶

(3) "Active roads" are roads currently being used or maintained for the purpose of removing commercial forest products.¶¶

(4) "Aquatic area" means the wetted area of streams, lakes and wetlands up to the high water level. Oxbows and side channels are included if they are part of the flow channel or contain fresh water ponds.¶¶

(5) "Artificial reforestation" means restocking a site by planting trees or through the manual or mechanical distribution of seeds.¶¶

(6) "Basal area" means the area of the cross-section of a tree stem derived from DBH.¶¶

(7) "Basal area credit" means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing enclosures.¶¶

- (8) "Bog" means a wetland that is characterized by the formation of peat soils and that supports specialized plant communities. A bog is a hydrologically closed system without flowing water. It is usually saturated, relatively acidic, and dominated by ground mosses, especially sphagnum. A bog may be forested or non-forested and is distinguished from a swamp and a marsh by the dominance of mosses and the presence of extensive peat deposits.¶¶
- (9) "Bull Trout" means fish species *Salvelinus confluentus*.¶¶
- (10) "Channel" is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.¶¶
- (11) "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 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.¶¶
- (12) "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.¶¶
- (13) "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.¶¶
- (14) "Conflict" means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.¶¶
- (15) "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.¶¶
- (16) "Department" means the Oregon Department of Forestry.¶¶
- (17) "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.¶¶
- (18) "Domestic water use" means the use of water for human consumption and other household human use.¶¶
- (19) "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.¶¶
- (20) "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.¶¶
- (21) "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.¶¶
- (22) "Filling" means the deposit by artificial means of any materials, organic or inorganic.¶¶
- (23) "Fish use" means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.¶¶
- (24) "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.¶¶
- (25) "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.¶¶
- (26) "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.¶¶
- (27) "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.¶¶
- (28) "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.¶¶
- (29) "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.¶¶

(30) "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.¶¶

(31) "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.¶¶

(32) "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.¶¶

(33) "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.¶¶

(34) "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.¶¶

(35) "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; or¶¶

(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.¶¶

(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.¶¶

(36) "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.¶¶

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

(38) "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.¶¶

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

(40) "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.¶¶

(41) "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 (93) of this rule.¶¶

(42) "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.¶¶

(43) "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.¶¶

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

(45) "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.¶¶

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

(47) "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.¶¶

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

(49) "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.¶¶

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

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

(52) "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.¶¶

(53) "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.¶¶

(54) "Operator" means any person, including a landowner or timber owner, who conducts an operation.¶¶

(55) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.¶¶

(56) "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.¶¶

(57) "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.¶¶

(58) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.¶¶

(59) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.¶¶

(60) "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.¶¶

(61) "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.¶¶

(62) "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.¶¶

(63) "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.¶¶

(64) "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*).¶¶

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

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

(67) "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.¶¶

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

(69) "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.¶¶

(70) "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.¶¶

(71) "Small forestland" for the purpose of implementing a wildlife food plot 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.¶¶

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

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

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

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

(76) "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 (93) of this rule.¶¶

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

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

(79) "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.¶¶

- (80) "Target wildlife" means a wildlife species or wildlife guild expected to benefit from the installation of a wildlife food plot.¶¶
- (81) "Temporal exception" means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.¶¶
- (82) "Temporal protection" means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.¶¶
- (83) "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.¶¶
- (84) "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.¶¶
- (85) "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.¶¶
- (86) "Type D stream" means a stream that has domestic water use, but no fish use.¶¶
- (87) "Type F stream" means a stream with fish use, or both fish use and domestic water use.¶¶
- (88) "Type N stream" means a stream with neither fish use nor domestic water use.¶¶
- (89) "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)¶¶
- (90) "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.¶¶
- (91) "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.¶¶
- (92) "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.¶¶
- (93) "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.¶¶
- (94) "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.¶¶
- (95) "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 (93) of this rule.¶¶
- (96) "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.¶¶
- (97) "Wildlife guild" means a grouping of wildlife that has similar characteristics and fulfills similar ecological roles in the environment.¶¶
- (98) "Wildlife leave trees" means trees or snags required to be retained as described in ORS 527.676(1).¶¶
- (99) ¶¶
- (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 fresh water 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 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 ½ 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 ODF Tech Note 4, Version 1 (effective May 10, 2002). ¶

(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 (93) 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 perennality 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 46(6), chapter 33, Oregon Laws 22.¶

(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 prioritized research proposals and associated budget 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 with neither fish use nor domestic water use.¶

(150) "Type Np stream" means all perennial streams that are not Type SSBT, Type F, or Type D streams.¶

(151) "Type Ns stream" means all seasonal stream reaches that are not Type SSBT, Type F, Type D, 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 perennality 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

ADOPT: 629-603-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule establishes the purpose of the Adaptive Management Program.

CHANGES TO RULE:

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 biological goals and objectives are validated, and modified if necessary, and forest practice rules are monitored for effectiveness relative to 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.

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

Statutes/Other Implemented: section 34(1), chapter 33, Oregon Laws2022

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule provides an overview of the Adaptive Management Program.

CHANGES TO RULE:

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 cumulative effects.

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

(A) The suitability of the biological goals and objectives for achieving overall program goals.

(B) Whether additional scientific inquiry is needed to fill in knowledge gaps that can add or prioritize biological goals and objectives that will aid in achieving overall program goals.

(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: Section 34(2), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-603-0130

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the role of the board and State Forester in securing and determining the budget for the Adaptive Management Program.

CHANGES TO RULE:

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: Section 34(2), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-603-0160

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the participation grants for organizations contributing to the Adaptive Management Program.

CHANGES TO RULE:

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 only organizations not eligible for participation grants are the federal and state agencies on the AMPC. ¶

(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: Section 34(2), Chapter 33, Oregon Laws 2022

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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the step-by-step process of how the adaptive management program provides policy guidance to the board.

CHANGES TO RULE:

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 objective, 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 per 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 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 for 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)(e) 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 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 servicer; 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) Servicer presentations to the AMPC, the board, or other entities as appropriate. ¶

(B) A summary report. If the servicer is 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 awardees. ¶

(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 awardees. ¶

(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 servicer'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 paragraphs (6)(b)(F) and (6)(c)(B) and subsection (6)(g) 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.¶

(iii) 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: Section 34(2), Chapter 33, Oregon Laws 2022

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



ADOPT: 629-603-0300

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the role of the Adaptive Management Program Committee (AMPC), the development of its charter, and the role of the board in appointing members.

CHANGES TO RULE:

629-603-0300

Adaptive Management Program Committee

(1) The purpose of the Adaptive Management Program Committee (AMPC) is to complete work described in OAR 629-603-0200 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 the committee, 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 voting members pursuant to section 37, chapter 33, Oregon Laws 2022, members' terms may be renewed by a vote by the board. If an AMPC voting 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) or 36(4), chapter 33, Oregon Laws 2022 shall propose two new candidates for a vote from the board for committee appointment.

(4) After the board appoints the first AMPC non-voting members pursuant to section 36(5), chapter 33, Oregon Laws 2022, non-voting members terms may be renewed by a vote of the board. If an AMPC non-voting member's term is not renewed by the board or there is any other vacancy of a non-voting member on the AMPC, then the board shall appoint a replacement representative.

(5) The AMPC shall conduct their meetings per the AMPC charter, and all AMPC meetings shall be conducted as public meetings. 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.

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

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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the role of the Independent Research and Science Team (IRST) in the adaptive management process and the development of their charter.

CHANGES TO RULE:

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 OAR 629-603-0200 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. 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: Section 34(2), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-603-0450

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the role of the Independent Research and Science Team (IRST) Housing Agency in the adaptive management process.

CHANGES TO RULE:

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 awardees 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 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: Section 34(2), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-603-0500

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the role of the Adaptive Management Program Coordinator in the adaptive management process.

CHANGES TO RULE:

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: Section 34(2), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-603-0600

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the how the rulemaking topics for the adaptive management process are determined.

CHANGES TO RULE:

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 provide the required elements of the incidental take permit. ¶

(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: Section 34(2), Chapter 33, Oregon Laws 2022

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

AMEND: 629-605-0150

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. Section (10) is added.

CHANGES TO RULE:

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



RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. Rule title is updated. Section (4) & (10) are amended.

CHANGES TO RULE:

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 unless~~ 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 for Type F, Type SSBT, Type D streams or Significant Wetlands.~~¶¶

(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).¶¶

~~(aA)~~ 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;¶

(bB) 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;¶

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

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

(eE) 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;¶

(fF) 629-62530-01700(23)(ad) - ConstructCable yarding 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;ss 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) 629-630-0920(8) Harvesting timber where yarding will occur within stream adjacent failures identified upslope of the Type F or Type SSBT stream riparian management area.¶

(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; ¶

(gK) 629-6265-100(2)(c) - Constructing a road within the riparian management area of a medium or large Type N stream;20(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).¶

(hA) 629-625-0100(3) - Constructing a road on high landslide hazard locations2)(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;¶

(iB) 629-625-0100(42) - Placing woody debris or boulders in the stream channelConducting machine activity in Type N streams or lakes;¶

(C) 629-625-0100(2)(c) - Constructing roads in RMA of a Type N streams for stream enhancementlakes;¶

(jD) 629-625-032100(12)(b)(Bd) - Constructing a permanent streamor reconstructing any crossing fill over 15 feet deep in as of Waters of the State excluding Type F, Type SSBT, or Type ND streams or Significant Wetlands;¶

(kE) 629-63025-02100(3) - Locating a landing within the riparian management area of a medium or large2)(e) - Activities in a critical location outside of 100 feet of Type F, Type SSBT, Type ND streams, or Significant Wetlands;¶

(fF) 629-63025-07100(34) - Yarding acrossPlacing woody debris or boulders in Type N streams classified as medium or large Type Nchannels for stream enhancement;¶

(mG) 629-630-0800(425-0320(1)(b)(eB) - Constructing a temporary streamor reconstructing any water crossing with fill over 815 feet deep in any Type N stream;¶

(n) 629-650-0005 - Operating within 100 feet of a large lake, wetland that does not meet the definition of significant wetland, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, or canals;¶

(oH) 629-660-00525-0410(15) - RTemoving beaver dams or other natural obstructions located fporary 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, marshesher than 25 feet from a culvert in a Type N sts, inlets, or canals;¶

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

(pJ) 629-665-00230-0910(26) - Operating near a resource sitHarvesting timber in a unit that contains designated sediment source arequiring special proas and slope reteention areas; and¶

(qK) 629-665-02130-0920(14) - Operating near a Northern Spotted Owl resource siteHarvesting 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

ADOPT: 629-607-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule establishes the purpose and goals of the Small Forestland Owner division.

CHANGES TO RULE:

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;
  - (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; and
  - (g) Minimize the number of land-use conversions of timberlands to other uses.
- (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), Chapter 33, Oregon Laws 2022, Section 17(1), Chapter 33, Oregon Laws 2022, Section 20, Chapter 33, Oregon Laws 2022

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

ADOPT: 629-607-0100

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the alternative prescriptions available to small forestland owners that qualify for the minimum option.

CHANGES TO RULE:

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), Chapter 33, Oregon Laws 2022, Section 20, Chapter 33, Oregon Laws 2022

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

ADOPT: 629-607-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the documentation requirements for small forestland owners intending to implement the minimum option.

CHANGES TO RULE:

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 an 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), Chapter 33, Oregon Laws 2022, Section 20, Chapter 33, Oregon Laws 2022

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

ADOPT: 629-607-0250

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the notification requirements for small forestland owners.

CHANGES TO RULE:

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, 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), Chapter 33, Oregon Laws 2022, Section 20, Chapter 33, Oregon Laws 2022

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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the Small Forestland Investment in Stream Habitat grant program available to small forestland owners.

CHANGES TO RULE:

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 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 receives the grant application; 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(2), 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) 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), Chapter 33, Oregon Laws 2022, Section 20, Chapter 33, Oregon Laws 2022

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



ADOPT: 629-607-0400

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes the criteria and process for a small forestland owner to qualify for the Forest Conservation Tax Credit.

CHANGES TO RULE:

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 in the deed, in the county where the eligible forest conservation area is located, 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 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

ADOPT: 629-607-0450

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes how a forest conservation credit area is determined for the Forest Conservation Tax Credit.

CHANGES TO RULE:

629-607-0450

Forest Conservation 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 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

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes how the stumpage value is determined for the Forest Conservation Tax Credit.

CHANGES TO RULE:

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

ADOPT: 629-607-0600

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes the process of transferring the Forest Conservation Tax Credit to heirs.

CHANGES TO RULE:

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

ADOPT: 629-607-0700

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes the deed restriction requirement for the Forest Conservation Tax Credit.

CHANGES TO RULE:

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

ADOPT: 629-607-0750

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes the process for a deed restriction removal for the Forest Conservation Tax Credit.

CHANGES TO RULE:

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

ADOPT: 629-607-0800

RULE SUMMARY: The enrollment of Senate Bill 1502 of the 2022 legislative session directed the adoption of this rule. This rule describes the process for a small forestland owner who wishes to appeal a decision made by the State Forester regarding the forest conservation tax credit.

CHANGES TO RULE:

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

RULE SUMMARY: Minor change to accommodate a definition of small forestland that applies only to this rule and subsequent re-numbering.

CHANGES TO RULE:

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.

(23) 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.

(34) 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.

(45) 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); or

(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).

(56) 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; and

(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.¶

~~(67)~~ 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.¶

~~(78)~~ 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.¶

~~(89)~~ The landowner shall follow the requirements as outlined in sections ~~5(6)~~ and ~~7(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(3)(a)

AMEND: 629-625-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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 629-625-070920 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; and vacating 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 2022

Statutes/Other Implemented: ORS 527.715, 527.765, Section 2(2), Chapter 33, Oregon Laws 2022

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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, Type ~~DN~~ streams, lakes, or significant wetlands; ~~or~~¶

(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 2022

Statutes/Other Implemented: ORS 527.630(3), 527.765, 527.714, Section 2(2), Chapter 33, Oregon Laws 2022

AMEND: 629-625-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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 on steep slopes, slide areas, high landslide hazard locations, and in wetlands, riparian management areas, channels or floodplains where viable alternatives exist. ~~¶~~

~~(4) 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(70), stream-associated wetlands as described in OAR 629-600-0100(77), 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. ¶~~

~~(5) 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

AMEND: 629-625-0300

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-625-0300

Road Design ¶¶

(1) The purpose of OARs 629-625-0300 through 629-625-03430 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.

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

AMEND: 629-625-0310

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-625-0310

Road Prism ¶¶

- (1) Operators shall use variable grades and alignments to avoid less suitable terrain so that 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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-625-0320

Stream Water Crossing Structures

(1) Operators shall design and construct ~~stream~~ small water crossing structures (culverts, bridges and fords) 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) ~~M~~ Operators shall minimize ~~fill material is accomplished 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.

(2d) ~~Operators shall design and construct stream crossings (culverts, bridges, and~~ 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 fords) to:~~

(a) ~~Pass a peak flow that at least corresponds to the 50-year return interval. When determining the size of culvert needed to pass a peak flow corresponding to~~ 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 5100-year return interval, operators shall select a size that is adequate to preclude ponding of water higher than the top of the culvert; and¶

(b) Allow migration of adult and juvenile fish upstream and downstream during conditions when fish movement in that stream normally occurs 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 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.¶

(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 of 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.

(3b) An exception to the requirements in subsection (2)(a) of this rule is allowed to reduce the height of fills where roads cross wide flood plains. Such an exception shall be allowed if the operator obtains approval of a plan for an alternate practice. The State Forester will approve such a plan when the plan demonstrates:

(a) The stream crossing site includes a wide flood plain; and

(b) The stream crossing structure matches the size of the active channel and is covered by the minimum fill 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).

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

(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 depth and 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 necessary to protect the structure;¶
  - (c) Except for culvert cover, soil fill is not placed in the flood plain; and,¶
  - (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. ¶
  - (dB) The downstream edge of all fill is armored with rock of sufficient size and depth to protect the fill from eroding when a flood flow occurs. 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



AMEND: 629-625-0330

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-625-0330

Drainage ¶

~~(1) The purpose of this rule is to provide a drainage system on new and reconstructed roads that minimizes alteration of stream channels and the risk of sediment delivery to waters of the state. Drainage structures should be located~~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 (67) of this rule, the lowest numbered section takes precedence, and the operator shall not implement the later-numbered and conflicting section shall not be implemented.¶

~~(2) Operator shall not install cross-drains and ditch-relief culverts in a way that causes stream diversion.~~¶

~~(23) Operators shall not concentrate road drainage water into headwalls, slide areas, high landslide hazard locations, or steep erodible fillslopes.~~¶

~~(34) Operators shall not divert water from stream channels into roadside ditches.~~¶

~~(45) Operators shall install dips, water bars, or cross drainage culverts above and away from stream crossings so that road drainage water may be filtered before entering waters of the state~~rainage 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.¶

~~(56) Operators shall provide drainage when roads cross or expose springs, seeps, or wet areas.~~¶

~~(67) 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 and/or waterbars as necessary to minimize development of gully erosion of the road pr~~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, updating ODF Tech Note 8 (2003): Installation and Maintenance of Cross Drainage Systems on Forest Roads, to assist~~road 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(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

REPEAL: 629-625-0340

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. This rule is being repealed to align with the Private Forest Accord as the content is moved to 629-625-0410.

CHANGES TO RULE:

~~629-625-0340~~

~~Waste Disposal Areas~~

~~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.~~

~~Statutory/Other Authority: ORS 527.710~~

~~Statutes/Other Implemented: ORS 527.715, 527.765~~

AMEND: 629-625-0410

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-625-0410

Disposal of Waste Materials ¶¶

(1) Operators shall not place debris, sidecast, waste, and other excess materials associated with road construction in locations where these materials may enter waters of the state during or after construction 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



REPEAL: 629-625-0420

RULE SUMMARY: This rule is being repealed because the content is now addressed in other rules.

CHANGES TO RULE:

~~629-625-0420~~

~~Drainage~~

- ~~(1) Operators shall clear channels and ditches of slash and other road construction debris which interferes with effective roadway drainage.¶¶~~
- ~~(2) Operators shall provide effective cross drainage on all roads, including temporary roads.¶¶~~
- ~~(3) Operators shall install drainage structures on flowing streams as soon as feasible.¶¶~~
- ~~(4) Operators shall effectively drain uncompleted roads which are subject to erosion.¶¶~~
- ~~(5) Operators shall remove berms on the edges of roads or provide effective drainage through these berms, except for those berms intentionally designed to protect road fills.~~

~~Statutory/Other Authority: ORS 527.710~~

~~Statutes/Other Implemented: ORS 527.715, 527.765~~

REPEAL: 629-625-0430

RULE SUMMARY: This rule is being repealed because the content is now addressed in other rules.

CHANGES TO RULE:

~~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.~~

~~Statutory/Other Authority: ORS 527.710~~

~~Statutes/Other Implemented: ORS 527.674, 527.715, 527.765~~

AMEND: 629-625-0440

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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 slashing, 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

AMEND: 629-625-0600

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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.¶

~~(2) Operators shall maintain active and inactive roads in a manner sufficient both to provide a stable surface and to keep the drainage system operating as necessary to protect water quality~~ 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.¶

~~(32) Operators shall inspect and maintain culvert inlets and outlets, drainage structures, and ditches before and during the rainy season as necessary to diminish the likelihood of clogging impeding flow and the possibility of washouts.~~ structure failure. ¶

~~(43) Operators shall provide effective road surface drainage, such as water barring, surface crowning, constructing sediment barriers, or outsloping prior to the rainy and runoff seasons.~~¶

~~(54) 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.~~¶

~~(65) In the Northwest and Southwest Oregon Regions, o~~ 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.¶

~~(76) 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. ~~This standard is required only for roads constructed or reconstructed after September 1994, but is encouraged for all other roads; and;~~¶

(b) As reasonably practicable, keep structures cleared of woody debris and deposits of sediment that would impair fish passage.;¶

~~(9c)~~ 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.¶

~~(10) O; 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 that are administered by other state agencies that may be applicable to water crossing structures, including those constructed before September 1, 1994.

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

AMEND: 629-625-0650

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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) Reasonable actions to vacate a forest road may include removal of stream crossing fills, pullback of fills on steep slopes, frequent cross ditching, and/or vegetative stabilization.~~ 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(18) 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;¶

~~(4C) Damage which may occur from a vacated road, consistent with~~ 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 Sections (2) and (3) of the rule, will not be subject to remedy under the~~ provision ~~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 sections of the Oregon Forest Practices Act 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

AMEND: 629-625-0700

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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, updating ODF Tech Note 9 (2003): Wet Weather Road Use, 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(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

ADOPT: 629-625-0800

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule outlines requirements for road construction in wetlands.

CHANGES TO RULE:

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, ORS 527.765, Section 2(2), Chapter 33, Oregon Laws 2022

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule outlines what must be included in the Forest Road Inventory and Assessment (FRIA).

CHANGES TO RULE:

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 State Forester 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(2) 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 and Department of Fish and Wildlife shall meet 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 and Department of Fish and Wildlife shall coordinate 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 later 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.  
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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule establishes a process for identifying abandoned roads.

CHANGES TO RULE:

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

ADOPT: 629-625-0920

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule establishes requirements for small forestland owners for road condition assessments and funding by the State of Oregon.

CHANGES TO RULE:

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 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

AMEND: 629-630-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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.¶

(23) Harvesting operations result in a temporary disturbance to the forest environment.¶

(34) 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.¶

(4)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 OARs 629-630-00900 through 629-630-0800 shall be known as the harvesting rules, 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.¶

(57) 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

AMEND: 629-630-0150

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-630-0150

Ground-Based Harvesting On Steep Or Erosion-Prone Slopes ¶

~~(1) The purpose of this rule is to reduce the potential for erosion from steep or erosion-prone slopes to enter waters of the state.¶~~

~~(2)~~ Slopes over 60 percent are subject to the requirements of Sections (4) through (98) of this rule.¶

~~(32)~~ 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 (98) of this rule.¶

~~(43)~~ 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 (98) of this rule.¶

~~(54)~~ If skid trails are located on steep or erosion-prone slopes, operators shall locate them at least 100 feet from any stream channels.¶

~~(65)~~ Operators shall locate skid trails where water can drain off the skid trail and onto undisturbed soils.¶

~~(76)~~ 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.¶

~~(87)~~ Operators shall install effective cross ditches on all skid roads located on steep or erosion-prone slopes.¶

~~(98)~~ 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

AMEND: 629-630-0300

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-630-0300

Drainage Systems ¶

~~(1) The purpose of this rule is to provide and maintain a drainage system for each landing, skid trail, and fire trail that will control and disperse surface runoff to minimize sediment entering waters of the state.¶~~

~~(2) 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.¶~~

~~(3) 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.¶~~

~~(4) 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



AMEND: 629-630-0500

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-630-0500

Harvesting On High Landslide Hazard Locations ¶¶

~~(1) The purpose of this rule is to prevent timber Operators and the State Forester from harvesting-related serious ground disturbance and drainage alterations on all high landslide hazard locations, and to reference additional requirements when there is public safety exposure below the high landslide hazard location. ¶¶~~

~~(2) Operators and the State Forester shall share responsibility to identify high landslide hazard locations and to determine if there is~~ ¶¶ 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 exposure from shallow, rapidly moving landslides, the shared responsibility includes identifying and evaluating the risk using methods described in OAR 629-623-0100 through 0300. If there is public safety exposure, then~~ For intermediate and substantial levels of risk, the practices described in OAR 629-623-0400 through 0800 shall also apply. The State Forester 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: ORS 527.710, 527.715, 527.765, Section 2(2), Chapter 33, Oregon Laws 2022

AMEND: 629-630-0600

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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, 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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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 ~~streamside trees as long as 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 (fg) of this section:¶¶

(a) Type F streams;¶¶

(b) Type SSBT streams;¶¶

(c) Type D streams;¶¶

(d) Large or medium ~~Type N~~ streams; Np streams;¶¶

(e) Small Type Np or Type Ns streams located within designated debris flow traversal areas, as described in OAR 629-630-0905; ¶¶

(ef) Lakes; or¶¶

(fg) 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 State Forester 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



RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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 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 ten 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 filter water 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 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 State Forester 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

ADOPT: 629-630-0900

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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. 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 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 Laws 2022

ADOPT: 629-630-0905

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-630-0905

Standard Practice, Western Oregon Harvesting; 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 Laws 2022



ADOPT: 629-630-0910

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-630-0910

Standard Practice, Western Oregon Harvesting: Designated Sediment Source Areas and Slope Retention Areas

(1) Slope retention areas encompass field identified headwalls. The State Forester 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 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 Laws 2022

ADOPT: 629-630-0915

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-630-0915

Standard Practice, Statewide Harvesting; Stream Adjacent Failures

(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 lesser 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 written plan shall describe 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 State Forester 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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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:<sup>¶</sup>
- (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.<sup>¶</sup>
- (b) Exempt small forestland owners from the designated debris flow traversal areas requirements for harvest type 4 units.<sup>¶</sup>
- (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.<sup>¶</sup>
- (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.<sup>¶</sup>
- (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.<sup>¶</sup>
- (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.<sup>¶</sup>
- (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.<sup>¶</sup>
- (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 lessor of:<sup>¶</sup>
- (a) The distance of 30 feet from the outer edge of the small forestland owner minimum option; or<sup>¶</sup>
- (b) The distance to the slope break, defined as 20 percent or greater reduction in slope gradient.<sup>¶</sup>
- (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.<sup>¶</sup>
- (9) The written plan shall describe how the number, size, and location of yarding corridors were selected to minimize impacts to the integrity of stream adjacent failures.<sup>¶</sup>
- (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.<sup>¶</sup>
- (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.<sup>¶</sup>
- (12) The State Forester 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

ADOPT: 629-630-0925

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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. ~~Active management is encouraged where appropriate to meet this purpose.~~ 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 629-6423-07400; (for streams) and 629-645-0020 (for wetlands). ~~¶ The operators are encouraged to may: ¶~~

(a) Evaluate site specific conditions in waters and riparian management areas; and ¶

(b) Develop plans for alternate practices that will: ¶

(A) ~~Maintain, enhance, or restore~~ 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 ~~better meeting operational or other objectives.~~ ¶

~~(5) General vegetation retention prescriptions for streams, lakes and wetlands apply where current vegetation conditions within the riparian management area have achieved or are likely to achieve the desired future condition in a "timely manner." Landowners are providing opportunities to complete encouraged to manage stands within riparian management areas in order to grow trees in excess of what must be retained so that the opportunity is available to harvest the excess. ¶~~

~~(6) Alternative vegetation retention prescriptions for streams allow incentives for operators to actively manage vegetation where existing vegetation conditions are not likely to achieve the desired future condition in a "timely manner." logical, restoration, or operational objectives for various riparian area site conditions. ¶~~

~~(75) 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 629-6423-0000 (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 629-6423-0000 (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: ORS 527.714, 527.715, 527.765, section 2(2), chapter 33, Oregon Laws 2022

REPEAL: 629-635-0110

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-635-0110~~

~~Monitoring~~

~~(1) Monitoring and evaluation of the water protection rules are necessary because of the innovative approach taken in the rules. Monitoring and evaluation are needed to increase the level of confidence of all concerned that the rules will maintain and improve the condition of the riparian vegetation and waters of the state over time.¶¶~~

~~(2) In cooperation with state and federal agencies, landowners and other interested parties, the State Forester shall conduct monitoring on a continuing basis to evaluate the effectiveness of the water protection rules. The monitoring shall determine the effectiveness of the rules to meet the goals of the Forest Practices Act and the purposes stated in the rules, as well as their workability and operability.¶¶~~

~~(3) It is the Board of Forestry's intent that the State Forester and its cooperators place a high priority on assessing the monitoring needs and securing adequate resources to conduct the necessary monitoring. The State Forester shall work with its cooperators and the Legislature to secure the necessary resources, funding and coordination for effective monitoring.¶¶~~

~~(4) The State Forester shall report to the Board of Forestry annually about current monitoring efforts and, in a timely manner, present findings and recommendations for changes to practices. The Board of Forestry shall consider the findings and recommendations and take appropriate action.~~

~~Statutory/Other Authority: ORS 527.710, Other 527.630(3), 527.714, 526.016(4)~~

~~Statutes/Other Implemented: 527.714, 527.715, 527.765~~

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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.¶¶

~~(4) The department shall incorporate the Department of Fish and Wildlife findings regarding fish use and perennality into the department's electronic 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 electronic notification and reporting system no later than December 31, 2023.~~ The State Forester shall classify streams into one of the following four beneficial use categories 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 electronic 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.~~¶¶

~~(56)~~ 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.¶¶

~~(67)~~ 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 ~~(67)~~(a) and (b) of this rule apply.¶¶

~~(7)~~~~(ad)~~ 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.¶¶

~~(be)~~ The process and criteria described in subsection (7)(a), and the criteria under section ~~(67)~~ of this rule will be used to evaluate the extent of Type D classification for new community water systems.¶¶

~~(ef)~~ 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 ~~stream classification~~classifying streams for fish use, the State Forester ~~wi~~shall use the procedures in this section ~~to determine if a:~~¶

~~(a) As of July 1, 2023, the State Forester shall classify stream~~has for fish use.¶

~~(a) For stream segments where field surveys for fish use show that fish use ends at a natural barrier to fish use or other point that is not an artificial obstruction to fish passage, the State Forester will designate fish use based on the survey.~~¶

~~(b) For~~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 the Department of Fish and Wildlife makes the findings required by the Private Forest Accord Report, dated February 2, 2022. The State Forester shall make the results of the fish use distribution model publicly available in the department's electronic 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, provided the Department of Fish and Wildlife makes the findings required by the Private Forest Accord Report 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 ream segments where field surveys for fish use show that fish use~~viewed 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, ands at an artificial obstruction to fish passage, the State Forester will designate fish use as continuing upstream from the artificial obstruction to the first natural barrier to fish use.~~¶

~~(c) For stream segments where field surveys for fish use have not been conducted, the State Forester will designate fish use as continuing upstream from a point of known fish use and ending at the first natural barrier to fish use, without respec~~cepted by the department for purposes of informing compliance with the forest practice rules shall be incorporated into the department's electronic 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 electronic 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 electronic 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 electronic 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) A field survey submitted pursuant to (11)(c)(C)(i) may be disapproved by the Department of Fish and Wildlife after twenty-one days for failure to meet the requirements of the survey protocol in effect as of the date of the survey, in which case the survey shall be removed from the department's electronic reporting and notification system, and 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, to any artificial obstructions to fish passage. Ahe Department of Fish and Wildlife shall choose that survey that has the greatest degree of scientific validity, which shall control for purposes of the department's electronic 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 thise designation of fish use in stream segments associated with anthe operation scheduled to start between 12 and 24 months after the request.¶

(A) The State Forester wishall make a good faith effort to conduct the requested surveys and wishall prioritize its survey work taking into account landowners without 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 is able tocan conduct the survey before the operation begins, the Type F fish use classification applies up to the first natural barrier to fish usebased 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.¶

(de) 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 Oregon Department of Forestry and the Oregon Department of Fish and Wildlife.¶

(f) If approved by the Department of Fish and Wildlife:¶

(e)T, the State Forester may use other information to determine the upstream extent of fish use including but not limited to field surveys for fish use by landowners or other entities, and local knowledge of stream conditions, natural barriers to fish use, or fish presence.¶

(fg) 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 wi, in consultation with the Department of Fish and Wildlife, shall grant the request uponafter 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.¶

(gh) When an exception to Type F stream classification is made above an artificial obstruction to fish passage in accordance with (g), the State Forester wishall 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.¶

(hi) 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 wi, 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 wishall 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 wishall 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 wishall 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 wishall use the farthest upstream segment with SSBT use to reclassify the end of fish use. The State Forester wishall 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 ~~under OAR 629-635-0200~~ described in (11). The State Forester ~~will~~ 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 ~~Oregon Department of Fish and Wildlife (ODFW)~~ 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 ~~4~~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 ~~Update Protocol~~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 ~~Update Protocol~~Stewardship Plan per subsection (e), the State Forester will not reclassify SSBT use stream segments based on information from the new portions of the ~~ODFW~~Department of Fish and Wildlife Data Standard or Update Protocol.¶

(14) ~~For each of the four beneficial use categories (Type F, Type SSBT, Type D, and Type N)~~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 electronic notification and reporting 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 ~~2~~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.¶

~~(15-6)~~ 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 ~~Technical Note FP1 dated April 11, 1994~~Forest Practices Technical Note No. 1. 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 technical note.¶

(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 ~~(135)~~(a).¶

~~(167)~~ 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 ~~e~~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."¶

~~(178)~~ Lakes shall be classified further as indicated below:¶

(a) "Large lakes" greater than 8 acres.¶

~~(b) All other lakes as "other lakes."~~ By July 1, 2023, the State Forester shall update all published maps and the department 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 electronic notification and reporting 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 629-643-0130 or 629-643-0143 but shall not provide 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 629-643-0143, whether or not a stream is mapped. 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 ends, OAR 629-600-0100, in all maps and the department's electronic notification and reporting system, and in no event later than July 1, 2025.¶

(c) Field Verification. The operator may conduct field surveys for model verification 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 electronic 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: ORS 527.714, 527.715, 527.765, section 2(2), chapter 33, Oregon Laws 2022

AMEND: 629-635-0210

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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 in each Department of Forestry unit office where to assist operators who complete a notice of operations as required by ORS 527.670(6) may be submitted. The map shall show.~~ The State Forester shall include in the map streams, lakes and significant wetlands of known classification within the geographic area of responsibility for that unit office. For streams, the maps shall 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 "Water Classification."¶¶

~~(4) The State Forester.~~¶¶

(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, 919(9)527.620, Section 2(2), Chapter 33, Oregon Laws 2022

AMEND: 629-635-0220

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-635-0220

Geographic Regions ¶

For the purposes of assigning protection measures to waters of the state, ~~seven geographic regions have been delineated for forested areas within 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. ~~Precise boundaries are found on maps at department field offices.~~ Geographic regions are not "forest regions" established pursuant to ORS 527.640.¶  
[ED. NOTE: Figures referenced are available from the agency. Insert Figure 1: Western Oregon and Eastern Oregon Geographic Regions]

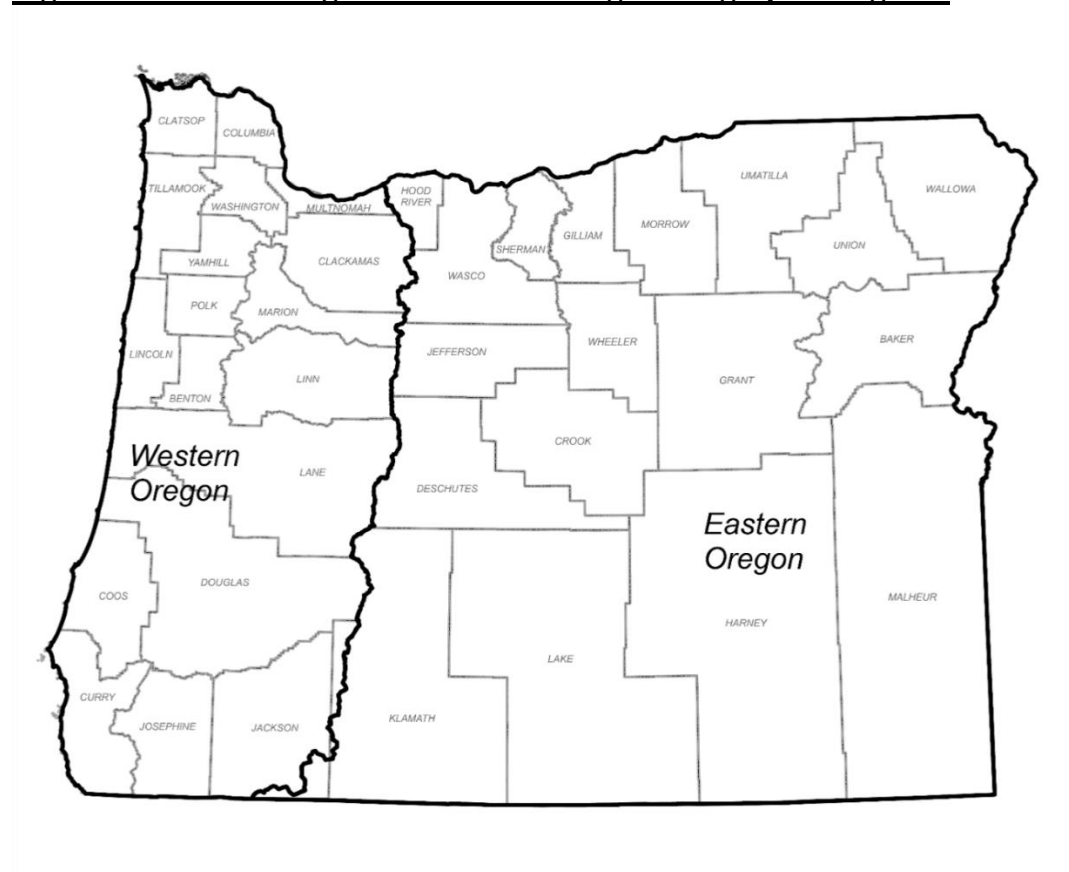
Statutory/Other Authority: ORS 527.710, Section 2(1), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.710~~65~~, 527.765, ~~919(9)~~620, Section 2(2), Chapter 33, Oregon Laws 2022

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

**OAR 629-635-0220**  
**Geographic Regions**

**Figure 1: Western Oregon and Eastern Oregon Geographic Regions**



AMEND: 629-635-0300

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

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)(a) 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.¶

(b4) 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~~65~~, 527.765, 919(9)620, Section 2(2), Chapter 33, Oregon Laws 2022

AMEND: 629-635-0310

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule.

CHANGES TO RULE:

629-635-0310

#### Riparian Management Area Widths for Streams ¶

~~(1)(a) The riparian management area measurement widths for streams are designated for each stream type as shown in Table 1 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.¶~~

~~(b)a) Except as indicated in section (2), the operators shall measure the riparian management area width as using the slope distance from the high water level of main channels. 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.¶~~

~~(c)b) Notwithstanding the distances designated in subsection (1)(a), where wetlands or side channels extend beyond the designated riparian management area widths, the operators shall expand the riparian management area as necessary to entirely include any stream-associated wetland or side channel plus at least 25 additional feet. This provision does not apply to small Type N streams.¶~~

~~(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.¶~~

~~[ED. NOTE: Tables referenced are available from the agency.]~~

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

~~Statutes/Other Implemented: ORS 527.710~~65~~, 527.765, 919(9)~~620~~, Section 2(2), Chapter 33, Oregon Laws 2022~~



RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

**629-642-0000**

**Vegetation Retention Goals for Streams; Desired Future Conditions**

(1) The purpose of this rule is to describe how the vegetation retention measures for streams were determined, their purpose and how the measures are implemented. The vegetation retention requirements for streams described in OARs 629-642-0100 through 629-642-0800 are designed to produce desired future conditions for the wide range of stand types, channel conditions, and disturbance regimes that exist throughout forestlands in Oregon.¶¶

(2) The desired future condition for streamside areas along fish use streams is to grow and retain vegetation so that, over time, average conditions across the landscape become similar to those of mature streamside stands. Oregon has a tremendous diversity of forest tree species growing along waters of the state and the age of mature streamside stands varies by species. Mature streamside stands are often dominated by conifer trees. For many conifer stands, mature stands occur between 80 and 200 years of stand age. Hardwood stands and some conifer stands may become mature at an earlier age. Mature stands provide ample shade over the channel, an abundance of large woody debris in the channel, channel influencing root masses along the edge of the high water level, snags, and regular inputs of nutrients through litter fall.¶¶

(3) The rule standards for desired future conditions for fish use streams were developed by estimating the conifer basal area for average unmanaged mature streamside stands (at age 120) for each geographic region. This was done by using normal conifer yield tables for the average upland stand in the geographic region, and then adjusting the basal area for the effects of riparian influences on stocking, growth and mortality or by using available streamside stand data for mature stands.¶¶

(4) The desired future condition for streamside areas that do not have fish use is to have sufficient streamside vegetation to support the functions and processes that are important to downstream fish use waters and domestic water use and to supplement wildlife habitat across the landscape. Such functions and processes include: maintenance of cool water temperature and other water quality parameters; influences on sediment production and bank stability; additions of nutrients and large conifer organic debris; and provision of snags, cover, and trees for wildlife.¶¶

(5) The rule standards for desired future conditions for streams that do not have fish use were developed in a manner similar to that used for fish use streams. In calculating the rule standards, other factors used in developing the desired future condition for large streams without fish use and all medium and small streams included the effects of trees regenerated in the riparian management area during the next rotation and desired levels of instream large woody debris.¶¶

(6) For streamside areas where the native tree community would be conifer dominated stands, mature streamside conditions are achieved by retaining a sufficient amount of conifers next to large and medium sized fish use streams at the time of harvest, so that halfway through the next rotation or period between harvest entries, the conifer basal area and density is similar to mature unmanaged conifer stands. In calculating the rule standards, a rotation age of 50 years was assumed for even-aged management and a period between entries of 25 years was assumed for uneven-aged management. The long-term maintenance of streamside conifer stands is likely to require incentives to landowners to manage streamside areas so that conifer reforestation occurs to replace older conifers over time.¶¶

(7) Conifer basal area and density targets to produce mature stand conditions over time are outlined in the general vegetation retention prescriptions. In order to ensure compliance with state water quality standards, these rules include requirements to retain all trees within 20 feet and understory vegetation within 10 feet of the high water level of specified channels to provide shade.¶¶

(8) For streamside areas where the native tree community would be hardwood dominated stands, mature streamside conditions are achieved by retaining sufficient hardwood trees. As early successional species, the long-term maintenance of hardwood streamside stands will in some cases require managed harvest using site specific vegetation retention prescriptions so that reforestation occurs to replace older trees. In order to ensure compliance with state water quality standards, these rules include requirements in the general vegetation retention prescription to retain all trees within 20 feet and understory vegetation within 10 feet of the high water level of specified channels to provide shade.¶¶

(9) In many cases the desired future condition for streams can be achieved by applying the general vegetation retention prescriptions, as described in OARs 629-642-0100, 629-642-0105 and 629-642-0400. In other cases, the existing streamside vegetation may be incapable of developing into the future desired conditions in a "timely manner." In this case, the operator can apply an alternative vegetation retention prescription described in OAR

629-642-0600 or develop a site specific vegetation retention prescription described in OAR 629-642-0700. For the purposes of the water protection rules, "in a timely manner" means that the trees within the riparian management area will meet or exceed the applicable basal area target or vegetation retention goal during the period of the next harvest entry that would be normal for the site. This will be 50 years for many sites.¶¶

(10) Where the native tree community would be conifer dominant stands, but due to historical events the stand has become dominated by hardwoods, in particular, red alder, disturbance is allowed to produce conditions suitable for the re-establishment of conifer. In this and other situations where the existing streamside vegetation is incapable of developing characteristics of a mature streamside stand in a "timely manner," the desired action is to manipulate the streamside area and woody debris levels at the time of harvest (through an alternative vegetation retention prescription or site specific vegetation retention prescription) to attain such characteristics more quickly.

Statutory/Other Authority: ORS 527.710

Statutes/Other Implemented: ORS 527.765, 919(9)

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0100~~

~~General Vegetation Retention Prescription for Type F Streams~~

- ~~(1)(a) Operators shall apply the vegetation retention requirements described in this rule to the riparian management areas of Type F streams. Vegetation retention requirements for Type SSBT streams adjacent to harvest type 2 or harvest type 3 units are described in OAR 629-642-0105 and other water protection rules.¶¶~~
- ~~(b) Segments of Type F streams that are different sizes within an operation shall not be combined or averaged together when applying the vegetation retention requirements.¶¶~~
- ~~(c) Trees left to meet the vegetation retention requirements for one stream type shall not count towards the requirements of another stream type.¶¶~~
- ~~(2) Operators shall retain:¶¶~~
- ~~(a) All understory vegetation within 10 feet of the high water level;¶¶~~
- ~~(b) All trees within 20 feet of the high water level; and¶¶~~
- ~~(c) All trees leaning over the channel.¶¶~~
- ~~(3) Operators shall retain within riparian management areas and streams all downed wood and snags that are not safety or fire hazards. Snags felled for safety or fire hazard reasons shall be retained where they are felled unless used for stream improvement projects.¶¶~~
- ~~(4) Notwithstanding the requirements of section (2) of this rule, vegetation, snags and trees within 20 feet of the high water level of the stream may be felled, moved or harvested as allowed in other rules for road construction, yarding corridors, temporary stream crossings, or for stream improvement.¶¶~~
- ~~(5) Operators shall retain at least 40 live conifer trees per 1000 feet along large streams and 30 live conifer trees per 1000 feet along medium streams. This includes trees left to meet the requirements described in section (2) of this rule. Conifers must be at least 11 inches DBH for large streams and 8 inches DBH for medium streams to count toward these requirements.¶¶~~
- ~~(6) Operators shall retain trees or snags six inches or greater DBH to meet the following requirements (this includes trees left to meet the requirements of sections (2) and (5) of this rule):¶¶~~
- ~~(a) If the live conifer tree basal area in the riparian management area is greater than the standard target shown in Table 2 where the harvest unit will be a harvest type 2 or type 3 unit or Table 3 where the harvest unit will be a harvest type 1, partial harvest, or thinning, operators shall retain live conifer trees of sufficient basal area to meet the standard target.¶¶~~
- ~~(b) If the live conifer tree basal area in the riparian management area is less than the standard target (as shown in Table 2 where the harvest unit will be a harvest type 2 or type 3 unit, or Table 3 where the harvest unit will be a harvest type 1, partial harvest, or thinning) but greater than one-half the standard target shown in Table 2, operators shall retain all live conifer trees six inches DBH or larger in the riparian management area (up to a maximum of 150 conifers per 1000 feet along large streams, 100 conifers per 1000 feet along medium streams, and 70 conifers per 1000 feet along small streams).¶¶~~
- ~~(c) If live conifer tree basal area in the riparian management area is less than one-half the standard target shown in Table 2:¶¶~~
- ~~(A) Operators may apply an alternative vegetation retention prescription as described in OAR 629-642-0600 where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-642-0700; or¶¶~~
- ~~(B) Operators shall retain all conifers in the riparian management area and all hardwoods within 50 feet of the high water level for large streams, within 30 feet of the high water level for medium streams, and within 20 feet of the high water level for small streams.¶¶~~
- ~~(7) In the Coast Range, South Coast, Interior, Western Cascade, and Siskiyou geographic regions, hardwood trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (6)(a) of this rule as follows:¶¶~~
- ~~(a) All cottonwood and Oregon ash trees within riparian management areas that are beyond 20 feet of the high water level of large Type F streams, may count toward the basal area requirements.¶¶~~
- ~~(b) Up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall and other large live hardwood trees, except red alder, growing in the riparian management area more than 20 feet from the high water level and at least 24 inches DBH.¶¶~~
- ~~(8) In the Eastern Cascade and Blue Mountain geographic regions, hardwood trees, dying or recently dead trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (6)(a) of this rule as follows:¶¶~~

- (a) The basal area of retained live hardwood trees may count toward meeting the basal area requirements.¶
- (b) Up to 10 percent of the basal area retained to meet the basal area requirement may be comprised of sound conifer snags at least 30 feet tall.¶
- (c) For small Type F streams, the maximum required live conifer tree basal area that must be retained to meet the standard target is 40 square feet. The remaining basal area required may come from retained snags, dying or recently dead trees, or hardwoods if available within the riparian management area.¶
- (9) Notwithstanding the requirements indicated in this rule, operators may conduct pre-commercial thinning and other release activities to maintain the growth and survival of conifer reforestation within riparian management areas. Such activities shall contribute to and be consistent with enhancing the stand's ability to meet the desired future condition.¶
- (10) When determining the basal area of trees, the operator may use the average basal area for a tree's diameter class, as shown in Table 4, or determine an actual basal area for each tree. The method for determining basal area must be consistent throughout the riparian management area.¶
- (11)(a) For large and medium Type F streams (not including Type SSBT streams), live conifer trees retained in excess of the active management target shown in Table 2 and hardwoods retained beyond 20 feet of the high water level of the stream that otherwise meet the requirements for leave trees may be counted toward requirements for leave trees within harvest type 2 or harvest type 3 units (pursuant to ORS 527.676).¶
- (b) For small Type F streams (not including Type SSBT streams), all retained live trees that otherwise meet the requirements for leave trees may count toward requirements for leave trees within harvest type 2 or harvest type 3 units (pursuant to ORS 527.676).¶
- (12) Trees on islands with ground higher than the high water level may be harvested as follows:¶
- (a) If the harvest unit is solely on an island, operators shall apply all the vegetation retention requirements for a large Type F stream described in this rule to a riparian management area along the high water level of the channels forming the island.¶
- (b) Otherwise, operators shall retain all trees on islands within 20 feet of the high water level of the channels forming the island and all trees leaning over the channels. In this case, conifer trees retained on islands may count toward the basal area requirement for adjacent riparian management areas so long as the trees are at least 11 inches DBH for large streams and eight inches DBH for medium streams.¶
- (13) When applying the vegetation retention requirements described in this rule to the riparian management areas, if an operator cannot achieve the required retention without leaving live trees on the upland side of a road that may be within the riparian management area and those trees pose a safety hazard to the road and will provide limited functional benefit to the stream, the State Forester may approve a plan for an alternate practice to modify the retention requirements on a site specific basis.

Statutory/Other Authority: ORS 527.710

Statutes/Other Implemented: ORS 527.715, 527.765

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

**629-642-0105**

**General Vegetation Retention Prescriptions for Type SSBT Streams ¶¶**

- (1) The purpose for the vegetation retention prescriptions in this section is to ensure that, to the maximum extent practicable, forest operations will not impair the achievement and maintenance of the protecting cold water criterion described in OAR 340-041-0028(11).¶¶
- (2) The vegetation retention requirements for Type SSBT streams apply to harvest type 2 or harvest type 3 units in the following Geographic Regions as described in OAR 629-635-0220: Coast Range, South Coast, Interior, Western Cascades, and Siskiyou. Use rules in OAR 629-642-0100 for Type 1 harvests along SSBT streams.¶¶
- (3) Operators shall apply the vegetation retention requirements described in this rule to the riparian management area of the following streams:¶¶
- (a) Type SSBT streams.¶¶
- (b) The main stem of any Type F stream upstream of the mapped end of SSBT use to the higher of:¶¶
- (A) The upstream boundary of the harvest unit containing SSBT, or¶¶
- (B) The upstream boundary of any adjacent upstream harvest unit commenced within a year of completing harvest of the unit containing SSBT.¶¶
- (c) For the purpose of this rule, "main stem" means the stream with the largest annual average flow at a confluence of two or more streams. The State Forester shall determine average annual flow by indexing average annual flow to the upstream drainage area and average annual precipitation as described in Forest Practices Technical Note 1 dated April 11, 1994. The State Forester may substitute field evaluations of average annual flow for the calculated flows described in the technical note.¶¶
- (4) Segments of Type SSBT streams that are different sizes within an operation shall not be combined or averaged together when applying the vegetation retention requirements.¶¶
- (5) Trees left to meet the vegetation retention requirements for one stream type shall not count towards the requirements of another stream type.¶¶
- (6) Operators shall retain:¶¶
- (a) All understory vegetation within 10 feet of the high water level;¶¶
- (b) All trees within 20 feet of the high water level; and¶¶
- (c) All trees leaning over the channel.¶¶
- (7) Operators shall retain all downed wood and snags that are not safety or fire hazards within riparian management areas and streams. Snags felled for safety or fire hazard reasons shall be retained where they are felled unless used for stream improvement projects.¶¶
- (8) Notwithstanding the requirements of section (6) of this rule, vegetation, snags and trees within the riparian management area of the stream may be felled, moved or harvested as allowed in other rules for road construction, yarding corridors, temporary stream crossings, or for stream improvement while maintaining required basal area and live conifer tree count.¶¶
- (9) When harvesting in the riparian management area of a Type SSBT stream, an operator shall apply one of the following prescriptions, except as noted for Type SSBT Prescription 3 in section (12).¶¶
- (a) Operators may apply Type SSBT Prescription 1 on any Type SSBT riparian management area as described in section (10) of this rule.¶¶
- (b) If the basal area of trees six inches or greater DBH within the riparian management area but more than 20 feet from the high water level of the Type SSBT stream exceeds the total basal area target shown in Table 5, the operator may apply Type SSBT Prescription 2, described in section (11) of this rule.¶¶
- (c) If a Type SSBT stream segment at least 200 feet in length meets the standards in Type SSBT Prescription 3, the operator may apply that prescription on the north side of the stream segment, as described in section (12) of this rule.¶¶
- (d) If live conifer basal area within the riparian management area of a Type SSBT stream is less than half the standard target for a small or medium Type F stream in Table 2, the operator may apply the appropriate Alternative Prescription described in OAR 629-642-0600.¶¶
- (e) For the riparian management area of any Type SSBT stream, the operator may propose a site-specific prescription in a plan for an alternate practice. Plans for alternate practices are subject to the review and approval of the State Forester. Site-specific prescriptions are described in OAR 629-642-0700.¶¶
- (10) Type SSBT Prescription 1:¶¶
- (a) Retain all trees within 60 feet of the high water level of a small stream.¶¶

- (b) Retain all trees within 80 feet of the high water level of a medium stream.¶¶
- (c) Where SSBT Prescription 1 is applied, operators may count as wildlife leave trees all trees that meet wildlife leave tree requirements.¶¶
- (A) Within 20 feet of the high water level.¶¶
- (B) In the remainder of the riparian management area, up to 50 percent of the basal area trees used to meet the basal area target in Table 5.¶¶
- (C) Any trees within the area described in (B) in excess of the basal area target in Table 5.¶¶
- (11) Type SSBT Prescription 2:¶¶
- (a) Operators shall retain trees that are well-distributed by length and width of the riparian management area beyond 20 feet of the high water level of the stream, minimize the creation of large gaps, favor small openings in the canopy, and leave residual trees in a manner that promotes understory as well as diameter and crown growth. Operators shall satisfy these requirements by meeting the following minimum standards:¶¶
- (A) For small Type SSBT streams, the riparian management area length will be measured in 500-foot segments. Within each 500-foot segment at least 25 percent of the required basal area target, rounded up to the nearest whole number, and 50 percent of the required live conifer trees, rounded up to the nearest whole tree, shall be located between:¶¶
- (i) 20 feet and 40 feet of the high water level, see Table 5; and¶¶
- (ii) 40 feet and 60 feet of the high water level, see Table 5.¶¶
- (B) For medium Type SSBT streams, the riparian management area length will be measured in 500-foot segments. Within each 500-foot segment at least 25 percent of the required basal area target, rounded up to the nearest whole number, and 50 percent of the required live conifer trees, rounded up to the nearest whole tree, shall be located between:¶¶
- (i) 20 feet and 50 feet of the high water level, see Table 5; and¶¶
- (ii) 50 feet and 80 feet of the high water level, see Table 5.¶¶
- (b) For stream segments that are less than 500 feet, the required basal area and live conifer trees are reduced proportionally.¶¶
- (c) The operator shall provide a description in the written plan and map where the measurement for the 500-foot stream segments begin and end.¶¶
- (d) Operators shall retain live conifer trees:¶¶
- (A) For small Type SSBT streams, at least 8 live conifer trees per 500 feet along the stream, located between 20 feet and 60 feet from the high water level. Live conifer trees must be at least 8 inches DBH to count toward these requirements, see Table 5.¶¶
- (B) For medium Type SSBT streams, at least 15 live conifer trees per 500 feet along the stream, located between 20 feet and 80 feet from the high water level. Live conifer trees must be at least 8 inches DBH to count toward these requirements, see Table 5.¶¶
- (e) Operators shall retain hardwood and conifer trees and snags six inches or greater DBH to meet the following basal area requirements:¶¶
- (A) For small Type SSBT streams, conifer and hardwood basal area target is shown in Table 5.¶¶
- (B) For medium Type SSBT streams, conifer and hardwood basal area target is shown in Table 5.¶¶
- (C) Up to 10 percent of the basal area requirements may be comprised of sound conifer snags at least 30 feet tall.¶¶
- (f) Where Type SSBT Prescription 2 is applied, operators may count as wildlife leave trees all trees that meet wildlife leave tree requirements:¶¶
- (A) Within 20 feet of the high water level.¶¶
- (B) In the remainder of the riparian management area, up to 50 percent of the basal area trees retained to meet the basal area target in Table 5.¶¶
- (C) Any trees within the area described in (B) in excess of the basal area target in Table 5.¶¶
- (12) Type SSBT Prescription 3:¶¶
- (a) This prescription applies to Type SSBT streams where the stream valley direction is between 60 and 120 degrees east and 240 and 300 degrees west on a compass bearing of 0 and 360 degrees as north. Operators shall:¶¶
- (A) Retain all trees within 40 feet of the high water level on the north side of a Type SSBT stream where the stream valley direction criteria are met.¶¶
- (B) The operator shall describe in a written plan and map where the alternative prescription is intended to be implemented.¶¶
- (b) Where Type SSBT Prescription 3 is not applied, the operator shall apply either Type SSBT Prescription 1 or 2.¶¶
- (c) The State Forester shall maintain a map showing stream valley direction for applying Type SSBT Prescription 3.¶¶
- (d) The State Forester may substitute field evaluations of stream valley direction instead of the map.¶¶
- (A) The field-based evaluation shall measure the stream valley direction with a minimum of 200-foot stream

segments.¶¶

(B) The stream segment must meet the stream valley direction criteria listed above to apply SSBT Prescription 3.¶¶

(c) Where Type SSBT Prescription 3 is applied, operators may count all trees that meet the wildlife leave tree requirements retained within 40 feet of the high water level as wildlife leave trees.¶¶

(13) Notwithstanding the requirements indicated in this rule, operators may conduct pre-commercial thinning and other release activities to maintain the growth and survival of conifer reforestation within riparian management areas. Such activities shall contribute to and be consistent with enhancing the stand's ability to meet the desired future condition.¶¶

(14) When determining the basal area of trees, the operator may use the average basal area for a tree's diameter class, as shown in Table 4, or determine an actual basal area for each tree. The method for determining basal area must be consistent throughout the riparian management area.¶¶

(15) When applying the vegetation retention requirements described in this rule to the riparian management areas, if an operator cannot achieve the required retention without leaving live trees on the upland side of a road that may be within the riparian management area and those trees pose a safety hazard to the road and will provide limited functional benefit to the stream, the State Forester may approve a plan for an alternate practice to modify the retention requirements on a site specific basis.

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

Statutes/Other Implemented: ORS 527.630(5), 527.674, 527.714, 527.715, 527.765, 527.710, 527.919(9)

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

**629-642-0110**

**Relief for General Vegetation Retention Prescriptions for Type SSBT Streams**

(1) Upon written request from a landowner, relief is available if the additional encumbered forested stream area due to Type SSBT classification is 8% or more of the forested portion of any parcel. The additional encumbered forested stream area is measured by the increase in acres of the Type SSBT vegetation prescription over the vegetation prescription for Type F streams. To determine the additional percentage forested stream area encumbered, the increase in acres is divided by the forested parcel acres.

(2) "Parcel" as described in this section 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).

(3) If a landowner qualifies for relief, the landowner may utilize:

(a) Type SSBT Relief Prescription 1 which is Type SSBT Prescription 1, as described in OAR 629-642-0105(10), within a reduced riparian management area of 50 feet or 70 feet for small and medium Type SSBT streams, respectively; or

(b) Type SSBT Relief Prescription 2 which is Type SSBT Prescription 2, as described in OAR 629-642-0105(11), within a reduced riparian management area of 50 feet or 70 feet for small and medium Type SSBT streams, respectively. See Table 6 for reduced basal area targets and live conifer tree requirements.

(4) Type SSBT Relief Prescription 1:

(a) Retain all trees within 50 feet of the high water level of a small stream.

(b) Retain all trees within 70 feet of the high water level of a medium stream.

(c) Where Type SSBT Relief Prescription 1 is applied, operators may count as wildlife leave trees all trees that meet wildlife leave tree requirements:

(A) Within 20 feet of the high water level.

(B) In the remainder of the riparian management area, up to 50 percent of the basal area trees used to meet the basal area target in Table 6.

(C) Any trees within the area described in (B) in excess of the basal area target in Table 6.

(5) Type SSBT Relief Prescription 2:

(a) Operators shall retain trees that are well-distributed by length and width of the riparian management area beyond 20 feet of the high water level of the stream, minimize the creation of large gaps, favor small openings in the canopy, and leave residual trees in a manner that promotes understory as well as diameter and crown growth. Operators shall satisfy these requirements by meeting the following minimum standards:

(A) For small Type SSBT streams, the riparian management area length will be measured in 500-foot segments. Within each 500-foot segment at least 25 percent of the required basal area target, rounded up to the nearest whole number, and 50 percent of the required live conifer trees, rounded up to the nearest whole tree, shall be located between:

(i) 20 feet and 35 feet of the high water level, see Table 6; and

(ii) 35 feet and 50 feet of the high water level, see Table 6.

(B) For medium Type SSBT streams, the riparian management area length will be measured in 500-foot segments. Within each 500-foot segment at least 25 percent of the required basal area target, rounded up to the nearest whole number, and 50 percent of the required live conifer trees, rounded up to the nearest whole tree, shall be located between:

(i) 20 feet and 45 feet of the high water level, see Table 6; and

(ii) 45 feet and 70 feet of the high water level, see Table 6.

(b) For stream segments that are less than 500 feet, the required basal area and live conifer trees are reduced proportionally.

(c) The operator shall provide a description in the written plan and map where the measurement for the 500-foot stream segments begin and end.

(d) Operators shall retain live conifer trees:

(A) For small Type SSBT streams, at least 6 live conifer trees per 500 feet along the stream, located between 20 feet and 50 feet from the high water level. Live conifer trees must be at least 8 inches DBH to count toward these requirements, see Table 6.

(B) For medium Type SSBT streams, at least 13 live conifer trees per 500 feet along the stream, located between



20 feet and 70 feet from the high water level. Live conifer trees must be at least 8 inches DBH to count toward these requirements, see Table 6.¶¶

(e) Operators shall retain hardwood and conifer trees and snags six inches or greater DBH to meet the following basal area requirements:¶¶

(A) For small Type SSBT streams, conifer and hardwood basal area target is shown in Table 6.¶¶

(B) For medium Type SSBT streams, conifer and hardwood basal area target is shown in Table 6.¶¶

(C) Up to 10 percent of the basal area requirements may be comprised of sound conifer snags at least 30 feet tall.¶¶

(f) Where Type SSBT Relief Prescription 2 is applied, operators may count as wildlife leave trees all trees that meet wildlife leave tree requirements:¶¶

(A) Within 20 feet of the high water level.¶¶

(B) In the remainder of the riparian management area, up to 50 percent of the basal area trees retained to meet the basal area target in Table 6.¶¶

(C) Any trees within the area described in (B) in excess of the basal area target in Table 6.¶¶

(6) The State Forester will identify those parcels that potentially qualify for relief.¶¶

(7) The State Forester will make the final determination on whether a parcel qualifies for relief.

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

Statutes/Other Implemented: ORS 527.630(5), 527.674, 527.714, 527.715, 527.765, 527.710, 527.919(9)

REPEAL: 629-642-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0200~~

~~Placing Large Wood Key Pieces in Type F or Type SSBT Streams to Improve Fish Habitat~~

~~(1) Placement of large wood key pieces in a Type F or Type SSBT stream to improve fish habitat that is conducted in conjunction with a forest operation 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, an 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(1)~~

~~Statutes/Other Implemented: ORS 527.765, 527.674, 527.714, 527.715~~

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

**629-642-0300**

**Live Tree Retention Credit for Improvement of Type F and Type SSBT Streams-**

(1) Many Type F and Type SSBT streams currently need improvement of fish habitat because they lack adequate amounts of large woody debris in channels, or they lack other important habitat elements.¶¶

(2) This rule allows operators incentives to conduct other stream enhancement projects to create immediate improvements in fish habitat. Operators placing large wood key pieces in streams, as described in OAR 629-642-0200, may qualify for the live tree retention credit for Type F or Type SSBT streams under this rule only if such placement meets the additional requirements of this rule.¶¶

(3) When addressed in a written plan, operators may place conifer logs or downed trees in Type F or Type SSBT streams and receive basal area credit toward meeting the live tree retention requirements in a stream's riparian management area.¶¶

(4) For each conifer log or tree the operator places in a large or medium Type F stream (except Type SSBT streams), the basal area credit is twice the basal area of the placed log or tree.¶¶

(5) For each conifer log or tree the operator places in a small Type F stream, or small or medium Type SSBT stream, the basal area credit is equal to the basal area of the placed log or tree.¶¶

(6) Basal area credit will be determined by measuring the cross-sectional area of the large end of a log or by measuring the point on a downed tree that would be equivalent to breast height.¶¶

(7) To receive basal area credit for downed trees or conifer logs placed in a stream, the operator shall comply with the guidance and restrictions for placing logs or trees prescribed by the State Forester.¶¶

(8) Operators may propose other stream enhancement projects for basal area credit such as creation of backwater alcoves, riparian grazing exclosures (such as fencing), and placement of other instream structure such as boulders and rootwads. When a project is addressed in a written plan and reviewed by the State Forester in consultation with the Department of Fish and Wildlife, basal area credit shall be given toward meeting the live tree requirements within riparian management areas. The basal area credit shall be negotiated between the State Forester, operator and Department of Fish and Wildlife.¶¶

(9) Basal area credit may be given to an operation for enhancement projects conducted at locations other than at the operation site so long as the project is in the same immediate vicinity as the operation site (for instance, within one or two miles of the operation).¶¶

(10) Basal area credit may be given to an operation for improvement projects conducted at a later date (this may be necessary to avoid operating under high water conditions or to protect spawning areas), but the project must be completed within six months of the completion of the operation.¶¶

(11) In granting basal area credit, the standing tree basal area retained within riparian management areas of Type F streams shall not be reduced to less than the active management targets for Type F streams shown in Table 2 or 3, as applicable.¶¶

(12) For small Type F streams in the Eastern Cascade and Blue Mountain geographic regions, the live conifer tree basal area may be reduced to 30 square feet for the active management target. The remaining portion of the basal area requirement must come from snags, dying or recently dead or dying trees, or hardwood trees if available in the riparian management area.¶¶

(13) Operators shall notify the State Forester of the completion of live tree retention credit stream improvement projects that were planned for locations other than on the operation site under section (9) of this rule or that were planned to be completed at another date under section (10) of this rule.

Statutory/Other Authority: ORS 527.710(1)

Statutes/Other Implemented: ORS 527.674, 527.715, 527.765

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0400~~

~~General Vegetation Retention Prescription for Type D and Type N Streams~~

- ~~(1)(a) Operators shall apply the vegetation retention requirements described in this rule to the riparian management areas of Type D and Type N streams.¶¶~~
- ~~(b) Segments of Type D or Type N streams that may be of a different size within an operation shall not be combined or averaged together when applying the vegetation retention requirements.¶¶~~
- ~~(c) Trees left to meet the vegetation retention requirements for one stream type shall not count toward the requirements of another stream type.¶¶~~
- ~~(2) Operators shall retain along all Type D, and large and medium Type N streams:¶¶~~
- ~~(a) All understory vegetation within 10 feet of the high water level;¶¶~~
- ~~(b) All trees within 20 feet of the high water level; and¶¶~~
- ~~(c) All trees leaning over the channel.¶¶~~
- ~~(3) Operators shall retain all downed wood and snags that are not safety or fire hazards within riparian management areas and streams. Snags felled for safety or fire hazard reasons shall be retained where they are felled unless used for stream improvement projects.¶¶~~
- ~~(4) Notwithstanding the requirements of section (2), vegetation, snags and trees within 20 feet of the high water level of the stream may be felled, moved or harvested as allowed in the rules for road construction, yarding corridors, temporary stream crossings, or for stream improvement.¶¶~~
- ~~(5) Operators shall retain at least 30 live conifer trees per 1000 feet along large Type D and Type N streams and 10 live conifer trees per 1000 feet along medium Type D and Type N streams. This includes any trees left to meet the requirements described in section (2) of this rule. Conifers must be at least 11 inches DBH for large streams and eight inches DBH for medium streams to count toward these requirements.¶¶~~
- ~~(6) Operators shall retain all understory vegetation and non-merchantable conifer trees (conifer trees less than six inches DBH) within 10 feet of the high water level on each side of small perennial Type N streams indicated in Table 7.¶¶~~
- ~~(a) The determination that a stream is perennial shall be made by the State Forester based on a reasonable expectation that the stream will have summer surface flow after July 15.¶¶~~
- ~~(b) The determination in subsection (6)(a) of this rule can be made based on a site inspection, data from other sources such as landowner information, or by applying judgment based upon stream flow patterns experienced in the general area.¶¶~~
- ~~(c) Operators are encouraged whenever possible to retain understory vegetation, non-merchantable trees, and leave trees required within harvest type 2 or harvest type 3 units (pursuant to ORS 527.676) along all other small Type N streams within harvest units.¶¶~~
- ~~(7) Operators shall retain trees six inches or greater DBH to meet the following requirements (this includes trees left to meet the requirements of sections (2) and (5) of this rule):¶¶~~
- ~~(a) If the live conifer tree basal area in the riparian management area is greater than the standard target shown in Table 8 where the harvest will be a harvest type 2 or type 3 unit or in Table 9 where the harvest unit is a harvest type 1, partial harvest, or thinning, operators shall retain along all Type D, and medium and large Type N streams live conifer trees of sufficient basal area to meet the standard target.¶¶~~
- ~~(b) If the live conifer tree basal area in the riparian management area is less than the standard target (as shown in Table 8 where the harvest will be a harvest type 2 or type 3 unit or Table 9 where the harvest unit is a harvest type 1, partial harvest, or thinning), but greater than one-half the standard target shown in Table 8, operators shall retain along all Type D, and medium and large Type N streams all conifers 6 inches DBH or larger in the riparian management area (up to a maximum of 100 conifers per 1000 feet along large streams, and 70 conifers per 1000 feet along medium streams).¶¶~~
- ~~(c) If the live conifer tree basal area in the riparian management area is less than one-half the standard target shown in Table 8:¶¶~~
- ~~(A) Operators may apply an alternative vegetation retention prescription as described in OAR 629-642-0600, where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-642-0700; or¶¶~~
- ~~(B) Operators shall retain along all Type D, and medium and large Type N streams all conifers in the riparian management area and all hardwoods within 30 feet of the high water level for large streams and within 20 feet of the high water level for medium streams.¶¶~~
- ~~(8) In the Coast Range, South Coast, Interior, Western Cascade, and Siskiyou geographic regions, hardwood trees~~

and snags six inches or greater DBH may count toward the basal area requirements in subsection (7)(a) of this rule as follows:¶¶

(a) All cottonwood and Oregon ash trees within riparian management areas that are beyond 20 feet of the high water level of large Type D and N streams, may count toward the basal area requirements.¶¶

(b) For large Type D and N streams, up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall and other large live hardwood trees, except red alder, growing in the riparian management area more than 20 feet from the high water level and at least 24 inches DBH.¶¶

(c) For medium Type D and N streams:¶¶

(A) Up to 30 square feet of basal area per 1000 feet of stream may be comprised of hardwood trees.¶¶

(B) Up to five percent of the basal area retained may be comprised of sound conifer snags that are at least 30 feet tall.¶¶

(9) In the Eastern Cascade and Blue Mountain geographic regions:¶¶

(a) The basal area of all retained live hardwood trees may count toward meeting the basal area requirements.¶¶

(b) For large Type D and N streams, up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall.¶¶

(c) For medium Type D and N streams, up to five percent of the basal area retained may be comprised of sound conifer snags that are at least 30 feet tall.¶¶

(10) Notwithstanding the requirements indicated in this rule, operators may conduct precommercial thinning and other release activities to maintain the growth and survival of conifer reforestation within riparian management areas. Such activities shall contribute to and be consistent with enhancing the stand's ability to meet the desired future condition.¶¶

(11) When determining the basal area of trees along streams in a harvest unit, operators may use the average basal area for a tree's diameter class, as shown in Table 4 in OAR 629-642-0100, or determine an actual basal area for each tree. The method for determining basal area must be consistent throughout the riparian management area.¶¶

(12) All live trees retained along Type D and N streams that otherwise meet the requirements for leave trees may count toward requirements for leave trees within harvest type 2 or harvest type 3 units (pursuant to ORS 527.676).¶¶

(13) Trees on islands with ground higher than the high water level may be harvested as follows:¶¶

(a) If the harvest unit is solely on an island, operators shall apply all the vegetation retention requirements for a large Type F stream described in this rule to a riparian management area along the high water level of the channels forming the island.¶¶

(b) Otherwise, operators shall retain all trees on islands within 20 feet of the high water level of the channels forming the island and all trees leaning over the channels. In this case, conifer trees retained on islands may count toward the basal area requirement for adjacent riparian management areas so long as the trees are at least 11 inches DBH for large streams and 8 inches DBH for medium streams.¶¶

(c) All merchantable trees may be harvested from islands within small Type N streams.¶¶

(14) When applying the vegetation retention requirements described in this rule to the riparian management areas, if an operator cannot achieve the required retention without leaving live trees on the upland side of a road that may be within the riparian management area and those trees pose a safety hazard to the road and will provide limited functional benefit to the stream, the operator may submit a plan for an alternate practice to the State Forester to modify the retention requirements on a site specific basis.

Statutory/Other Authority: ORS 527

Statutes/Other Implemented: ORS 527.674, 527.715, 527.765

REPEAL: 629-642-0500

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0500~~

~~Leaving Green Trees and Snags along Small Type N Streams subject to Rapidly Moving Landslides~~

~~(1) The purpose of this rule is to provide a source of large wood that can be moved by rapidly moving landslides into Type F or Type SSBT streams.¶¶~~

~~(2) When directed by the State Forester, operators must retain green trees and snags required for harvest type 2 or type 3 units under ORS 527.676 adjacent to small Type N streams subject to rapidly moving landslides likely to deliver wood to Type F or Type SSBT streams.¶¶~~

~~(a) The green trees and snags must be retained within an area that is 50 feet on each side of the small Type N stream and 500 feet upstream from a riparian management area of a Type F or Type SSBT stream.¶¶~~

~~(b) Requirements under OAR 629-623-0300 supersede the requirements of this rule.¶¶~~

~~(3) Operators are required to retain all green trees and snags in the area described in subsection (2)(a) of this rule up to the number determined by the equation  $H - T$  where:¶¶~~

~~(a) H is the total number of green trees and snags required to be retained in the harvest type 2 or type 3 unit; and¶¶~~

~~(b) T is the number of trees retained in riparian management areas in the harvest unit that may be counted as harvest unit leave trees under OARs 629-642-0100(11) and 629-642-0400(12).¶¶~~

~~(4) An operator may propose a plan for an alternate practice to meet the purpose of this rule. Alternate practices may include but are not limited to placing wood directly in the Type F or Type SSBT stream.¶¶~~

~~(5) This rule takes effect on October 1, 2007.~~

~~Statutory/Other Authority: ORS 527.710 Other Auth. 527.630(3), 527.714, 526.016(4)~~

~~Statutes/Other Implemented: ORS 527.676(3)(d), 527.715, 527.765~~

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0600~~

~~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 conifers to maintain fish, wildlife, and water quality resources over time. Future desired streamside stand conditions are achieved through immediate manipulation of vegetation, including reforestation of the riparian management area with conifers.~~

~~(2) Sections (3) and (4) of this rule are alternative vegetation retention prescriptions that operators may apply if the conifer basal area in the riparian management area is no more than one-half of the standard target indicated in either Table 2 of OAR 629-642-0100 or Table 8 of OAR 629-642-0400, as may be applicable, and conditions described in the alternative prescription are applicable.~~

~~(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, insect or disease mortality. Such mortality must occur at the stand level and shall not include normal endemic mortality. The 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. Operators shall:~~

~~(a) Retain trees that have fallen in the stream. Only 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 may be harvested.~~

~~(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 streams, retain live trees, dying or recently dead trees, and downed logs sufficient to satisfy the active management target shown in Table 2.~~

~~(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 8.~~

~~(e) Live conifers shall be retained first to meet the target. If live conifers are too few to satisfy the target, then the target shall be met 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 general vegetation retention prescription while the remainder is managed according to this alternative prescription. The 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) 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 general vegetation retention prescription for vegetation retention shall be applied to these segments.~~

~~(b) For the remaining portion of the riparian management area that has lower conifer basal area, the riparian management area shall be divided into conversion blocks and retention blocks.~~

~~(c) No more than half of the total stream length in the harvest unit can be included within conversion blocks. Conversion blocks can be no more than 500 feet long and must be separated from each other by at least 200 feet of retention block or by at least a 200-foot segment where the general vegetation retention prescription is applied.~~

~~(d) Within conversion blocks the operator shall retain:~~

~~(A) All trees growing in the stream or within 10 feet of the high water level of the stream.~~

~~(B) All trees leaning over the channel within 20 feet of the high water level of large streams.~~

~~(e) Within retention blocks the operator shall retain:~~

~~(A) For large streams, all conifer trees within 50 feet of the high water level of the stream and all hardwood trees within 30 feet of the high water level of the stream.~~

~~(B) For medium streams, all conifer trees within 30 feet of the high water level of the stream and 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~~

~~Statutes/Other Implemented: ORS 527.710, 527.765, 919(9)~~



REPEAL: 629-642-0700

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0700~~

~~Site Specific Vegetation Retention Prescriptions for Streams and Riparian Management Areas-~~

~~(1)(a) Operators are encouraged to develop site specific vegetation retention prescriptions in a plan for an alternate practice.¶¶~~

~~(b) A primary aim of these prescriptions is to identify opportunities and allow incentives for restoring or enhancing riparian management areas or streams.¶¶~~

~~(c) Another purpose of site specific vegetation retention prescriptions is to allow for changes to the vegetation retention requirements in OARs 629-642-0100, 629-642-0105 and 629-642-0400. 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.¶¶~~

~~(2) Operators may develop site specific vegetation retention prescriptions for streams and their riparian management areas to achieve the vegetation retention goals described in OAR 629-642-0000 if:¶¶~~

~~(a) The potential of the streamside stand to achieve basal area and stand density similar to mature conifer forest stands in a "timely manner" is questionable; or¶¶~~

~~(b) In-stream conditions are impaired due to inadequate large woody debris or other factors; or¶¶~~

~~(c) The modification of a standard or practice would result in less environmental damage than if the standard or practice were applied.¶¶~~

~~(3) A plan for an alternate practice shall be approved if the State Forester determines that when properly executed the alternate plan will have no significant or permanent adverse effects and:¶¶~~

~~(a) It will meet or exceed the vegetation retention goals in a more "timely manner" than if the plan were not implemented; or¶¶~~

~~(b) The long-term benefits of the proposed restoration practice are greater than short-term detrimental effects; or¶¶~~

~~(c) The proposed practice will result in less environmental damage than if the regular rules were followed.¶¶~~

~~(4) Factors that may need to be considered in the plan include, but are not limited to, the potential of the existing streamside stand to achieve mature conifer forest characteristics, the long-term supply of woody debris, survival of planted conifers, sensitivity to changes in water temperature and water quality, the potential for sedimentation, the stability of woody debris placed in aquatic areas, and monitoring the direct effects of the proposed practices.~~

~~Statutory/Other Authority: ORS 527.710~~

~~Statutes/Other Implemented: ORS 527.674, 527.710, 527.765, 919(9)~~

REPEAL: 629-642-0800

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the repeal of this rule.

CHANGES TO RULE:

~~629-642-0800~~

~~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 outside of the riparian management areas. Reforestation is more difficult in riparian management areas due to a number of factors. To succeed with the required reforestation, land-owners should anticipate and plan for such factors as brush control measures, animal damage problems, and tree species that are suitable for wetter sites.~~

~~Statutory/Other Authority: ORS 527.710~~

~~Statutes/Other Implemented: ORS 527.674, 527.710, 527.765, 919(9)~~

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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 November 2025. In November 2025, the Board of Forestry will replace these sections as part of the post-disturbance harvest rulemaking directed by section 6(2)(a), chapter 33, Oregon Laws 2022.¶

(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 527.620, 527.765, Section 2(2), Chapter 33, Oregon Laws 2022

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0100

Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams in Western Oregon

(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]

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0100

**Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams  
in Western Oregon**

**Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management  
Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 &amp; 50</u>	<u>75 feet for 500 feet, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet<sup>1</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> 20 feet outside of Type N vegetation retention requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0105

Standard Practice Vegetation Retention Prescription for Type N Streams in Western Oregon

(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]¶

(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).¶

(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.¶

(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. ¶

(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.<sup>¶</sup>

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0105

**Standard Practice Vegetation Retention Prescription for Type N Streams in Western Oregon**

**Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 &amp; 50</u>	<u>75 feet for 500 feet, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet<sup>1</sup></u>	<u>See OAR 629-643-0150</u>

**<sup>1</sup> 20 feet outside of Type N vegetation retention requirements**



RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0120

Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams in Eastern Oregon

(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]¶

(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 conditions.¶

(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. ¶

(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, 527.715, 527.765, 527.710, Section 2(2), Chapter 33, Oregon Laws 2022

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.



**629-643-0120**

**Standard Practice Vegetation Retention Prescription for Type F and Type SSBT Streams in Eastern Oregon**

**Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>-</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>-</u>	<u>30</u>	<u>-</u>	<u>30 or 20 feet<sup>3</sup></u>	<u>-</u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> 20 feet outside of Type N vegetation retention requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0125

Standard Practice Vegetation Retention Prescription for Type N Streams in Eastern Oregon

(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]

(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 retention 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.

(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.

(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 from the tree retention requirements in this rule, the operator shall apply an R-ELZ or ELZ as required in OAR 629-643-0130.

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0125

**Standard Practice Vegetation Retention Prescription for Type N Streams in Eastern Oregon**

**Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>-</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>-</u>	<u>30</u>	<u>-</u>	<u>30 or 20 feet<sup>3</sup></u>	<u>-</u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> 20 feet outside of Type N vegetation retention requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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) Points established pursuant to an operational field survey.

(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 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances]

[Table 3: Western 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]

(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, as defined in OAR 629-600-0100, 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 electronic notification and reporting 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 electronic notification and reporting 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 electronic notification and reporting system. Operators may rely upon and operate pursuant to prior operational field surveys recorded in the department's electronic notification and reporting 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 State Forester shall publish 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 State Forester's electronic notification and reporting 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 State Forester's electronic notification system 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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0130

Standard Practice Requirements for Small Type N Streams

**Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 &amp; 50</u>	<u>75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>75feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet<sup>1</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> 20 feet outside of Type N vegetation retention requirements

**Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>:</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>:</u>	<u>:</u>	<u>:</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>:</u>	<u>30</u>	<u>:</u>	<u>30 or 20 feet<sup>3</sup></u>	<u>:</u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> 20 feet outside of Type N vegetation retention requirements

**Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance<sup>1</sup></u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet<sup>2</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> 20 feet outside of Type N vegetation retention requirements

**Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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]

(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]

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0135

**Standard Practice Vegetation Retention for Seeps and Springs, Side Channels, and Stream Associated Wetlands**

**Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 &amp; 50</u>	<u>75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>50 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet<sup>1</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> 20 feet outside of Type N vegetation retention requirements

**Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer<sup>2</sup></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>-</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>-</u>	<u>30</u>	<u>-</u>	<u>30 or 20 feet<sup>3</sup></u>	<u>-</u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> 20 feet outside of Type N vegetation retention requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances] ¶

(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 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances] ¶

(c) The forest conservation 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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0140

**Small Forestland Owner Minimum Option Vegetation Retention Prescription Requirements**

**Table 1. Western Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance</u>
<u>Type F or Type SSBT</u>	<u>110 feet</u>	<u>110 feet</u>	<u>100 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>75 feet</u>	<u>75 feet</u>	<u>See Type Np</u>	<u>N/A</u>
<u>Type Np, into Type SSBT</u>			<u>75 &amp; 50</u>	<u>75 feet for 500, then 50 feet for 650 feet. RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>50 feet</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75 feet</u>	<u>75 feet</u>	<u>75 or 20 feet<sup>1</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> 20 feet outside of Type N vegetation retention requirements

**Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer<sup>2</sup></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>-</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>-</u>	<u>30</u>	<u>-</u>	<u>30 or 20 feet<sup>3</sup></u>	<u>-</u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> 20 feet outside of Type N vegetation retention requirements



**Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance<sup>1</sup></u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet<sup>2</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> 20 feet outside of Type N vegetation retention requirements

<sup>3</sup> 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**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> OAR 629-643-0143 describes all Type Np riparian vegetation requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0141

Minimum Management Option for Small Forestland Owners in Western Oregon

(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]

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0141

Minimum Management Option for Small Forestland Owners in Western Oregon

**Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance<sup>1</sup></u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet<sup>2</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> 20 feet outside of Type N vegetation retention requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0142

Minimum Option Prescription for Small Forestland Owners in Eastern Oregon

(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]

(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]

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

629-643-0142

Minimum Option Prescription for Small Forestland Owners in Eastern Oregon

**Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> OAR 629-643-0143 describes all Type Np riparian vegetation requirements

**Table 2: Eastern Oregon Standard Practice Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sub>2</sub></u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>45</u>	<u>-</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>45</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Type Np, Terminal</u>					<u>30</u>	<u>30</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>					<u>30</u>	<u>N/A</u>	<u>RH Max = 250 feet</u>
<u>Type D</u>	<u>30</u>	<u>-</u>	<u>30</u>	<u>-</u>	<u>30 or 20 feet<sup>3</sup></u>	<u>-</u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

<sup>3</sup> 20 feet outside of Type N vegetation retention requirements

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0143

Small Type N Streams Vegetation Requirements for Small Forestland Owners

(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 State Forester's electronic 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

ADOPT: 629-643-0145

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

629-643-0145

Small Forestland Owner Minimum Option Prescription for Seeps and Springs in Western Oregon and Eastern Oregon

(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]¶

(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]¶

(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

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.



629-643-0145

**Small Forestland Owner Minimum Option Prescription for Seeps and Springs in Western Oregon and Eastern Oregon**

**Table 3: Western Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>	<u>Medium</u>	<u>Small</u>	<u>Upstream distance<sup>1</sup></u>
<u>Type SSBT</u>	<u>100 feet</u>	<u>80 feet</u>	<u>60 feet</u>	<u>N/A</u>
<u>Type F</u>	<u>100 feet</u>	<u>70 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Type N</u>	<u>70 feet</u>	<u>50 feet</u>	<u>See Type Np</u>	
<u>Type Np, into Type SSBT</u>			<u>35</u>	<u>RH Max = 1,150 feet</u>
<u>Type Np, into Type F</u>			<u>35</u>	<u>RH Max = 600 feet</u>
<u>Type D</u>	<u>75</u>	<u>75</u>	<u>35 or 20 feet<sup>2</sup></u>	<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> 20 feet outside of Type N vegetation retention requirements

**Table 4: Eastern Oregon Small Forestland Owner Minimum Option Vegetation Retention Riparian Management Area Distances**

<u>Stream Type</u>	<u>Large</u>		<u>Medium</u>		<u>Small</u>		<u>Upstream distance<sup>1</sup></u>
	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer</u>	<u>Inner</u>	<u>Outer<sup>2</sup></u>	
<u>Type F or Type SSBT</u>	<u>30</u>	<u>70</u>	<u>30</u>	<u>50</u>	<u>30</u>	<u>30</u>	<u>N/A</u>
<u>Type N</u>	<u>30</u>	<u>45</u>	<u>30</u>	<u>30</u>	<u>-</u>	<u>-</u>	
<u>Type Np, Terminal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>20</u>	<u>RH Max = 500 feet</u>
<u>Type Np, Lateral</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>20</u>	<u>N/A</u>	<u>250 feet</u>
<u>Type D</u>	<u>30</u>		<u>30</u>		<u>20</u>		<u>See OAR 629-643-0150</u>

<sup>1</sup> Upstream distance from either Type F or Type SSBT

<sup>2</sup> Outer Zone shall retain 60 square feet of basal area per acre; apply OAR 629-643-0120

ADOPT: 629-643-0150

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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

ADOPT: 629-643-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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 reforestation of 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]

[Table 5. Alternative Prescription Basal Area Table for Type F/SSBT Streams]

[Table 6. Alternative Prescription Basal Area Table for Type D and Type N Streams]

(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.

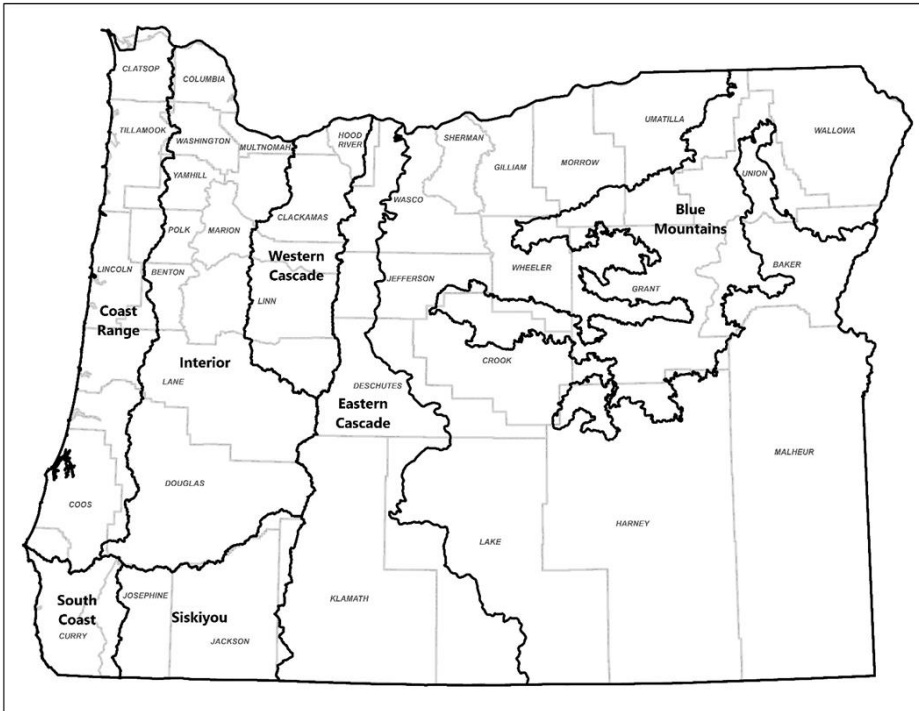
Statutory/Other Authority: ORS 527.710, Section 2(1), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.715, 527.765, Section 2(2), Chapter 33, Oregon Laws 2022

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

## Alternative Vegetation Retention Prescriptions

**Figure 1. Geographic Areas, OAR 629-643-0300**



**Table 5. Alternative Prescription Basal Area Table for Type F/SSBT Streams**

<u>Geographic Areas</u>	<u>SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM EACH SIDE</u>					
	<u>LARGE TYPE F/SSBT</u>		<u>MEDIUM TYPE F/SSBT</u>		<u>SMALL TYPE F/SSBT</u>	
	<u>Standard Target</u>	<u>Active Mgt. Target</u>	<u>Standard Target</u>	<u>Active Mgt. Target</u>	<u>Standard Target</u>	<u>Active Mgt. Target</u>
<u>Coast Range, S. Coast</u>	<u>253</u>	<u>187</u>	<u>189</u>	<u>141</u>	<u>80</u>	<u>40</u>
<u>Interior &amp; W. Cascades</u>	<u>297</u>	<u>220</u>	<u>220</u>	<u>173</u>	<u>80</u>	<u>40</u>
<u>Siskiyou</u>	<u>242</u>	<u>187</u>	<u>173</u>	<u>141</u>	<u>80</u>	<u>40</u>
<u>Eastern Cascade &amp; Blue Mountain</u>	<u>170</u>	<u>130</u>	<u>129</u>	<u>100</u>	<u>75</u>	<u>75</u>

**Table 6. Alternative Prescription Basal Area Table for Type D and Type N Streams**

<u>Geographic Areas</u>	<u>SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE</u>		
	<u>LARGE TYPE D and N</u>	<u>MEDIUM TYPE D and N</u>	<u>SMALL TYPE N and D</u>
	<u>Standard Target</u>	<u>Standard Target</u>	<u>Standard Target</u>
<u>Coast Range, S. Coast, &amp; Siskiyou</u>	<u>96</u>	<u>75<sup>1</sup></u>	<u>0</u>
<u>Interior &amp; W. Cascades</u>	<u>118</u>	<u>75<sup>1</sup></u>	<u>0</u>
<u>Eastern Cascade &amp; Blue Mountain</u>	<u>75</u>	<u>75<sup>1</sup></u>	<u>0</u>

**1 Hardwoods may count up to 30 square feet of basal area per 1000 feet toward meeting the standard target.**

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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]

[Table 7. Site Specific Basal Area Targets]

(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

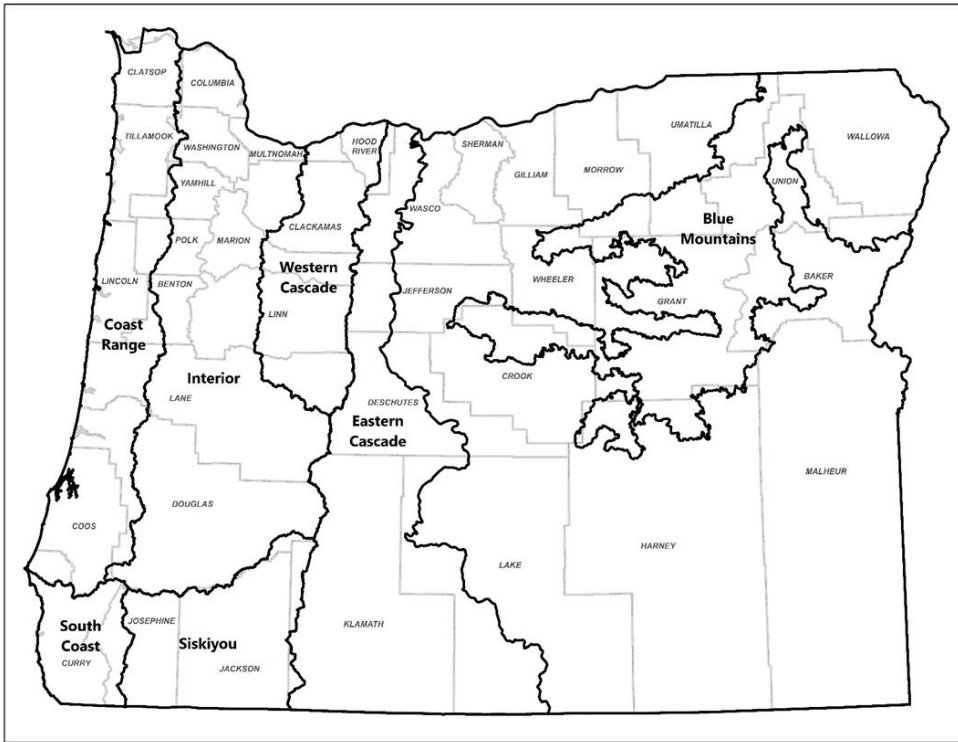
RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.



629-643-0400

**Site Specific Vegetation Retention Prescriptions for Streams and Riparian Management Areas**

**Figure 1. Geographic Areas, OAR 629-643-0400**



**Table 7. Site Specific Basal Area Targets**

<u>Geographic Areas</u>	<u>SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM EACH SIDE</u>		
	<u>LARGE TYPE F</u>	<u>MEDIUM TYPE F</u>	<u>SMALL TYPE F</u>
	<u>RMA = 110 feet</u>	<u>RMA = 110 feet</u>	<u>RMA = 100 feet</u>
<u>Coast Range, S. Coast</u>	<u>253</u>	<u>253</u>	<u>230</u>
<u>Interior &amp; W. Cascades</u>	<u>297</u>	<u>297</u>	<u>270</u>
<u>Siskiyou</u>	<u>242</u>	<u>242</u>	<u>220</u>
	<u>RMA = 30 feet</u>	<u>RMA = 30 feet</u>	<u>RMA = 30 feet</u>
<u>Eastern Cascade &amp; Blue Mountain</u>	<u>51</u>	<u>51</u>	<u>51</u>

ADOPT: 629-643-0500

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule.

CHANGES TO RULE:

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

AMEND: 629-655-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The change clarifies which wetlands are included in this rule.

CHANGES TO RULE:

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 ~~OAR~~chapter 437, division 007, 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 portions of in-unit live green trees and snags as blocks of intact vegetation~~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

AMEND: 629-670-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The change updates statutory authority for enforcement and civil penalties.

CHANGES TO RULE:

629-670-0000

Purpose ¶

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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. Two definitions are added to the rule.

CHANGES TO RULE:

629-670-0010

Definitions ¶¶

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 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.¶

(102) "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;~~or~~¶

(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.¶

(143) "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 527.674, 527.685, 527.700, Section 40, Chapter 33, Oregon Laws 2022, 527.715

AMEND: 629-670-0100

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The amendment adds inspections.

CHANGES TO RULE:

629-670-0100

Inspections; Compliance Determination ¶¶

(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.¶¶

(23) 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.¶¶

(34) 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



AMEND: 629-670-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The change reflects statutory authority addition.

CHANGES TO RULE:

629-670-0200

Assessment of Civil Penalties; Notice of Penalty ¶¶

(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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The change updates penalty amounts.

CHANGES TO RULE:

629-670-0210

Amount of Civil Penalties ¶¶

- (1) The amount of civil penalty per violation shall be the lesser of \$~~5~~10,000 or the amount determined by the formula  $\$B \cdot (C \times P) + (\$B \times D \times R)$  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 \$~~1~~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 \$~~2~~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 \$~~1~~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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The change adds section (6).

CHANGES TO RULE:

629-670-0214

Civil Penalty Administrator Discretion ¶¶

(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 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

ADOPT: 629-670-0225

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. The new rule establishes civil penalties for significant violations committed by repeat violators.

CHANGES TO RULE:

629-670-0225

Significant Violation Civil Penalties that have been Committed by Repeat Violators

(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 electronic 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) Civil Penalties shall be calculated with the following considerations: In imposing the penalty under section 46(6), chapter 33, Oregon Laws 2022, the State Forester shall consider, in addition to the factors described in subsection (2) of this section:

(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

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. The new rule adds the ability to require a financial assurance for those with a history of significant violations.

CHANGES TO RULE:

629-670-0228

Repeat Violators and Financial Assurances

(1) The purpose of this rule is to establish a process for tracking Repeat Violators and requirements for financial assurances.¶

(2) The State Forester will maintain a list of Repeat Violators for use with civil penalty calculations.¶

(3) A Repeat Violator will be removed from the Repeat Violator list three years after the last significant violation citation.¶

(4) 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.¶

(5) If the State Forester determines that the operations notified for, have not been completed, or the Repeat Violator has caused damage to protected resources during the course of the operation or accrued fines or civil penalties during the operation or otherwise incurred costs that the State Forester believes should be covered by the bond or financial assurance, the State Forester may make a claim against the bond or financial assurance and apply any money received towards correcting the conditions that gave rise to the claim against the financial assurance.

Statutory/Other Authority: ORS 527.710, 526.016, Section 2(1), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.680

AMEND: 629-670-0350

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The new rule requires financial assurance.

CHANGES TO RULE:

629-670-0350

#### Orders Prohibiting New Operations ¶¶

(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.¶¶

(5) 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



AMEND: 629-672-0100

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. Aligns with Division 670 rule changes.

CHANGES TO RULE:

629-672-0100

Orders of the State Forester ¶¶

(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) Financial assurance requirement for Repeat Violators (section 45(6), chapter 33, Oregon Laws 2022).¶¶

(g) Finding of 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

AMEND: 629-672-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the amendment of this rule. The change updates statutory authority.

CHANGES TO RULE:

629-672-0200

Hearings for Operators, Landowners or Timber Owners ¶¶

(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, Section 2(1), Chapter 33, Oregon Laws 2022

Statutes/Other Implemented: ORS 527.700

ADOPT: 629-678-0000

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule establishes the purpose of the compliance monitoring program.

CHANGES TO RULE:

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: Section 2(1), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-678-0100

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the administration of the compliance monitoring program.

CHANGES TO RULE:

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 44chapter 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: Section 2(1), Chapter 33, Oregon Laws 2022

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

ADOPT: 629-678-0110

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the priorities of the compliance monitoring program.

CHANGES TO RULE:

**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: Section 2(1), Chapter 33, Oregon Laws 2022**

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

ADOPT: 629-678-0200

RULE SUMMARY: The enrollment of Senate Bill 1501 of the 2022 legislative session directed the adoption of this rule. This rule describes the reports the compliance monitoring program will develop and implement.

CHANGES TO RULE:

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: Section 2(1), Chapter 33, Oregon Laws 2022

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