

Post-Disturbance Harvest Rulemaking

Special Meeting of the Board of Forestry

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Rulemaking Authority & Process

Oregon Revised Statute (ORS) 527.710 grants the Board authority to adopt forest practice rules under the Administrative Procedures Act (APA). Rules adopted under that authority serve the following purposes:

ORS 527.710(2)- Ensure the continuous growing and harvesting of forest tree species and provide for the overall maintenance of air quality, water resources, soil productivity and fish and wildlife.

ORS 527.710(3)- Protect sites for certain threatened and endangered fish and wildlife species, sensitive bird sites, biological sites, and significant wetlands.

ORS 527.710(10)- Reduce the risk of serious bodily injury or death caused by a rapidly moving landslide directly related to forest practices.



ORS 527.714 Rulemaking Procedure

Prior to the APA notice the board must determine the rule type:

- Type (1)(a)- Implement administration, procedures or enforcement that support but do not directly regulate standards of forest practices.
- Type (1)(b)- Provide definitions or procedures for forest practices where the standards are set in statute.
- Type (1)(c)- Regulate forest practices and are within the Board's discretion to set the standards for forest practices.

If the board determines a proposed rule is a Type (1)(c) rule, that changes forest practices....

- The rule must describe its purpose and the level of protection desired
- The Board must make an economic analysis available to the public before the close of the APA public comment period
- The Board must determine specific facts exist and standards are met before adopting the rule



Literature Review: Approach

- Searched for and reviewed over 2,000 articles
- 47 publications selected
- Synthesized findings as they relate to Oregon Administrative Rule (OAR) 629-643-0300 goals:
 - Stream shade
 - Large wood
 - Bank stability
 - Quick development of new, healthy stand
- Related synthesis to ORS 527.710(2)



Stream Shade

- Live trees > dead trees > no trees
- Water temperature impacts depend on:
 - Live and dead tree presence after a disturbance
 - Stream flow level
 - Whether a stream interacts with groundwater



Photo: Oregon Department of Forestry



Large Wood, Bank Stability

- Remove large wood?
 - Pre-disturbance conditions
 - Disturbance type
 - Can impair riparian, aquatic function *in some cases*
- Riparian buffers during salvage mitigate effects on bank stability
- Healthy stands pre-disturbance = quick sprouting post-disturbance



Photo: Oregon Department of Forestry



Photo: Jessica Halofsky

Stand Regeneration



- Stand regeneration outcomes depend on:
 - Pre-disturbance conditions
 - Nature, severity of disturbance
- No-cut zones near streams decrease likelihood of:
 - Post-disturbance harvest
 - Replanting
- Unmanaged riparian stands tend to be hardwood-dominated



Discussion

- Current rule is intended to achieve long-term goals (DFC)
 - 2 – 5 years post-disturbance = key time frame to increase stream protection
 - Upslope sediment delivery to streams
 - Quick shade development
 - Bank stability, large wood
 - Increased tree retention near streams = increased benefits to:
 - Stream shade
 - Large wood delivery
 - Bank stability

Questions





Post-Disturbance Harvest Draft Rules

OAR 629-643-0000: Vegetation Retention Goals for Streams; Desired Future Conditions

- Proposed changes are limited to technical corrections including, but not limited to, the deletion of placeholder language and subsequent renumbering.

OAR 629-643-0300: Alternative Vegetation Retention Prescriptions

- Establishes a purpose statement.
- Defines “stand level mortality” for riparian management areas (RMAs) and harvest units.
- Exempts Small Forestland Owner (SFO) harvest units experiencing stand level mortality from the watershed cap.
- Clarifies that all other forest practice rules apply unless explicitly stated.



Provisions of Draft OAR 629-643-0300

In Western Oregon

- For Type SSBT and Type F stream RMAs with stand level mortality, allows harvest of dying or recently dead trees outside the first 75 feet of the RMA. Sets protections for the RMA and allows the operator to use a less dense reforestation standard.
- For Type Np stream RMAs with stand level mortality, allows harvest of dying or recently dead trees in the RMA and sets protections for the RMA.
- For harvest units with stand level mortality, allows harvest of dying or recently dead trees in slope retention areas (SRA).

In Eastern Oregon for Terminal Type Np RMAs with stand level mortality, allows harvest of dying or recently dead trees in the outer zone of the RMA.



ORS 527.714 Rule Type Determinations

ORS 527.714 Rule Types:

- Type (1)(a)- Implement administration, procedures or enforcement that support but do not directly regulate standards of forest practices.
- Type (1)(b)- Provide definitions or procedures for forest practices where the standards are set in statute.
- Type (1)(c)- Regulate forest practices and are within the Board's discretion to set the standards for forest practices.

Staff recommendations:

1. The Department recommends the Board determine proposed OAR 629-643-0000, is a Type 1(c) rule, and that the proposed changes only make minor adjustments to rules already adopted.
2. The Department recommends the Board determine proposed OAR 629-643-0300, is a Type 1(c) rule that would change the standards for forest practices.



ORS 527.714 Determinations for Proposed OAR 629-643-0300

Staff Recommendation 3: The Department recommends the Board make the following determinations required by ORS 527.714(5);

- a. There is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710(2) or (3) is likely if forest practices continue under existing rule.
- b. The proposed rule reflects available scientific information and, as appropriate, the results of relevant monitoring and adequate field evaluation at representative locations in Oregon.
- c. The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices are to prevent harm or provide benefit to the protected resource and are directly related to the objective of the proposed rule and materially advance its purpose.
- d. The availability, effectiveness and feasibility of alternatives to the proposed rule, including non-regulatory alternatives were considered, and the alternative chosen is the least burdensome to landowners and timber owners in the aggregate while still achieving the desired level of protection.



Next Steps

Staff Recommendations:

4. The Department recommends the Board direct the Department to complete an economic analysis that satisfies the requirements of ORS 527.714(8) and post it to the ODF website.
5. The Department recommends the Board direct the Department to file a notice of rulemaking.

Next Steps:

- Required APA notice of proposed rulemaking is provided to specified legislative members and committees within the required timeline
- The notice of proposed rulemaking, required by rule, is provided to specified persons, organizations and publications within the required timeline
- ORS 527.710(4) requires the Board consult with other government entities affected by forest operations prior to adopting forest practice rules